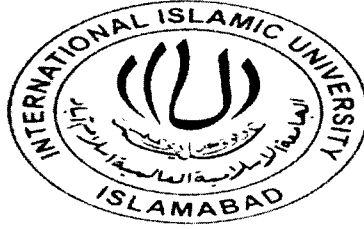


**LEGISLATION ON CHILD ABUSE AND CHALLENGES IN  
PROSECUTION: A CASE STUDY OF PAKISTAN**



BY

**NADIA ZAFAR**

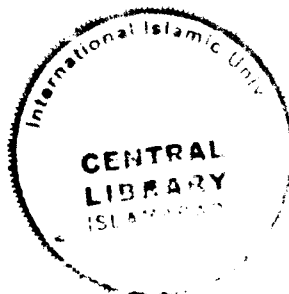
*Dissertation submitted in partial fulfillment of the requirements for the award of PhD  
Degree in Law, to the Department of Law, Faculty of Shariah and Law, International  
Islamic University, Islamabad.*

Supervisor

**Dr. Mudassra Sabreen**

**DEPARTMENT OF LAW, FACULTY OF SHARIAH AND LAW,  
INTERNATIONAL ISLAMIC UNIVERSITY, ISLAMABAD,  
PAKISTAN**

2020



TA-27521 A.

PhD  
345.5491053  
NAL

Child abuse - Law and legislation - Pakistan

" - Pakistan - Case studies

Prosecution - Pakistan - Case studies

Criminal justice - Administration of - Pakistan

Children - Legal status - Law - Pakistan

**FACULTY OF SHARIAH & LAW**

**INTERNATIONAL ISLAMIC UNIVERSITY, ISLAMABAD**

**FINAL APPROVAL CERTIFICATE**


It is certify that we have evaluated the thesis “**Legislation on Child Abuse and Challenges in Prosecution: A Case Study of Pakistan**” submitted by **Ms. Nadia Zafar**, Registration No.85-FSL/PHDLAW/F16, in partial fulfillment of the requirements of the degree of Ph. D Law at the International Islamic University, Islamabad. The thesis fulfills the requirements in its core and quality for the award of the degree of Ph. D Law.

**COMMITTEE**

**Supervisor**

**Dr. Mudassara Sabrin**

Assistant Professor, Deptt. Of Law FSL, IIU, Islamabad

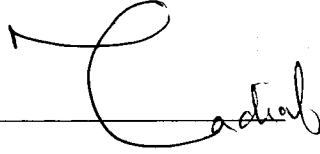


---

**External Examiner-1**

**Dr. Nadia Khadam**

Assistant Professor, Deptt. of Law,  
Fatima Jinnah Women University, Rawalpindi

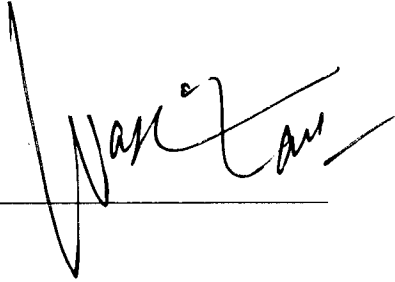


---

**External Examiner-2**

**Dr. Muhammad Waseem Tariq**

Senior Research & Reference Officer  
Supreme Court of Pakistan, Islamabad

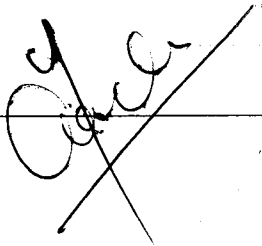


---

**Internal Examiner**

**Dr. Warda Yasin**

Assistant Professor, Deptt. of Law,  
FSL, IIU, Islamabad



---

Date: 06-06-2022

## FORWARDING SHEET

The research thesis titled “Legislation On Child Abuse And Challenges In Prosecution: A Case Study Of Pakistan” submitted by Nadia Zafar, Reg. No. 85-FSL/PHDLAW/F16 in partial fulfillment of a Ph.D. degree in Law has been completed under my supervision and guidance. I am satisfied with the quality of this research work, and allow her to submit this research thesis for further process of evaluation and viva voce examination as per rules and regulations of International Islamic University, Islamabad, Pakistan.

Dated: 06-06-2022

Supervisor

Dr. Mudassra Sabrin

## DEDICATION

*I sincerely dedicate this dissertation to my beloved father, mother, and husband for their contribution to my life.*

## FORWARDING SHEET

The research thesis titled “Legislation On Child Abuse And Challenges In Prosecution: A Case Study Of Pakistan” submitted by Nadia Zafar, Reg. No. 85-FSL/PHDLAW/F16 in partial fulfillment of a Ph.D. degree in Law has been completed under my supervision and guidance. I am satisfied with the quality of this research work, and allow her to submit this research thesis for further process of evaluation and viva voce examination as per rules and regulations of International Islamic University, Islamabad, Pakistan.

Dated: 06-06-2022

Supervisor

Dr. Mudassra Sabrin

## **DEDICATION**

*I sincerely dedicate this dissertation to my beloved father, mother, and husband for their contribution to my life.*

## ACRONYMS

<b>ACHR</b>	American Convention on Human Rights, 1969
<b>CEDAW</b>	Convention on Elimination of all Forms of Discrimination against Women
<b>CRC</b>	Convention on the Rights of the Child, 1989
<b>CRIN</b>	Child Rights International Network
<b>CRPC</b>	Code of Criminal Procedure, 1898
<b>CSA</b>	Child Sexual Abuse
<b>CWPB</b>	Children Welfare and Protection Bureau
<b>END</b>	European Union Directives
<b>ESC</b>	The European Social Charter
<b>FDC</b>	Family Day Care
<b>FIA</b>	Federal Investigating Agency
<b>FIR</b>	First Information Report
<b>FSC</b>	Federal Shariat Court
<b>HRC</b>	Human Rights Cell
<b>HRCP</b>	Human Rights Commission of Pakistan
<b>ICT</b>	Islamabad Capital Territory
<b>IHC</b>	Islamabad High Court
<b>IO</b>	Investigating Officer
<b>JJSA</b>	Juvenile Justice System Act, 2018
<b>LHC</b>	Lahore High Court, Lahore (Punjab)
<b>MAC</b>	Minimum Age Convention, 1973
<b>NCCWD</b>	National Commission for Child Welfare and Development
<b>NCHRP</b>	National Commission for Human Rights, Pakistan
<b>NCRC</b>	National Commission on the Rights of Child

<b>NRB</b>	National Reconstruction Bureau
<b>NWO</b>	New World Order
<b>OSHR</b>	Outside School Hours Care
<b>PDNCA</b>	Punjab Destitute and Neglected Children Act, 2004
<b>PECA</b>	Prevention of Electronic Crimes Act, 2016
<b>PPC</b>	Pakistan Penal Code, 1860
<b>PRSD</b>	Post-traumatic stress disorder
<b>QSO</b>	Qanun-e-Shahadat Order, 1984
<b>SCMR</b>	Supreme Court Monthly Review
<b>SHC</b>	Sindh High Court
<b>SHO</b>	Station House Officer
<b>SIO</b>	Specialized Investigating Officers
<b>UN</b>	United Nations
<b>UNCRC</b>	United Nations Committee on the Rights of the Child
<b>UDHR</b>	The Universal Declaration of Human Rights, 1948
<b>UNODC</b>	United Nations Organization on Drug and Crime
<b>WFCL</b>	Worst forms of Child Labour
<b>KPK</b>	Khyber Pakhtunkhwa

## TABLE OF SELECTED CASES

1. *A. G Sindh Karachi vs. Farhan Hussain etc.*, PLD 1995 Karachi High Court 1.
2. *Abdul Aziz vs. Muhammad Punhal*, MLD 2017, Karachi High Court, 1321.
3. *Abdul Baqi vs. Dawood*, PCr.LJ 2020 Federal Shariat Court 368.
4. *Abdul Haq vs. State*, PCr.LJ 2018 Peshawar High Court 12.
5. *Abdul Karim vs. State*, PCr.LJ 2016 Peshawar Court 513.
6. *Abdul Majeed vs. State*, PCr.LJ 2002 Lahore High Court 41.
7. *Abdul Sattar versus State*, PCr.LJ 2010 Karachi High Court 1690.
8. *Abdul Wahab vs. State*, PCr.LJ 2017 Quetta High Court 568.
9. *Ahsan Banghash vs. State*, PCr.LJ 2017 Karachi High Court 509.
10. *Aijaz Hussain vs. State*, MLD 2018 Karachi High Court 1164.
11. *Alam Khan vs. State*, YLR 2013 Peshawar High Court 714.
12. *Alam Noor and another vs. State*, MLD 2004 Peshawar High Court 1148.
13. *Al-Ameer vs. State*, PCr.LJ 2011, Federal Shariat Court, 583.
14. *Allah Bux vs. State*, MLD 2002 Karachi High Court 61.
15. *Allah Ditta vs. State*, PCr.LJ 2017 Lahore High Court 789.
16. *Amir Khan and others vs. State*, PLD 1985 Lahore 18.
17. *Amjad Hussain vs. State*, PCr.LJ 2011 Federal Shariat Court 1534.
18. *Amjad Javed vs. State*, SCMR 2002 Supreme Court 1247.
19. *Aqib vs. State*, MLD 2108 *Gilgit-Baltistan* Chief Court 1023.
20. *Arif Hussain vs. State*, YLRN 2018 *Gilgit-Baltistan* Chief Court 259.
21. *Asif vs. State*, SCMR 2006 Supreme Court 476.
22. *Atlas Khan vs. State*, PCr.LJ 2014 Federal Shariat Court 1280.
23. *Ayub vs. Munsif*, PCr.LJ 2015 Peshawar High Court 369.

24. *Azhar Aziz vs. State*, PCr.LJ 1996 Supreme Court of Azad Kashmir 1522.
25. *Aziz Ullah vs. State*, PCr.LJ 2017 Balochistan High Court 1623.
26. *Bakhat Munir vs. State*, PCr.LJ 2014 Peshawar High Court 1472.
27. *Ch. Zulifqar Ali vs. State*, PCr.LJ 2002, Lahore High Court 1231.
28. *Ejaz Hussain vs. State*, MLD 2018 Sindh High Court 1164.
29. *Farman Hussain vs. State*, PLD 1995 Supreme Court 1.
30. *Farooq Hussain vs. State*, MLD 2003 MLD Federal Shariat Court 1516.
31. *Fayyaz vs. State*, SCMR 2006 Supreme Court 1042.
32. *Ghulam Farid vs. State*, PCr.LJ 2014 Lahore High Court 1803.
33. *Gulzar Ahmad vs. State*, SCMR 2002 Supreme Court 596.
34. *Habib Ullah vs. State*, PCr.LJ 2007 Shariat Court, Azad Kashmir 1851.
35. *Hamid Khan vs. State*, SCMR 1981 Supreme Court 448.
36. *Hamid Nadeem vs. State*, SCMR 2011 Supreme Court 1233.
37. *Hamid Ullah vs. State*, PLD 2018 Quetta High Court 71.
38. *Hashim Qasim vs. State*, SCMR 2017 Supreme Court 986.
39. *Hazrat Bilal vs. State*, PCr.LJ 2013 Peshawar High Court 800.
40. *Hidayat Ullah and another vs. State*, YLR 2000, Federal Shariat Court 2330.
41. *Ibrahim vs. State*, YLRN 2013 Peshawar High Court 436.
42. *Imran vs. State*, SCMR 2015 Supreme Court 155.
43. *Inayat Masih vs. State*, PCr.LJ 2009 Federal Shariat Court 69.
44. *Ishtiaq vs. State*, PCr.LJ 2006 Federal Shariat Court 790.
45. *Israr Ali vs. State*, SCMR 2007 Supreme Court 525.
46. *Istikhar vs. Shahbaz*, YLR 2013 Supreme Court Azad Jammu and Kashmir 747.
47. *Jahan Zeb vs. State*, YLR 2012 Federal Shariat Court 752.
48. *Jamil Ahmad vs. State*, MLD 2003 Lahore High Court 1420.

49. *Jehanzeb vs. State*, PCr.LJ 1999 Peshawar High Court 46.
50. *Jibran vs. State*, MLD 2016 Peshawar High Court 1479.
51. *Juma vs. State*, YLR 2019 Karachi High Court 628.
52. *Kazim Hussain vs. State*, PCr.LJ 2008 Federal Shariat Court 971.
53. *Khadim Hussain vs. State*, PCr.LJ 2011 Federal Shariat Court 1443.
54. *Majid Hanif vs. State*, YLD 2004 Supreme Court of Azad Kashmir 2283.
55. *Malik Aqeel Ahmad vs. State*, MLD 2016 Karachi High Court 129.
56. *Maqsood Ahmad vs. State*, PCr.LJ 2000 Karachi High Court 313.
57. *Matloob Hussain vs. State*, YLD 1999 Supreme Court of Azad Kashmir 2283.
58. *Mazhar vs. State*, YLR 2012 Federal Shariat Court 652.
59. *Mehmood Azam vs. State*, YLR 2018 Islamabad High Court 621.
60. *Mudasar Ali vs. State*, MLD 2011, Lahore High Court 873.
61. *Muhammad Akbar vs. State*, PCr.LJ 2018 Balochistan High Court 778.
62. *Muhammad Amir vs. State*, YLR 2018 Lahore High Court 2592.
63. *Muhammad Arshad vs. State*, PCr.LJ 2018 Peshawar High Court 1513.
64. *Muhammad Ashraf vs. State*, PCr.LJ 2006 Federal Shariat Court 132.
65. *Muhammad Asif vs. State*, MLD 2018 Lahore High Court 684.
66. *Muhammad Aslam vs. State*, PCr.LJ 2012 Federal Shariat Court 530.
67. *Muhammad Azam vs. State*, PCr.LJ 2008 Federal Shariat Court 250.
68. *Muhammad Ijaz vs. Sher Shah*, MLD 1997 Peshawar High Court 969.
69. *Muhammad Irfan vs. State*, PCr.LJ 2018 Lahore High Court 1319.
70. *Muhammad Khan vs. State*, PCr.LJ 2020 Karachi High Court 10.
71. *Muhammad Mushtaq vs. State*, MLD 2020 Lahore High Court 588.
72. *Muhammad Qadeer vs. State*, YLR 2007 Lahore High Court 625.
73. *Muhammad Raheem vs. State*, YLR 2010 Peshawar High Court 2400.

74. *Muhammad Sabir vs. State*, PCr.LJ 2005 Federal Shariat Court 158.
75. *Muhammad Sadiq vs. State*, PCr.LJ 2005 Lahore High Court 444.
76. *Muhammad Saeed vs. State*, MLD 2001 Lahore High Court 477.
77. *Muhammad Shahid vs. State*, PLD 2010 Federal Shariat Court 215.
78. *Muhammad Shakil vs. State*, YLR 2008 Lahore High Court 2102.
79. *Muhammad Siddique vs. State*, PCr.LJ 2018 Balochistan High Court 1538.
80. *Muhammad Yunus vs. Abdul Ghaffar*, MLD 1997 Karachi High Court 1622.
81. *Muhammasd Bilal vs. State*, PCr.LJ 2011 Federal Shariat Court 1062.
82. *Muzaffar vs. State*, YLR 2019 Gilgit-Baltistan Chief Court 719.
83. *Muzammal vs. State*, PCr.LJ 2008 Lahore High Court 1521.
84. *Nadeem Ahmad vs. State*, YLR 1999 Karachi High Court 2513.
85. *Nadeem vs. State*, PCr.LJ 2005 Federal Shariat Court 10.
86. *Naeem-Ud-Din vs. State*, PCr.LJ 2004 Federal Shariat Court 1598.
87. *Nazir Hussain vs. State*, PLD 1984 Lahore High Court 509.
88. *Parvaiz vs. State*, PCr.LJ 2014 Lahore High Court 599.
89. *Qadeer Hussain vs. State*, PCr.LJ 1993, Supreme Court Azad Kashmir 2158.
90. *Qadeer Hussain vs. State*, PCr.LJ 1994 Azad Jammu and Kashmir 188(2).
91. *Quyyum Ullah vs. State*, YLRN 2016 Peshawar High Court 178.
92. *Rashid Minhas vs. Fayyaz*, PCr.LJ 2012 Federal Shariat Court 816.
93. *Rehmat Ullah vs. Jan Alam*, YLR 2015 Peshawar High Court 249.
94. *Sabz Ali Khan vs. State*, PCr.LJ 2015 Peshawar High Court 369.
95. *Sain vs. State*, SCMR 2007 Supreme Court 698.
96. *Saleem Khan vs. State*, PCr.LJ 2001 Federal Shariat Court 503.
97. *Saleem Ullah Khan vs. State*, MLD 2000 Peshawar High Court 1290.
98. *Salman Akram Raja vs. Government of Punjab*, SCMR 2013 Supreme Court 203.

99. *Shahzad Masih vs. State*, YLR 2016 Karachi High Court 1922.
100. *Shamoon Masih vs. State*, PCr.LJ 2001 Karachi High Court 57.
101. *Shaukat Ali vs. State*, PCr.LJ 2018 Balochistan High Court 1275.
102. *Sher Muhammad vs. State*, PCr.LJ 1999 Peshawar High Court 83.
103. *Sheraz Tufail vs. State*, SCMR 2007 Supreme Court 518.
104. *Shoaib Ahmad vs. State*, PCr.LJ 2019 Gilgit-Baltistan Chief Court 57.
105. *State versus Abdul Rahim*, PCr.LJ 1984 Karachi High Court 41.
106. *State vs. Haseem Amir Etc.* F.I.R No. 256 Of 2015 P.S Ganda Singh.
107. *State vs. Muhammad Boota*, YLR 2014 Lahore High Court 306.
108. *State vs. Muhammad Ramzan*, PCr.LJ 1992 Peshawar High Court 423.
109. *State vs. Sadat Amin*, case No. 32/2017 at Federal Investigation Agency, Lahore.
110. *Subedar Major vs. Abid Shah*, PCr.LJ 2018 Supreme Court Azad Kashmir 270.
111. *Suleman vs. State*, YLR 2008 YLR Lahore High Court 2722.
112. *Sultan and others vs. State*, PLD 1965 Karachi High Court 615.
113. *Syed Riyasat vs. Malik Aqeel*, YLR 2010 Karachi High Court 114.
114. *Tauqeer Abbas vs. State*, PCr.LJ 2017 Lahore High Court 848.
115. *Tauqir Alam vs. State*, MLD 1985 Karachi High Court 604.
116. *The State vs. Zaheer-ud-Din*, MLD 2018 Gilgit-Baltistan Chief Court 314.
117. *Ulfat Hussain vs. State*, SCMR 2010 Supreme Court 247.
118. *Wajid Hussain vs. State*, YLR 1999 Peshawar High Court 1602.
119. *Waseem Ahmad vs. State*, PCr.LJ 2016 PCRLJ Karachi High Court 13.
120. *Wazir Muhammad vs. State*, YLR 2018 Federal Shariat Court 1071.
121. *Yasir and two others versus State*, MLD 2018, Balochistan High Court 1014.
122. *Yousaf Khan vs. State*, YLR 2013 Karachi High Court 1168.
123. *Zainab Murder case (state vs. Imran)* FIR No. 08/2018, P.S A-division, Kasur.

124. *Zakriya vs. State*, SCMR 2006 Supreme Court 439.

125. *Zeebo vs. State*, GBLR, 2015 Supreme Appellate Court 289.

126. *Zohra Bibi vs. State*, PCr.LJ 2013 Federal Shariat Court 772.

## DECLARATION

I hereby declare that this thesis titled as “Legislation On Child Abuse And Challenges In Prosecution: A Case Study Of Pakistan” being submitted for the award of the Degree of Doctor of Philosophy in Law, to International Islamic University, Islamabad, is genuinely an original research work of my own. It is also affirmed that this thesis or any part of it has not been submitted to this or any other University or Institution for the award of any Degree, Diploma, or Fellowship.

Nadia Zafar

Signature:.....

Date: 06-06-2022.

## ACKNOWLEDGMENTS

In the name of Allah the Most Gracious and Most Merciful. All our deeds and acts are not possible without His blessing. It is by His mercy that I have completed another academic degree in my life. I wish to extend my words of thanks to the supervisory committee. My first appreciation goes to my main supervisor, Dr. Mudassra Sabrin, who has guided me in exploring ideas; her passionate behaviour is clear from her cooperation to check and commented on every word of my thesis. As a result of her hard work, I have completed my work excellently. A special acknowledgment to Dr. Muhammad Muneer who provided me his professional insights and valuable suggestions during the initial and final stage of this academic journey.

My deepest appreciation is extended to my mentor Dr. Ataullah Khan Mahmood for his aiding me his guidance, recommendation, and inspirational ideas regarding my research. It would be an injustice if I do not appreciate my class fellows for their appreciation and help.

My family members have been supportive and helpful in my journey to attain this doctoral degree. My father, Zafar Ullah Khan, my dear husband Shahbaz Hussan, and brothers, Imran Zafar, Irfan Zafar, Adnan Zafar, and Rizwan Zafar are my advisers to choose the field of Law. I will never forget the guidance, help, and support of my father, who persuaded me to continue my tertiary studies. To all who remain as my source of motivation and inspiration namely my mother and sister Nazish Naz, who demonstrated much patience during my studies.

Finally, I would like to dedicate this work to my father Zafar Ullah Khan, and mother whose inspiration and motivation became the source to complete my Ph.D.

## ABSTRACT

This research focuses on legislation on child abuse and challenges in prosecution in Pakistan; before this research, not enough work has been done on this crucial issue. The existing legislation on this topic, unfortunately, does not cover all the important aspects relating to child abuse, its effects, investigation of cases, and prosecution in the courts. In general law; Pakistan Penal Code, a few amendments, in relation to child protection, have been made but no amendments have been made in procedural law i.e. The Code of Criminal Procedure. At provincial level, some laws have been promulgated but all such laws do not meet the exact requirements regarding safeguarding the rights of child. The basic issues which Pakistani society is facing are; no comprehensive and result-oriented legislation, non-reporting of cases, inefficient police officers, defective investigations, and non-trained prosecutors. The Pakistani courts while dealing with cases of child abuse, have always taken a serious note with important observations, the courts have also settled guidelines for reporting, investigation, prosecution, and court proceedings. There has to be a central legislation which should cover all the relevant aspects: compulsory reporting, highly trained investigating officers, mandatory usage of modern scientific techniques, separate units in medical labs, separate district prosecution office with highly trained prosecutors, mandatory protection of victims, his/her family, mandatory time frame for deciding cases, and early hearing of appeals of child abuse cases. All the forums i.e. schools, media, the general public, curriculum/syllabus, hospitals must be accelerated to create awareness for the child protection. The educational institutions must be kept in an emergency for the elimination/curtailment of child abuse cases because an educated and well-mannered person would behave like a good human being and will always protect the child from abuse, therefore, it is necessary to change the mind of the people with education, guidance, and awareness.

## TABLE OF CONTENTS

### CHAPTER 1

#### INTRODUCTION

1. Thesis Statement	1
2. Introduction	1
3. The objectives of the Study	5
4. Hypothesis	6
5. Research Questions	7
6. Research Methodology	8
7. Legal Regime of Legislation on Child and Protection	11
a. Islamabad Capital Territory Child Protection Act, 2018	11
b. Prevention of Electronic Crime Act, 2016	13
c. Amendments in Pakistan Penal Code, 1860	13
d. Punjab Destitute And Neglected Children Act 2004	15
e. Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010	16
f. The Balochistan Child Protection Act, 2016	18
g. Sindh Child Protection Authority Act, 2011	19
h. International Conventions, Declarations, Protocols of Child Abuse	20
8. Literature review	21
a. Dissertation	21
b. Books	22
c. Articles	28
d. Case Laws	29
9. Significance of the study	32
10. Reasons why the child is the victim in Pakistan	33
11. Limitations of the Study	34
12. Structure of the Thesis	35

## Chapter No. 2

### CHILD ABUSE IN PAKISTAN: IDENTIFICATION, FORMS, AND IMPACTS

2. Introduction	38
2.1. Terminological understanding of child abuse in different laws	40
2.1.1. Child in Islamic law	40
2.1.2. Child in Pakistani laws	44
2.1.3 Child in International law	46
2.2. Various Forms of Child Abuse in Pakistan	48
2.2.1 Child Sexual Abuse.	49
a. Intra-Familial and Extra-Familial Sexual Abuse	52
2.2.2. Physical Abuse	53
2.2.3. Emotional abuse	55
2.2.4. Child Abandonment	56
2.2.5. Child Neglect	57
2.2.6. Procurement of Minor Girl	60
2.2.7. Molestation with Sexual Motive	60
2.2.8. Fondling as Child Abuse	62
2.2.9. Caressing of Child	64
2.2.10. Pornography of Children	64
2.2.11. Rape with Minor Girl	68
2.2.12. Sodomy with Minor Children	70
2.2.13. Verbal Child Abuse	71
2.2.14. Child Sex Tourist	72
2.3. Impact and effects of Child Abuse	72
2.3.1. Impact on the Victim Child	73
2.3.2. Impact on the Victim's Parents, Family, and Society	75
2.3.3. Social and Cultural Impacts	76
2.3.4. Psychological impacts	77
2.3.5. Behavioral impacts	79
2.3.6. Physical impacts	80

2.4.	Pakistan's Measures for the Protection of Child Abuse	82
2.5.	Conclusion	83

### **Chapter No. 3**

#### **LEGAL DISCOURSE ON CHILD ABUSE---AN INTERNATIONAL PERSPECTIVE**

3.1.	An incident before the Creation of Documents on Child Rights	85
3.2.	International (Historical) Recognition of Child Abuse	86
3.3.	Child Abuse in International Context	87
3.3	United Nations Organization	89
3.5.	The UN Convention on the Rights of Child, 1989	89
3.6.	Minimum Age Convention	96
3.7.	United Nations Declaration on Human Rights, 1948	99
3.8.	International Covenant on Economic, Social, and Cultural Rights, 1966	100
3.9.	International Covenant on Civil and Political Rights, 1966	102
3.10.	Hague Convention on Jurisdiction, etc., for Protection of Children, 1996	103
3.11.	Hague Convention on Protection of Children in inter-country Adoption, 1993	105
3.12.	Hague Convention Civil Aspects of International Child Abduction, 1980	106
3.13.	Convention on Elimination of all Forms of Discrimination against Women, 1979	107
3.14.	ILO Convention No. 182 on the Worst Forms of Child Labor, 1999	109
3.15.	UNICEF (United Nations International Children's Emergency Fund)	110
3.16.	Lack of Applicability of CRC commitments in Pakistan	112
3.17.	Conclusion	113

### **Chapter No. 4**

#### **REPORTING AND INVESTIGATION MECHANISM REGARDING CHILD ABUSE IN PAKISTAN**

4.1.	Appropriate Legislation for Mechanism and Process	117
4.2.	Existing Legislative and Policy Frameworks	116
4.3.	Gaps Between Child Protection Legislative, Policy Frameworks and	

Existing Child Protection Issues	118
4.4. Courts' Interpretation regarding Nature of Child Abuse Cases	119
4.5. National Legislative and Policy Frameworks	122
4.6. Important Federal and Provincial Laws	125
4.7. General Attitudes Regarding Reporting	127
4.8. Local Policies and Procedures regarding Reporting	132
4.9. Difficulties regarding Reporting	135
4.10. Structure of Investigation	136
4.11. Present forms and procedures for Reporting and Investigation	137
4.12. Standard forms and procedures for Reporting and investigation	140
4.13. Advance Countries' Mechanism for Reporting and Investigation	142
4.14. Adoption of modern techniques and procedures	143
4.15. Specialized Investigating Officers	145
4.16. Especially Trained Judicial Officers and Trained Court Staff	147
4.17. Non-Governmental Organizations and Child Abuse Cases in Pakistan	149
4.18. Role of different NGOs and Offices concerning child rights in Pakistan	150
4.19. SAHIL (An NGO)	150
4.20. Governmental Institutions and Organizations	154
a. National Commission for child welfare and development	154
b. Pakistan Bait-ul-Mal	155
c. Human Rights Cell	156
d. Children Welfare and Protection Bureau	157
e. Federal Ombudsman (Wafaqi Mohtasib)	158
f. National Commission for Human Rights Pakistan	159
g. Human Rights Commission of Pakistan	160
4.21. Indicators of Child Abuse	161
a. Physical Indicators of Child Sexual Abuse	161
b. Medical Indicators of Child Sexual Abuse	162
c. Psychological Indicators of Child Sexual Abuse	163
d. Other Indicators of Child Sexual Abuse	163
4.22. Conclusion	164

## **Chapter No. 5**

### **ADMISSIBILITY OF CHILD'S EVIDENCE IN CASES OF CHILD ABUSE**

5.1.	Admissibility of Child Evidence	167
5.2.	Evidence of Victim Child in cases involving child sexual abuse	172
	a. Leading Precedents for Determination of Intelligence of Child witness	175
	b. Child witness: Memory, accuracy, and retrieval	176
5.3.	Corroboration and admissibility in the cases of child testimony	178
5.4.	The satisfaction of the Court as to the Testimony of a Child Witness	182
5.5.	The Requirements of Qanun-e-Shahadat Order, 1984	183
5.6.	Preparation of Child Witness for Evidence in the Court	184
5.7.	Evidence of Child in the Court	186
5.8.	Cross Examination on the Child Witness	187
5.9.	Difficulties faced by the Child Witness during Court Proceedings	190
5.10.	The factors that why the evidence of child is not admissible	190
5.11.	Nature of Child Evidence	194
5.12.	Absence of Child/victim Evidence in a Child Abuse case	195
5.13.	Conclusion	197

## **Chapter No. 6**

### **CRITICAL ANALYSIS OF CASE LAWS IN HIGH COURTS, SUPREME COURT AND FEDERAL SHARIAT COURT**

6.1.	Case Study at Provincial level	199
6.2.	Cases of Child Abuse: Practices of Peshawar High Court	200
6.3.	Cases of Child Abuse: : Practices of Sindh High Court	206
6.4.	Cases of Child Abuse: : Practices of Balochistan High Court	210
6.5.	Cases of Child Abuse: : Practices of Lahore High Court	213
6.6.	Cases of Child Abuse: Practices of Gilgit Baltistan Chief Court	219
6.7.	Cases of Child Abuse: Practices of Azad Jammu and Kashmir Courts	220
6.8.	Cases of Child Abuse: Practices of Islamabad High Court	221
6.9.	Comparative Analysis of Cases of Child abuse in Different Provinces	222

6.10.	Critical Analysis of Decided Cases	223
6.11.	Child Abuse Cases: Practices in Supreme Court of Pakistan	224
6.12.	Child Abuse Cases: Practices in Federal Shariat Court	232
6.13.	Significance of DNA Report in Child Abuse Cases	242
6.14.	Effectiveness of new enacted Legislation in Sindh, Khyber Pakhtunkhwa, Punjab, Gilgit Baltistan, and Balochistan	247
6.15.	Conclusion	249

## Chapter No. 7

### CONCLUSION AND SUGGESTIONS

1.	Federal and Provincial Levels	252
2.	Police System and Cases of Child Abuse	253
	i. Pre service Training of the Investigating Officers	253
	ii. Use of Modern Mechanisms and Techniques	254
	iii. Training as to Skills and Knowledge	254
	iv. Statement/Interview of Victim Child	255
	v. Investigation of Child Abuse Cases	256
	vi. Duties of Investigating Officer	256
	vii. Significance of Intra-Agencies Relationships	257
	a. Coordination between Police, Medical Officials and Forensic Lab	257
3.	Improvements in Public Prosecution Systems	258
4.	Court Trial in the Cases of Child Abuse	259
	i. Delay in Prosecution and Unwillingness of Victim	259
	ii. Involvement of Finance and Non-Supportive Attitudes	260
	iii. The Court's Atmosphere and Society's Behaviors	260
	iv. Relationship between Victim and Accused	260
	v. Gender and Age of Victim	261
5.	Create Awareness for Non-violent Treatment and Training of Children	261
6.	Medical Examination at Healthcare Centers to Improve reporting and maintaining Data	261
7.	Sensitization about gender Aspect in Violence against Children	263

8. Future Research Direction	264
9. Enforcing National and International Obligations for Child Rights	264
10. Use of Media and Media Regulations	265
Newspaper coverage of child Protection Issues in Pakistan	266
11. Establishing Parent-Child Counseling Centers	266
12. Child Rights in the School Curriculum	267
13. Rehabilitation Centers for Child Victims	267
14. Role of Non-Governmental Organizations (NGOs)	268
15. Summary of Proposed Amendments in Relevant Laws	268
16. Child Rights in Pakistan in Child Abuse Cases	272

# Chapter No. 1

## INTRODUCTION

### 1. Thesis Statement

Child abuse is one of the most emerging challenges being faced by the contemporary socialized world where Pakistan stands with no exception; reforms in the policy and legal mechanism, however, help diminish heinous crime.

### 2. Introduction

Child abuse is a global social issue, equally faced by the developed and developing countries of the world. It is not just a physical violence directed at a child it is deeply rooted and associated with socio-cultural and socio-economic practices. Child abuse covers a state of emotional, physical, and sexual maltreatment to a person below the age of eighteen years<sup>1</sup>. In Pakistan, the constitution under article 35 and 25(3), as well as *Shariah*, provides special protection to the rights of the child; the status of the family in Islam; the concept of rights of the child in Islamic law as; right of life; right of health; right of education and right of the child as to protection from any form of child abuse.<sup>2</sup> The socio-cultural transition as to child abuse has brought about emerging complexities and dramatic changes that significantly contributed to intensifying the vulnerability of children to certain new forms of abuse.<sup>3</sup> The United

---

<sup>1</sup> Article 1. The Convention on the Rights of Child. 1989.

<sup>2</sup> Muhammad Munir, A Review of the Book Rights of the child in Islam: theory, Mechanism, Practices, and convention on the rights of the child, *Islamic Research Institute Press*, (2017) <http://ssrn.com/author=1697634>

<sup>3</sup> Munir Musa Saddridin, "Study on the important rights of the child in Pakistan", *The Dialogue*

Nations Convention on the Right of the Child protects children's rights and urges individual states for making arrangements, to ensure children's living in the society with the spirit of peace, dignity, tolerance, freedom, equality, and solidarity.<sup>4</sup>

Recently, the Federal Government has enacted The Islamabad Capital Territory Child Protection Act, 2018. Child Protection Advisory Board, Child Protection Institution, and Child Protection and Care Fund. Since this enactment has been made at the Federal level so it can easily be presumed that it must be a model enactment but this enactment has several lacunas. In Islamabad Capital Territory Child Protection Act, 2018 there are only theoretical views/bodies which have been established, only definitions of certain offences have been mentioned but there is no mechanism for investigation of offences and prosecution of offenders and punishments of offences relating to child abuse. Although in Cr. PC the mechanism of investigation has been mentioned but the newly enacted laws do not cover the aspects of investigation. It is also very surprising to note that the bodies which have been established under the supra law are a mixture of several ex-cadres but there is no specially trained individual who could tackle the situation or who could understand the nature of offences and related prosecution. This law further does not provide state protection to the victim of child abuse and related evidence i.e. witnesses, reports, victims, and other allied matters.

Another latest statutory law is the Juvenile Justice System Act, 2018 section 3 enshrines that the legal assistance to victim and juvenile offenders must be provided and the services of some legal practitioner may also be facilitated by the concerned

---

Volume VI. 1(2014).

<sup>4</sup>Carolyn Willow, Children's right to be heard and effective child protection. *Save the Children Sweden*, (2010), <http://seap.savethechildren.se>. Last accessed on 15-08-2020

government or relevant court<sup>5</sup>. The Juvenile Justice Committee<sup>6</sup> shall consist of four members. Only section 3 of Act states as to legal assistance to victim and offender who both are minors.

Pakistan Penal Code, 1860 has recently been amended and as per the statement of objects and reasons<sup>7</sup> the instant amendments have been made to harmonize the penal law as per the United Nations Convention on Child Rights, 1990 (UNCRC). These amendments have been introduced to meet with the international expectations under CRC because the Pakistan is signatory of this convention. A country by ratifying a convention takes on many international obligations whether or not it has amended its laws, or adopted new laws, in accordance with the requirements of the convention. CRC is the premier international treaty to that provides human, civil, political, and economic rights to the children. Section 292-A of PPC deals with seduction, while section 292-B is relating to child pornography. Section 377-A of Pakistan Penal Code deals with sexual abuse. Section 498-E<sup>8</sup> negligence of child care. Section 498-F<sup>9</sup> giving a child for labor purposes. Section 498-G<sup>10</sup> taking a child for labor purposes. Section 498-H<sup>11</sup> cruelty to a child. Section 498-I<sup>12</sup> beating or physical punishment to a child in an educational institution. Section 498-J<sup>13</sup> subjecting a child to sexual abuse. Section 498-K<sup>14</sup> child pornography or photography.

---

<sup>5</sup> Juvenile Justice System Act, 2018, Section 3.

<sup>6</sup> Ibid. Section 10.

<sup>7</sup> Criminal (Laws) Amendment Act, 2016

<sup>8</sup> Pakistan Penal Code, 1860, Section 498-E.

<sup>9</sup> Ibid. Section 498-F.

<sup>10</sup> Ibid. Section 498-G.

<sup>11</sup> Ibid. Section 498-H.

<sup>12</sup> Ibid. Section 498-I.

<sup>13</sup> Ibid. Section 498-J.

<sup>14</sup> Ibid. Section 498-K.

Pakistan penal Code in above referred sections has particularly explained the definitions of the offences and there is no material change in the procedural law, as enshrined in the Code of Criminal Procedure, 1898. These amendments without proper amendments in procedural law these definitions will not provide any comprehensive results. The minute analysis of these amendments shows that emphasis has been placed on definitions of different forms of child abuse but unfortunately, the court procedure has not been changed. Under the present scenario; there are no special provisions for investigation of child abuse cases and the investigation is conducted by a common investigating officer who has no special training therefore, there should be specific requirements for investigation of cases of child abuse. The use of scientific techniques and procedure is alien to a non-trained investigating officer due to which much possible evidence destroys. The implementation of modern methods of collection of evidence must be made compulsory and sine quo non for a trial of child abuse cases. The investigation must be time-bound which require to be completed in specific time period. In this way the specialized courts must be established which shall decide the cases of child abuse. Pakistan needs a country-specific pattern to meet with the challenges; specifically considering its socio-economic factors because every country may have different reasons behind this issue of child abuse. Pakistan may follow and transplant the models from the countries which have curtailed this evil of child abuse such as Australia and England where this problem has been reduced through legislation, procedures, and strengthening the institutions.

Children in the present times are more vulnerable as compare to any other section of society in the society in Pakistan where there is no implementation of relevant laws. Only in first four months of 2018 nine to ten cases of child abuse has been seen i.e. *Zainab* rape and murder case, in this case, the prosecution proved their case and Anti-

Terrorism Court sentenced the accused of the death penalty and fine. *Kasur* video scandal<sup>15</sup> is another example of child abuse cases in which the accused persons had committed sexual abuse of 280 minor children from 2010 to 2014 and made videos of the same. The prosecution proved their case and accused persons were sentenced with life imprisonment and other punishments. In the case of *State vs. Jumaraz*<sup>16</sup> the victim was a nine-year old girl and accused was sentenced to death under sections 302 and 376 of PPC, and death under section 7 Anti-Terrorism Act and a total fine of Rs. 600000/-. There is another case of *Sadat Amin*<sup>17</sup>, in which the accused was arrested from Sargodha on the complaint of Norwegian Embassy, the case against the accused was of child pornography, and prosecution proved the case and court convicted the accused of 10 years imprisonment and a fine of Rs. 1.2 million. There are so many other cases that are pending adjudication in different courts of the country, case like *Mudassar Ali* case<sup>18</sup>. Besides criticizing the existing laws and law enforcement agencies and prosecution, the researcher will highlight the lacunas in it.

### 3. Objective of the Study

In Pakistan, the issue of child abuse is unprecedentedly emerging that consequently creating a sense of fear for the parents and portraying Pakistan as an unsecured place for their children's growing up. The main focus of the research is child sexual abuse. Keeping in view the predicament of the child abuse raising, the researcher seeks to achieve the following objectives:

---

<sup>15</sup> State vs. Haseem Amir Etc. This has been the case of child abuse in 2015 at Kasur vide case F.I.R No. 256 Of 2015 at Police Station Ganda Singh by Haseem Arif and another. (Trial case details)

<sup>16</sup> Case F.I.R No. 361/2017, dated: 21-06-22017, under section 302, 376 of PPC and 7-ATA, at Police station Besham, District Shangala. (Trial case)

<sup>17</sup> State vs. Sadat Amin, case No. 32/2017 at Federal Investigation Agency, Regional Head quarter, Lahore, conducted by Cybercrime Unit, Lahore Region. Trial Court proceedings. (Trial case)

<sup>18</sup> Mudassar Ali vs. State. F.I.R No. 347/2018 under section 377. 511. 337-L (2). 377-B. 337-F (i) & 328-A of Pakistan Penal Code, 1860 at P.S Garden Town, Lahore. (Trial case)

- i. To investigate the issue of child sexual abuse and its associated factors in the light of international and indigenous research.
- ii. To study Pakistan's existing legal mechanism, laws, and policies regarding child sexual abuse.
- iii. To investigate the practices of judiciary and its impacts on victim child, particularly the right of children in Pakistan.
- iv. To provide statistical information regarding conviction rates to the culprits of sexual abuse of children and compare it with the convictions in the best practices and different conventions.
- v. To analyze the concept of child protection in Islamic and Pakistani laws, how to adapt the laws according to the changes and needs of the society, and to provide suggestions for plugging the loopholes in Pakistan's existing legal mechanism, which includes legislation, prosecution of accused, courts' procedure and rules.

#### 4. **Hypothesis**

That the central thesis of this dissertation is to examine the Pakistani legal mechanism on child abuse to see whether these are appropriate with Islamic and international standards. If these were found to be appropriate or compatible with the Islamic and international standards, then what reforms might be needed to bring in line with Islamic and international standards. The prevalent legal and procedural mechanism against child abuse in Pakistan is inappropriate, inconsistent with the Islamic and International standards where courts are facing procedural deficiencies while deciding cases of child sexual abuse, so reforms in the existing legal mechanism are inevitably necessitated.

There are certain amended and new laws that have lacunas and after eliminating said lacunas or by promulgating the new central law, the system can be improved and a better result oriented mechanism can be achieved.

## 5. **Research Questions**

This research is undertaken to address the following questions:

1. What are child abuse, its various forms, and challenges being faced by the victim child?
2. Which are the different laws promulgated for combating child abuse in Pakistan and what are the various impediments in the implementation of the child abuse laws?
3. To what extent the Pakistani legislation on child protection covers all aspects of child abuse and whether these laws are in compliance with the laws prevalent in best world practices and conventions?
4. What are the various internal and external underlying factors that helped increase the dilemma of child abuse, despite the latest legislation on the concerned subject?
5. What is the mechanism of reporting and investigation of child abuse cases in Pakistan, whether evidence of child is admissible in a trial and a critical examination of case laws of Superior Courts of Pakistan?
6. What are the meaningful suggestions for combating the emerging issues of sexual abuse of children in the developing countries in general and in Pakistan in particular?

## 6. Research Methodology

The research undertaken has been conducted through qualitative research methodology. The substances of the study had been particularized hypothetically and systematically by adopting primary and secondary methods. Primary sources include Islamic legal principles, constitutional law, records of laws, legislative rules formulated by the legislature and the precedents. Secondary sources include books and research articles, authorized statistics from different sources, legal digests, appropriate documents, indexes, and law journals. Books containing basic data are collected from the library of International Islamic University Islamabad, Pakistan, University of the Punjab Lahore, Pakistan, Jinnah Library Lahore, Pakistan and the University of Central Punjab Lahore, Pakistan. For data collection regarding the conviction rate and cases regarding sexual abuse of children, the researcher had visited child protection courts established in the province of Punjab, Pakistan to examine the present wave of child abuse in the recent past. The case study on the basis of precedents/court decisions had been discussed in depth because the basic laws and procedures are elaborated by the Superior Courts and also settled the principles for the trial courts; therefore, this part of study is very vital.

In most sciences including the social sciences, a theory affords a significant framework which helps to elaborate interrelationships among the issues under study and provides mechanism to lead the detection of new relations. *Lewin's* dictum that there is “nothing more practical than a good theory” has been referred to and stranded many research studies<sup>19</sup>. The researchers like *Tudge*, *Mokrova*, *Hatfield*, and *Karnik* have mentioned that theoretical models facilitate researchers with “a common scientific language and guiding empirical studies in such a way as to allow findings from different

---

<sup>19</sup> Ajzen, I. Behavioral interventions: Design and evaluation guided by the theory of planned behavior, New York, NY: *The Guilford Press* (2011) 74-100.

studies to be evaluated with a common rubric”<sup>20</sup>. The family and the child are not unreceptive subject matters who go in and out of child welfare involvements; they influence, interact, and enter the system<sup>21</sup>. In Pakistani society, it is an admitted position of facts that child abuse mostly occurs or is committed within the family or close circle members of the family or the persons living around the victim child i.e. intra-familial and extra-familial child abuse. It is further noted that child abuse is mostly committed by the person(s) who are familiar with the child or with whom the child is familiar. The primary theoretical foundation of present study is relational theory. The relational theory stresses upon the relational matrix, with relational having a broad integrative emphasis. This means that the relationships include our external relationship, our internalized patterns of relating, and relationships with the socio-cultural environment. It also highlights our developmental recognition of each other’s unique subjectivities and the systematic characteristics of the relation.<sup>22</sup> Jordan<sup>23</sup> and Covington has elaborated the basic principles of rational theory: (a) people throughout their life grow in relationships (b) characterize growth depends upon maintaining and building a relationship (c) the growth requires mutual empowerment and empathy (d) for growth of relationship authenticity is main core<sup>24</sup>. The lack of positive interactional relational opportunities may lead to more negative impacts on a child<sup>25</sup>.

---

<sup>20</sup> Tudge, J. R. Mokrova, I. Hatfield, B. E. & Karnik, R. B. Uses and misuses of Bronfenbrenner's bio-ecological theory of human development. *Journal of Family Theory & Review*, (2009) 1(4), 198-210.

<sup>21</sup> Farineau, H. An ecological approach to understanding delinquency of youths in foster care. *Deviant Behavior*, (2015) 1-12. Last accessed on 17-7-2020.

<sup>22</sup> Cait, Relational Theory. Springer Publishing Company, (2016): 185-202.

<sup>23</sup> Jordan, JV. Relational cultural therapy, *American Psychological Association* (2010).

<sup>24</sup> Lawson, D.M. Understanding and treating children who experience interpersonal maltreatment: Empirical findings, *Journal of Counseling and Development* (2009) 87, 204-215.

<sup>25</sup> Ibid.

*Bronfenbrenner* in 1977 has developed an ecological theoretical framework, which narrates the interactions between family, individual, and nearby society<sup>26</sup>. *Bronfenbrenner* defines it as “the scientific study of the progressive, mutual accommodation between an active, growing human being and the changing properties of the immediate settings in which the developing person lives. As this process is affected by relations between these settings and by the larger contexts in which the settings are embedded”<sup>27</sup>. The concept introduced by *Bronfenbrenner* is also very close and relevant to the researcher’s present study.

According to prevailing situation of Pakistani society; the relational and attachment theory shall form foundation of this study because the relational theory explains that how people develop relations and make use of them. The intra-familial child sexual abuse, which is very common in the Pakistani society, can be evaluated on the basis of this theory. The growth and dependence upon relations is also an imperative factor which ought to be assessed for determination of nature and causes of child sexual abuse and in this context this theory facilitates. The secondary foundation of this study is the doctrinal research methodology that analyzes the statutory provisions and the cases by exercising the power of reasoning. It involves examining the case laws, ordering and arranging the study of legal institutions or rational deductions, and systematizing legal propositions. This form of research systematically examines the problems relating to law with appropriate mechanism. While discussing the problem of child abuse in Pakistan; this theory enables the researcher that how laws are interpreted and implemented, it also provides mechanism for studying the case laws. Therefore, this research shall be based upon relational and doctrinal research theories.

---

<sup>26</sup> Bronfenbrenner, U. Toward an Experimental Ecology of Human Development, *American Psychologist* (1977) 513-531.

<sup>27</sup> Ibid. p. 21.

The doctrinal research methodology is also relevant to the present study of the researcher; this methodology means a research that has been conducted on a legal proposition by means of analyzing the statutory provisions and the cases by exercising the power of reasoning<sup>28</sup>. The doctrinal research methodology involves analyzing the case laws, ordering, arranging, study of legal institutions or rational deductions, and systematizing legal propositions<sup>29</sup>. This form of research systematically examines the problems relating to law with appropriate mechanism; it also deals with aspects of law i.e. theories, process, principles, comparative status, historical development, justice delivery, judicial functions, and others<sup>30</sup>.

## **7. Legal Regime of Legislation on Child Abuse and Protection.**

### **a. Islamabad Capital Territory Child Protection Act, 2018,**

Under this Act different forms of child abuse have been defined such as child abuse<sup>31</sup> which means physical or mental violence, injury, exploitation, neglect or negligent treatment, maltreatment or sexual abuse. Child exploitation<sup>32</sup> has a wider implication and covers more kinds of abuse which also includes terrorists' exploitation, scientific and medical experiments, sports, and performing arts etc. whereas the neglect<sup>33</sup> is a situation where a legally obligated person does not properly looks after the child and the said person is duty bound to facilitate the child with psychological, physical, and

---

<sup>28</sup> S. R. Myneni, *Legal Research Methodology*. Allahabad Law Agency (2006).

<sup>29</sup> Jain, S. N. *Doctrinal and Non-Doctrinal Legal Research*, New Delhi: Indian Law Institute (2006).

<sup>30</sup> Amrit Kharel, *Doctrinal Legal Research*, Securities Board of Nepal Silver Jubilee Publication 2018. DOI: 10.2139/SSRN.3130525.

<sup>31</sup> Islamabad Capital Territory Child Protection Act, 2018, section 2 (e).

<sup>32</sup> Ibid. section 2 (f)

<sup>33</sup> Ibid. section 2 (q)

educational needs. Corporal punishments, torture, cruelty, inhuman and degrading behavior is included in physical violence<sup>34</sup>. Sexual abuse and exploitation<sup>35</sup> include the inducement or coercion of a child to engage in any unlawful sexual activity including the use of children in audio or visual images for child pornography. Under Section 6, the establishment of Child Protection Advisory Board<sup>36</sup>, under section 10 of the Act<sup>37</sup>, the Establishment of Child Protection Institutions has been enacted which shall be established by Minister-in-charge and there may be one or more Child Protection Institutions.

In this Act; the legislator has only created certain bodies in relation to enforcement of child rights but there are no proper definitions of offences, procedures for conducting the trial and speedy conclusion of case. The further critical analysis of the Act shows that only offences relating to the child have been mentioned, some bodies have been established which make the instant enactment non-practicable and having no practical significance. The present Act is a typical and traditional enactment for example under section 6 a 'Child Protection Advisory Board' has been established which has 16 members of different departments. This Act does not cover the practical issues in relation to the cases of child abuse such as it does not provide the definitions of many kinds of child abuse i.e. emotional abuse, child abandonment, rape, sodomy, molestation, and fondling. Alongside this no practical procedure for dealing child sexual abuse cases and cases of child pornography. No provisions have been added for investigation and court trial in child abuse cases.

---

<sup>34</sup> Islamabad Capital Territory Child Protection Act, 2018, section 2 (r)

<sup>35</sup> Ibid. section 2 (t)

<sup>36</sup> Ibid. section 6

<sup>37</sup> Ibid. section 10

#### **b. Prevention of Electronic Crimes Act, 2016**

This Act has been promulgated for the prevention of unauthorized acts with regard to information system, offences, and mechanism for prosecution of trials. Section 19 of the Act provides only the theoretical definition of offences against modesty of natural person and minor but it does not provide a speedy practical procedure for investigation and trial of such offences because for the purposes of investigation and trial; the provisions of Code of Criminal Procedure, 1898 are made applicable. While section 19-A enshrines the offence of pornography with a detailed definition of pornography. Chapter IV of the Act deals with the international cooperation by the Federal government, on receipt of request through the designated agency recognized under this Act.

#### **c. Amendments in Pakistan Penal Code, 1860.**

Pakistan Penal Code has been modified through the Criminal law Second Amendment Act 2016<sup>38</sup>, for resolving the major problems of child abuse, in this amendment section 82 has been modified and the age of the minor has been increased from seven to ten years<sup>39</sup>. Section 292-A deals with exposure to seduction that declares the acts of involvement of a child in sexual activity or exposure a child to sexually and obscene materials as an offence. Section 292-B deals with child pornography which may be any photograph, film, video, picture, or representation, the offender shall be punished for imprisonment not less than two years and may be up to seven years or fine or with both. Fondling, pornography, inducing, stroking, exhibitionism or intimidating has been made punishable under section 354-B as imprisonment for life or fine or both. The

---

<sup>38</sup> Criminal law second amendment Act, 2016 in Pakistan Penal Code, 1860 (XLV of 1860).

<sup>39</sup> Ibid. Section 82.

procreation of minor girls has been dealt with under section 366-A<sup>40</sup>, which is punishable for a term up to ten years and fine. Section 377-A of PPC deals with sexual abuse and says that whoever employs, uses, forces any person to engage in, shall be punished under section 377-B imprisonment as up to life imprisonment and fine or with both. Section 498-E<sup>41</sup>, negligence of child care shall be punished with imprisonment which may extend to three months and with fine up to 50000. Section 498-F<sup>42</sup>, giving a child for labor purposes, shall be punished with imprisonment which may extend to one year with a fine up to one hundred thousand rupees. Section 498-G<sup>43</sup>, taking a child for labor purposes, shall be punished with imprisonment with fine. Section 498-H<sup>44</sup> deals with cruelty with a child, physical punishment or beating has been mentioned in section 498-I<sup>45</sup>, section 498-J<sup>46</sup> provides with an offence as to child to sexual abuse, and child pornography and photography is enshrined in section 498-K<sup>47</sup>.

The definitions of numerous offences have been mentioned in Pakistan Penal Code. The amendments have been made in substantive law but the procedural law i.e. The Code of Criminal Procedure, 1898 has not been amended and without amending the procedural law, the amendments in substantive law will not serve any purpose. In Pakistan; the trials of the criminal cases take a huge time to be completed because the Code of Criminal Procedure provides a less speedy trial rather it contains very technical and lengthy procedure to be followed due to which the trials are delayed and the cases of child abuse are required to be decided speedily. Therefore; it cannot be said that after

---

<sup>40</sup> Pakistan Penal Code, 1860, section 366-A.

<sup>41</sup> Ibid. Section 498-E

<sup>42</sup> Ibid. Section 498-F

<sup>43</sup> Ibid. Section 498-G

<sup>44</sup> Ibid. section 366-A, Section 498-H

<sup>45</sup> Ibid. Section 498-I

<sup>46</sup> Ibid. Section 498-J

<sup>47</sup> Ibid. Section 498-K

amending the Pakistan Penal Code the requisite results could be achieved unless and until the procedural law is amended or a new law is promulgated. The minute analysis of these amendments shows that emphasis has been placed on definitions of different forms of child abuse but unfortunately the investigation and court procedure has not been changed because we need to have emergent decisions of cases of child abuse, therefore, only this amendment is not sufficient. The amendments made in section 292-A, B & C, section 328-A and section 377-A & B of Pakistan Penal Code, 1860 only provides definitions of the offences relating to child abuse but it is painful to say that the said amendments have been made in general penal law but it is the need of the hour that the offenders of child abuse must be prosecuted in a summary trial, in specified time period. Although the KPK Law on child abuse provides time for completion of trial but the said law lacks time frame for completion of investigation. Another important shortcoming in the said amendments is that the prosecution system of our country is very weak and takes years to complete if you consider the severity of offence relating to child abuse we will see that in most of the cases the effected people give up to follow up the case and as a result the offender finds ease to escape from the punishment.

**d. Punjab Destitute And Neglected Children Act 2004 (Amended 2017)**

The establishment of the Bureau<sup>48</sup> is the sine qua non under this Act, which has been made to protect the rights of children. A Bureau consists of eighteen (18) members of the Bureau<sup>49</sup> which shall be appointed by the Government by notification. The child protection officers<sup>50</sup> are to be appointed by the Board. The Bureau and each child protection institution shall establish a fund to be known as Destitute and Neglected

---

<sup>48</sup> The Punjab Destitute and Neglected Children Act 2004 (Amended In 2017), Section 5.

<sup>49</sup> Ibid. Section 6.

<sup>50</sup> Ibid. Section 15.

Children's Welfare Fund.<sup>51</sup> The Bureau may establish and maintain child protection institutions at any place in the Province.<sup>52</sup> This Act is also eyewash because under this Act no substantive progress has been made and cases of destitute children are pending and increasing rapidly.

**e. Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010.**

This is one of the pioneer legislation on child abuse by the KPK Assembly. This Act defines the age of a child, 18 years.<sup>53</sup> Child pornography<sup>54</sup> is defined as porn photograph, film, video, picture, portrait, and computer-generated image, etc. The term sexual abuse<sup>55</sup> is anything like fondling, stroking, caressing, exhibitionism; voyeurism, etc. Under this Act, *Khyber Pakhtunkhwa* child protection and welfare commission<sup>56</sup> has been established which has 14-members which shall administer the affairs of the commission. The powers and functions of the commission may coordinate with National Commission on child rights, monitor implementation, and violations of laws on child abuse. The commission shall further have the powers to establish child protection units, child protection officer<sup>57</sup> will be appointed, having certain qualifications, to perform duties concerning child protection. The child protection unit<sup>58</sup> shall be established in cooperation with the government at the District level for child protection. The functions<sup>59</sup> of the child protection unit will be to receive the child at risk, developing constructive community structure for welfare of a child etc., child protection institutions<sup>60</sup> shall be

---

<sup>51</sup> The Punjab Destitute and Neglected Children Act 2004 (Amended In 2017), Section 18.

<sup>52</sup> Ibid. Section 20.

<sup>53</sup> The Khyber Pakhtunkhwah Child Protection and Welfare Act. 2010. Section 2 (d)

<sup>54</sup> Ibid. section 2 (f)

<sup>55</sup> Ibid. section 2 (y)

<sup>56</sup> Ibid. section 3

<sup>57</sup> Ibid. section 5

<sup>58</sup> Ibid. section 9

<sup>59</sup> Ibid. section 10

<sup>60</sup> Ibid. section 12

established by the commission to recognize, manage, maintain, and control of child protection units and institutions. Child protection and welfare fund<sup>61</sup> have proposed to be established by the commission. The Children Protection Court<sup>62</sup> shall be established by Government in consultation of Peshawar High Court. The powers and functions<sup>63</sup> of the court have also been enumerated which are orders of handing over to parents, guardians, or any suitable persons. Violence against a child<sup>64</sup> has been made punishable and imprisonment up to 3 years and fine and if offence is committed by two or more offenders imprisonment may up to 10 years and fine up to 100000/-.<sup>65</sup> Dealing with organs of the child<sup>66</sup> has specifically made an offence which entails a punishment of death or imprisonment for life and fine of one million.<sup>67</sup> Cruelty to a child<sup>68</sup> is punished as imprisonment for up to three years. Employing a child for begging,<sup>69</sup> giving intoxication liquor or narcotics drugs to a child<sup>70</sup>. Child pornography is made punishable,<sup>71</sup> child trafficking,<sup>72</sup> and sexual abuse<sup>73</sup> is also made severely punishable under this Act.

---

<sup>61</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010. section 13

<sup>62</sup> Ibid. section 15

<sup>63</sup> Ibid. section 16

<sup>64</sup> Ibid. section 36

<sup>65</sup> Ibid. section 37

<sup>66</sup> Ibid. section 40

<sup>67</sup> Ibid. section 41

<sup>68</sup> Ibid. section 44

<sup>69</sup> Ibid. section 45

<sup>70</sup> Ibid. section 46

<sup>71</sup> Ibid. section 48

<sup>72</sup> Ibid. section 52

<sup>73</sup> Ibid. section 53

#### **f. The Balochistan Child Protection Act, 2016**

This Act provides definitions of Child,<sup>74</sup> Child abuse,<sup>75</sup> Child Protection Unit,<sup>76</sup> child protection officer,<sup>77</sup> child exploitation,<sup>78</sup> neglect or negligent treatment,<sup>79</sup> maltreatment,<sup>80</sup> mental violence,<sup>81</sup> physical violence,<sup>82</sup> and sexual abuse and exploitation.<sup>83</sup> This Act has established the Child Protection Commission<sup>84</sup> and its members will consist of 6 members.<sup>85</sup> The authority will perform functions<sup>86</sup> like coordinate and monitor child protection, advice a policy, legislation, make sure effectual harmonization of child safety issues and other relevant functions. The Authority may establish District Child Protection Unit,<sup>87</sup> Child Protection Plan.<sup>88</sup> But this Act does not make available any method for the prosecution of the offenders, there is no proper definition of offences relating to child sexual abuses, no description of punishments and everything is left with old laws like PPC and Cr. P.C which has reasons of failure of implementation of rights of children in our society, therefore, we are in dire need to enact special laws for the protection of children.

---

<sup>74</sup> The Balochistan Child Protection Act, 2016, Section 2 (e)

<sup>75</sup> Ibid. section 2 (f)

<sup>76</sup> Ibid. section 2 (g)

<sup>77</sup> Ibid. section 2 (h)

<sup>78</sup> Ibid. section 2 (m)

<sup>79</sup> Ibid. section 2 (r)

<sup>80</sup> Ibid. section 2 (s)

<sup>81</sup> Ibid. section 2 (t)

<sup>82</sup> Ibid. section 2 (u)

<sup>83</sup> Ibid. section 2 (w)

<sup>84</sup> Ibid. section 7

<sup>85</sup> Ibid. section 8

<sup>86</sup> Ibid. section 9

<sup>87</sup> Ibid. section 11

<sup>88</sup> Ibid. section 14

### **g. Sindh Child Protection Authority Act, 2011**

This Act provides definitions of Child,<sup>89</sup> Child Protection Institution,<sup>90</sup> child protection unit,<sup>91</sup> child protection officer.<sup>92</sup> This Act has established Sindh Child Protection Authority,<sup>93</sup> its head office will be at Karachi and its members will consist of Chairman and members.<sup>94</sup> Chairman will be Minister-in-charge of the social welfare department and six other members, the term of office of members will be two years.<sup>95</sup> The authority will perform functions like coordinate and monitor child protection,<sup>96</sup> ensure the rights of children,<sup>97</sup> support and establish an institutional mechanism for child protection<sup>98</sup>. Also to supervise the functions of other institutions,<sup>99</sup> to review laws and proposed amendments,<sup>100</sup> to organize the child safety management information system<sup>101</sup> and other relevant functions. The Authority may establish a child protection unit for a certain local area.<sup>102</sup> The Authority will appoint child protection officers.<sup>103</sup> Under this Act, a fund shall be established for all sums.<sup>104</sup> In section 16 of the Act child protection units have been established and section 17 mentions protective measures for children but these two sections narrate only protective measures not the mechanism if the offence would have been committed. These two sections also do not provide for the investigation of offences of child abuse. This Act does not provide any provisions for the prosecution

---

<sup>89</sup> Sindh Child Protection Authority Act, 2011, Section 2 (g)

<sup>90</sup> Ibid. section 2 (d)

<sup>91</sup> Ibid. section 2 (f)

<sup>92</sup> Ibid. section 2 (e)

<sup>93</sup> Ibid. section 3

<sup>94</sup> Ibid. section 4

<sup>95</sup> Ibid. section 5

<sup>96</sup> Ibid. section 10 (a)

<sup>97</sup> Ibid. section 10 (b)

<sup>98</sup> Ibid. section 10 (c)

<sup>99</sup> Ibid. section 10 (f)

<sup>100</sup> Ibid. section 10 (h)

<sup>101</sup> Ibid. section 10

<sup>102</sup> Ibid. section 16

<sup>103</sup> Ibid. section 15

<sup>104</sup> Ibid. section 18

of the offenders, no description of punishments, and everything is left with old laws like PPC and Cr. P.C. These are the vital reasons of failure of implementation of rights of children in our society; therefore, we are in a dire need to enact special laws for the protection of our children.

#### **h. International Conventions, Declarations, and Protocols of Child Abuse**

At international level; article 19 of the United Nations Convention on the Rights of Child 1989, which was ratified by Pakistan in 1990. After ratification; now Pakistan is bound to submit her report as to implementation of this convention. In addition to this Universal Declaration of Human Rights, 1948, Cairo Declaration on Human Rights in Islam, Declaration of Rome on Human Rights in Islam, Declaration of the Rights of the Child, 1959. Optional Protocol I & II, the Hague Convention on the protection of children and cooperation in respect of inter-country adoption. CEDAW, ILO Convention 138 concerning the minimum age for admission to employment and UN Standard Minimum Rules for the administration of juvenile justice (Beijing Rules). UN Guidelines for the prevention of juvenile delinquency (Riyadh Guidelines) and UN for the protection of juveniles deprived of their liberty. All these international conventions, protocols and declarations are providing the guidelines for the protection of the rights of the children and to save them from any form of abuse. Pakistan is signatory to the most of these conventions; therefore, under obligation to enforce the same. In most of the legislations; these conventions have not been included into them and due to this reason, these conventions cannot be enforced in the courts of law.

## 8. Literature Review

To research the topic of child abuse, although there is significant literature available in the form of articles, books, and case laws, contributed by the Western as well as the Pakistani scholars. But, still there is a need to have a comprehensive study on this topic with relevant laws and case studies; specifically in Pakistan. Unlike the developed countries, in Pakistan, there is no comprehensive and adequate research regarding legislation against child abuse. Despite the contribution of international and national scholars, there are numerous flaws in Pakistan's legal mechanism on child abuse, which the researcher had intended to identify by making a comparative analysis of different cases. Child abuse is prohibited in every sphere; even *Shari'ah* directs the protection of children from every harm. Islam provides safeguard even to the enemies' children.<sup>105</sup>

### a. Dissertation

*Hafiz Usman Rafique*<sup>106</sup> in his thesis highlighted child protection from different perspectives. He examined how the Islamic, the Pakistani, and the international law protect the child from any form of abuse. He also compares different laws another as the Pakistani law varies from Islamic as well as international law and vice versa. But his main focus has been on child abuse prevention in international law with a specific comparison of Islamic law and the researcher has discussed the child sexual abuse, relevant legislation, and prevalent laws in Pakistan.

---

<sup>105</sup> Al-Bukhari and Muslim, <http://mentalhealth4muslims.com/child-abuse-the-muslim-community>.

<sup>106</sup> Hafiz Usman Rafique, "Child abuse prevention in international law: A comparative study with Islamic law", Dissertation for a Ph. D student, 2018.

Lain Boyd in his thesis<sup>107</sup> studied the reaction of the media to the Jay report, which brought national awareness to the mass fallings in the domains of the local authority services of *Rotherham* Metropolitan City Council. Lain Boyd had a main focus on the *Rotherham* report but the researcher has highlighted the situation in Pakistan after the *Kasur* Video scandal and he is also going compare it with the Pakistani legislation both previous and latest.

*Moricca* Lorraine Worrell in her thesis<sup>108</sup> describes child sexual abuse as an emerging serious problem. In this thesis, different policies and theories have been discussed as humanist policy, feminist/ child protectionist, social constructionist/ children rights; and childhood sexuality. Three alternatives point of views on social disciplines that are permissive; manage and protect humanism and also scrutinized the phenomena of child sexual abuse but the researcher has discussed the theoretical analysis with a special focus on Pakistan.

## **b. Books**

*Evin M. Daly*<sup>109</sup> provides an understanding of every facet of child abuse and contributes essential guidelines to the parents, teachers, law enforcement agencies, and any other concerned. This book significantly contributes not only to the individuals, but also important for society against the evil of sexual abuse of children. As the researcher has tried to cover the loopholes of a specific country like Pakistan, legislation, and the

---

<sup>107</sup> Lain Boyd. *Being Heard: A Thematic Analysis of the Newspaper media Response to the Jay Report and the Rotherham child Abuse Scandal*, (2015). [https://www.herts.ac.uk/\\_data/assets/pdf\\_file/0020/100964/msc-dissertation-exam-no-183587.pdf](https://www.herts.ac.uk/_data/assets/pdf_file/0020/100964/msc-dissertation-exam-no-183587.pdf). Last accessed on 12-08-2018.

<sup>108</sup> *Moricca* Lorraine Worrell. *The Discursive Construction of child sexual abuse* (1999), Vol. I,II. DOI: <https://doi.org/10.21954/ou.ro.00004a2ahttps://sites.google.com/site/historyofrapebibliography/author-index/author-index-w/worrell-2001-construction>. Last accessed on 12-08-2018.

<sup>109</sup> *Evin M. Daly*, *Child Abuse: What You Need to Know*, (Illustrated Edition, Toronto, Ontario, Parker Publishing, 2014). ISBN-10: 0989500209, ISBN-13: 978-0989500203.

poor implementation of laws relating to child sexual abuse. In Pakistan, abuse of a child has become an emerging issue.

Michele Elliott,<sup>110</sup> in his book, defines how female children are being abused by the ruthless society. He provides a guideline for the society, to protect children from sexual abuse. It discusses that abuse by women has been an unthinkable subject for the reason that it weakens discernments about how women must relate to children but in this volume, there is no work that children are being abused by the men abusers in underdeveloped countries like Pakistan. Researcher has unearthed the facts of how children are being abused by men in Pakistan.

Dr. Muhammad Munir,<sup>111</sup> in his book “Rights of Children in Islamic Law: A Review of Some Existing Literature” has reviewed the existing literature on child abuse. He mentioned in his book that area of child rights has remained an overlooked area from some serious research; however, there are *Ahadiths* on the rights of the child. He has also discussed the earlier literature done on the rights of the child. Modern works on child rights have also been reviewed by him. He has elaborated that most of the works are related to the rituals regarding the children. This book contains extensive literature on child rights but it does not contain any material regarding child abuse.

Nafisa Shah<sup>112</sup>, in her book, defines how female children are considered easy prey for abuse. She examines how in the backward areas the practice of *Karo Kari* gives license to the male members of the family to take lives of the females of the family if

---

<sup>110</sup> Michele Elliott. *Female Sexual Abuse of Children: The Ultimate Taboo*. (Sage Journal. 1993). <https://doi.org/10.1177/026455059304000312>. Last accessed on 21-8-2020.

<sup>111</sup> Muhammad Munir, Associate Professor Faculty of Shari'ah & Law, International Islamic University, Islamabad, Pakistan. [muhhammadmunir@iiu.edu.pk](mailto:muhhammadmunir@iiu.edu.pk). *Rights of Children in Islamic Law: A Review of Some Existing Literature*.

<sup>112</sup> Nafisa Shah, *Honour and Violence: Gender, Power and Law in Southern Pakistan*, 1st Edition. (New York: Berghahn Books, 2016). <https://doi.org/10.2307/j.ctvswx7d4>. Last accessed on 21-11-2020.

they are accused of adultery, how the judicial system, mediations, modern laws, and state response to the cruel system of *Karo Kari*. In developing countries like Pakistan, there is a huge problem that children are not safe at their educational institutions. In this volume, *Nafisa shah* discussed female child abuse in the form of *Karo Kari* and highlights no other form of child abuse in Pakistan. The researcher has highlighted the other forms and reasons for child abuse in Pakistan.

*Muhammad Nasir Khan*<sup>113</sup> in his book has narrated that the child abuse an international issue and he has also mentioned the different reasons of child abuse in secondary school children; for this purpose he has interviewed teachers and parents to point out the reasons. In his work; the author has not discussed the issue of child abuse of very young age ones, as to where they go and to whom they meet and for this purpose there are recent examples are of *Zainab*,<sup>114</sup> *Sadat Amin's case*<sup>115</sup> and *Asama*<sup>116</sup> cases are the glaring examples of how female children are easily sexually abused and murdered.

*Mona Aeysha*<sup>117</sup> defines the situation of female child abuse in Pakistan. She highlights the key responsible factors regarding emotional abuse of children, gender

---

<sup>113</sup> Muhammad Nasir Khan. *Causes of Child Abuse Among Secondary School Students in Pakistan*. Lambert Academic Publishing, (2014): 11-27.

<sup>114</sup> First Information Report No. 08/2018 (under section 154 of Code of Criminal Procedure Code, 1898) dated: 10-01-2018. Registered under section 364-A, 377, 201, 302, 363 of Pakistan Penal Code, 1860 & section 7 of Anti-Terrorism Act of 1997, Police station A-division, Kasur. Accused was tried by Anti-Terrorism Court, Lahore and announced its judgment on 17-02-2018. Death penalty under section 7 of Anti-Terrorism Act, imposed fine under section 364-A of Rs. 1 Million, Rs. 1 million fine under section 376 PPC (rape), Rs. 1 million as compensation to victim of Zainab, life imprisonment under section 377 of PPC with additional fine of Rs. 2 million, imprisonment of 7-years under section 201 of PPC with fine of Rs. 100,000/-.

<sup>115</sup> Sadat Amin was arrested from District Sarggodha, Punjab on the complaint of Norwegian Embassy on 11-04-2017 and case FIR No. 32/2017 was lodged. Accused was involved in child pornography. More than 650000 pictures and videos related to child pornography were recovered from the seized digital media from his possession. During investigation it revealed that accused was having the hands in gloves with international pornographers nexus namely Jan lindstorm, Sweden, GiovaniBetotti, Italy, Max Hunter, USA, Andrew Moody, UK, and Mukhtar from UK. The complete was carried out. On 26-04-2018 the court of Special Judge for cybercrimes cases of FIA Lahore announced the decision and convicted the accused person for imprisonment of 7-years along with 1.2 million fines.

<sup>116</sup> State vs. Muhammad Nabi 2018. (Trial case)

<sup>117</sup> Mona Aeysha. "*Female Child Abuse in Pakistan*", (2017). Independently Published. ISBN-10: 1549966413, ISBN-13: 978-1549966415.

discrimination, and female rights violation. As there are many prevailing customs, toxic beliefs, rituals, and traditions maintained for ages to control the women at home and in the society level. The researcher has emphasized different cases of child abuse with detail in the recent decade in Pakistan.

*Cynthia Crosson-Tower*<sup>118</sup>Contributes comprehensive literature that elaborates on how different professionals participated in the child protection mechanism. This work provides a general idea of practical and non-practical families and compares the growth of children in a healthy society with that of the development of children hampered by abuse. But this work does not discuss how children are being abused by the abusers, who are not from families, the situation of the different countries where children are abused and the perpetrators are punished by law. The researcher has underlined the prevailing situation in Pakistan and the case law study of both countries has also put light on suitable suggestions on how these countries can get rid of this scourge from their societies.

Nancy Boyd Webb and James W. *Drisko*<sup>119</sup> contribute information that is necessary not only for children but also for the adolescents and their caregivers. The author's present framework and methods, has been illustrated with case examples, to provide research-based approaches and how to deal with the victim of abuse. This work also provides extensive deliberations of autism, childhood obesity, and blended families' role in the sexual abuse of children. The researcher will discuss how the abusers are presenting a negative image of Pakistan in the community of nations due to the abuse of little children. The researcher will also highlight the important cases of child abuse in

---

<sup>118</sup> Cynthia Crosson-Tower, *Understanding Child Abuse and Neglect*, 9<sup>th</sup> Edition, (Pearson Publishers, 2021) ISBN-13: 9780137521111. Last accessed on 21-9-2021.

<sup>119</sup> Nancy Boyd Webb and James W. Drisko. *Social Work Practice with Children*, 3<sup>rd</sup> edition. (Guilford Press, 2011). ISBN 978-1-4625-3755-6. Last accessed on 21-9-2021.

both countries and how the ratio of child abuse is increasing day by day in Pakistan.

Douglas J. Besharov<sup>120</sup> has contributed the latest development in combating child abuse. The children reported as suspected victims of child abuse and neglect between 1963 and 1999 rose from 150,000 to 3000000, which has been 20 times increase. The researcher has contributed to finding out the problems and its possible solution for combating this scourge from the societies like Pakistan with the help of Douglas' contribution.

David A. Wolfe<sup>121</sup> has contributed to the main causes and emerging trends of child abuse. Traditionally, the accused of child abuse was considered to be abnormal or disturbed. Nevertheless, some other considerations are also recognized, which lead to child abuse: disconnection of the nuclear of the family, cultural disapproval of violence, and socio-economic disadvantage may be at higher risk for neglect and child abuse. David suggests that mental health professionals should play their due role, to help parents and children to establish healthier and violence-free relationships. But there are some points where the author is silent; the researcher with the help of this material has tried to find out different areas where a special focus is needed.

Carla Van Dam's<sup>122</sup> work contributes to some precautionary steps, to protect children from every kind of child abuse. Carla did not mention how and why children are abused in any society, the researcher with the help of given literature try to find out the

---

<sup>120</sup> Douglas J. Besharov, *Recognizing Child Abuse: A Guide For The Concerned*, 1<sup>st</sup> Edition. (New York: Free Press, 1990). [https://doi.org/10.1016/0190-7409\(91\)90066-Q](https://doi.org/10.1016/0190-7409(91)90066-Q). Last accessed on 22-08-2021.

<sup>121</sup> David A. Wolfe , *Preventing Physical And Emotional Abuse Of Children*, 1<sup>st</sup> Edition, (Guilford press publisher, 1991), ISBN-13: 978-0898622195, ISBN-10: 0898622190. Last accessed on 22-08-2021.

<sup>122</sup> Carla Van Dam, *Identifying Child Molesters: Preventing Child Sexual Abuse by Recognizing the Patterns of the Offenders*, 1<sup>st</sup> Edition. (Routledge press. 2001). ISBN 9780789007438. Last accessed on 22-08-2021.

possible reasons for child abuse, its impact on the child victims and society. The researcher has also attempted to suggest possible remedial measures that can crush this problem from different societies especially from Pakistan.

Gloria Edmonson Nelson<sup>123</sup> contributes to the causes of abuse, its various types furthermore she also suggests how to overcome the new trends of child abuse. Nelson insists that the parents should be very vigilant, cautious, and must keep themselves aware of the people who are indirectly concerned with their children. Further, the parents should not get reluctant in reporting any immoral activity with their children. Nowhere Nelson mentioned a special focus on the fact that any country, researcher by adopting different ways. Nelson has also tried to suggest some remedial measures that can curb the problem of child abuse from Pakistan.

The present research is to be conducted with thorough discussions on the relevant laws and the precedents of the Superior Courts of Pakistan while setting guidelines and pointing out the deficiencies in the prevailing laws and procedures. In the present research; the examination of the laws is based on the judgments of the Courts wherein the Courts while deciding the appeals and revisions in the cases of child abuse have established important principles for guiding the trial courts to justly and fairly decide the cases on merits. The researcher has also highlighted the landmark cases on child abuse and their impacts on the other cases and society.

---

<sup>123</sup> Gloria Edmonson Nelson, *Recognizing Child Abuse and Domestic Violence*, 2<sup>nd</sup> edition. (Glo's Prose Publishers, 2011), ISBN-10: 0966823230, ISBN-13: 978-0966823233.

### c. Articles

Islam gives equal protection to children. Muhammad (PBUH) held everyone's guardian, protector, and responsible for their wards, family members, and things under their control.<sup>124</sup> Dr. *Muhammad Munir*<sup>125</sup> also stresses in his article that children have rights in Islamic law especially the minor children who have special importance in the Islamic sphere. Here the researcher has focused the rights of children in the Pakistani statutory laws and also shed light on the lacunas in the Pakistani laws related to children.

Professor *Imran Ahsan Nayzee*<sup>126</sup> throws light on the CRC that is a convention for children and many other international documents that focus on the protection of the child in any society that is a responsibility of the state as well as the individuals. He did not highlight the situation of Pakistan that is becoming worse day by day; here the researcher has underscored the important case laws of child abuse in Pakistan.

*Tahira Jabeen*<sup>127</sup> in her article "A History of Contemporary Child Protection in the Global South (with a special focus on South Asian and Pakistan)" discussed the situation of different countries after UNCRC 1989. She tried to compile the history of child protection in countries of global south with the minute detail of Pakistan's worse situation but the researcher has emphasized the non-implementation of statutory laws for child protection in Pakistan and its adverse effects on Pakistan.

---

<sup>124</sup> Bukhari and Muslim, Aliza Kashamala Kiran, Rights of Children and Parents, *Ma'arif-e-Islami*. Vol. 13, Issue no. 1, January 2014 (Jan 28, 2018). <https://www.linkedin.com/.../rights-children-parents-aliza-kashamala-kiran-alahadis-gi>.

<sup>125</sup> Muhammad Munir, Rights of Children in Islamic Law: A Review of Some Existing Literature. Allama Iqbal Open University: *Ma'arif-e-Islami*, Vol. 13, Issue no. 1, (2014)

<sup>126</sup> Imran Ahsan Nayzee, Islamic Law and the CRC (Convention of the Rights of the Child) *Islamabad Law Review*, Volume: 1, Nos. 1 & 2 (Spring and Summer 2003).

<sup>127</sup> Tahira Jabeen, A History of Contemporary Child Protection in the Global South (with a special focus on South Asian and Pakistan), *J.R.S.P.*, vol. 50, No. 1, (2013), p 138-159

#### d. Case Laws

Here are some important cases of Pakistan that Pakistan is trying to avoid the dilemma and scourge of child abuse from their societies, as in Pakistan most recent issue of *Zainab Case*,<sup>128</sup> State versus Imran (*Zainab* murder case), offences of rape and murder, including the offence of terrorism) The case has been decided by Anti-Terrorism court on 17-02-2018 has decided this case and accused has been sentenced four counts of the death penalty, life imprisonment, seven years imprisonment and PKR. 3.2 million Fine.

*Sadat Amin's case*,<sup>129</sup> accused was arrested from District Sargodha, Punjab, Pakistan on the complaint of Norwegian Embassy on 11-04-2017, and a case FIR No. 32/2017 was lodged. Accused was involved in child pornography. More than 650000 pictures and videos related to child pornography were recovered from the seized digital media from his possession. Meanwhile in investigation, it has been exposed that the accused was having the hands in gloves with international pornographer's nexus namely Jan Lindstrom, Sweden, *Giovani Betotti*, Italy, Max Hunter, USA, Andrew Moody, UK, and *Mukhtar* from the UK. On 26-04-2018 the court of Special Judge for cybercrimes cases of FIA Lahore announced the decision and convicted the accused person for the imprisonment of 7-years along with 1.2 million fine.<sup>130</sup>

<sup>128</sup> First Information Report No. 08/2018 (under section 154 of Code of Criminal Procedure Code. 1898) dated: 10-01-2018. Registered under section 364-A, 377, 201, 302, 363 of Pakistan Penal Code. 1860 & section 7 of Anti-Terrorism Act of 1997, Police station A-division, Kasur. Accused was tried by Anti-Terrorism Court, Lahore and announced its judgment on 17-02-2018. Death penalty under section 7 of Anti-Terrorism Act, imposed fine under section 364-A of Rs. 1 Million. Rs. 1 million fine under section 376 PPC (rape), Rs. 1 million as compensation to victim of Zainab, life imprisonment under section 377 of PPC with additional fine of Rs. 2 million. imprisonment of 7-years under section 201 of PPC with fine of Rs. 100,000/-.

<sup>129</sup> *Sadat Amin case*, FIR No. 32/2017, District Sargodha, Punjab. (Trial case details)

<sup>130</sup> State vs. *Sadat Amin*, case FIR No. 32/2017, at Federal Investigation Agency, Regional Head quarter, Lahore conducted by Cybercrime Unit, Lahore Region. This case was on child pornography.

TH-27521

*Kasur Video Scandal*<sup>131</sup> (more accurately titled as State versus *Haseem Amir* Etc. This has been the case of child abuse in 2015 at *Kasur*, Punjab, Pakistan through case F.I.R No. 256 Of 2015 at Police Station *Ganda Singh*, Punjab, Pakistan against *Haseem Arif* and others. The Anti-Terrorism Court, Lahore, Punjab, Pakistan has awarded accused *Haseem Amir*, *Wasim Sindhi*, and *Aleem Asif* with life imprisonment and acquitted the other three accused. In this case, the prosecution has alleged that accused persons assaulted young boys and filmed the scene for blackmailing).

*State vs. Adnan Khaliq alias Tipu.*<sup>132</sup> In this case, a 12 years age minor girl was raped by the accused in the area of *Ghaziabad* Lahore. During trial of the case; Learned Additional Sessions Judge, Lahore, Punjab, Pakistan has sentenced the accused 10 years R.I imprisonment with fine Rs. 100000/-.

*State vs. Jumaraz*, case F.I.R No. 361/2017, dated 21-06-2017 under section 302, 376 of PPC & 7-ATA at Police station *Besham*, District *Shangla*, Pakistan. A teen aged girl was kidnapped, raped and murdered by the accused. (Judgment on 11-04-2018, death under sect: 376, under sec: 302 death, under sec: 7 of ATA again death and a total fine of Rs. 600000/-)

*State vs. Mirwaise etc.*<sup>133</sup> in police station *Zarghoonzada*, KPK, Pakistan, Quetta, *State vs. Qari Waseem Bashir*<sup>134</sup> in police station *Zarghoonzada*, Quetta, *State vs.*

---

<sup>131</sup> State vs. *Haseem Amir* Etc. This has been the case of child abuse in 2015 at *Kasur* vide case F.I.R No. 256 Of 2015 at Police Station *Ganda Singh* by *Haseem Arif* and another. (Trial case details)

<sup>132</sup> Case F.I.R No. 583/2016 under section 376 at police station *Ghaziabad*, Lahore. and victim is 12 years old minor girl. (Trial case details)

<sup>133</sup> *State vs. Mirwaise etc.* in case F.I.R No. 27/2018 under sections 379, 385, 365, 342, 292-B & 34 of PPC at police station *Zarghoonzada*, District *Quetta*, Balochistan, *state vs. GhulamFarooq Etc. vs. State* in case F.I.R. No. 23/2015 at Police station *Usta Muhammad* District *Jaffarabad*, under section 377, 511, 34 of PPC & section 18 of Motion of Pictures Ordinance. (Trial case details)

<sup>134</sup> *State vs. Qari Waseem Bashir* in case F.I.R. No. 295/2015 at Police station *Abbotbad*, under section 377/511 of PPC, age of victim is 6 years and accused was sentenced for 7 years in 2018 and said conviction was maintained by High Court. (Trial and appellate court case details)

*Hashim Etc.*<sup>135</sup> in police station Abbottabad, KPK, Pakistan and *State vs. Akhash Etc.*<sup>136</sup> in Police station *Havelian*, District Abbottabad, KPK, Pakistan.

The case titled “*State vs. Aziz Ullah*”<sup>137</sup> under section 377/511 of PPC at Police Station *Mughalpura*, Lahore, Punjab, Pakistan in which a child had been abused by his teacher. The case is pending before the competent court and about to decide.

The case titled “*State vs. Nasir Gulzar*”<sup>138</sup> under section 377/511 of PPC at Police Station Defence-C, Lahore, Punjab, Pakistan in which a minor girl has been attempted to abuse by the landlord/accused. The case is pending adjudication in the trial court.

The case titled “*State vs. Muhammad Ali*”<sup>139</sup> under section 377 of PPC at Police Station Ghaziabad, Lahore, Punjab, Pakistan in which a child of 9 years had been abused. The matter is being adjudicated by the trial court.

The case titled “*State vs. Kashif*”<sup>140</sup> under section 377 of PPC at Police Station *Hadiara*, Lahore, Punjab, Pakistan in which a child of 8 years had been abused. The case is pending adjudication in the trial court. *State vs. Nasir Gulzar*,<sup>141</sup> in this case, victims are 13 & 15 years old. *State vs. Umair*,<sup>142</sup> the victims are 5 years old girl. *State vs.*

---

<sup>135</sup> *State vs. Hashim Etc.* in case F.I.R. No. 282/2016 at Police station Abbottabad, under section 376, 342 & 34 of PPC and this case is pending adjudication for recording statement of accused under section 342 of Cr. P.C. (Trial case details)

<sup>136</sup> *State vs. Akhash Etc.* in case F.I.R. No. 295/2015 at Police station Havelian, District Abbaotabad, victim is 16 years old, under section 377. 365 & 34 of PPC and in this case bail is pending adjudication before High Court. (Trial case details)

<sup>137</sup> *State vs. Aziz Ullah*, case F.I.R. No. 17/ 2011. (Trial case details)

<sup>138</sup> *State vs. Nasir Gulzar* in case F.I.R No. 321/2018. (Trial case details)

<sup>139</sup> *State vs. Muhammad Ali* in case F.I.R No. 350/2018. (Trial case details)

<sup>140</sup> *State vs. kashif* in case F.I.R No. 193/2018. (Trial case details)

<sup>141</sup> *State vs. Nasir Gulzar*.F.I.R No. 346/2018, dated 13-05-2018 under section 377. 376 & 511 of PPC at Police station Ghaziabad. (Trial case details)

<sup>142</sup> *State vs. Umair*,F.I.R No. 334/2018, dated 16-04-2018 under section 376/ 511 of PPC at Police station Batapur. (Trial case details)

*Asif*,<sup>143</sup> *State vs. Naseer*,<sup>144</sup> *State vs. Atif*,<sup>145</sup> *State vs. Shahzaib*,<sup>146</sup> *State vs. Hassan*,<sup>147</sup> in this case, the victim 6 years girl. *State vs. Wakeel*,<sup>148</sup> Victim is 9 years girl, *State vs. Darwesh Khan*,<sup>149</sup> *State vs. Ameer Shah*,<sup>150</sup> *State vs. Yasir Ali*,<sup>151</sup> *Hammad Ahmad*.<sup>152</sup>

## 9. Significance of Research

Although, Pakistan has criminalized many acts for abuse of children but it is far away to offer a comprehensive mechanism for curbing this social evil from any society. So far, the Pakistani legal system is lacking adequate legislation to deal with such type of issues, no speedy trial of cases, and no proper investigation of the case due to improper legislation. Therefore, it is important to work on this topic to bring existing legislation with the conformity of international standards and best practices.

In a society like Pakistan, there is a huge problem i.e. people do not follow the case which gives courage to the offenders to commit more crimes of child abuse with impunity. This study has highlighted the importance of the proper legislation for the crime of child abuse in Pakistan, particularly the investigation process and court

---

<sup>143</sup> *State vs. Asif*, F.I.R No. 382/2018, dated 20-05-2018 under section 376/ 511 of PPC at Police station Ghaziabad. (Trial case details)

<sup>144</sup> *State vs. Naseer*, F.I.R No. 321/2018, dated 30-04-2018 under section 376/ 511 of PPC at Police station Defence-C. (Trial case details)

<sup>145</sup> *State vs. Atif*, F.I.R No.544/2018. dated 04-06-2018 under section 376 of PPC at Police station Defence-A. (Trial case details)

<sup>146</sup> *State vs. Shahzaib*, F.I.R No. 795/2017, dated 19-10-2017 under section 377 of PPC at Police station Manawan. (Trial case details)

<sup>147</sup> *State vs. Hassan*, F.I.R No. 534/2018, dated 02-07-2018 under section 376 of PPC at Police station Batapur. (Trial case details)

<sup>148</sup> *State vs. Wakeel*, F.I.R No. 539/2018. dated 08-07-2018 under section 376 of PPC at Police station Batapur. (Trial case details)

<sup>149</sup> *State vs. Darwesh Khan*, F.I.R No. 90/2018. dated: 27-01-2018. under sec: 377. 511. 506 of PPC & 53 CPA, District Kabal, Baluchistan. (Trial case details)

<sup>150</sup> *State vs. Ameer Shah*, F.I.R No. 46/2015, dated: 19-09-2015, under sec: 377 PPC. District Mardan. (Trial case details)

<sup>151</sup> *State vs. Yasir Ali*, F.I.R No. 389/2018, dated: 29-03-2018, under sec: 7 of ATA & 53 of Child Protection Act, District Batgram of KPK. (Trial case details)

<sup>152</sup> *State vs. Hammad Ahmad*, F.I.R No. 97/2018 under section 377, 367-A & 292-C of Pakistan Penal Code, 1860 at P.S Dohan District Chakwal. (Trial case details)

proceedings in Pakistan. The present research is to be conducted with thorough discussions on the relevant laws and the precedents of the Superior Courts of Pakistan while setting guidelines and pointing out the deficiencies in the prevailing laws and procedures. In the present research; the examination of the laws is based on the judgments of the Courts wherein the Courts when deciding the appeals and revisions in the cases of child abuse have established important principles for guiding the trial courts to justly and fairly decide the cases on merits. The researcher has also highlighted the landmark cases on child abuse and their impacts on the other cases and society.

## 10. Reasons why a Child is being Victim of abuses in Pakistan

The children are easy to hunt for the criminal minded people who can easily catch the minors for their dirtiest desires.<sup>153</sup> The minor children while their way to school, from a school to home, to go tuition centers, to go mosques and even for some minor shopping can easily be apprehended for the illegal desirous people.<sup>154</sup> Another factum is that parents of victim child compromise with the offender just to save the future of the minor child and this factor also encourages the other offenders of like-mindedness.<sup>155</sup> In many cases, it has been seen that the victim of child abuse is from a family of the child which means that said offender has very easy access to the victim.<sup>156</sup> In some cases, it has been seen that the child who has fewer parents' attention or the separated parents is the victim of the child abuse and it is because of the reason that the offender can easily access the victim child.<sup>157</sup> Another important factor is the case of a child who is living

---

<sup>153</sup> Stephen Lyon, Power and patronage in Pakistan. (PhD diss. *University of Kent*, 2002)  
<http://safir.ukc.ac.uk/SLyon/Lyon.pdf>.

<sup>154</sup> Ibid.

<sup>155</sup> Sahil, *Cruel Numbers 2011*. (Islamabad: Sahil, 2011).

<sup>156</sup> Ministry of Social Welfare and Special Education. *National Plan of Action for Children* (Islamabad: Ministry of Social Welfare and Special Education, Government of Pakistan, 2005)

<sup>157</sup> Save the Children, Sweden, *Camel Jockeys of Rahimyar Khan: Findings of a Participatory*

without his parents and in such a situation he or she can easily be trapped by the offenders. The children who were living with their labor parents are also general victim of child abuse because in such like situation the parents' attention and care is at least level and offenders have open access to the victims.<sup>158</sup> The parents, who are in conflict with each other and have less attention towards the child, may lead to a negative propitiator of child abuse to fulfill his designs. The less care-giving behavior of parents is also a reason for child abuse because in such a situation child usually remains away from the parents and becomes the victim of child abuse.

## 11. Limitations of Study

This research has focused on the legal mechanism of Pakistan with respect to legislation, case laws study of different provinces regarding child sexual abuse and highlighted challenges which are being faced in the prosecution of the accused. The focal area of the research is Pakistan. There are numerous kinds of child abuse in Pakistan but the main focus of the researcher has been on child sexual abuse and some other kinds of child abuse has also been discussed in Chapter 2. The research has critically examined the legal developments and courts' judgments on this core social issue. This study has discussed amendments in PPC regarding child abuse, Juvenile Justice System Act 2018, and other local and international documents such as Hague convention, Cairo convention and most important UNCRC 1989, etc. This study has also critically examined Islamabad Capital Territory Child Protection Act, Sindh Child Protection Act, *Balochistan* Child Protection Act, and *Khayer Pakhtunkhwah* Child Protection Act. The main focus of the study has been on the case laws study on child sexual abuse in

---

*Research on the Life and Situation of Child Camel Jockeys* (Peshawar: Save the Children, Sweden, 2005)

<sup>158</sup> Yousaf Kamal, *Child labour: National Portfolio*, Islamabad: Ministry of Labour and Manpower, (2000); Pakistan Bureau of Statistics, *Child Labour Survey*, (Islamabad: Ministry of Economic Affairs and Statistics, Government of Pakistan, 1996)

different courts of Pakistan.

## 12. Structure of the Thesis

The whole research spans over seven chapters. General/Chapter One starts with the introduction of the research. The crux of the research has been discussed, and the methodology has been elaborated to highlight the purpose of the study. The statement of the problem, research questions, objectives of research, the methodology of research, hypothesis and literature review are major themes in this chapter. It also explains pivotal issues discussed thoroughly in this work revolving around the aim of the research, its structure and raises questions which are answered through this work.

Chapter Two elaborates the child abuse in Pakistan; identification, forms, and impacts of child abuse. The terminological understanding of child abuse in different laws i.e. child in the Islamic law, the Pakistani, and in the international law has been elaborated, thoroughly. Different kinds of child abuse in Pakistan: child sexual abuse, intra-familial and extra-familial sexual abuse, bodily abuse, emotional abuse, child desertion, child ignorance, procurement of minor girl, molestation with sexual motive, fondling as child abuse, caressing, pornography, rape of minor girl, sodomy, verbal abuse, and child tourist have been explained in detail. Numerous impacts of child abuse have also been narrated such as; impacts on child victim, impacts on victim's family and society, social and cultural impacts, psychological impacts, physical impacts, and behavioural impacts. At the end, Pakistan's current measures for protection of child abuse have been mentioned.

Chapter three deliberates on legal discourse to child abuse in international perspective. The paramount emphasize in this chapter is on child abuse in international context, historical recognition of child abuse, different organizations of United Nations, European Union, and African union. Important international conventions such as; Convention on the Rights of the Child, UNDHR, CEDAW, International covenant on economic, social and cultural rights, Hague convention on the civil aspects of international abduction, WHO, UNICEF, European Social Charter, and council of Europe convention on the protection of children against sexual exploitation and sexual abuse, etc., has been mentioned with details.

Chapter four deals with reporting and investigation mechanism regarding child abuse in Pakistan. This chapter explains the existing laws, procedures and mechanism for reporting and investigation; it further mentions the drawbacks in the existing laws, rules and procedures. It further mentions how these drawbacks can be removed and a better system could be attained. The promulgated laws have been mentioned and elaborated in detail. The role, importance, and functions of different NGOs have also been mentioned.

Chapter five explains the admissibility of child's evidence in the cases of child abuse, the value of child evidence in cases involving child sexual abuse, laws applicable on admissibility of child evidence, the requirement of corroboration, the requirements of QSO as to child evidence, and the satisfaction of the courts as to competency of child witness. The difficulties faced by child witness during court proceedings and nature of child evidence have been narrated. In this chapter the precedents of Superior Courts regarding child evidence have also been mentioned.

The chapter six explains the critical analysis of case laws in High Courts, Supreme Court, Federal Shariat Court, Shariat Court of Azad Kashmir, Islamabad High Court, and Gilgit-Baltistan Chief Court. It further mentions the cases of Supreme Court of Pakistan and Federal Shariat Court. Significance of DNA report in the child abuse cases has been elaborated.

Chapter seven is the last chapter which contains the recommendations regarding the main issue under research.

## Chapter No. 2

# CHILD ABUSE IN PAKISTAN: IDENTIFICATION, FORMS, AND IMPACTS

### 2. Introduction

Any intentional or unintentional behavior that roots harm to a person or person en-counts mental, emotional, psychological, and physical injury and it may be from an individual, group, or societal. Child abuse may occur once or extended over a period of time and it has negative impacts; it not only affects an individual, group but also disturbs the whole society.<sup>159</sup> The word child abuse has many definitions but there is no uniformity among the authors for the definition of Child Abuse; every author has different parameters for describing Child Abuse that led to prevalent discrepancies<sup>160</sup>. Child abuse is one of the actions of the adults that cause harm physically, emotionally and mentally to the child.<sup>161</sup> Often, this curse occurs due to the neglect by the family, want of love, concern and interest; whatever the cause of abuse it has damaging effects on the personality of the child.<sup>162</sup> It can occur at home, at school, organization and in the community where child interacts. Most of the children are vulnerable to be easily exploited by the adults as they have little power to resist their defense.<sup>163</sup> Millions of children are affected due to the abuse in almost every country of the world but the author has the main focus on

---

<sup>159</sup> Rosemari Skine, *Abuses an encyclopedia of causes consequences and treatments*, (Santa Barbara, California 2015) ISBN: 978-1-61069-514-5, ISBN: 978-1-61069-515-2, <https://the-eye.eu/public/concen.org/01052018>. Last accessed on 12th February. 2019.

<sup>160</sup> Berrien, F. B.; Safanova, T. Y.; and Simbal, Child abuse: a global view, *West port, ct: greenwood*, (2001).

<sup>161</sup> <http://www.childhelp.org/child-abuse/>. Last accessed on 9th February. 2018.

<sup>162</sup> NSPCC, *Child abuse and neglect*, [www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/](http://www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/). Last accessed on 9th November, 2018.

<sup>163</sup> Celia Doyle, Current issues in Child Protection: An Overview of the Debates in Contemporary Journals, *British Journal of Social Work* (1996) vol. 26, No.4, PP. 565-576. <http://www.jstor.org/stable/23710686>. Last accessed on 12th February. 2019.

<sup>171</sup> Ibid.

Pakistan; how children are being abused in Pakistan. Child abuse has primarily been classified into four types i.e. physical, emotional, psychological, and sexual abuse.<sup>164</sup> In the last decade according to the World Health Organization (WTO) child, sexual exploitation has been declared as the public health issue<sup>165</sup> in almost every country but with different ratios. Baker & Duncan have done a survey of over 2000 men and women and they established that 12% of females and 8% of men informed being sexually exploited before 16 years, mostly by a family member. M.R. Hilton conducted a community survey which sample of over 900 females and established that 28% had been sexually exploited before the age of 13 years and 38% before 17 years; only 2% of the incest cases and 6% of the extra-familial cases of sexual exploitation were ever registered.<sup>166</sup> According to *Finkelhor*, there is a variation for child abuse percentage for boys and girls about 6% to 65% of girls are being abused and almost 3% to 31% of boys are abused by the adults, but this ratio is increasing day by day.<sup>167</sup> It is very complicated to determine the real percentage of child sexual abuse; however, there is a broad agreement the abuse is a serious and detrimental health effect that demands attention at every level.<sup>168</sup> Sexual abuse is one of the most popular kinds of child exploitation and abuse. A greater number of children who are sexually abused are female children, but commonly sex offenders are male who are of different ages as 30% of young sexual offenders and 70% are adult male members who sexually abuse the children irrespective

---

<sup>165</sup> Lisa Marie Cromer, Factors That Influence the Believing of Child Sexual Abuse Disclosures, *A dissertation to University of Oregon*, (June 2006).

<sup>166</sup> M. R. Hilton and G. C. Mezey, Victims and Perpetrators of Child Sexual Abuse, *British Journal of Psychiatry* (1996), 169, 408-415.

<sup>167</sup> Helene Jackson and Ronald Nuttall, Effects of Gender, Age, and History of Abuse on Social Workers' Judgments of Sexual Abuse Allegations, *Social Work Research*, (June 1994) Vol. 18, No. 2, pp. 105-113, Oxford University Press, <http://www.jstor.org/stable/42659212>. Last accessed on 21st February, 2019.

<sup>168</sup> Browne, A., & Finkelhor, D. Impact of Child Sexual Abuse: A Review of the Research, *Psychological Bulletin* (1986) 99(1), 66-77.

of their gender.<sup>169</sup> The researcher will examine the forms and impacts of child abuse keeping in view relational and attachment theory with further help of ecological model.

## **2.1. Terminological Understanding of Child Abuse in Different Laws**

### **2.1.1. The Child in Islamic Law**

Islamic teachings provide full safeguards and protection to children since their childhood with anticipation and objective. According to the Quran, the offspring is a blessing from the Almighty Allah to His truthful creations. Quran says “O Lord grant us from among our wives and offspring comfort to our eyes and make us an example for the righteous”.<sup>170</sup> It also includes one of the rewards conferred upon them by the Almighty Giver of bounties, as well as being a completion of the wish that sincere servants of God long for:

*“Unto Allah belongs the sovereignty of the heavens and the earth. He creates what He wills. He bestows female (offspring) upon whom He wills, and bestows male (offspring) upon whom He wills; or He mingles them, males and females, and He makes barren whom He wills. Lo! He is the Knower, Powerful”.*<sup>171</sup>

Therefore, it is not astonishing that Islamic *Shari'ah* (law) pays extreme attention to safeguarding the children providing all that is needed for the child including a healthy psychological environment that is necessary for the nurturing of children, such atmosphere where the children learn about the world and articulate their civilization and

---

<sup>169</sup> Arnon Bentovim, Preventing Sexually Abused Young People From Becoming Abusers, And Treating The Victimization Experiences Of Young People Who Offend Sexually, *Child Abuse & Neglect* 26 (2002) 661–678

<sup>170</sup> Quarn, 25:74.

<sup>171</sup> Quran 42: 49-50.

norms.<sup>172</sup> Under the Islamic jurisprudence children have been provided the right of name, property, family, relatives, and legacy. Islam has also enshrined the privileges to children such as proper diet, health-care, right of education, and secured life.<sup>173 174</sup> The Prophet (PBUH) has counseled all the Muslims to be caring and loving with the children.<sup>175</sup> It is reported that a Bedouin was astonished to perceive that the Prophet (PBUH) kissed his grandsons, *Al-Hasan* and *Al-Husain*, and asked the Prophet, “Do you kiss children? We do not kiss them. The Prophet said, “It is beyond my control if Allah has removed mercy from your hearts”<sup>176</sup> Even Islam has taken maximum heed of children during armed clash. This is demonstrated from the Quran and many *Ahadith* of the Prophet (PBUH). The Qur’an says, “Battle in the way of Allah alongside those who fight in opposition to you but do not misbehave, for Allah does not love transgressors”.<sup>177</sup> According ‘*Abdullah b. ‘Abbas*, ‘*Umar b. ‘Abdul ‘Aziz* and *Mujahid B. Mawla* “those who fight against you’ in the verse means those who take part in the war against you”. That is, never fight with the children.<sup>178</sup> According to Muhammad b. *al-Hasan al-Shaybani*,<sup>179</sup> children, must not be killed in war because of verse 2:190 and for the reason that the Muslim army must fight only combatants.<sup>180</sup> In one *Sunnah*/tradition the Prophet had said: “Do not kill women and children”. *Ibn ‘Abbas* reports that the

---

<sup>172</sup> Norah Bin Hamad, Foundations for Sustainable Development; Harmonizing Islam, Nature and Law. New York: *Elisabeth Haub School of Law at Pace University*, (2017) [nbinhamad@law.pace.edu](mailto:nbinhamad@law.pace.edu). Last accessed on 6th March, 2019.

<sup>173</sup> Abdul-Rehman Al Sheha, Abu Salaman Deya Ud-Deen Eberle and Abu Ayoub Jerpme Boulter, *Human Rights in Islam and Common Misconceptions*. Muhammad (PBUH), THE Messenger of God (2006). p. 103.

<sup>174</sup> Dr. Kamal-deen Olawale Sulaiman, “*An Analytical Approach to the Preventing the menace of Child Abuse in Islamic point of View*”, ISSN: 2550:3014. Sri Lankan Journal of Arabic and Islamic Studies Vol. 1, Issue. 1; 2018, <http://seu.ac.lk/sljais/>. Last accessed on 6th March, 2019.

<sup>175</sup> Tirmizi, *Sunan, Kitab Al-Birr Wa Al-Silat*, hadith no. 1919, vol. 4, p. 321.

<sup>176</sup> Muslim, *Sahih Muslim*, kitab al-Fada’il. vol. 4, p. 1808, *hadith* no. 2317.

<sup>177</sup> Quranic 2:190

<sup>178</sup> Muhammad Tahir b. ‘A’shoor, *Tafsir al-Tahrir wa-Tanwir*, Dar Souhnoun. Tunis. n. d.). vol. 1, p. 200.

<sup>179</sup> Muhammad b. al-Hasan al-Shaybani (d.189/804)

<sup>180</sup> Muhammad b. al-Hasan al-Shaybani, *Kitab al-Siyar al-Kabir*. commentary Muhammad b. Ahmad al-Sarakhasi, ed., Muhammad Hasan al-Shafi’i, (Beirut: Dar al-Kotob al-‘Ilmiyah, 1997), vol. 4, p. 186.

Prophet prohibited from the killing of children.<sup>181</sup> In another tradition, the Prophet is reported to have said: “Never to kill children and a servant”<sup>182</sup>. Thus, there is a general prevention on the killing of children in the war. This is a way how God and Prophet Advice the Muslims to protect and safeguard their children.<sup>183</sup> It is a universal rule that children of any race, religion, and language should be protected and preserved otherwise it will be against the sayings of the Prophet. In Islam, no one is permitted to abuse his own children or the children of any other person.<sup>184</sup> It is the responsibility of every Muslim to childcare, protection and his education and how so ever transgresses its responsibility he should remember the warning of the Prophet, “he is not one of us who does not demonstrate kindness to the young and who does not show respect to the elder”.<sup>185</sup>

Muhammad B. *Mahmood B. Husain Astroshni*<sup>186</sup> has discussed several issues relating to the minor(s), he discussed the rules of Islamic law as to minor’s involvement such as fasting, marriage, and Hajj,<sup>187</sup> he further mentioned Islamic rules where a minor commits a crime, whether individually or in the company of others, or where a crime is committed against a minor boy or girl.<sup>188</sup> Another noticeable Muslim jurist Abdullah *Nasih Ulwan* has written on the rights of the child in Islam, his work contains many issues of a child such as a complete section on sex education of the child and when two

---

<sup>181</sup> Abu Jafar al-Tahawi, *Ma'ani al-Athar*, (Beirut: Tasweer, n. d.), vol. 3, p. 221.

<sup>182</sup> Imam Ahmad b. Hanble, *Musnad*, (Cairo: Mu'assah al-Qurtabah, n. d), 2:22-23. ahadith No. 4739, 4747.

<sup>183</sup> Ibid. p.11.

<sup>184</sup> Dr. Muhammad Munir, Rights of the Child an Islamic Perspective on Preventing Violence, Abuse, and Exploitation of Children and Pakistani Law”, *Hamdard Islamic University (2015)* vol. xxxviii. No. 4. P.33.

<sup>185</sup> Tirmidhi, Sunan, *Kitab al Birr Wa al-Silat*. hadith. no. 1919.

<sup>186</sup> Muhammad b. Mahmood b. Husain Astroshni. *Jami' Ahkam Al-Sighar*. ed.. Abi Mus'ab Al-Badri and Mahmood 'Abdur Rahman (Cairo: Dar al-Fadilah, n.d.), 2 volumes. The book is also translated from Arabic into Urdu as *Bachun kay Islami Ahkam* by Fazal Rasool (Lahore: Fareed Book Stall. 2007). The translated work is 623 pages but has no index or bibliography. References in this work are made to the Urdu translation as the Arabic one was not available at the time of writing this manuscript.

<sup>187</sup> Ibid. p. 188 & 192.

<sup>188</sup> Ibid. p. 258-267.

opposite sexes mix up; it leads to harm (evil).<sup>189</sup> The rules of foundling<sup>190</sup> (abandonment of a child) have been discussed in detail (in a complete section of the book) by a Muslim jurist Muhammad B. Ahmad Al *Salih*,<sup>191</sup> the author has provided even minute details of abandonment of a child by parents, guardian, and society<sup>192</sup>. Muhammad Noor *Saweed*<sup>193</sup> has also worked on the rights of children; it has detailed and dispersed discussions on different aspects relating to the child. It covers the issue of visiting a sick child,<sup>194</sup> explains how the Prophet (P.B.U.H) treated sick child,<sup>195</sup> and many other issues but interestingly the work does not make any reference to the protection of the child in international law and in this regard the obligations of Muslim States to protect the children.<sup>196</sup> There are several publications regarding children in Islam and most focus of these publications is particularly on Islamic rituals such as the birth of a child, disciplining a child, and education.<sup>197</sup> Most of the works are silent regarding the rights of the children; however, some work depicts Quranic references and *Ahadiths* to deal with the children.<sup>198</sup> The minute analysis, of already done work, shows that no focus has been placed to learn social issues like child sexual abuse.<sup>199</sup>

---

<sup>189</sup> ‘Abdullah Nasih ‘Ulwan, *Tarbiyatul Awlad fil Islam* (Cairo: Darussalam, 1992). two volumes. vol. II, p. 499-599.

<sup>190</sup> Muhammad b Ahmad Al-Salih, *Al-Tifl fi Al-Shari‘ah Al-Islamiyah* (Riyadh: Matab‘i al-furzdaq, 1982),

<sup>191</sup> Ibid. p. 13-67.

<sup>192</sup> Ibid. p. 76.

<sup>193</sup> Muhammad Noor b ‘Abdul Hafeez Sweed, *Manhaj Al-Tarbiyah Al-Nabawiyah Lil Tifl* (Makka: Dar al-Tiybah, 3rd edn 2000). The book is 447 pages.

<sup>194</sup> Muhammad Noor b ‘Abdul Hafeez Sweed, *Manhaj Al-Tarbiyah Al-Nabawiyah Lil Tifl* (Makka: Dar al-Tiybah, p. 388.

<sup>195</sup> Ibid. p. 388.

<sup>196</sup> Muhammad Noor b ‘Abdul Hafeez Sweed, *Manhaj Al-Tarbiyah Al-Nabawiyah Lil Tifl*, p. 4

<sup>197</sup> Ibid. p. 10.

<sup>198</sup> Ibid. p. 14.

<sup>199</sup> Ibid. p. 14.

### 2.1.2. The Child in the Pakistani Law

“Child means a person, either girl or boy, below the age of 18 years”<sup>200</sup> “a child means a person who has not attained the age of eighteen years”<sup>201</sup>. “Child is a person who is under the age of 18 years, at the time of any relevant proceeding”<sup>202</sup>. In Pakistan, there are several laws on this subject but unfortunately, all said laws do not cover the basic and requirements to eliminate child sexual abuse. The prevalent laws are the Islamabad Capital Territory Child Protection Act, 2018 which provides only some definitions, some bodies like the establishment of Child Protection Advisory Board<sup>203</sup> and establishment of Child Protection Institution. The Juvenile Justice System Act, 2018 is recently legislated by the parliament and this law deals with juvenile offenders not with the minors affected by sexual abuse. The general penal law applicable in Pakistan is the Pakistan Penal Code, 1860<sup>204</sup> which provides definitions of different offences mentioned therein. In 2016 through the Criminal Amendment Act, 2016 some offences relating to child abuse have been added in this general law. The offences added in sections 292-A,<sup>205</sup> 292-B<sup>206</sup>, and 328-A<sup>207</sup>. Similarly; section 354-B, fondling, pornography, exhibitionism, inducing, intimidating, 366-A, procreation of minor girl, 377-A,<sup>208</sup> sexual abuse, 498-E,<sup>209</sup> negligence of child-care, 498-F,<sup>210</sup> giving a child for labor purpose, 498-G,<sup>211</sup> taking a child for labor purpose. All these amendments show that an attempt has been made to

---

<sup>200</sup> Section 2 (e) of The Balochistan Child Protection Act, 2016. (Act No. VII of 2016)

<sup>201</sup> Section 2 (d) Islamabad Capital Territory Child Protection Act, 2018. Also see: Section 2 (g) of The Sindh Child Protection Authority Act, 2011. (Sindh Act No. XIV of 2011). Section 2 (b) of The Juvenile Justice System Act, 2018. (Act No. XXII of 2018). Section 2 (e) of The Punjab Destitute and Neglected Children Act, 2004.

<sup>202</sup> Section 2 (d) of The Child Rights (Care and Protection) Act, 2016. (Act No. XXV of 2016). See also: Section 2 (d) of The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010.

<sup>203</sup> Section, 6, Islamabad Capital Territory Child Protection Act, 2018.

<sup>204</sup> Criminal law second amendment Act, 2016 in Pakistan Penal Code, 1860 (XLV of 1860).

<sup>205</sup> Pakistan Penal Code, 1860, Section, 292-A.

<sup>206</sup> Ibid. section 292-B.

<sup>207</sup> Ibid. section 328-A.

<sup>208</sup> Ibid. section 377-A.

<sup>209</sup> Ibid. section 498-E.

<sup>210</sup> Ibid. section 498-F.

<sup>211</sup> Ibid. section 498-G.

safeguard the children from any kind of abuse by giving some amended definitions of offences but still all these amendments are not sufficient to provide proper protection to the children. In the same way; section 498-H,<sup>212</sup> cruelty to a child, section 498-I,<sup>213</sup> beating or physical punishment to a child in an educational institution, section 498-J,<sup>214</sup> deals with subjecting a child to sexual abuse and section 498-K,<sup>215</sup> child pornography have been offered to cure the bitter condition of child abuse in Pakistan. These amendments, at present, in Pakistan Penal Code are not sufficient because these do not provide a proper mechanism and eliminating effects. That the amendments in substantive law without amending the procedural law will not serve any useful and result oriented purpose(s).

In Pakistan; laws have been enacted on the basis of fundamental principles of Islam such as considering the interests and welfare of children. Article 25-A of the Constitution of the Islamic Republic of Pakistan guarantees the obligation of the government to facilitate and provide free education to the children from the age of 5-16 years and also forbidden discrimination against sex. The Punjab Compulsory Education Act, 1994, Restriction of Child Labor Act, 1890, The Child Marriage Restraint Act, 1929, and Employment of Children Rules, 1995 are providing right of education, marriage and right to prevent from force labor. All these legal mechanisms show that how much the children are protected in our society but there is no enforcement of laws. Similarly; The Child Marriage Restraint Ordinance 1971, the Child Nutrition Act, 2002, Punjab Child Act, 1952, the Sindh Child Act, 1955, the Pakistan Prison Act, 1894 and Prison Rules, the Juvenile Justice System Act, 2018 are facilitating for the protection of

---

<sup>212</sup> Pakistan Penal Code, 1860. section 498-H.

<sup>213</sup> Ibid. section 498-I.

<sup>214</sup> Ibid. section 498-J.

<sup>215</sup> Ibid. section 498-K.

the children. In the same way; The Guardian and Wards Act, 1890, Workers Children Education Ordinance, 1972, West Pakistan Shops and Establishment Ordinance, 1969, the Punjab Destitute and Neglected Children Act, 2004, Reformatory Schools Act, 1897,<sup>216</sup> and Punjab Youth Offenders Ordinance, 1993<sup>217</sup> are also enabling the government institutions for safeguarding the children from any form of abuse. Although; there are number of enactments available in Pakistan but all these promulgations are not up to dated, provided mechanisms are not fulfilling the requirements of changing circumstances. Resultantly; the children are being abused especially sexual abuse is increasing on alarming scale in Pakistan.

### 2.1.3. The Child in the International Law

At the international level, the Convention on the Rights of the Child has got the fundamental importance because it has defined the age of childhood and also enshrined the basic rights of the child.<sup>218</sup> It is also defined as “every human being below the age of 18 years”<sup>219</sup>. International law regarding sexual violence and abuse has developed dramatically during the last decades especially the last 50 years<sup>220</sup>. The International Bill of Human Rights, the two International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights,<sup>221</sup> and Convention on the Rights of the Child are prominent international instruments. Both these covenants safeguard the rights of the children specifically in relation to civil, economic, social and cultural rights, these rights

---

<sup>216</sup> Reformatory Schools Act, 1897, (Act No. VIII of 1897)

<sup>217</sup> Punjab Youth Offenders Ordinance, 1993, (Act No. XXIII of 1993)

<sup>218</sup> Article 2, African Charter on the Rights and Welfare of the Child.

<sup>220</sup> International Centre for Mission & Exploited Children. Johns Hopkins University. *Child Protection Model Law, Best Practices: Protection of Children from Neglect, Abuse, Maltreatment, and Exploitation*, (January 2013).

<sup>220</sup> Muna Ndulo, The United Nations Responses to the Sexual Abuse and Exploitation of Women and Girls by Peacekeepers during Peacekeeping Missions, *Berkeley Journal of International Law Volume 27 | Issue 1*, (2009), DOI: <https://doi.org/10.15779/Z38V94Q> <https://scholarship.law.berkeley.edu/bjil/vol27/iss1/5>. Last accessed on 12-01-2019.

<sup>221</sup> Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, 1966. General Assembly Resolution 2200A (XXI) of 16 December. 1966.

are admitted through these two covenants and after their implementation the states started to promulgate laws for the enforcement of these covenants. Convention on the Rights of the Child completely expresses that the children are holders of human rights that are their basic rights. Article 19 of CRC<sup>222</sup> entails State parties to safeguard the child “from all forms of abuse and violence whether it is physical or mental violence, injury or abuse, neglect or negligent behavior, maltreatment or exploitation, inclusive of sexual abuse, while in the custody of parent(s), legal guardian(s) or any other person who has the care of the child”<sup>223</sup>. Many other international instruments that protect the child from any form of abuse such as Universal Declaration of Human Rights,<sup>224</sup> this declaration is considered as one of the pioneer international documents for the recognition of fundamental rights including the children. International Convention on the Elimination of All Forms of Racial Discrimination,<sup>225</sup> Convention on the Elimination of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>226</sup> The state parties must seek guidance from all these conventions and treaties for enabling the domestic laws for protection of rights of child. Pakistan is signatory to the most of these conventions; therefore, under obligation to mend its existing laws and provide all safeguards to the children.

---

<sup>222</sup> Convention on the Rights of the Child, 1989. G.A. Res. 44/25. Annex, 44 U.N. GAOR Supp. No. 49 at 167, U.N. Doc. A/44/49 (Nov. 20, 1989).

<sup>223</sup> Convention on the Rights of the Child, 1989, article, 19.

<sup>224</sup> Universal Declaration of Human Rights, G.A. Res. 217A (III), at 71, U.N. Doc. A/810 (Dec. 10, 1948). Article 5 prohibits torture, cruel, inhuman, or degrading treatment or punishment.

<sup>225</sup> International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), 660 U.N.T.S. 195 (Dec. 21, 1965).

<sup>226</sup> Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW]. G.A. Res. 34/180, 34 U.N. GAOR Supp. No. 46 at 193. U.N. Doc. A/34/46. art. 6. See also: Roger J. Levesque, Sexual Use, Abuse and Exploitation of Children: Challenges in Implementing Children's Human Rights, *Brook. Law Review* (1994) 959 (1994).<http://brooklynworks.brooklaw.edu/blr/vol60/iss3/3>. Last accessed on 01-01-2019.

## 2.2. Various Forms of Child Abuse in Pakistan

Child abuse is “physical or mental violence, injury, exploitation, neglect or negligent treatment, maltreatment or sexual abuse”,<sup>227</sup> “Child abuse includes one, or a combination of more than one, of the following: physical or psychological violence, exploitation, injury, neglect or negligent treatment, maltreatment, including sexual abuse”.<sup>228</sup> Child Sexual violence may suggest the most explicit kinds of abuse, such as violent rape or the trafficking of children for sexual abuse, but in practice, these symbolize a marginal of offences. Peterson and Brown, define a general description of child abuse as it is intentional damage to a child’s growth due to the neglect and sexual abuse of the caretaker, any other person, and the parents.<sup>229</sup> <sup>230</sup> According to National Clearinghouse on Child Abuse and Neglect Information<sup>231</sup> An act or commission of an illegal act which renders in physical, mental, sexual and emotional abuse of the children that most of the time led to the death of the children. In 1999, the WHO Consultation on Child Abuse Prevention outlined the definitions<sup>232</sup> of “child abuse or mistreatment formulates all kinds of physical and/or emotional misbehavior, sexual abuse, neglect or negligent ill-treatment or any other kind of exploitation, which may result in actual or potential damage to the child’s health, endurance, development or self-respect in the context of a relationship of responsibility and trust or power”.<sup>233</sup> Child sexual abuse (CSA) is an act of a person that involves a child for the sexual satisfaction of that person

---

<sup>227</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, section 2(e)

<sup>228</sup> Ibid., Section 2(f)

<sup>229</sup> Helfer RE. A Review of the Literature On The Prevention Of Child Abuse And Neglect, *Child Abuse And Neglect*, (1982): 6: 251–261.

<sup>230</sup> David DiLillo, Michelle A. Fortier, Andrea R. Perry. child Abuse and Neglect. *Faculty Publication, Department of Psychology* 2005. <https://www.researchgate.net/publication/228815606>. Last accessed on 01-01-2019.

<sup>231</sup> National Clearinghouse on Child Abuse and Neglect Information. (2006). *What Is Child Maltreatment?*

<sup>232</sup> Report of the Consultation on Child Abuse Prevention, 29–31 March 1999, WHO, Geneva. Geneva, World Health Organization, 1999 (document WHO/HSC/PVI/99.1).

<sup>233</sup> Ibid., p.7.

and it may consequent assault, harassment, unwanted sexual touching, and rape.<sup>234</sup> The researcher will analyze and elaborate different forms of child abuse with the assistance of relational and attachment theory along with ecological model because in most of the forms of child abuse these two theories will help to understand the causes and impacts of child abuse.

### **2.2.1. Child Sexual Abuse**

In Pakistani domestic laws the child sexual abuse has been defined as “sexual abuse means employing, using, forcing, persuading, inducing, enticing, or coercing any child to engage in, or assisting any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or stimulation of such conduct either independently or in conjunction with other acts, with or without his consent”.<sup>235</sup> “Sexual Abuse in relation to Child, means; (i) sexually abusing, molesting, assaulting or allowing him to be sexually abused, molested or assaulted; (ii) encouraging, inducing or forcing Child to be used for the sexual gratification of another person. Further; (iii) using Child in, or deliberately exposing him to sexual activities or pornography; or (iv) procuring or allowing him to be procured for commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of Child”.<sup>236</sup> “Sexual abuse and exploitation includes: (i) the inducement or coercion of a child to engage in any unlawful or psychologically harmful sexual activity; (ii) the use of children in commercial sexual exploitation; (iii) the use of children in audio or visual images of child sexual abuse; and (iv) child prostitution, sexual slavery, sexual exploitation in travel and tourism, trafficking (within and between countries) and

---

<sup>234</sup> UNICEF, A Familiar Face: Violence In The Lives Of Children And Adolescents, 2017, [https://www.unicef.org/publications/index\\_101397.html](https://www.unicef.org/publications/index_101397.html). Last accessed on 03-01-2019.

<sup>235</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, section 2 (y).

<sup>236</sup> Ibid.

sale of children for sexual purposes and forced marriage”.<sup>237</sup>

The general penal law has also defined child sexual abuse as; “whoever employs, uses, forces, persuades, induces, entices, or coerces any person to engage in or assist any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or simulation of such conduct either independently or in conjunction with other acts, with or without the consent, is said to commit the offence of sexual abuse”.<sup>238</sup> Under the said law, it entails sentence life imprisonment and a fine not less than five hundred thousand rupees or both.<sup>239</sup> Sexual abuse is described by The Child Abuse Prevention and Treatment Act 2009<sup>240</sup> as “the employment, use, persuasion, stimulus, enticement, or use of force upon any child to connect in, or aid any other person to connect in, any sexually unambiguous conduct or reproduction of such behavior to produce a visual depiction of such conduct; or the rape, and in the matters of the custodian or inter-familial relations, statutory rape, molestation, prostitution, or any other form of sexual abuse of children, or incest with children”.<sup>241</sup> There are two elements that define what is child Sexual Abuse, firstly sexual activity with consent and secondly, sexual abuse without consent that shows an abusive condition such as the executor is in a place of power or huge age difference that indicates lack of co-sensuality; or the child’s the caretaker, or the sexual actions are performed against the child employing fraud or by force.<sup>242</sup> Sexual abuse is the most complicated kind of

---

<sup>237</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, section 2 (w)

<sup>238</sup> Pakistan Penal Code, 1860, section 377-A.

<sup>239</sup> Ibid., section 377-B.

<sup>240</sup> Child Welfare Information Gateway, 2013. *Infant Safe Haven Laws*. State Statutes. Washington, D.C.: U.S. Department of Health and Human Services, Children’s Bureau. [https://www.childwelfare.gov/systemwide/laws\\_policies/statutes/safehaven.cfm](https://www.childwelfare.gov/systemwide/laws_policies/statutes/safehaven.cfm). Last accessed on 14-01-2019.

<sup>241</sup> Ibid. p. 14.

<sup>242</sup> Finkelhor, D. Current Information on the Scope and Nature of Child Sexual Abuse, *The Future Of The Children*, (1994) 4(12), 31. <http://doi.org/10.2307/1602522>. Last accessed on 14-01-2019.

exploitation because in this abuse shame and guilt factor is involved in it.<sup>243</sup> It is perpetrated by an adult with dominant styles that coerce or force the child for sexual activity and the main purpose of sexual stimulation.<sup>244</sup>

The person who commits that crime may be a relative, family friend, friend, stranger, peer, or acquaintance.<sup>245</sup> A child is abused by an adolescent who forces the child for sexual intercourse, exposing the child to pornography, offensive disclosure of sexual organs of the body of the child, presenting the sexual parts of the child's body without or with contact, or making use of the child in making pornographic movies.<sup>246</sup> Children are being abused by the interfamilial and extra-familial relationships such as sex offenders, pedophiles, women offenders, child pornographers, and by professions such as coaches and clergy.<sup>247</sup> Child Abuse is not a common exploitation that may consist of masturbation, vaginal and anal intercourse, fondling of genitals, and oral-genital contact.<sup>248</sup> Child sexual abuse may also include noncontact abuse, for example, voyeurism, acquaintance, and child pornography.<sup>249</sup> Both, the developing and developed countries are prey to sexual abuse, according to a report in 2001; the National Institute of Justice reported that about 30 to 60 percent offenders abuse the children below 18 years

---

<sup>243</sup> <https://www.helpguide.org/articles/abuse/child-abuse-and-neglect.htm>. Last accessed on 16-01-2019.

<sup>244</sup> Chung, D. Violence, control, romance and gender equality: Young women and heterosexual relationships. *Women's Studies International Forum*, (2005). 28, 445-455. Also Cossins, A. (2000). *Masculinities, Sexualities and Child Sexual Abuse*. The Hague: Kluwer Law International.

<sup>245</sup> U.S Department of Justice, National Institute of Justice, When the Rapist is Someone You Know (146610) Illinois Criminal Justice Information Authority. P.4.

<sup>246</sup> Shamim Soomro, Zareen Abbasi, Farah Lalani. An In depth Insight into Child Abuse and its Impact on Personality of Victims, *International Research Journal of Arts & Humanities (IRJAH)* Vol. 40 (2917) ISSN: 1016-9342, P 53-54.

<sup>247</sup> Conceptualizing the Prevention of Child Sexual Abuse (Final Report). Antonia. Quadara. Vicky, Nagy, Daryl Higgins and Natalie Seigel. Australian Government. Australian Institute of Family Studies (Research Report No. 33)

<sup>248</sup> Rita Kenyon-Jump, Western Michigan University Kalamazoo. Michigan August 1990. Comparison of Behaviors of Suspected Sexually Abused and Non sexually Abused Preschool Children Using Anatomical Dolls. *Western Michigan University (1990)*

<sup>249</sup> Ibid. p. 9.

at their own houses based on family terms or relationship.<sup>250</sup>

It is a major crime in Pakistan that is escalating day by day due to the poor implementation of laws and regulations and lacking professionalism of law enforcement agencies. The ratio of child abuse is on the rise and the ratio is nine cases of abuse per day were in 2017 but in the first six months of 2018, 12 cases per day.<sup>251</sup> The statistics gathered by *Sahil* under 'Cruel Numbers Report' comprising the details from January to June 2018 where almost 2,322 cases of child abuse had been reported in different newspapers from all over Pakistan including Islamabad Capital Territory (ICT), Azad Jammu and Kashmir (AJK) and *Gilgit Baltistan* (GB).<sup>252</sup> The law relating to child sexual abuse has also developed in the courts of the country and the case of *Mst. Malaika*;<sup>253</sup> the accused took her to his *baithak* (drawing room) and attempted to commit sexual abuse resultantly criminal case was registered. Accused was punished for ten years imprisonment under section 53 of the Khyber *Pakhtunkhwa* Child Protection and Welfare Act, 2010. The appellate court had also affirmed that acts of the accused constitute child sexual abuse and sentenced to the accused was upheld.<sup>254</sup>

### **a. The Intra-Familial and Extra-Familial Sexual Abuse**

The Intra-familial and extra-familial sexual abuses are also forms of child sexual abuse where perpetrators have a relationship or without relation to the family of the victim. Many studies indicate a different percentage of child abuse; according to Fischer's and

---

<sup>250</sup> Rosemarie Skaine, *Abuse an encyclopedia of Causes, consequences and treatments*, 1<sup>st</sup> Edition, Westport, Connecticut: Greenwood, 2015. ISBN: 978-1-61069-5145. p. 54.

ISBN-13:978-1610695145

<sup>251</sup> Sahil report "Cruel Numbers" 2018.

<sup>252</sup> Ibid. p. 13.

<sup>253</sup> State vs. Muhammad Arshad, case FIR No. 113, under section 53 of Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010. at police station Nowshera. KPK. (Trial case details)

<sup>254</sup> Muhammad Arshad vs. State, PCr.LJ 2018 Peshawar High Court 1513. (Criminal appeal)

McDonald's study<sup>255</sup> 44% of abuses by the family members or the perpetrator are part of the family that is called intra-familial and 56% abuses are extra-familial. In an intra-familial relationship, there can be stepparents, siblings, cousins, and other blood relatives.<sup>256</sup> On the other hand, extra-familial sexual abuse entails offenders from outside of the family; who may be; including strangers, friends, or educators. The percentage of the younger children is often sufferers of intra-familial abuse and older victims are exploited by the extra-familial abuse that is frequently seen as using more verbal and physical force to undertake abuse.<sup>257</sup> The gender does matter for the perpetrator interfamilial and extra-familial. According to *Seto* intra-familial abuse continuous for a longer time than extra-familial abuse and it often proves more dangerous and has negative impact on the young victims.<sup>258</sup> However, Gomes-Schwartz, Horowitz, and *Cardarelli's* study indicates that there are no differences like the seriousness of abuse between intra-familial and extra-familial offenders.<sup>259</sup> The intra-familial and extra-familial child sexual abuse can also be judged on touch stone provided by the relational and attachment theory with further help of ecological model.

### 2.2.2. Physical Abuse

National Center for Child Abuse and Neglect (NCCAN)<sup>260</sup> defines child physical abuse as "physical injury (ranging from minor bruises to severe fractures or death) as a result of

---

<sup>255</sup> Fischer, D. G. & McDonald, W. L. Characteristics of Interfamilial And Extra Familial Child Sexual Abuse. *Child Abuse & Neglect*, (1998). 22(9), 915–929. [http://doi.org/10.1016/S0145--2134\(98\)00063--5](http://doi.org/10.1016/S0145--2134(98)00063--5). Last accessed on 14-01-2019.

<sup>256</sup> Fischer, D. G. & McDonald, W. L. Characteristics Of Interfamilial And Extra Familial Child Sexual Abuse. *Child Abuse & Neglect*, (1998), p. 8.

<sup>257</sup> *Ibid.* p. 10.

<sup>258</sup> Stroebel, S. S., O'Keefe, S. L., Beard, K. W., Kuo, S. Y. Swindell, S. V. S., & Kommor, M. J. Father–Daughter Incest: Data From An Anonymous Computerized Survey. *Journal Of Child Sexual Abuse*, (2012). 21(2), 176–199. <http://doi.org/10.1080/10538712.2012.654007>. Last accessed on 14-01-2019.

<sup>259</sup> Gomes Schwartz, B. Horowitz, J. M. & Cardarelli, A. P. Child sexual abuse: The Initial Effects. Thousand Oaks, CA, US: *Sage Publications, Incorporation*, (1990).

<sup>271</sup> National Clearinghouses on Child Abuse and Neglect. What is Child Abuse and Neglect? *Washington, DC: US Department of Health and Human Services* (2004)

punching, beating, kicking, biting, shaking, throwing, stabbing, choking, hitting (with a hand, stick, strap, or other objects), burning, or otherwise harming a child".<sup>261</sup> Physical Abuse means hurting a child through smashing, beating, punching, hitting, poisoning, biting, drowning, throwing, burning, suffocating or any other such activities which physically hurt the child, the effort to physically harm the child may be purposeful or situational accidents.<sup>262</sup> In the Pakistani laws physical abuse/violence has been described as "physical violence may be corporal sentence and all other kinds of torture, cruel, callous or degrading behavior or punishment,<sup>263</sup> "Physical violence includes (i) hitting, kicking, shaking, beating, bites, burns, strangulation, poisoning and suffocation; (ii) all other forms of torture, cruel, inhumane or degrading treatment or punishment; and (iii) physical torture by adults and other children".<sup>264</sup>

Physical abuse entails severe punishment or to maintain strict discipline by the caretaker or parents through physically abusing the child as to beat with belts or sticks etc. Physical abuse is a visible form of harm or injury; it is non-accidental injury and harm caused by an adult.<sup>265</sup> This type of abuse closely linked with anger and fear that parents, custodians, and caretakers abuse to control their children<sup>266</sup> In Pakistan physical abuse is a common form of abuse especially at Madrassa Culture and Schools in villages for purpose of maintaining obedience and discipline. Almost every day child physical abuse and torture are reported from all the areas of country including rural and urban.

---

<sup>261</sup> National Clearinghouses on Child Abuse and Neglect. What is Child Abuse and Neglect? Washington, DC: US Department of Health and Human Services (2004), p.23.

<sup>262</sup> Shamim Soomro, Zareen Abbasi, Farah Lalani. An In depth Insight into Child Abuse and its Impact on Personality of Victims, *International Research Journal of Arts & Humanities (IRJAH)* Vol. 40 I(2017). SSN: 1016-9342

<sup>263</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010. Section 2(r).

<sup>264</sup> Ibid., Section 2(u)

<sup>265</sup> Rosemary Skine, *Abuses An Encyclopedia Of Causes Consequences And Treatments* (2015) ISBN: 978-1-61069-514-5, EISBN: 978-1-61069-515-2, P 54.

<sup>266</sup> Smith, M., & Segal, J. Child Abuse and Neglect: Recognizing and preventing child abuse. *Harvard Medical School* (2012). [http://www.helpguide.org/mental/child\\_abuse\\_physical\\_emotional\\_sexual\\_neglect.htm](http://www.helpguide.org/mental/child_abuse_physical_emotional_sexual_neglect.htm). Last accessed on 23-03- 2019.

Although legislation to prevent physical abuse present in almost every part of the country, the non-execution and implementation of the system to abuse children physically are lingering.<sup>267</sup>

### 2.2.3. Emotional Abuse

Emotional abuse is also a major and widespread kind of child exploitation in Pakistan, it is considered as the most indefinable area of childhood mistreatment. It is not easy to accurately define it, every author has his own explanation, therefore, it is challenging to identify, not easy to manage and prevent.<sup>268</sup> According to *Garbarino & Garbarino*, child abuse is the most ordinary form of abuse which exists in almost every country in the world. This form has destructive impacts on the mental growth of the child that disturbs the child in the long run.<sup>269</sup> According to O'Hagan, the authors and other people who defined the emotional abuse have to face many difficulties as to the definition and exact meaning.<sup>270</sup> Indeed, emotionally abused children may have thoughts of insignificance, defenselessness, shame, disobedience, and similar to children who have been sexually exploited before or with them.<sup>271</sup> *Harman & Bernet* had identified 7 categories of emotional abuse to address the issues of defining emotional abuse, that health care providers can use in our management, assessment, and prevention of this type of mistreatment<sup>272</sup> as to rejection, isolation, terrorizing, ignoring, corrupting, verbally

---

<sup>267</sup> Fayyazuddin, S. Jillani, A. & Jillani, Z. The State of Pakistan's Children. *The Association of Psychohistory* (1997).

<sup>268</sup> Bobbie Crew Nelms, Ph. D, RN, CPNP, Emotional Abuse: Helping Prevent the Problem. Tahun: *Journal Of Pediatric Health Care*, Volume 15 Number 3 (2019). P.104.

<sup>269</sup> Garbarino, J., & Garbarino, A. C. Emotional maltreatment of children, *Chicago: National Committee to Prevent Child Abuse*, (1994).

<sup>270</sup> O'Hagan, K. Emotional and Psychological Abuse: Problems Of Definition. *Child Abuse And Neglect*, (1995) 19, 449-461.

<sup>271</sup> Ibid. p.31.

<sup>272</sup> Hamarman, S., & Bernet, W. Evaluating And Reporting Emotional Abuse In Children. *Journal of the American Academy of Child and Adolescent Psychiatry*. (2000) 39, 928-930.

assaulting, over-pressuring, etc.<sup>273</sup> This type of abuse or mistreatment is also known as psychological abuse that is damaging children's mental development as well as psychological and social growth. Emotional children abuse can be seen in various types and it can occur independently or in combining with some other types of physical abuse as exploiting, ignoring, isolating, rejecting, corrupting, for instance, inspiring or compelling the children to adopt unsuitable or illegitimate behaviors, verbally terrorizing, assaulting, and neglecting attitude by the other towards the children.<sup>274</sup> In Pakistan; child emotional abuse is an ordinary kind of abuse in which children are badly affected due to the taunt, criticism, and laughing attitude by the other. In Pakistan; on family occasions that abused children are more abused by criticism of the relatives and the step-parents.<sup>275</sup>

#### **2.2.4. Child Abandonment**

Child physical abandonment is an act of abandonment in which parents leave their children in a park, hospital, schools, and hospitals consciously or unconsciously with the intention of no return.<sup>276</sup> When there is a lack of identity or whereabouts of the parents of the children for a specified period, in many States it is called a form of child abuse and these States have provided the safe heavens to such children.<sup>277</sup> In this sense, it is considered child abandonment is a property that is left by the owner.<sup>278</sup> In a study in 1972, a Belgium committee concluded that what are the social features of physical child

---

<sup>273</sup> Hamarman, S., & Bernet, W. Evaluating And Reporting Emotional Abuse In Children. (2000). p. 26.

<sup>274</sup> Ibid. p. 51.

<sup>275</sup> Smith, M., & Segal, J. Child Abuse and Neglect, (2012) <http://www.helpguide.org/mental/>. Last accessed on 17th March, 2019.

<sup>276</sup> Child Protective Services Policy, West Virginia Department of Health and Human Resources Bureau for Children and Families Office of Children and Adult Services Revised December 2018.

<sup>277</sup> Child Welfare Information Gateway. (2013). "Infant Safe Haven Laws." State Statutes, Washington, D.C. U.S. Department of Health and Human Services, Children's Bureau.

<sup>278</sup> Michsel H. Stein. MD., "Child Abandonment: Historical, sociological, Psychological Perspectives". *Child Psychiatry and Human Development* (1981):213–221.

abandonment and categorized the intentions for the reasons for the actual abandonment.<sup>279</sup> Three classes of mothers who abandon their child were defined, with medical instances of each.<sup>280</sup> In the second class, where the parents are too poor and they had very poor morale and social adjustment and they were not ready to accepting responsibility.<sup>281</sup> The third category is of the women who abandoned their legitimate or illegitimate children born from extra-marital affairs.<sup>282</sup> There are many other causes of child abandonment in the developing society like Pakistan as abandonment includes ethnic standards, low standards of attention for the community, lack of education, and poverty. In Pakistan; 30 (61.2 %) male and 19 (38.8 %) of female are abandoned every year.<sup>283</sup> Many other occasional causes include parental physical and mental illness, parental inability due to drug or alcohol abuse to care for themselves, and lack of educational information relating to identifying medical issues, and a common factor is the parent's personality and absence of sound, real psychological and parenting growth.<sup>284</sup>

### 2.2.5. Child Neglect

In Pakistan's domestic laws child neglect means "failure on the part of parents or legal guardian or association accountable for care of the child, to make available the child with physical, psychological and educational needs",<sup>285</sup> Neglect is the failure to perform the responsibilities of a person who is under obligation to look after child's emotional,

---

<sup>279</sup> Barthelemy J: Social Aspects of Child Abandonment. *Rev Med Liege* (1972) 27:414-418.

<sup>280</sup> Ibid. p. 15.

<sup>281</sup> Ibid.

<sup>282</sup> Ibid.

<sup>283</sup> Naeem Zafar, Mehak Naeem. Ten years data of child abuse and neglect cases managed at the First Hospital based child protection Unit in Pakistan, *Asia Pacific Journal of Pediatrics and Child Health*. Volume, 3 (2020)

<http://apjpch.com/?page=article&number=88&article=Ten%20Years%20Data%20of%20Child%20Abuse%20and%20Neglect%20Cases%20Managed%20at%20the%20First%20Hospital%20Based%20Child%20Protection%20Unit%20in%20Pakistan>. Last accessed on 12-02-2019.

<sup>284</sup> Ibid, p. 23.

<sup>285</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, section 2 (q)

physical, and intellectual, and social needs<sup>286</sup> which also includes bodily neglect by caregivers, no emotional and loving support, and drug, aggression, or intoxicant abuse.<sup>287</sup> There are many forms of child abuse and child neglect is one of its forms in which a child is neglected for non-observance of health care recommendations, non-providing of proper food which may result in hunger, lack of health care of a child and non-compliance of a standard of physical health cautions.<sup>288</sup> Authors also include neglect, which is caused by parents or caregivers, as a kind of child abuse.<sup>289</sup> In the middle-class families, the psychological and other punishments may also be termed as a form of abuse and neglect.<sup>290</sup> Some authors include non-schooling of kids as a form of neglect and in this context, they advocate that globally approximately 130 million kids/children are out of school and they consider this fact is considered as serious neglect on the part of parents and caregivers<sup>291</sup> and from this figure, 60% are minor girls.

Many scholars have examined this form of abuse into two categories i.e. physical neglect and emotional neglect and in both forms; the first is more serious regarding its consequences.<sup>292</sup> There are numerous factors behind this form of abuse; the most unfortunate aspect and characteristics of this kind of abuse is that twin, premature infants, and handicapped children who are more victims of this sort of abuse i.e.

---

<sup>286</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010. Section 2 (v)

<sup>287</sup> Ibid. Section 2 (r)

<sup>288</sup> World report on violence and health, chapter 3. Child Abuse And Neglect By Parents And Other Caregivers, p. 5. World report on violence and health, chapter 3.

<sup>289</sup> Menick DM. The Problems Of Sexually Abused Children In Africa. Or The Imbroglia Of A Twin Paradox: The Example Of Cameroon. *Child Abuse & Neglect*, (2001)25:109–121

<sup>290</sup> Feshback, S. Aggression. In P. H. Mussen, (Ed.), *Carmichael's Manual Of Child Psychology*. NY: John Wiley Vol. 2 (1970). See also: Goode, W. J. Force And Violence In The Family. In S. K., Steinmetz, and M. A. Straus, (Eds), *Violence in the family*. (1974).

<sup>291</sup> Equality, Development and Peace . New York, NY, United Nations Children's Fund, 2000.

<sup>292</sup> Farah Malik, PhD Chairperson, Department of Psychology, GC University, Lahore. Pakistan Email: dr.farahmalik@gcu.edu.pk Determinants of Child Abuse in Pakistani Families: Parental Acceptance-Rejection and Demographic Variables. *International Journal of Business and Social Science*, Vol. 1 No. 1, (2010). www.ijbssnet.com. Last accessed on 4th April, 2019.

neglect.<sup>293</sup> In the same context, physically abused parents (in their childhood) are more aggressors for neglect, less educated parents, and single mothers or single males are more violent.<sup>294</sup> The size of a family is also an important cause, for example, a study from Chile shows that parents having more children were more violent and were neglecting the children as compared to the parents with less or fewer children.<sup>295</sup> The parents who have been maltreated have more tendencies (due to their own earlier abuse) to neglect and abuse their children<sup>296</sup> but vice versa there are many other parents who take much care of their children and they do not want to repeat the same as they have already faced<sup>297</sup>. There are many other reasons such as low income, inadequate housing, financial support system, sleeping arrangements, non-schooling, and adequate feeding.<sup>298</sup> It has also been seen that parents with sexual abuse history had more hostility, rejection, and neglect of their parents in their adolescents that cause serious behavioral problems of the children.<sup>299</sup>

Steele and Pollack observed that in the Pakistani society the socio-economic class difference is prominently present but this system, directly, does not affect the ratio of child abuse and neglect because this ratio is almost the same in all classes, having their ifs and buts.<sup>300</sup> Family wise research divulges that the highest ratio of neglect and child

---

<sup>293</sup> National Research Council. Understanding child abuse and neglect. *Washington, DC, National Academy of Sciences Press*, 1993. See also; Dubowitz H, Black MB. Child neglect, medical diagnosis and management, 2nd ed. *Philadelphia, PA, Lippincott Williams & Wilkins* (2001):339-362.

<sup>294</sup> Zununegui MV, Morales JM, Marti'nez V. Child Abuse: Socioeconomic Factors And Health Status, *Anales Espanoles de pediatria*, (1997):47:33-41

<sup>295</sup> Larrain S, Vega J, Delgado I. Relaciones Familiares y Maltrato Infantil. [Family Relations And Child Abuse.] *Santiago, United Nations Children's Fund* (1997).

<sup>296</sup> Egeland B. A History Of Abuse Is A Major Risk Factor For Abusing The Next Generation. *Current controversies ion family violence. Thousand Oaks CA, Sage*, (1993):197-208.

<sup>297</sup> Ibid.

<sup>298</sup> Steele, B. F., & Pollock, C. B. A Psychiatric Study Of Parents Who Abuse Infants And Small Children. *Chicago: University of Chicago Press* (1968):89-133).

<sup>299</sup> Scott, W. A. Scott, R. & Mc. Cobe, M. Family Relationship And Children Personality: A Cross-Cultural, Cross Source Comparison. *British Journal of Social Psychology* (1991): 30, 1-20.

<sup>300</sup> Zununegui MV, Child Abuse: Socioeconomic Factors And Health Status. *Park University School* (1997):7.

abuse is found in families that have three or more children.<sup>301</sup> Research has further revealed that in the Pakistani society the family where both parents are from a working-class, in that family the neglect is more common than that of physical abuse.<sup>302</sup>

### **2.2.6. Procuration of Minor Girl**

In Pakistani law 'whenever a girl who is below the age of 18 years is induced or is forced or seduced to go from one place to another for illegal intercourse with another person.<sup>303</sup> Up to 10 years punishment has been prescribed for this offence.<sup>304</sup> In the same way, whoever induces a girl who is under the age of 21 years from a foreign country to Pakistan intending to force that girl for the commission of illicit intercourse with a person is also guilty of an offence under relevant Penal Law shall be sentenced for imprisonment extended to ten years and he shall be liable to fine.<sup>305</sup> At present around the globe procuration of minor girls has become a global concern which has led to unprecedented vulnerability and commercial exploitation has become an enormous organized offence and a multimillion business.<sup>306</sup> This offence is committed by deceiving a minor girl and her family in the grab of employment and prosperous life.

### **2.2.7. Molestation with Sexual Motive**

The Pakistan Penal Code has defined molestation as "whoever with sexual motive resorts to acts of a fondling, stroking, caressing, pornography, exhibitionism or inducing or intimidating any person, with or without his knowledge, to submit for such act, shall be

---

<sup>301</sup> Zununegui MV, Child Abuse: Socioeconomic Factors And Health Status. (1997).

<sup>302</sup> Ibid. p.13.

<sup>303</sup> Pakistan Penal Code, 1860, section 366-A.

<sup>304</sup> Ibid.

<sup>305</sup> Ibid. Section 366-B.

<sup>306</sup> Department of Laws (Gndu) RC, Jalandhar, Sexual Offences against Children in India: On the Higher Side. International Journal of Recent Scientific Research Vol. 7, Issue. 9, pp. 13335-13350. September, 2016. <http://www.recentscientific.com>. Last accessed on 4th April, 2019.

punished with imprisonment of either description for a term which may extend to seven years or with fine or with both".<sup>307</sup> Children First<sup>308</sup> has defined this form of child abuse as "intentional touching of the body of a child whether by a person or through an object for sexual arousal or gratification".<sup>309</sup> Interfere with, annoy, or meddle with to trouble or harm.<sup>310</sup> Corwin's study reveals that in most cases of molestation it is difficult to prove the case and due to this reason the number of court cases is very low, for example in 2002 from one thousand cases only five to ten percent were taken to the courts and abused child appeared to testify.<sup>311</sup>

A child who has been molested by a stranger is always feeling helpless for many reasons such as immediate rescue, immediate preventive action against the abuser, and immediate redress of grievance.<sup>312</sup> A term is usually known as 'social molestation' which suggests that a child is molested by the society which means molestation mostly occurs outdoor and the same is not immediately curable.<sup>313</sup> Marcia Lorraine Worrell has further shown that the professionals working with the children are also offenders of molestation because there is every possibility that any professional of negative mind may be included said professionals and this ratio may be more than the extra-familial and intra-familial

---

<sup>307</sup> Pakistan Penal Code, 1860, section 354-A.

<sup>308</sup> Children First (Dept. of Health & Children, 1999) Essex, England. See also: Gil Groth, A. N. Longo, R. E., & McFadin, J. B. Undetected recidivism among rapists and child molesters. *Crime and Delinquency*, (1982):28, 450-458.

<sup>309</sup> Jennings, K. Female Child Molestation: A Review of the Literature. *Essex, England: Longman*, (1993):37.

<sup>310</sup> Kenneth V. Lanning, Child Molesters: A Behavioral Analysis For Law Enforcement Officers Investigating Cases of Child Sexual Exploitation, *National Center for Missing and Exploited Children*, (1992).

<sup>311</sup> Corwin, D. L. An interview with Roland Summit. *Critical Issues in Child Sexual Abuse: Historical, Legal and Psychological Perspectives*, Sage Publications Ltd. Thousand Oaks, CA (2002).

<sup>312</sup> O'Brien, S. Why They Did It: Stories of Eight Convicted Child Molesters. *Charles C Thomas Publisher SgROI S.* (1986).

<sup>313</sup> Marcia Lorraine Worrell, The Discursive Construction of Child Sexual Abuse, Thesis submitted for degree of Doctor of Philosophy, *School of Health and Social Welfare, The Open University Volumes I & II.* (1999).

ratio of molestation.<sup>314</sup> This issue is getting serious for a specific reason i.e. heterosexual abuse of boys and heterosexual abuse of girls, although the ratio of heterosexual abuse of girls is low, it is increasing which must be cured.<sup>315</sup> Some authors have categorized the molesters into different categories; Raymond has classified them into different categories based on a sexual preoccupation with children, social competence, physical injury to the child, non-offense contact with the child and sadism<sup>316</sup> while Dr. Park Elliot Dietz has categorized molesters into two categories i.e. situational and preferential offenders.<sup>317</sup>

### 2.2.8. Fondling as Child Abuse

Fondling is child abuse where kissing a child with intent to have sexual satisfaction from that act and it is always hard to determine that whether any act is child\_abuse or not.<sup>318</sup>

Fondling is a range of behaviors from contact like touching having the intention of abuse, the abused children may experience this trauma both physically touching and touching with some objects, fondling may also include touching genitals, masturbation, breasts, voyeurism, exhibition or exposure of child in pornography,<sup>319</sup> vaginal or anal penetration, oral sex by the penis, finger, etc. this form of abuse is also known as contact sexual abuse.<sup>320</sup> This offence of child abuse extends to the kissing of genital parts i.e.

---

<sup>314</sup> Sullivan, J., Beech, A. R., Craig, L. a, & Gannon, T. a. Comparing Intra-Familial And Extra-Familial Child Sexual Abusers With Professionals Who Have Sexually Abused Children With Whom They Work. *International Journal Of Offender Therapy And Comparative Criminology* (2011):55(1), 56–74. doi:10.1177/0306624X09359194

<sup>315</sup> Haugaard, J. J., & Reppucci, N. D. The Sexual Abuse of Children: A Comprehensive Guide To Current Knowledge And Intervention Strategies. *San Francisco: Jossey-Bass* (1988).

<sup>316</sup> Knight, Raymond A. and Robert A. Prentky. "Classifying Sexual Offenders: The Development and Corroboration of Taxonomic Mode Is. *In Handbook of Sexual Assault. Ed. W.L. Marshal, New York: Plenum, (1990).*

<sup>317</sup> Dietz, Park Elliot. Sex Offenses: Behavioral Aspects. *In Encyclopedia of Crime and Justice. New York: Free Press* (1983).

<sup>318</sup> Rosaleen Mc Elvancy, Dublin Institute of Technology. rosaleen.mcelvancy@dit.ie. *How Children tell: Containing the Secret of Child Sexual Abuse, Unpublished doctoral dissertation, Trinity College Dublin* (2008):06-01.

<sup>319</sup> Bromfield, I. M. Chronic Child Maltreatment In An Australian Statutory Child Protection Sample, unpublished Dissertation, Geelong: (2005).

<sup>320</sup> Child Sexual Abuse, it is your business, Canadian Centre for Child Protection. Helping families. Protecting children. *Ottawa, ON: Statistics Canada* (2005).

vaginal and anal parts, even, other parts of stimulations.<sup>321</sup> The majority of professionals consider touching, through body part or an object, as fondling and even touching genital parts, without consent, is an offence of child abuse.<sup>322</sup> The study says that it always depends upon the receiver, how he perceives that act, and if he considers that act as fondling then it constitutes an offence.<sup>323</sup> It has also been observed that offence of fondling is more common in young offenders which later likely to commit rape or be converted into rape.<sup>324</sup>

The number of cases and incidents of fondling is more common than actual physical abuse or sexual intercourse.<sup>325</sup> Some of the authors are of the view that fondling, in a strict sense, cannot be termed as child abuse because it all depends upon the perceptions.<sup>326</sup> In this form of child abuse the abusers, generally, are from family members or acquaintances; who have easy access to the child. In the Pakistani society's scenario, the fondling is a common issue and a report of Non-Governmental Organization (NGO) shows that out of 20.5 % fondling cases 20.5 % were male and the same 20.5 % were female which a very high ratio.<sup>327</sup> The offence of fondling also leaves an everlasting impact on the victim child because the victim usually is not social himself or herself and most of the time has a very disturbing social and family behavior.<sup>328</sup>

---

<sup>321</sup> Child Sexual Abuse, it is your business, Canadian Centre for Child Protection, (2005), p.124.

<sup>322</sup> Noll, J. G., Trickett, P. K., & Putnam, F. W. A Prospective Investigation Of The Impact Of Childhood Sexual Abuse On The Development Of Sexuality, *Journal of Consulting and Clinical Psychology* (2003):71 (3), 575-586.

<sup>323</sup> Noll, J. G. Trickett, P. K. & Putnam, F. W. A Prospective Investigation of the Impact of Childhood Sexual Abuse On The Development Of Sexuality. *Journal of Consulting and Clinical Psychology* (2003):71 (3), 575-586.

<sup>324</sup> David Finkelhor, Richard Ormrod, and Mark Chaffin. Juvenile who commit sex offences against minors, *Juvenile Justice Bulletin* (2015) [www.ojp.usdoj.gov](http://www.ojp.usdoj.gov).

<sup>325</sup> Hacking, I. 'World Making by Kind Making Child Abuse for Example', Nelson Goodman among the Social Scientists, *Edinburgh: Edinburgh University Press* (1992). Hacking, I. *Rewriting the Soul: Multiple Personality and the Sciences of Memory*. New Jersey: Princeton University Press (1995).

<sup>326</sup> Passmore-Sanderson, L. *Against the Mutilation of Women: The Struggle Against Unnecessary Suffering*, London: Ithaca Press, (1981)

<sup>327</sup> Aangan, Rozan, in F. Gulrez, Types of Abuse, The State of Pakistan's Children 2005, (Islamabad) *Society for the Protection of the Rights of the Child* (2006):175.

<sup>328</sup> [www.who.int/resources/publications/guidelines\\_chap7](http://www.who.int/resources/publications/guidelines_chap7). Last accessed on 20th October.

### 2.2.9. Caressing of Child

Caressing is sexually touching a child, touching genital parts of a child, oral as well as anal penetrations.<sup>329</sup> *Blume* while discussing and explaining the concept of caressing of a child has mentioned that a father gazes at his daughter, whose body is growing, and passes a comment and an aunt caresses her niece on her visit, whether the comment of the father is abuse and caressing of her aunt is an offence or not?<sup>330</sup> In the same research, *Blume* replied that comment of the father will be caressing and caressing of aunt is just love and affection because the thing which matters is the intention of the person for this purpose the reasoning assigned is in a comment there is a suspicion and for kissing of aunt is maternal love and affection.<sup>331</sup> The authors say that the case(s) of caressing mostly happens in close relationships, even, in a very close relationship.<sup>332</sup>

### 2.2.10. Pornography of Children

In the Pakistani law; the definition is “child pornography means taking, allowed to be taken, with or without the permission of the child, any photograph, film, video, picture or image, representation, or computer-generated picture or image, whether developed or produced by electronic, mechanical, or other sources, of obscene or sexually unambiguous conduct, where: (i) the development of such visual representation involves the use of a minor attractive in obscene or sexually clear conduct; or (ii) such visual description is a digital picture, computer image, or computer-generated image that is, or

---

2019.

<sup>329</sup> Tidefors Andersson, J. Fra'n barndom till brott. Om 20 ma'n do' mda fo'r sexuella o' vergrepp mot 38 barn. [From childhood to crime 20 men convicted of sexual abuse of 38 children]. Doctoral dissertation, *Department of Psychology, University of Goteborg, Sweden, (2003)*..

<sup>330</sup> Blume, E. *Secret Survivors: Hest and Its Effect On Women, Chichester: John Wiley (1990)*.

<sup>331</sup> *Ibid.* p. 100.

<sup>332</sup> Ebisch, S.J. Ebisch, F. Ferri, V. Gallese Touching moments: desire modulates the neural anticipation of active romantic caress *Front. Behavior Neuroscience.* (2014):8. p. 60, 10.3389/fnbeh.2014.00060.

is identical from, that of a minor engaged in obscene or sexually explicit conduct; or (iii) such visual description has been shaped, modified or adapted to appear that an identifiable minor is engaging in obscene or sexually clear conduct. preparation, possession or distribution of any data stored on a computer disk or any other modern gadget”.<sup>333</sup> According to Optional Protocol to the CRC on the sale of children, child prostitution and child pornography,<sup>334</sup> the meaning of child pornography is “Child pornography means any demonstration, by whatever source, of a child occupied in real or replicated explicit sexual representation or behaviors of the sexual organs of a child, the prevailing feature of which is a representation for a sexual reason”.

Another definition of child pornography is “Child pornography’ shall include pornographic material that visually depicts: a) a minor engaged in sexually explicit conduct; b) a person appearing to be a minor engaged in sexually explicit conduct; c) realistic images representing a minor engaged in sexually explicit conduct”,<sup>335</sup> “the visual or audio depiction of a child for the sexual gratification of the user, and involves the production, distribution and/or use of such material”,<sup>336</sup> “Sexual abuse becomes sexual exploitation when a second party benefits through making a profit through a sexual activity by involving a child. This may include prostitution and child pornography”<sup>337</sup> and “what Save the Children believes being child pornography comprises of unlawful documents generally films or photographs viewing the sexual

---

<sup>333</sup> The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010, section 2(f).

<sup>334</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Article 2(c). Entered into force on 18 January 2002.

<sup>335</sup> Council of Europe Convention on Cybercrime. Budapest. 23.XI.2001. Article 9 (2). ‘Offences related to child pornography’. 2001. Also see: “*Semantics or Substance?*. Towards a shared understanding of terminology referring to the sexual abuse and exploitation of children”.

<sup>336</sup> Ofelia Calcetas-Santos 2nd Special Rapporteur of the UN Commission on Human Rights on the sale of children, child prostitution and child pornography. ‘*Promotion and Protection of the Rights of Children: Sale of children, child prostitution and child pornography*’. A/50/456. Par. 22 (d). 20 September 1995.

<sup>337</sup> UNICEF ‘*Child Protection: Child Sexual Exploitation, Nature of the Problem*’. <http://www.unicef.org>. Accessed: 24th January, 2019. Also see: “*Semantics or Substance?*. Towards a shared understanding of terminology referring to the sexual abuse and exploitation of children”.

infringement of sexually immature people. The pictures and films are also considered as child pornography when these are proposed in their context to exploit children sexually, even if these do not openly show sexual infringement”.<sup>338</sup>

Child pornography is a severe contravention of child rights and is an offence almost in every jurisdiction. Child pornography is directly linked with child sale and trafficking and article 34 of the CRC emphasis that “the exploitative use of children in pornographic performances and materials” must be banned and controlled. Child pornography affects children in number of ways or exploits them, the first harm may be the use of force to make a porn act which has multiple aftermaths and the same makes them embarrassed and humiliated in the future.<sup>339</sup> As the material of child pornography is in the market and viewers demand more such material resultantly the abusers trapped more children or the same children for this nightmare act and it is also observed with evidence that the viewers also abuse the children after viewing the child pornographic videos.<sup>340</sup> There is evidence that viewer of child pornographic materials further use that material to exploit the children and for this purpose use force which may result in serious harms or even deaths of victims.<sup>341</sup> The children under the age of 18 are facing exploitation in prostitution and child pornography which is a serious offence,<sup>342</sup> and it is estimated that one million children are entering into this form of sexual abuse every year.<sup>343</sup>

---

<sup>338</sup> Save the Children Sweden ‘*Some common questions and answers about child pornography on the Internet – FAQ*’. In ‘Save the Children Sweden’s Hotline against child pornography’. Save the Children Sweden. <http://www.rb.sa/hotline/>. Accessed: June 2004. Also see: “Semantics or Substance?. Towards a shared understanding of terminology referring to the sexual abuse and exploitation of children”.

<sup>339</sup> For a full definition of the commercial sexual exploitation of children, see the Declaration of the World Congress against the Commercial Sexual Exploitation of Children, Stockholm, June, 1996.

<sup>340</sup> Ofelia Calcetas-Santos, January 2005:27.

<sup>341</sup> Ibid. p. 28.

<sup>342</sup> Ibid. p. 27.

<sup>343</sup> Profiting from Abuse. Report Into Children In Commercial Sexual Exploitation (New York, UNICEF, 2001), p. 20.

At the international level, child pornography is a serious offence and courts have taken this issue with iron hands and violations must apply to a criminal case.<sup>344</sup> In *Perrin versus the United Kingdom*, the European Court of Human Rights did not interfere with the verdict of national court against a person who made available pornographic images on the internet, restricting age base access.<sup>345</sup> In 2004 International Labor Organization (ILO) has issued a report in which certain statistics have been mentioned and according to these statistics 1.8 million children were found (by force, due to some incentive and other motives) in child pornography and prostitution and according to this report, this ratio was 11% higher than that of 2002.<sup>346</sup>

The situation in Pakistan is worse regarding child pornography because there is no independent and specific Act on this issue except few provisions in PPC, in Pakistan Penal Code child pornography is an offence<sup>347</sup> which entails a punishment of either description, not less than fourteen years and up to twenty-five years.<sup>348</sup> Sadat Amin's case,<sup>349</sup> accused was arrested from District Sargodha, Punjab on the complaint of Norwegian Embassy on 11-04-2017, and a case FIR No. 32/2017 was lodged. Accused was involved in child pornography. More than 650000 pictures and videos related to child pornography were recovered from the seized digital media from his possession. During the investigation, it was revealed that the accused was having the hands in gloves with international pornographer's nexus namely Jan Lindstrom, Sweden, *Giovani Betotti*, Italy, Max Hunter, USA, Andrew Moody, UK, and *Mukhtar* from the UK. On 26-04-

---

<sup>344</sup> Shannon v. Latvia, No. 32214/03, 24 November 2009, and Treptow v. Romania (dec.), no. 30358/03, 20 May 2008.

<sup>345</sup> Perrin vs. United Kingdom (dec) No. 5446/03 dated 18-10-2005

<sup>346</sup> Global Trends in Child Labor 2000-2004. International Program on the Elimination of Child Labor (IPEC) and Statistical Information and Monitoring Program on Child Labor (SIMPOC) (Geneva. International Labor Office, 2006).

<sup>347</sup> Pakistan Penal Code, 1860, section 292-B.

<sup>348</sup> Ibid. section 292-C.

<sup>349</sup> Sadat Amin case, FIA Case No. 32/2017, District Sargodha, Punjab

2018 the court of Special Judge for cybercrimes cases of FIA Lahore announced the decision and convicted the accused person for the imprisonment of 7-years along with 1.2 million fine.<sup>350</sup> *Kasur* Video Scandal<sup>351</sup> (more accurately titled as State versus *Haseem Amir* Etc. This has been the case of child abuse in 2015 at *Kasur* video case F.I.R No. 256 Of 2015 at Police Station *Ganda Singh* against *Haseem Arif* and others. The Anti-Terrorism Court, Lahore has awarded accused *Haseem Amir*, *Wasim Sindhi*, and *Aleem Asif* with life imprisonment and acquitted the other three accused. In this case, the prosecution has alleged that accused persons assaulted young boys and filmed the scene for blackmailing). On the *Kasur* video scandal more or less 27 criminal cases<sup>352</sup> have been registered for child abuse and child pornography and this huge number of criminal cases is in only one district i.e. District *Kasur*, Punjab, Pakistan.

### 2.2.11. Rape with Minor Girl

Rape is an anal, oral, or vaginal infiltration that comprises danger or threat against a reluctant younger one who has no option to give consent or refusal. It is a shocking and life frightening experience that cannot be overlooked easily.<sup>353</sup> Rape is termed as the manifestation of influence and authority byways of sexual violence, most frequently by males over females, but men are not an exception they are also raped by men and women.<sup>354</sup> It can also be defined as an illegal sexual interaction with a woman or a man

---

<sup>350</sup> State vs. Sadat Amin, case FIR No. 32/2017, at Federal Investigation Agency, Regional Head quarter, Lahore conducted by Cybercrime Unit, Lahore Region. This case was on child pornography.

<sup>351</sup> State versus Haseem Amir Etc. This has been the case of child abuse in 2015 at Kasur vide case F.I.R No. 256 Of 2015 at Police Station Ganda Singh by Haseem Arif and another.

<sup>352</sup> National Commission for Human Rights, Govt. of Pakistan, The Kasur Incident of Child Abuse: *A Fact Finding Report, Analyzing state of child protection in Pakistan*, dated: 10-12-2015.

<sup>353</sup> Mfrekemfon P. Inyang, Nwakwaola Chidi Linda. Rape and the Girl Child. *IOSR Journal of Dental and Medical Sciences* Volume 14, Issue 1 Ver. IV, (2015): 52-56. (IOSR-JDMS) e-ISSN: 2279-0853, p-ISSN: 2279-0861. www.iosrjournals.org. Last accessed on 30-04-2019.

<sup>354</sup> M. C. Townsend, *Psychiatric mental Health Nursing (5ed) Concept of Care in Evidence Based Practice*, Philadelphia: F.A Dawis Company Publishers (2006).

without their consent (by force, deception while they are asleep)<sup>355</sup> Pakistan Penal Code has also defined this offence; when a man commits sexual interaction with a female against her will, without her permission, though consent was there but said consent was due to fear of hurt or death.<sup>356</sup> The punishment has also be prescribed by the law as imprisonment not less than ten years or more than twenty-five years.<sup>357</sup>

It has been seen throughout history, that in almost every culture by forced sexual intercourse without the consent of the minors whether she is a girl or minor boy both are vulnerable to sexual abuse.<sup>358</sup> It is an assaultive attack on any unwilling minor victim irrespective of her age.<sup>359</sup> In Pakistan, it is a scourge that the minor girls are kidnapped for rape and murdered and this evil is increasing day by day. Two accused Hassan *Chandio* and *Laig Chandio* were presented before the Judge who was arrested by the police. They had kidnapped, raped, and murdered a 15 years old girl *Navi Kolhi* from *Tando Ghulam Haider* in the jurisdiction of *Moya* police. Here is another case of *Ahmadpura's* locality of *Chinot* city, where a girl who was a 7<sup>th</sup> class student, was raped. Her parents *Riaz* and *Kaneez Bibi* appealed for justice and protection before higher authorities. In *Mir Pur Khas* where a girl of 9 years old named *Nimra* was raped and murdered in *Mir Allah Bachayo* Colony, she was found in the plastic bag in the playground of a school named *Comprehensive Higher Secondary School*. The three accused were remanded by the Anti-Terrorism Court and after that, they were produced before the Judge for further proceedings. In Islamabad, a minor girl of eleven years old who was raped and murdered by her tutor who was a student of the Master's program.

---

<sup>355</sup> D.E. Lechner, *The New Webster dictionary of English language, U.S.A: Lexicon publication (2004)*.

<sup>356</sup> Pakistan Penal Code, 1860. section 375.

<sup>357</sup> Ibid., Section 376.

<sup>358</sup> D.E. Lechner, *The New Webster dictionary of English language, U.S.A: Lexicon publication (2004)*.

<sup>359</sup> S. L. Brunner, and S. D. Suddarth, *The Lippincott Manual of Nursing Practice, Philadelphia: J.B Lippincott company, (1974)*.

## 2.2.12. Sodomy with Minor Children

Sodomy is a term that is a legal word that describes the act of "unnatural" <sup>360</sup> sex while depending on the influence that encloses oral sex or anal sex or a genital congress, any non-genital, whether it is homosexual or heterosexual, or with human being or animal.<sup>361</sup> According to Pakistan Penal Code sodomy is a sexual intercourse committed by a person, that is against order of nature with animal or human beings<sup>362</sup> and it has serious punishment i.e. life imprisonment or not less than two years and up to ten years and also fine.<sup>363</sup> In youngsters, there can be very few cases seen and generally no symptoms of violence appear, but usually for the minor in sodomy cases as they have no thought of what are happening with them, and they are not competent to resist. The hymen can be unharmed or have ragged depending upon the age, activity, and age, of the minor. The rapist or accused may also target anus for getting sexual satisfaction. This fact has been proved that no age is protected from rape or abuse, as kids of one year or less, and old women of eighty-five years or more have been victims of rape and exploitation. Children are more commonly raped as they are more vulnerable than adults as they are incapable of resistance.<sup>364</sup> Rape is a term that is not a medically recognized entity, but it is a legal and sociological concept.<sup>365</sup> Rape and death after rape such like cases are increasing at alarming scale in Pakistan, now a report released by *Sahil* NGO which indicates that 12 children are being abused per day in Pakistan, from 12 4,5 children are raped daily, this

---

<sup>360</sup> Sullivan, Andrew, Unnatural Law, *The New Republic* 2003  
<http://www.tnr.com/article/unnatural-law>. Last accessed on 3rd May, 2019.

<sup>361</sup> Koerner, Brendan. What is sodomy, *State*. 2002 <http://www.slate.com/id/2075271/>. Last accessed on 3rd May, 2019. <https://slate.com/news-and-politics/2002/12/what-is-sodomy.html> Last accessed on 3rd May, 2019.

<sup>362</sup> Pakistan Penal Code, 1860, section 377.

<sup>363</sup> Ibid. Section 377.

<sup>364</sup> Reddy NKS. *The Essentials of Forensic Medicine and Toxicology*. Hyderabad: K. Suguna Devi; (1999):324-342.

<sup>365</sup> Pillay V.V. *Textbook of Forensic Medicine and Toxicology*. 14th ed. Hyderabad: Press Medical Publisher; (2007):287. Putul Mahanta, Rape, Sodomy and Murder of a Minor Girl. *J Indian Acad Forensic Med*. Vol. 34, (2012). <https://www.scribd.com/document/357416493/Rape-Sodomy-and-Murder-of-a-Minor-Girl>

ratio is increasing day by day.<sup>366</sup> In 2018 December a nine-years-old girl was found dead and after postmortem examination, it was found that she was sexually raped in Nosherva, KPK<sup>367</sup>. A Save the Children & UNICEF study<sup>368</sup> stated that violence especially sexual violence against children is a recognized and unavoidable measure of South Asian societies including Pakistan, and due to humiliation, disgrace and guiltiness, it is extremely underreported.<sup>369</sup>

### 2.2.13. Verbal Child Abuse

Child safeguard structure in Pakistan is subjective to traditional values of diverse traditions and ethics which exist in the federating units and so the legislation of every province relating to child protection differs all through the country. This rambling approach highlights the great effort of the Pakistani government that is harmonizing international responsibilities and societal ethics in relation to child protection<sup>370</sup>. Some authors are of the view that sometimes verbal harassment to children is also verbal abuse.<sup>371</sup> This form of harassment may be online, electronic sources, texts, social networking, etc.

---

<sup>366</sup> Ikram Junaidi, More than 12 children abused every day in first half of 2018: report. [www.dawn.com/news/1429961](http://www.dawn.com/news/1429961). Last accessed on 28-12-2018.

<sup>367</sup> Sirajuddin, Nine-year-old girl found murdered after being raped, tortured in Nowshera. Report, December 28, 2018, [www.dawn.com/news/1454110](http://www.dawn.com/news/1454110). Last accessed on 28th December, 2018.

<sup>368</sup> Save the Children & UNICEF, Disciplining the child practice & impacts, (2005) NWFP: School & Literacy Department

<sup>369</sup> Massod, S. Muhammad. W., Amir, A. Multi-dimensional measurement of poverty in Pakistan. *MPRA Paper No. 41532*, (2012). [https://mpra.ub.unimuenchen.de/41532/1/MPRA\\_paper\\_41532.pdf](https://mpra.ub.unimuenchen.de/41532/1/MPRA_paper_41532.pdf).

Mehnaz, A. State Of Children In Pakistan-- Confronting Reality, *The Journal of the Pakistan Medical Association*, (2011):61(6), 518-519, retrieved 20 November 2018 from, <http://jpma.org.pk/PdfDownload/2810.pdf>. Last accessed on 23rd May, 2019. Solotaroff, J.L. & Pande R.P. Violence Against Women And Girls: Lessons From South Asia, *Washington, DC: World Bank Publications* (2014).

<sup>370</sup> Jabeen, T. Child Protection Legislation In Pakistan : Bringing International Child Rights Obligations And Local Values Together. *Pakistan Journal Of Criminology*. (2016):8(3). 16-33

<sup>371</sup> Hill, C., & Kears, H. Crossing the line: Sexual harassment at school. *American Association of University Women* (2011): <http://www.aauw.org/files/2013/02/Crossing-the-Line-Sexual-Harassment-atSchool.pdf>.

## 2.2.14. Child Sex Tourist

An increasing issue concerning child abuse is child sexual abuse by a tourist who generally visits countries with low economies and these countries rely upon the tourism industry and these tourists exploit local women and children for their sexual thrust.<sup>372</sup>

There are certain reasons for failure and non-compliance of tourism sex laws; in underdeveloped countries, there is low respect for law and law enforcement agencies, there is no specific agenda of a government to the elimination of child tourism sex abuse.<sup>373</sup> There are special needs for the elimination of this form of abuse such as special incentives for those people who due to poverty get involved in this issue, special force must be maintained for this issue, inter-governmental policing may be productive and the help of Interpol may be used to curtail this trauma with children.<sup>374</sup> The governments and businesses should, immediately, start campaigning against this form of child abuse.<sup>375</sup> In Australia, Australia's Crimes (Child Sex Tourism) Amendment Act of 1994 has been introduced, and according to this Act i.e. section, 50BA bans tourism sex intercourse with someone who is below the age of 16 years.

## 2.3. Impacts and Effects of Child Abuse

Pakistan is a signatory to the UNCRC and its protocols. Pakistan is at the fifth number amongst the countries that have a very miserable picture for the protection of their children as they are subjected to violence, denial of fundamental rights, and

---

<sup>372</sup> World Congress against Commercial Sexual Exploitation of Children (1996a). See Also: Bales, K. Disposable People. Convention for the Protection of Human Rights and Fundamental Freedoms. Rome, Los Angeles, CA: University of California Press. Council of Europe (1999) 4, XI. <http://www.conventions.coe.int/Treaty/EN/Treaties/html/005.htm>. Last accessed on 18th November, 2018..

<sup>373</sup> Jini L. Roby, Women and Children In The Global Sex Trade Toward More Effective Policy, *Sage Publications: London, Thousand Oaks, CA and New Delhi* DOI: 10.1177/0020872805050206, *International Social Work* 48(2): 136–147.

<sup>374</sup> Ibid.

<sup>375</sup> Ibid.

lawlessness.<sup>376</sup> Child abuse had been, has been and is a social problem, while the study of history reveals all its aspects<sup>377</sup> but this issue has currently been acknowledged by the concerns<sup>378</sup> and in recent past, there has been an explosion of research on this topic. The consequences and effects of child abuse depends on certain factors as on the age of child at the time when incident of abuse happened and type of abuse that has occurred as sexual, physical and emotional etc. It also depend severity and duration of continuity of the abuse. In the same way the relationship and the abuser plays an important role in deciding nature of the consequences of the abuse.

### 2.3.1. Impacts on the Victim Child

The researcher will examine the impacts of child abuse on victim and this can further be divided into two parts, the first part is the impacts on female victims and the second part is the impact on the male victim. First impacts on the female victim will be examined; after the incident, the general relations of the female victim becomes uncomfortable because the victim starts to avoid male gender and this may lead to a situation where female victim develops hatred against the male gender which generally causes serious personality defects.<sup>379</sup> The general attitude of sexually abused females towards life is mostly negative and she has also grown a negative approach towards the opposite gender, there is less assertive behavior of the victim.<sup>380</sup> These victims have lower self-esteem and suffer from high depression<sup>381</sup> and anxiety in their routine life,<sup>382</sup> even till

---

<sup>376</sup> Jini L. Roby, *Women And Children In The Global Sex Trade Toward More Effective Policy*. London: Sage publishers, (2016):136-147.

<sup>377</sup> Brenda J. Vander Mey and Ronald L. Neff. *Incest as Child abuse: Research and Applications*. New York: Praeger, (1986).

<sup>378</sup> David Finkelhor, *Sexually Victimized Children*. Free Press, (1979).

<sup>379</sup> Finkelhor, D. & Baron, L. High-Risk Children. Sage: *Beverly Hills*. (1986):60-88.

<sup>380</sup> Cortes Arboleda, M.R Canton Durate, J., & Canton-Cortes, D. Characteristics Of Sexual Abuse Of Minors And Its Consequences On Victim's Mental Health, *Gaceta Sanitaria*, (2011):25(2), 157-165.

<sup>381</sup> Priebe, G. Hansson, K. & Svedin, C. G. Sexual Abuse and Associations with Psychological Aspects of Health. A Population-Based Study with Swedish Adolescents, *Nordic Journal of Psychology*,

their end of life.<sup>383</sup> When the abusers are from family, the female victim bears more depression inside the family<sup>384</sup> The female victims have observed more post-trauma stress disorder<sup>385</sup> (PTSD) and sickness as compare to victim boys in the category of intra-familial abuse.<sup>386</sup> While on the other hand the sexually abused boys have lower self-esteem and anxiety and had a more internalizing attitude among other boys. Studies further revealed that when a child is sexually abused by an extra-familial abuser and said abuser uses more force to commit such acts, the victim has to resist with more power which results from the heavy mind and less active body and this will lead a depressive life.<sup>387</sup> The studies furthermore suggest that the gender of sexually abused victims has its complications and consequences,<sup>388</sup> the victim boys have reported more use of force from the hands of extra-familial invaders<sup>389</sup> which lead to more depression outside the family or in their social life.<sup>390</sup>

The negative effects of sexual exploitation are very shocking as the child suffering from self-blame, dishonor, and shame, further, there are more chances for the

---

(2010):64(1), 40-48. <http://doi.org/10.3109/08039480903265769>. Last accessed on 3rd April. 2019.

<sup>382</sup> Perez-Fuentes, G., Olfson, M., Villegas, L., Morcillo, C., Wang S., Blanco, C. Prevalence And Correlates of Child Sexual Abuse: A National Study, *Comprehensive Psychiatry*, (2013):54(1), 16-27.

<sup>383</sup> Lam, K. Y. I. Disclosure And Psychological Well Being Of Sexually Abused Adolescents In Hong Kong, *Journal Of Sexual Abuse*, (2015):24(7), 731-752.

<sup>384</sup> Culter, S. E., & Nolen-Hoeksema, S. Accounting For Sex Differences In Depression Through Female Victimization, *Childhood Sexual Abuse. Sex Roles*, (1991):24(7-8), 425-438.

<sup>385</sup> Post-traumatic stress disorder (PTSD) is a mental health condition that's triggered by a terrifying event either experiencing it or witnessing it. Symptoms may include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event. <https://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967>. Last accessed on 12th April. 2019.

<sup>386</sup> Chandy, J. M. Blum, R. W. & Resnick, M. D. Gender-specific outcomes for sexually abused adolescents. *Child abuse & neglect*, (1996):20(12), 1219-1231.

<sup>387</sup> Fischer, D. G. & McDonald, W. L., Characteristics Of Intra-Familial And Extra-Familial Child Sexual Abuse, *Child Abuse & Neglect*, (1998):22(9), 915-929.

<sup>388</sup> Sigurdardottir, S. Halldorsdottir, S., & Bender, S. S. Consequences of Childhood Sexual Abuse For Health And Well Being: Gender Similarities And Differences, *Scandinavian Journal of Public Health*, (2014):42(3).

<sup>389</sup> Pierce, R. & Pierce, L. H. The Sexually Abused Child: A Comparison Of Male And Female Victims, *Child Abuse And Neglect*, (1985):9(2), 191 -199.

<sup>390</sup> Rind, B. Tromovitch, P. A Meta-Analytic Review of Findings from National Samples on Psychological Correlates of Child Sexual Abuse. *The Journal of sex Research*, (1997):34(3), 237-255.

child to undergo insomnia, nightmares, flashback memories, fear, anxiety, chronic diseases, sexual dysfunction, addiction to sexual habits, personality disorder, etc.<sup>391</sup> Child abuse has devastating effects on the personality of a child; especially in the sexual abuse that is recognized as a worldwide issue and it has adverse effects on the affected. Various studies as Cortes Arboleda, Canton Duarte, and Canton- Cortes revealed in 2011 recommend that sexually exploited child has a negative impact on self-esteem.<sup>392</sup> There is a survey of a group of sexually abused children or non-abused children with an obvious result that the children who are sexually abused have low self-esteem as compared to others and had a more negative attitude towards their family members and society, these victims are less assertive, and always can be seen in depression and anxiety.<sup>393</sup> Another similar study by Priebe, Hansson, and Svedin and Pérez-Fuentes<sup>394</sup> divulges that sexual abuse is found in adolescents and all victims show low morale and low esteem.<sup>395</sup> Another study by Lam indicates that sexual abuse in childhood considerably anticipated lower self-esteem and much internalizing behavior among minors.<sup>396</sup>

### 2.3.2. Impacts on the Victim's Parents and Society

Unfortunately, the increasing number of incidents of child sexual abuse, as a general, is badly affecting the society at large and a particular family of the victim which is also enticing the others of the same tendency.<sup>397</sup> The number of dark material/abusive

---

<sup>391</sup> What Is Child Abuse and Neglect? *Child Welfare Information Gateway*, (2008).

<sup>392</sup> Cortes Arboleda, M. R. Canton Duarte, J., & Canton--Cortes, D. Characteristics Of Sexual Abuse Of Minors And Its Consequences On Victims, Mental Health, *Sanitaria*, (2011):25(2), 157–165.

<sup>393</sup> Ibid.

<sup>394</sup> Priebe, G., Hansson, K., & Svedin, C. G. Sexual Abuse And Associations With Psychosocial Aspects Of Health. A Population --- Based Study With Swedish Adolescent. *Nordic Journal of Psychiatry*, (2011):64(1), 40–48.

<sup>395</sup> Ibid, p. 121.

<sup>396</sup> Lam, K. Y. I. Disclosure and Psychological Well Being Of Sexually Abused Adolescents In Hong Kong, *Journal of Child Sexual Abuse*, (2015):24(7), 731–752.

<sup>397</sup> United Nations Office of Drugs and Crime (UNODC). Study on the effects of New

material is available on webs/banned webs and easy access to those webs is adding fuel to the fire because offenders of negative tendency have easy access to this material which results in the happening of such unfortunate events.<sup>398</sup> In child sexual exploitation the main damage occurs to the victim child but at the same time this trauma hits the society and family<sup>399</sup>. The majority of child sexual abuse occurs in family or surrounding, therefore, such acts are directly affecting the victim, his/her parents, and society.<sup>400</sup> The financial loss is also considered a loss to the family of victim and society; studies reveal that the victim of child sexual abuse is, necessarily, require medicated treatments which may be or is expensive depending upon the country of residence of victim and this untoward burden of treatment has to be borne by the family and parents of the victim and same causes financial constraints upon the parents and family.<sup>401</sup>

### 2.3.3. Social and Cultural Impacts

The victims of extra-familial victims have been observed as having more negative social and cultural impacts and implications because their general behavior tends to negative and this negative attitude leads towards a situation where they are not comfortable in society and do not participate in social and cultural life.<sup>402</sup> In another study, it is

---

Information Technologies on the Abuse and Exploitation of Children, (2015).

<sup>398</sup> United Nations Office of Drugs and Crime (UNODC), Study on the effects of New Information Technologies on the Abuse and Exploitation of Children, (2015), p. 12.

<sup>399</sup> Stoltenborgh, M. van Ijzendoorn, M.H., Euser, E. M., & Bakermans-Kranenburg, M.J. A Global Perspective on Child Sexual Abuse: Meta-Analysis Of prevalence Around The World, *Child Maltreatment*, (2011):16(2), 79–101. <http://dx.doi.org/10.1177/1077559511403920>. Last accessed on 13-06-2019.

<sup>400</sup> Ibid.

<sup>401</sup> Edwards, J. J., & Alexander, P. C. The Contribution of Family Background To The Long-Term Adjustment Of Women Sexually Abused As Children. *Journal Of Interpersonal Violence*, (1992):7, 306-320. See Also; Romans, S. E., Martin, J. L., Anderson, J. C., O'Shea, M. L. & Mullen, P.E. Factors That Mediate Between Child Sexual Abuse And Adult Psychological Outcome, *Psychological Medicine*, (1995):25, 127-142.: <http://dx.doi.org/10.1017/S0033291700028154>. Last accessed on 13-06-2019.

<sup>402</sup> Stroebel, S. S. O'Keefe, S. L. Beard, K.W., Kuo, S. Y., Swindell, S. V. S. & Kommor, M. J. Father-Daughter Incest: Data from an Anonymous Computerized Survey, *Journal of child Sexual Abuse*, (2012):21(2). 176-199. <http://doi.org/10.1080/10538712.2012.654007>. Last accessed on 13rd June. 2019.

concluded that in inter-familial sexual abuse; the victim has been observed with more serious and negative consequences because in families the minors usually have more trust and confidence but when they are abused by a family member or close relative this height of confidence shakes, thereof, the victims losses the trust.<sup>403</sup> Nelson and *Wampler* have narrated that when it is concluded that a single event of child sexual exploitation happens to a single child that is a total misunderstanding on the part of the society at large because the said event happens to a society which has long-lasting impacts and aftermaths.<sup>404</sup> The lower parental care also observed to be increased in cases of intra-familial child abuse because due to some social fabrics the parents avoid to disclose this trauma and for this reason, the abused child does not further participate in social and family activities that separate the abused child from social and family life.<sup>405</sup> The media of underdeveloped countries also made it on-air for getting some advantages but this act of the media is directly affecting the innocent minds and at the same instigates the other minds with some negative tendency to constitute the same act(s).<sup>406</sup>

### 2.3.4. Psychological Impacts

Social isolation is a typical psychological consequence of child sexual abuse. The victims always avoid their appearance in public and this fact leads towards a situation where the society is deprived of some valuable social contribution of both accused/offender and victim.<sup>407</sup> The individuals who have a background of child sexual

---

<sup>403</sup> Finkelhor, D. Current Information on the Scope and Nature of Child Sexual Abuse, *The Future of Children*, (1994):4(2), 31. <http://doi.org/10.2307/1602522>. Last accessed on 4th July, 2019.

<sup>404</sup> Nelson, B. S., & Wampler, K. S. Further Understanding The Systemic Effects of Childhood Sexual Abuse: A Comparison Of Two Clinical Couples, *Journal of Child Sexual Abuse*, (2002):11(3), 85 – 106

<sup>405</sup> Seto, M. C., Babchishin, K. M., Pullman, L., E., & Mc Phill, I. V. The Puzzle of Intra-Familial Child Sexual Abuse: A Meta-Analytic Comparing Intra-Familial And Extra-Familial Offenders With Child Victims, *Clinical Psychology Review*, (2015):39, 42-57. <http://doi.org/j.cpr.2015.04.001>.

<sup>406</sup> B. S. & Wampler, K. S. (2002), p. 12.

<sup>407</sup> Seto, M. C. Babchishin, K. M., Pullman, L. E. & Mc Phill, I. V. The Puzzle Of Intra-Familial Child Sexual Abuse: A Meta-Analytic Comparing Intra-Familial And Extra-Familial Offenders With Child

exploitation had a higher risk of depressing psychopathology as compare to adults<sup>408 409</sup> and the severity of depressive signs also increases in the case when the victim would have experienced penetrative child sexual abuse at a very young age.<sup>410</sup> The situation becomes worse when the partners are from two racial groups i.e. African and Latin.<sup>411</sup> The research has further revealed that the children who had been the sufferer of child sexual cruelty suffer more psychological distress and dysfunction in their future life<sup>412</sup> and these impacts are always dependent upon so many factors and variables like the temperament of child,<sup>413</sup> parents, and society,<sup>414</sup> bio-psychological factors, the security of parent-child cohabitation,<sup>415</sup> family atmosphere and previous history of the same sexually abused child and his/her parents.<sup>416</sup>

### 2.3.5. Behavioral Impacts

Studies divulged that sexually abused boys were observed to have more drinking (taking alcohol) tendency after being abused than to girls.<sup>417</sup> The boys have less disclosure to

---

Victims, *Clinical Psychology Review*, (2015):39, 42-57.

<sup>408</sup> Browne, A. & Finkelhor, D. Impact of Child Sexual Abuse: A Review of the Research. *Psychological Bulletin*, (1986):99, 66-77.

<sup>409</sup> Tong, L. & Oates, R. K. Long Term Effects of Child Sexual Abuse. In R. K. Oates (Ed.), *Understanding and Managing Child Sexual Abuse*, London: W. B. Saunders (1990):354-369.

<sup>410</sup> Lee, S., Lyvers, M., & Edwards, M. Childhood Sexual Abuse And Substance Abuse In Relation To Depression And Coping, *Journal of Substance Use*. (2008):13(5), 349-360. <http://dx.doi.org/10.1080/14659890802211077>. Last accessed on 14th July, 2019.

<sup>411</sup> Sciolla, A. Glover, G. A., Loeb, T. B., Zhang, M., Myers, H. F., & Wyatt, G. E. Childhood Sexual Abuse Severity and Disclosure As Predictors Of Depression Among Adult African American And Latina Women, *Journal of Nervous and Mental Disease*, (1999):7 471-477. <http://dx.doi.org/10.1097/NMD.0b013e31822142ac>. Last accessed on 14th July, 2019.

<sup>412</sup> Briere, J. Child Abuse Trauma: Theory And Treatment Of The Lasting Effects, *Thousand Oaks, CA: Sage Publications* (1992).

<sup>413</sup> Briere, J. Treating Adult Survivors of Severe Childhood Abuse and Neglect: Further Development Of An Integrative Model. *Newbury Park, CA: Sage Publications* (2002).

<sup>414</sup> Sanderson, C. Counseling Adult Survivors of Child Sexual Abuse. *London, England: Jessica Kingsley Publishers* (2006).

<sup>415</sup> Webster, R. E. Symptoms And Long-Term Outcomes For Children Who Have Been Sexually Assaulted, *Psychology In The Schools*, (2001):38(6), 533-547.

<sup>416</sup> Johnson, S. M. Integrating Marital And Individual Therapy For Incest Survivors: A Case Study, *Psychotherapy*, (1989):26(1), 96-103.

<sup>417</sup> Valente, S. M. Sexual Abuse of Boys, *Journal Of Child And Adolescent Psychiatric Nursing*, (2005):18(1), 10-16. <http://doi.org/10.1111/j.1744-6171.2005.00005.x>. Last accessed on 15th August, 2019

others of the traumatic incident<sup>418</sup> and according to another study, the girls experienced more genital penetration regarding boys and boys reported more eroticism<sup>419</sup> and this consequent a serious behavioral change with variations in girls and boys. Studies gave further indications that male victims have more serious behavioral issues as compare to victim girls.<sup>420</sup> There is a serious connection among post-traumatic stress disorder (PTSD) and child sexual abuse because the victim(s) has feelings of shame that always accompany the abuse, the repetitive feelings of shame may carry on with the victim having psychopathology symptoms.<sup>421</sup> It is both, behavioral and psychological impact that a sufferer of child sexual abuse has a behavioral tendency of suicide which is two of five times that of non-abused children, and the attempts of suicide also at rose as the age of victim develops<sup>422</sup>. It is also worth studying that whether gender is more involved in suicide and attempts of suicide, a study of 166 victims revealed that the male gender has a higher level of suicide and attempts of suicide due to hopelessness.<sup>423</sup> In some cases of child sexual abuse, it has been observed that victim does not show any immediate behavioral reaction to the abuse but the impacts may occur in the latter half of age and possible behavioral impacts may be sleeper disorder and sleeplessness<sup>424</sup> and overtime another possible impact may be behavioral problems for unclear etiology.<sup>425</sup> The same impact goes on for a disturbing collection of information, consolidation, retrieval of

---

<sup>418</sup> Valente, S. M. Sexual Abuse of Boys, 2005.

<sup>419</sup> Webster, R. E. (2001), p. 548.

<sup>420</sup> Jonathan Bradshaw, & Antonia Keung. Trends in Child Subjective Well-Being in the UK. *Journal of Children's Services*, (2011):6(1), 4-17. See also: Kling, K. C., Hyde, J. S., Showers, C. J. & Buswell, B. N. Gender Differences In Self-Esteem: A Meta-Analysis, *Psychosocial Bulletin*, (1999):125(4), 470-500.

<sup>421</sup> Sarkar, N. Childhood Sexual Abuse and Its Impact On Women's Health. *International Medical Journal*, (2010)7:(2), 107-112.

<sup>422</sup> Brian C. Doane, Western Michigan University., [tjdoane@yahoo.com](mailto:tjdoane@yahoo.com), "The Impact of Childhood Sexual Abuse: AA Qualitative Analysis of Healthy, Couples' Perception (2015).

<sup>423</sup> Spokas, M., Wenzel, A., Wiltsey Striman, S., Brown, G. K., & Beck, A. T. Suicide Risk Factors And Mediators Between Childhood Sexual Abuse And Suicide Ideation Among Male And Female Suicide Attempters, *Journal Of Traumatic Stress*, (2009):22(5), 467-470. <http://dx.doi.org/10.1002/jts.20438>. Last accessed on 19-08- 2019.

<sup>424</sup> Webster, R. E. (2001), p. 17.

<sup>425</sup> Sanderson, C. Counseling Adult Survivors Of Child Sexual Abuse. London, England: *Jessica Kingsley Publishers* (2006).

memories, especially autobiographical memories and storage of the same which may lead to amnesia.<sup>426</sup> The perception of “self” is very important in someone’s life<sup>427</sup> and the victims of child sexual abuse,<sup>428</sup> mostly, suffer from this issue and it may lead to shattering of self-esteem, feelings of worthlessness, self-inefficiency, and feeling that “I do not deserve anything”.<sup>429</sup>

### 2.3.6. Physical Impacts

In view of the physical consequences, it is important to learn that how a victim of child exploitation has a physical stature before and after being a sufferer of child sexual abuse because it is also important to understand that a victim of sexual abuse has always traumatic conditions, even, after his/her marriage.<sup>430</sup> For a married couple, both or any one of them, who had been a victim of sexual exploitation there may be issues of stability, trust, sexual intimacy, satisfaction, communication, and the most important effect on the non-abused associate.<sup>431</sup> The physical impacts and aftermaths of child sexual abuse continue until the time of adulthood.<sup>432</sup> The study suggests that a sexually abused couple or any partner has very low sexual satisfaction in their married life and many of the times it has been seen that such non-satisfaction results in separation and a

---

<sup>426</sup> Amnesia is when a person can no longer memorize or recall information that is stored in memory. It is very rare, despite being a popular theme for movies and books. <https://www.medicalnewstoday.com/articles/9673.php>. Last accessed on 19-08-2019.

<sup>427</sup> Cole, P. M., & Putnam F. W. Effect Of Incest On Self And Social Functioning: A Developmental Psychopathology Perspective, *Journal of Consulting And Clinical Psychology*, (1992):60(2), 174 – 184.

<sup>428</sup> Houg, B.L. The Role Of Spirituality In The Ongoing Recovery Process Of Female Sexual Abuse Survivors, *Unpublished Master’s Thesis, University Of Minnesota, Minneapolis*, (2008).

<sup>429</sup> Johnson, S. M. Emotionally Focused Couple Therapy With Trauma Survivors: Strengthening Attachment Bonds, New York: *Guilford Press* (2005).

<sup>430</sup> Johnson, S. M. Emotionally Focused Couple Therapy With Trauma Survivors: Strengthening Attachment Bonds, (2005), p. 56.

<sup>431</sup> Cobia, C. D., Sobansky, R. R., & Ingram, M. Female survivors of childhood sexual abuse: Implications for couples’ therapists, *The Family Journal*, (2004):12(3), 312-318. <http://dx.doi.org/10.1177/1066480704264351>. Last accessed on 28-08-2019.

<sup>432</sup> Cole, K. L., Sarlund-Heinrich, P., & Brown, L. S. Developing And Assessing Effectiveness Of A Time-Limited Therapy Group For Incarcerated Women Survivors Of Childhood Sexual Abuse, *Journal Of Trauma & Dissociation*, (2007):8(2), 97-121.

family may be destroyed due to this trauma, even after years of the incident.<sup>433</sup> The level and height of communication of sexually abused couple are comparatively low for many reasons; lack of communication when the incident took place,<sup>434</sup> the aforesaid communication is very important for sexual intimacy in married life,<sup>435</sup> the communication is the most important contributor for sexual intimacy for a couple but sexually abused couple lacks this<sup>436</sup> and all these factors may directly affect the physical health of the partner.<sup>437</sup>

The depressions, anxiety, less self-esteem, lack of communication, lack of sexual intimacy, and other relevant directly affect the physical health of the victim of sexual child abuse.<sup>438</sup> One research says that impacts may occur for a longer period of life including almost every event of life, till death.<sup>439</sup> Most of the authors and medical experts are of the view that due to child sexual exploitation the victim may have damage to the development of the brain and cascade of molecular and neurobiological effects.<sup>440</sup>

---

<sup>433</sup> Gottman, J. M. A Theory of Marital Dissolution and Stability. *Journal of Family Psychology*. (1993):57-75.

<sup>434</sup> Christopher, F. S., & Sprecher, S. Sexuality in Marriage, Dating, And Other Relationships: A Decade Review, *Journal of Marriage and the Family*, (2000):999-1017. .

<sup>435</sup> Young, M., Denny, G., Luquis, R., & Young, T. Correlates Of Sexual Satisfaction In Marriage, *The Canadian Journal Of Human Sexuality*, (1998):115-127.

<sup>436</sup> Hulbert, D. F. & Apt, C. Female Sexual Desire, Response, And Behavior. *Behavior Modification*, (1994):488-504.

<sup>437</sup> Henderson-King, D. H., & Veroff, J. Sexual satisfaction and marital wellbeing in the first years of marriage. *Journal of Social and Personal Relationships*, (1994):509-534.

<sup>438</sup> Trudel, G. Sexuality and marital life: Results of a survey, *Journal of Sex & Marital Therapy*. (2002):28 (3).

<sup>439</sup> Henderson-King, D. H., & Veroff, J. (1994), p. 14.

<sup>440</sup> Neuro imaging, especially BOLD fMRI, has begun to identify how variability in brain function contributes to individual differences in complex behavioral traits. In parallel, pharmacological fMRI and multimodal PET/fMRI are identifying how variability in molecular signaling pathways influences individual differences in brain function.: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2755193/>. Last accessed on 1st July, 2019. Teicher, M. Scars that Won't Heal. *The Neurobiology of Child Abuse*. *Scientific American*, (2002):54-61.

## 2.4. Pakistan's Measures for the Protection of Child Abuse

Pakistan's role for the child safeguard system is to stop and to highlight unfairness, exploitation, abandonment, abuse, and affecting the rights of the children but there are numerous obstructions to attaining satisfactory results in this regard.<sup>441</sup> It is the procedure of guarding individual children recognized either as misery or to suffer substantial harm due to exploitation, abuse, or neglect.<sup>442</sup> As per Child Protection System Mapping and Assessment<sup>443</sup> report, commissioned by UNICEF, about all the federating units of Pakistan: "a child protection system constitutes of structures, functions, and capacities that work together for child protection goals. It works on several levels of society, from the government to community, and engages several sectors, including government and civil society organizations or representatives"<sup>444</sup> Indisputably, Pakistan's child protection system is organized about the subjects connected to children, averting commercial, justice, and sexual exploitation and shielding the children from any other form of sexual abuse.<sup>445</sup>

---

<sup>441</sup> Feiring, C. Taska, L. & Lewis, M. Age and Gender Differences in Children's and Adolescent' Adaptation To Sexual Abuse, *Child Abuse & Neglect*, (1999):115-128.

<sup>442</sup> Dr Venkat Pulla, Maliha Gul Tarar, and Amber Ali "Child Protection System and Challenges in Pakistan" *Pulla et al. Space and Culture, India* (2018): 54. <https://doi.org/10.20896/saci.v5i3.302>. Last accessed on 01-07-2019.

<sup>443</sup> Khan, A., Sayeed, A., Shaikh, S., Jamal, A., & Kamran, S. Child protection system mapping and assessment 2013- Punjab. *Collective for Social Science Research* (2013), UNICEF. from, [http://www.researchcollective.org/Documents/EXECUTIVE\\_SUMMARY\\_Punjab.pdf](http://www.researchcollective.org/Documents/EXECUTIVE_SUMMARY_Punjab.pdf).

<sup>444</sup> *Ibid.* p. 4.

<sup>445</sup> Khan, A., Sayeed, A., Shaikh, S., Jamal, A., & Kamran, S. Child protection system mapping and assessment, *Punjab. Collective for Social Science Research* (2013). p. 5.

## 2.5. Conclusion

The situation of child abuse is, at present surely, the bleakest instance of the need to think for the better place of the children in the New World Order. It is a time to consider for the protection against child sexual abuse in the national and international instruments and for this purpose the relational and attachment theories can be applied. But unluckily all the instruments that are crafted by the multilateral bodies for child protection are imprecise in one way or the other. There are many forms of child exploitation and sexual child abuse is amongst the worst kinds of child abuse. The condition in Pakistan is also worse because by the passage of every day the number of incidents of child sexual exploitation is increasing. The adoption of modern techniques of the offenders and the availability of unwanted material on the internet is also adding fuel to the current situation. The present implemented laws in Pakistan are not fulfilling the desired requirements because there are several flaws and drawbacks in these laws, in most of the laws only some offences have been defined but no practical procedure has been promulgated. The general penal law is Pakistan Penal Code; which also provides only a few definitions and procedural law i.e. the Code of Criminal Procedure has not been amended and it takes years to complete a trial which offending the aggrieved persons and victims, therefore, there is a dire need of some special, specific and result-oriented legislation for eliminating this evil.

## Chapter No. 3

# LEGAL DISCOURSE TO CHILD ABUSE - AN INTERNATIONAL PERSPECTIVE

The previous chapters have highlighted the prevalent laws and forms of child abuse. This chapter evaluated the international law regarding prevention of child abuse. Definitely, it has its mainstream role worldwide struggling in this area at the present time. So, it contends on the historical evolution of international instruments which have their on the child protection, then, it argues on mechanism and implementation of the some of the important instruments towards the prevention of child abuse. The protection of the children is the prime responsibility of the parents and society and both are expected to adopt all the measures for the security of the children from any form of violence and exploitation.<sup>446</sup> Presently the child abuse has become a global issue and it has been demonstrated in many ways such as active media, social workers, child protection organizations, and Non-Governmental Organizations working at different levels.<sup>447</sup> The international community, while realizing this crucial social issue has enacted several international treaties such as the CRC and mutual treaties such as European Union Social Charter and some other conventions and treaties and member States are bound to implement these conventions and treaties.<sup>448</sup> At present, there are many international conventions for the protection of child such as UDHR, Declaration on the Rights of

---

<sup>446</sup> Anne Marie Mc. Alinden, Deconstructing Victim and offender Identifies in Discourses on Child Sexual Abuse, *Hierarchies, Blame and the Good/Evil Dialectic* (2014).  
<http://doi.org/10.1093/bjc/azt070>.

<sup>447</sup> Spratt, T. and Devaney, J. Identifying families with multiple problems: Perspectives of practitioners and managers in three nations, *British Journal of Social Work* (2009):39(3):418 – 34.

<sup>448</sup> Hayes, D. and Spratt, T. Child welfare as child protection then and now: What social workers did and continue to do, *British Journal of Social Work* (2014):44(3):615– 35.

Child, the CRC, Hague Convention on the protection of children in inter-country adoption (1993), and UNICEF (United Nations International Children's Emergency Fund).

### **3.1. An Incident before Creation of Documents on Child Rights**

Practice of child abuse is very old as the human history but the first ever child abuse case reported in 1873 whereby a child was exploited. The child was Mary Ellen McCormack who was six years old, was beaten by her foster mother. *Atta Wheeler*, a church worker approached Henry Bergh, the founder of "American Society for the Prevention of Cruelty to Animals" for consultation to establish a society for protection of children like the society for animals. Subsequently by the struggles, a society for the "Prevention of Cruelty to Children" was established in 1874. This society was integrated as "New York Society for the Prevention of Cruelty to Children" in 1875. In Britain, The first child cruelty case was brought by the "Royal Society for the Prevention of Cruelty to Animals" (RSPCA). The court charge list described the affected child as "a small animal". Actually, there was no law in Britain to shield children from mal-treatment. After that "London Society for the Prevention of Cruelty to Children" was originated by Benjamin Waugh in 1884. After five years of efforts by the society, the Parliament passed first ever UK Law to protect children from abuse and neglect in 1889. The society was renamed as "National Society for the Prevention of Cruelty to Children" in 1889 due to its being nationwide. In 1895, it was granted Royal Charter.<sup>449</sup>

---

<sup>449</sup> Usman Rafiq, Child Abuse prevention in International Law: A comparative study with Islamic Law, Department of Shariah, Faculty of Shariah and Law, International Islamic University, Islamabad (2018)

### 3.2. The International (Historical) Recognition of Child Abuse

In the early twentieth century in industrialized countries, there have been no measures for the protection of the children and it became a common dilemma that the children have to work alongside adults in an unsafe and unsanitary atmosphere.<sup>450</sup> In 1924 the League of Nations adopted the Geneva Declaration on the Rights of the Child.<sup>451</sup> International Children's Emergency Fund (UNICEF) has also been established by the UN General assembly in 1946 which soon after its emergence started working for a better atmosphere. United Nations General Assembly in the year 1948 passed the 'UDHR'. In this declaration special care, social protection, and assistance have been assured to the mothers and children.<sup>452</sup> Child's rights of education, recreation/play, health care, and supportive environment have been ensured in the "Declaration of the Rights of the Child" in 1959.<sup>453</sup> In 1979 at the twentieth anniversary of the Declaration of the Rights of the Child 1959, the UN General Assembly declared 1979 as the international year of the Child. The UN General Assembly in 1989 adopted the CRC; this is considered a landmark achievement of the General Assembly. UNICEF had a very important and vital role in the draft of the declaration and this fact had been acknowledged in this declaration.<sup>454</sup> The World Summit had been organized and the Guidelines for the Prevention of Juvenile Delinquency outline had been approved wherein prevention of criminality of young people at high social risk has been affirmed.<sup>455</sup>

---

<sup>450</sup> International Conference on Human Rights, 1968. <https://www.unicef.org/child-rights-convention/history-child-rights>. Last accessed on 11-01-2019.

<sup>451</sup> <https://www.humanium.org/en/geneva-declaration/>. Last accessed on 11-08-2019.

<sup>452</sup> Article 25 of the Universal Declaration of Human Rights, 1948

<sup>453</sup> <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. Last accessed on 12-08-2019.

<sup>454</sup> Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990. in accordance with article 49.

<sup>455</sup> The General Assembly, Distr. General 14 December 1990, A/RES/45/112, 68 Plenary meeting on 14 December 1990.

### 3.3. The Child Abuse in International Context

In July 1962 a paper titled “The Battered Child-Syndrome” was published in the Journal of the American Medical Association authored by *C. Henry Kemper*<sup>456</sup> and this paper brought the issue of child maltreatment in the mainstream.<sup>457 458</sup> The researches on child neglect and abuse emerged in the United States in early 1970 when the jurists, doctors, and researchers started to divide children into two distinct groups namely ‘abused and non-abused’ and from there people started to realize this traumatic issue.<sup>459</sup> Child sexual exploitation is a historical fact that is present in every society and culture, now this issue has become the topic of the day due to its increase at alarming scale and the start of research on it. It came into limelight because of the change of public opinion, in the past it was considered a taboo but now people have started to discuss it openly. It is a dilemma that facts and figures collected by different organizations such as WHO, UNICEF, CEDAW, INTERPOL, etc. do not show the exact statistics because several cases are not reported due to so many reasons like the feeling of guilt, confusion, imbalance social structures, fear of vendetta, shame, and distrust in institutions.<sup>460</sup>

Matters of child abuse, neglect, and maltreatment are the real problems that are severely threatening the welfare, future, and health of the children, worldwide.<sup>461</sup> The

---

<sup>456</sup> C. Henry Kempe (birth name Karl Heinz Kempe. in Breslau, Germany was a pediatrician and the first in the medical community to identify and recognize child abuse. In 1962, Kempe and Brandt F. Steele published the paper, “*The Battered Child Syndrome* (1962). Publishing this paper led to the identification and recognition by the medical community of child abuse.

<sup>457</sup> Young-Bruehl, Elisabeth, *Childish: Confronting Prejudice against Children*. Yale University Press, (2012). Last accessed on 12-09-2021.

<sup>458</sup> Mc. Coy, M.L.; Keen, S.M. *Child Abuse and Neglect*. New York: Psychology Press. (2 Ed.). (2013):3–22. <https://doi.org/10.4324/9780203120699>. Last accessed on 12-09-2021.

<sup>459</sup> Elisabeth Young-Bruehl (March 3, 1946 – December 1, 2011).

<sup>460</sup> <https://www.pbc2019.org/protection-of-minors/child-abuse-on-the-global-level>. Last accessed on 12-03-2019.

<sup>461</sup> Gordon A. Crews Marshall University, [crewsg@marshall.edu](mailto:crewsg@marshall.edu) Angela D. Crews Marshall University, [crewsa@marshall.edu](mailto:crewsa@marshall.edu). Do you know how your children are? International perspectives on child abuse, mistreatment, and neglect. : [http://mds.marshall.edu/criminal\\_justice\\_faculty](http://mds.marshall.edu/criminal_justice_faculty). Last accessed

increase in global communication modes not only made development but also created serious problems because many of such modes are being used for child abuse like child pornography/<sup>462</sup> The international organizations at their own level and also in collaboration with the State governments have begun the work to safeguard the children from abuse and the increasing efforts by setting priorities of these organizations and State governments show that this is a very serious issue, need to be tackled with full force.<sup>463</sup> The study has revealed that patterns of child sexual exploitation are learned not only from families but also from other societies and cultures, especially in this present internet phase.<sup>464</sup>

In the last 2 decades, the international community has started to realize that children are facing very serious issues and the same should be addressed as soon as possible and from then the efforts started, even the statistics were begun to be collected.<sup>465</sup> The issue of child abuse has become more complex due to certain important factors such as effective surveillance, improper reporting mechanism, and monitoring,<sup>466</sup> non-adoption of the legal framework and the mandate is another issue, as there are no proper guidelines for reporting.<sup>467</sup>

---

on 12-09-2019.

<sup>462</sup> Young-Bruehl, Elisabeth (2012). p. 3.

<sup>463</sup> Fang X, Fry DA, Ji K, Finkelhor D, Chen J, Lannen P, Dunne MP. The burden of child maltreatment in China: a systematic review. *Bulletin of the World Health Organization* (2015):93. 176–185. <http://dx.doi.org/10.2471/BLT.14.140970>. Last accessed on 11-01-2019.

<sup>464</sup> Berlin, L. J., Appleyard, K., & Dodge, K. A. Intergenerational continuity in child maltreatment: Mediating mechanisms and implications for prevention. *Child Dev* (2011):82(1), 162–176. Dayton, C. J., Huth-Bocks, A. C., & Busuito, A. The influence of interpersonal aggression on maternal perceptions of infant emotions, *Associations with early parenting quality*. (2015).

<sup>465</sup> Daro, D. (Ed.). UNICEF's World Perspectives on Child Abuse. West Chicago. IL: (2006).

<sup>466</sup> Rodriguez, C. Professionals' Attitudes and Accuracy on Child Abuse Reporting Decisions in New Zealand. *Journal of Interpersonal Violence* (2002) (17), 320.

<sup>467</sup> Young-Bruehl, Elisabeth (2012), p. 8.

### **3.4. The United Nations Organization**

Since the failure of the League of Nations; the world community has started to re-consider the necessity of an international organization where all the international issues, general interests of the world, and any international dispute may be discussed, analyzed, and addressed in consultation with the world community. Soon after the establishment of the United Nations, different conventions and treaties on general issues and interests were started to be discussed in which certain important principles are planned to be enacted. The world community was of the view that the general rights of women and children ought to be recognized and protected not only under international law but also at the domestic level by the member States. Keeping in view the importance of child and woman rights some very important conventions, treaties, and bodies under the United Nations were enacted and created. In the following session, the researcher will analyze important international conventions and treaties; not only by the United Nations but also the other international organizations such as the European Union, etc.

### **3.5. The UN Convention on the Rights of the Child, 1989 (CRC)**

“Convention on the Rights of Child, 1989 (CRC) is the world’s most widely ratified human rights treaty in history”.<sup>468</sup> UNCRC or CRC is a human rights convention/treaty which elaborates the civil, political, economic, social, cultural, and health rights of the children. The implementation of this treaty is monitored by the ‘United Nations Committee’ on the Rights of the Child.<sup>469</sup> The States who have signed this treaty are bound to submit an annual report to the General Assembly of the United Nations. Under

---

<sup>468</sup> <https://www.unicef.org/child-rights-convention/what-is-the-convention>. Last accessed on 12-01-2019.

<sup>469</sup> <https://www.unicef.org/child-rights-convention/what-is-the-convention>. Last accessed on 12-01-2019.

this convention, the Committee on the Rights of Child had been established which can hold its sessions regularly on request of members and a special session on the request of a majority of committee members.<sup>470</sup> The member states present their reports in committee meetings where they discuss the progress and challenges to implement the convention.<sup>471</sup> This convention also helps and guides all stakeholders who are interested to enhance the enjoyment of human rights by stateless persons and to determine the other problems.<sup>472</sup>

The Committee on the Rights of the child (working under the convention) had also addressed the issues of a child with a special ability and in this context, it is recommended that “the right to name and nationality, preservation of identity are all universal civil rights and freedoms which must be respected, protected and promoted for all, including children with disabilities”.<sup>473</sup> The Committee on the Rights of the Child has evolved collaboration with some other important covenants i.e. the International Labor Organization Convention No. 169 which is concerning indigenous and Tribal Peoples in Independent Countries, for the advancement of rights of such peoples, especially the indigenous children in the area of education.<sup>474</sup> The committee had further resolved the objections raised by the States regarding article 30 of the Convention and observed that a State is under an obligation to provide rights to the children in the community and do not

---

<sup>470</sup> United Nations. Document, CRC/C/4/Rev.1, part1, rule 3. April 25, 2005.

<sup>471</sup> . Committee on the Rights of the Child—Working Methods,” at <http://www2.ohchr.org/english/bodies/crc/workingmethods.htm>. Last accessed on 20-10-2019.

<sup>472</sup> CRC, Convention on the Rights of the Child, Quick Reference Guide, Statelessness and Human Rights Treaties. Source: <https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-CRC-02-UNHCR-UNICEF.pdf>. Last accessed on 23-10-2019.

<sup>473</sup> Committee on the Rights of Child, General Comment No. 9, Para 34. Source: <https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-CRC-02-UNHCR-UNICEF.pdf>. Last accessed on 23-10-2019.

<sup>474</sup> Convention on the Rights of the Child, CRC/C/GC/11, 12February, 2009, fifteenth session, Geneva, 12-30 January 2009, General Comment No. 11 (2009), Indigenous Children and their rights under the convention. GE.09-40605 (E) 190209. [https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11\\_EN.pdf](https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11_EN.pdf). Last consulted on 23-10-2019.

deny the same.<sup>475</sup>

The main feature of this convention is to safeguard the best interest of the child and it requires the States to embark on active actions through administrative, legislation, and in the judicial system so that this interest should have been protected.<sup>476</sup> The other momentous characteristics of the Convention are to provide shield to the children from sexual exploitation and abuse, as well as sale, abduction, and trafficking.<sup>477</sup> The Committee working under this Convention had also shown concerns over the situation that States are not taking serious measures against sexual exploitation of children, especially those who are indigenous.<sup>478</sup> In 2002 United Nations General Assembly's special session on children has been held and a special report on children has been the agenda of the session and it has unanimously been resolved that "Take concerted national and international actions as a matter of urgency to end the sale of children and their organs, sexual exploitation and abuse, including the use of children for pornography, prostitution, and pedophilia, and to combat existing markets", further that "Raise awareness of the illegality and harmful consequences of sexual exploitation and abuse, including through the Internet, and the trafficking of children".<sup>479</sup>

The Committee in its meeting has analyzed particular classes of children who are more defenseless and said groups may be; the children who are at greater risk of being sold and trafficked including internally displaced children, girls, children belong to

---

<sup>475</sup> Human Rights Committee, general comment No. 23 on article 27, CCPR/C/Rev.1/Add.5, 1994, Paras. 3.2, 7. Recommendations of CRC Day of General Discussion on the Rights of Indigenous Children, 2003, Para. 4. [https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11\\_EN.pdf](https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11_EN.pdf). last accessed on 23-10-2019.

<sup>476</sup> CRC, general comment No. 5 on General Measures of Implementation, 2003, Para. 12. [https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11\\_EN.pdf](https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11_EN.pdf). last accessed on 23-10-2019.

<sup>477</sup> "Committee on the Rights of the Child—Working Methods, p. 16.

<sup>478</sup> Ibid, p. 18.

<sup>479</sup> United Nations. Report of the Ad Hoc Committee of the Whole of the twenty seventh special session of the General Assembly, 2002. A/S-27/19/Rev.1. paras. 40 to 47. Source: Implementation Handbook for the Convention on the Rights of the Child. Third edition, UNICEF. [https://www.unicef.org/ecuador/Implementation\\_Handbook\\_for\\_the\\_Convention\\_on\\_the\\_Rights\\_of\\_the\\_Child.pdf](https://www.unicef.org/ecuador/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf). Last accessed on 24-10-2019.

countryside areas, orphan, refugee children and children from more vulnerable castes.<sup>480</sup>

The Platform for Action of the Fourth World Conference on women (working under CRC) had a special session on girls who are affected by sexual violence and in this regard, it has been observed that “females generally face pressures to engage in sexual activity.”<sup>481</sup> The Committee concerning the boys who are sufferers of child sexual exploitation has noted that child abuse is escalating, not only with girls but also the boys are affected from this offence, the Committee has recommended that legislation on sexual abuse must be amended to ensure equal protection for the boys and girls.<sup>482</sup>

*Goonsekere* is known for his support and appreciation for this Convention and he argued that CRC has contributed a lot for the growth and understanding of child rights; both at the international level and also at domestic level.<sup>483</sup> He further argued that culture has never been a static notion because it evolved, the human right concept may have originated from Europe but it evolved around the world in other cultures and CRC played its vital part in this development.<sup>484</sup> *Carlina* had argued that childhood does not exist, we generate it, as a society and public subject and it developed with social, historical, and political construction and CRC has profoundly contributed to it.<sup>485</sup> The CRC has made two things possible in the framework or under one head i.e. the

---

<sup>480</sup> Nepal CRC/C/15/Add. 26. Para. 95. Source: Implementation Handbook for the Convention on the Rights of the Child. Third edition, UNICEF. [https://www.unicef.org/ecuador/Implementation\\_Handbook\\_for\\_the\\_Convention\\_on\\_the\\_Rights\\_of\\_the\\_Child.pdf](https://www.unicef.org/ecuador/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf). Last accessed on 24-10-2019.

<sup>481</sup> Platform for Action, Para No. 269 at (General Assembly, twenty-third special session, 10 June 2000, A/RES/S-23/3, Para. 70(a). Source: Implementation Handbook for the Convention on the Rights of the Child. Third edition, UNICEF.

<sup>482</sup> Japan CRC/C/151 Add. 231, Paras. 51 and 52. Algeria CRC/C/15/Add. 269. Para. 78. Source: Implementation Handbook for the Convention on the Rights of the Child. Third edition, UNICEF. [https://www.unicef.org/ecuador/Implementation\\_Handbook\\_for\\_the\\_Convention\\_on\\_the\\_Rights\\_of\\_the\\_Child.pdf](https://www.unicef.org/ecuador/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf). Last accessed on 24-10-2019.

<sup>483</sup> Goonsekere, S. "Realizing human rights of women and children: some reflections on law and policy", *Development* (2001) 44(2): 15-21.

<sup>484</sup> *Ibid*, p. 98.

<sup>485</sup> Qvortrup, "Macro analysis of Childhood" *Perspectives and Practices*, London: Falmer Press (2000):77-97.

recognition of child rights and theoretical interpretation into practical implementation, the sociological aspects of human rights in compliance of important indicators which used to reveal the poor condition of child rights in different parts of the world.<sup>486</sup> Before the implementation of CRC the child rights and human rights were two different subjects within academic circles and often discussed separately<sup>487</sup> but the implementation of CRC gave a realization that child rights are part of human rights, therefore, cannot be separated<sup>488</sup> and some authors say that human rights represent pioneer post-modern ideology and this had happened regarding CRC.<sup>489</sup>

As far as the status of the Convention in national laws are concerned; the Convention has directly incorporated into national laws and direct incorporation means that CRC is part of national laws and binding upon all concerns.<sup>490</sup> The CRC has been incorporated in the constitution of different countries i.e. Eastern Europe adopted a new constitution in 1989 in which CRC has been incorporated.<sup>491</sup> Pakistan made some general reservations to provisions of CRC but later withdrew such reservations in 1997.<sup>492</sup> In Pakistan the constitutional amendment has been promulgated with the condition that every child must be provided free and compulsory education from the age of 6 to 15 years and the same has been incorporated in different laws. The Government of Punjab has legislated on this subject.<sup>493</sup> Pakistan Employment of Children Act, 1991

---

<sup>486</sup> Richard Charles Mitchell. *The UN Convention On The Rights Of The Child In Post modernity: A Grounded Systemic Analysis Of Children's Rights Educational Policies In Scotland And Canada*, University of Stirling Department of Applied Social Science (2006).

<sup>487</sup> Derek O'Byrne (20'Byrne. D. J). *Human Rights -An Introduction*. London: Pearson Education (2003).

<sup>488</sup> Richard Charles Mitchell, *The UN Convention On The Rights*, p. 6.

<sup>489</sup> Bobbio, N. *The Age of Rights*. Cambridge: Polity Press (1996).

<sup>490</sup> UNICEF, *Law Reform and Implementation of the Convention on the Rights of the Child*. Innocenti Research Center. (2007). ISBN: 978-891-129-66-2. [https://www.unicef-irc.org/publications/pdf/law\\_reform\\_crc\\_imp.pdf](https://www.unicef-irc.org/publications/pdf/law_reform_crc_imp.pdf). Last accessed on 24-10-2019.

<sup>491</sup> *Ibid*, p. 33

<sup>492</sup> *Ibid*, p. 21.

<sup>493</sup> UNICEF, *Law Reform and Implementation of the Convention on the Rights of the Child*. Innocenti Research Center. (2007). p. 121.

has been promulgated for implementation of CRC and other relevant Conventions.<sup>494</sup>

There are some criticisms on this Convention; that the United States have not sanctioned this convention and it is an interesting fact that there has been the American pressure for drafting this Convention; in the regime of Reagan and Bush and some articles from of the American constitution have also been included in this Convention.<sup>495</sup> In the United States for the enforcement of this Convention; there are some important issues like juvenile justice and juvenile death punishment and divergence between US law and the main articles of this Convention.<sup>496</sup> The common criticism on this Convention is that the rights of the child; that it gives rights of liberty but while protecting these rights gives dangerous freedoms but not respect for the adults and parents.<sup>497</sup> It also encourages children to be greedy, selfish, and irresponsible.<sup>498</sup> Evan says that there are two distinct aspects regarding this Convention and both should be understood in distinct ways; such as the Convention provides several rights to the children but it does not mean that these rights are above-board to the parental authority and parents' control for the wellbeing of the children.<sup>499</sup> Ursula Kilkelly has analyzed the Convention with a view that the most articles of CRC and the Committee on the Rights of the Child are least concerned or silent about children's rights in a legal framework.<sup>500</sup> She further says that CRC is silent about consent, sexual health, and the general health of

---

<sup>494</sup> ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), Individual Observation concerning Convention No. 59, Minimum Age (Industry) (Revised). 1937, Pakistan (ratification: 1955) 1997, 1999.

<sup>495</sup> [http://www.geocities.com/r\\_tracr/ratification/ushr.fight.child.htm](http://www.geocities.com/r_tracr/ratification/ushr.fight.child.htm).

<sup>496</sup> David P. Stewart, Ratification of the Convention on the Rights of the Child. *Fighting Poverty* (1998).

<sup>497</sup> Priscilla Alderson, UN Convention on the Rights of the Child: some common criticisms and suggested responses, *Child Abuse Review* Volume 9, (2000).

<sup>498</sup> Ibid.

<sup>499</sup> Evans, T. International human rights law as power/knowledge, *Human Rights Quarterly* (2005) 27(3), 1046–1068.

<sup>500</sup> Didier Reynaert, Ellen Desmet, Sara Lembrechts and Wouter Vandenhoele. *Introduction: A critical approach to children's rights*, Routledge (2017) ISBN 9781138084490. <http://www.hr4dev.be/documents/general--1-chapter-1-reynaert-et-al-introduction.pdf>. Last accessed on 28-08-2019.

a child for decision making in childcare health.<sup>501</sup> Another drawback in CRC is that there are contextual differences relating to its implementation in domestic laws as mentioned and emphasized in CRC but many of the States, still, are unable to implement this Convention in its true spirit.<sup>502</sup>

For implementing this Convention the drafters must also keep in consideration the diversity of social, political, geographical, cultural, and economic contexts of different countries where children grow up and under CRC these aspects have been ignored.<sup>503</sup> This feature may lead towards a localized interpretation of children's rights,<sup>504</sup> and sometimes this contextual sensitivity would have an objection that formulation and implementation had been much Western and Eurocentric.<sup>505</sup> This Convention is most of the time is highly criticized for its concentration on Western values<sup>506</sup> with a new moral movement for children particularly from third world States who cannot be compared with the Western concept of childhood.<sup>507</sup> Alderson says that CRC focuses on "what is needed" and when this concept is analyzed in broader prospect it transpires that world is divided into three parts i.e. developed, developing and under-developed countries which have different social, political and cultural setups and all these facts ought to be considered while implementing CRC.<sup>508</sup>

---

<sup>501</sup> Didier Reynaert and Ellen Desmet, Introduction: A Critical Approach to Children's Rights. p. 23.

<sup>502</sup> Merry, S.E. Crossing Boundaries: Ethnography in the Twenty-First Century. *Polar Political and Legal Anthropology Review*, (2000):23(2), 127-133

<sup>503</sup> Hanson, K. and Nieuwenhuys, O. Re-conceptualizing Children's Rights in International Development: Living Rights, Social Justice, *Oxford University Press* (2013).

<sup>504</sup> De Feyter, K. Localizing Human Rights, *Cambridge University Press* (2007):11-40.

<sup>505</sup> Nieuwenhuys, O. Global Childhood and the Politics of Contempt. *Alternatives* (1998):23. 267-289

<sup>506</sup> Pupavac, V. Misanthropy Without Border: The International Children's Rights Regime. *Disasters* (2001) 25 (2): 95-112.

<sup>507</sup> Ibid, p. 17.

<sup>508</sup> Alderson, P. 'UN Convention on the Rights of the Child: Some Common Criticisms and Suggested Responses', *Child Abuse Review* (9): (2000):439-443.

Practically, this convention has inspired the signing nations to change their domestic laws following this convention, for the children who have been suffering violations of their basic and imperative rights. It has the following protocols:

- First Optional Protocol i.e. the Involvement of children in armed conflict.
- Second Optional Protocol i.e. on the child prostitution, child pornography, and sale of children.
- Third Optional Protocol i.e. on the rights of the child on a communication procedure.
- Optional Protocol to the CRC on sex trafficking armed conflict (2000), deals with the sale of children, child prostitution, and child pornography (sex trafficking protocol).
- Committee on the Rights of Child.

### **3.6. The Minimum Age Convention (1973)<sup>509</sup>**

ILO (International Labor Organization) is the prime organization to standardize child labor.<sup>510</sup> The General Conference of ILO has adopted<sup>511</sup> the legally binding document mentioning the legal working of a child at the age of 15 years<sup>512</sup> and in case of light work 13 years.<sup>513</sup> The rules and acts promulgated by the underdeveloped countries only

---

<sup>509</sup> Minimum Age Convention, 1973 (No. 138). Adopted on 26 June 1973 by the general Conference of the International Labor Organization at its fifty-eighth session, entry into force: 19 June 1976, in accordance with article 12.

<https://www.ohchr.org/Documents/ProfessionalInterest/ageconvention.pdf>. Last accessed on 24-10-2019.

<sup>510</sup> Sumaiya Khair, Child Labor in Bangladesh: A Forward Looking Policy Study (Geneva: International Program on the Elimination of Child Labor, ILO, (2005) 5.

<sup>511</sup> C138- Minimum Age Convention, 1973 (No. 138). convention concerning Minimum Age for admission to employment (Entry into force: 19 June 1976). Adoption: Geneva, 58th Session (26 June 1973).

<sup>512</sup> Article 2 (2) of Minimum Age Convention, 1973 (No. 138).

<sup>513</sup> International Labor Organization, "C138 Minimum Age Convention, 1973." ILO.org. (2006). For the specific problem context in Bangladesh see Mathew J. Bannermann and Ronald E. Berghuys, Breaking the Cycle: Key Learning from an ILO-IPEC Project in Bangladesh (International Labor Office).

partially reproduce the regulations of the ILO Convention on Minimum Age but are generally in contrast with the ILO Convention on the Worst Forms of Child Labor. It has also been noticed that the children are also abused at the workplaces by the co-worker or other persons; therefore, it is needful to implement this convention keeping in view the aspect of child abuse<sup>514</sup>. Apart from this Convention, there have to be some national policies and laws that encourage the privileges of the child.<sup>515</sup> It is also one of the aims of the convention that a child who is not working can better develop both mentally and physically.<sup>516</sup> Out of 183 ILO member States, 171 States have ratified this convention. India, who has the world's largest reservoir of child labor, has not ratified this convention. Pakistan has ratified this convention on 6<sup>th</sup> July 2006. Pakistan has also promulgated several Acts in compliance of this Convention such as; The Employment of Children Act, 1991<sup>517</sup>, The Employment of Children Rules, 1995 (applicable in *Balochistan* and ICT), *Khyber Pakhtunkhwa* Prohibition of Employment of Children Act, 2015<sup>518</sup> Punjab Prohibition of Child Labor at Brick Kilns Act, 2016<sup>519</sup> Punjab Restriction on Employment of Children Act, 2016<sup>520</sup> Sindh Prohibition of Employment of Children Act, 2017<sup>521</sup> The *Khyber Pakhtunkhwa* Shops and Establishments Act, 2015<sup>522</sup> The Sindh Shops and Commercial Establishment Act, 2016<sup>523</sup> Mines Act, 1923<sup>524</sup> and Punjab Prohibition of Child Labor at Brick Kilns Act, 2016.<sup>525</sup>

---

(2008) 11.

<sup>514</sup> Sumaiya Khair, *Child Labor in Bangladesh: A Forward Looking Policy Study* (Geneva: International Program on the Elimination of Child Labor, ILO, (2005):5.

<sup>515</sup> Khair, *Child Labor in Bangladesh: A Forward Looking Policy Study*, p. 6.

<sup>516</sup> *Ibid.* p. 7.

<sup>517</sup> Act No. V of 1991. 6th April, 1991.

<sup>518</sup> Act No. XIX of 2015.

<sup>519</sup> Act No. XXXVII of 2016.

<sup>520</sup> Act No. L of 2016.

<sup>521</sup> Act No. III of 2017. Dated: 15th March, 2017.

<sup>522</sup> Act No. XX of 2015.

<sup>523</sup> Act No. XII of 2016. Dated: 25th March, 2016.

<sup>524</sup> Act No. IV of 1923.

<sup>525</sup> Act No. XXXVII of 2016. Dated: 2nd September, 2016.

Child labor is an international problem and it is most challenging in under-developed and developing countries,<sup>526</sup> most child labor is found in the Asia-Pacific region i.e. 1, 136 million are working children, 651 million in Sub-Sahara Africa and 141 million in Latin America and the Caribbean.<sup>527</sup> Many children work as reasonably priced labor in States where adult joblessness is sky-scraping, remarkably low legal compliance standards are said to compel people in likewise low-skilled jobs in other emerging and developing States out of their jobs as unconscionable fight back plays out.<sup>528</sup> In a report<sup>529</sup> compiled concerning this Convention; UNICEF has observed that the primary importance of maternal nourishment and timely preface to feeding is not up to the required standard.<sup>530</sup> In this report, it has been mentioned that Pakistan is amongst the other countries which are trying to eliminate nutrition issues and will be able to cope with the current situation by the end of 2030.<sup>531</sup> The child labor conditions in Pakistan are also very bad and in the survey, it was observed that financial poor parents pushed their children for work at a very young age just to avoid vagrancy<sup>532</sup> and with a belief that children learn more ethics and develop habits of work.<sup>533</sup>

---

<sup>526</sup> About six hundred million children in developing countries live on less than one dollar a day, with one person dying of starvation every second. Children in these dire situations are forced to seek employment to sustain their families. See UNICEF 2006 [www.unicef.org](http://www.unicef.org). See also ILO 2010 [www.ilo.org](http://www.ilo.org); UN 2012 [www.un.org](http://www.un.org).

<sup>527</sup> ILO 2010 [www.ilo.org](http://www.ilo.org). Last accessed on 24-10-2019.

<sup>528</sup> J.M. Baland & J. Robinson. 'Is Child Labour Inefficient?', *Journal of Political Economy*. (2000):108, 4, p. 667.

<sup>529</sup> Regional Overview of food security and nutrition, (Asia and the Pacific). Accelerating Progress Towards the SDGs. (Joint Research: Food and agriculture Organization of the United Nations. UNICEF, World Food Program and World Health Organization)

<sup>530</sup> Kim, R., Mejia-Guevara, I., Corsi, D.J., Aguayo, V.M. & Subramanian, S.V. Relative importance of 13 correlates of child stunting in South Asia: Insights from nationally representative data from Afghanistan, Bangladesh, India, Nepal, and Pakistan. *Social Science and Medicine* (2017)187:144-154.

<sup>531</sup> Michael E. Eidenmuller, "Eleanor Roosevelt: Address to the United Nations General Assembly". [Americanrhetoric.com](http://Americanrhetoric.com) p. 54.

<sup>532</sup> Department of Labour 1994 [www.dol.gov](http://www.dol.gov). Last accessed on 24-10-2019.

<sup>533</sup> Kim, R., Mejia-Guevara, I., Corsi, D.J., Aguayo, V.M. & Subramanian, S.V. 2017. Relative importance of 13 correlates of child stunting in South Asia: Insights from nationally representative data from Afghanistan, Bangladesh, India, Nepal, and Pakistan. *Social Science and Medicine* (2017).

### 3.7. The Universal Declaration of Human Rights, 1948 (UDHR)<sup>534</sup>

United Nations General Assembly through its resolution No. 217-A in Paris on 10<sup>th</sup> December 1948 had adopted a declaration known as the Universal Declaration of Human Rights. This declaration had been drafted by intellectuals from different areas of the world having appropriate education and expertise.<sup>535</sup> This declaration promises all the economic, political, cultural, social, and civic rights to all citizens around the globe.<sup>536</sup> Although from the promulgation of this declaration the general abuses had not ended, many people have gained better freedoms, independent enforcement of rights, and obtained justice from wrongs.<sup>537</sup> This Declaration was the first international document at the United Nations forum which meaningfully defined the fundamental freedoms.<sup>538</sup> Many of the jurists consider it as first international customary law which has the binding and ethical force to compel the States to implement fundamental freedoms.<sup>539</sup> Eleanor Roosevelt chairperson of the Commission on Human Rights called the declaration “may well become the international *Magna Carta* of all men everywhere”.<sup>540</sup> The courts of different countries have interpreted this declaration and in the case of *Sosa versus Alvarez Machain* the Supreme Court of the United States held that “declaration does not of its own force impose obligation as a matter of international law”.<sup>541</sup>

---

<sup>534</sup> Universal Declaration of Human Rights (UDHR), adopted by UN General Assembly on 10th December, 1948 through Resolution No. 217, in Paris, France. 48 votes in favor, none against, eight abstained and two did not vote.

<sup>535</sup> Bertrand G. Ramcharan. *Human Rights: Thirty Years After the Universal Declaration*. Springer, (1979): 37. Last accessed on 08-02-2021.

<sup>536</sup> Sohn, Louis B. The human rights law of the charter. *Texas International Law Journal*. (2009) 12: 133. Last accessed on 21-04-2021.

<sup>537</sup> Ibid. p.123.

<sup>538</sup> Myres S. McDougal, Lasswell, Harold D. Chen, Lung-chu "Human Rights and World Public Order: A Framework for Policy-Oriented Inquiry", Faculty Scholarship Series, *Yale Law School* (1969) pp. 273–274, 325–327.

<sup>539</sup> Anthony A. D'Amato. *International law: process and prospect*. Transnational Publishers. (1987): 123–147.

<sup>540</sup> Michael E. Eidenmuller (1948-12-09). p. 57.

<sup>541</sup> *Sosa versus Alvarez-Machain*, 542 U.S. 692, 734 (2004)

Some of the States have criticized this declaration; Saudi Arabia refrained from the ratification vote mentioning/claiming that it desecrated Sharia Law.<sup>542</sup> *Rajaie Khorassani, Irani Representative at United Nations*, remarked that this declaration is a secular understanding of Judeo-Christian traditions and the same conflicts with Sharia law; therefore, it cannot be implemented.<sup>543</sup> Some Islamic States are of the view that the UN must not interfere with domestic affairs but at the same time, some Islamic countries such as Syria and Egypt are proponents of the universality of human rights and rights of states to self-determination.<sup>544</sup> Some organizations are promoting this Declaration such as the International Federation for Human Rights, Amnesty International, American Library Association, and Youth for Human Rights International.<sup>545</sup>

### **3.8. The International Covenant on Economic, Social and Cultural Rights, 1966<sup>546</sup>**

This covenant covers economic, cultural rights, and social rights to individuals including the rights of health, labor rights, right to education, and rights to an adequate standard of living. This covenant and its optional protocol are an ingredient of the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and International Bill of Rights including its first and second Optional Protocols.<sup>547</sup> It has the same roots and basis as of Universal Declaration of Human Rights. The drafting of this covenant remained under process due to differences between negative political and

---

<sup>542</sup> Nisrine Abiad Sharia. Muslim states and international human rights treaty obligations: a comparative study. *BIICL*. (2008): 60–65. Last accessed on 21-04-2021.

<sup>543</sup> Littman, D "Universal Human Rights and Human Rights in Islam". *Midstream*. (1999)

<sup>544</sup> Professor Susan Waltz: Universal Rights Group, Syria calls for greater UN intervention in domestic human rights situations, *Universal Rights Group (2014)*.

<sup>545</sup> *Ibid*, p. 11.

<sup>546</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976. in accordance with article 27. Drafted in 1954, head office is located at New York. America and presently (as on September 2018) 169 countries are signatories of the covenant.

<sup>547</sup> Fact Sheet No. 2 (Rev. 1). The International Bill of Rights. UN OHCHR. June 1966.

positive economic, cultural, and social rights approaches.<sup>548</sup> The most important right given in this covenant is the right of self-determination.<sup>549</sup> The differences between two approaches had given rise to two documents i.e. the International Covenant on Economic, Social, and Cultural Rights and International Covenant on Civil and Political Rights. These two drafts were produced before UN General Assembly in 1954 for discussions and adopted in 1961.<sup>550</sup> Pakistan has signed this covenant on 03<sup>rd</sup> November, 2004 and ratified on 17<sup>th</sup> April, 2008 but Pakistan has a stipulation i.e. to construe the convention according to the structure of its constitution.

This Convention works through a committee namely Committee on Social, Cultural, and Economic Rights which comprises of 18 members who are experts in this regard and chosen for a term of four years.<sup>551</sup> The State parties to the Convention are demanded to present the first report in two years after ratification and next for five years, the Committee scrutinizes the reports, resolves its concerns, and makes proposals for the implementation of the Convention. There are articles which deal with the children; such as article 10 which deals right of life and protection of children, the forced labor prohibition is provided under article 6,<sup>552</sup> children's protection from economic and social exploitation is safeguarded under article 10,<sup>553</sup> dangerous and harmful occupation for children is also prohibited.<sup>554</sup>

---

<sup>548</sup> Sieghart, Paul, *The International Law of Human Rights. Oxford University Press. P. 25.*

<sup>549</sup> United Nations General Assembly Resolution 545, 5 February 1952.

<sup>550</sup> United Nations General Assembly Resolution 2200, 16 December 1966.

<sup>551</sup> Review of the composition, organisation and administrative arrangements of the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Right, Economic and Social Council resolution 1985/17

<sup>552</sup> CESCR *General Comment 18*, paragraph 23.

<sup>553</sup> ICESCR, Article 10.3.

<sup>554</sup> *Ibid.* Article 10.3.

### 3.9. The International Covenant on Civil and Political Rights

(1966)<sup>555</sup>

The International Covenant on Civil and Political Rights<sup>556</sup> is among the two covenants which gave legal force to the Universal Declaration of Human Rights.<sup>557</sup> This covenant compels the signing nations to value the political and civil rights of the individuals.<sup>558</sup> This covenant safeguards the rights of freedom from torture, inhuman treatment, freedom from slavery, cruel, movement within or outside the state, due process of law, right of privacy, freedom of thought, marriage and children's rights and right in case of arrest, detention, and imprisonment.<sup>559</sup> Pakistan has signed it on 17<sup>th</sup> April, 2008 and ratified on 23<sup>rd</sup> June, 2010. The objective of the Covenant is to create conditions where everyone could enjoy political and civil rights, also establishing a situation where human beings may live a life with inherent dignity and also the domestic structure for the implementation of rights may work properly.<sup>560</sup> Number States have made certain reservations to the Covenant because it does not prohibit a State to have a reservation(s).<sup>561</sup>

This Convention is considered to impose a negative duty upon the States; not to encroach upon the provided rights to individuals.<sup>562</sup> Article 2(3) provides that whenever

---

<sup>555</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 1966.

<sup>556</sup> International Covenant on Civil and Political Rights. General Assembly resolution 2200A (XXI) 1966.

<sup>557</sup> Gordon Brown, *The Universal Declaration of Human Rights in the 21st Century*, (2016). <https://www.jstor.org/stable/j.ctt1bpmb7v.9>. Last accessed on 11-09-2019.

<sup>558</sup> *Ibid*, p. 31.

<sup>559</sup> Gordon Brown, *The Universal Declaration of Human Rights in the 21st Century*, (2016). <https://www.jstor.org/stable/j.ctt1bpmb7v.9>. Last accessed on 11-09-2019. Last accessed on 12-02-2021.

<sup>560</sup> Eckart Klein, *Menschenrechte, Stille Revolution des Völkerrechts und Austrwirkungen auf die innestaatliche Rechtsanwendung*. *Nomon*, 1<sup>st</sup> Edition, (1997).

<sup>561</sup> Human Rights Committee, General Comment 24 (52), General comment on issues relating to reservations made upon ratification. U. N. Doc. CCPR/C/21/Rev.1/Add.6 (1994).

<sup>562</sup> Human Rights Committee, General Comment 6: The right to life. <http://www.ohchr.org/>

a right is violated there has to be a proper remedy and person claiming such remedy must have direct access to the legal system to enforce the said remedy.<sup>563</sup> For the implementation of this Covenant “The Human Rights Committee” has been established<sup>564</sup> and this committee has to monitor and supervise the implementation of Covenant by the States.<sup>565</sup> This Covenant has two protocols i.e. First Optional Protocol,<sup>566</sup> creates an individuals’ complaints procedure, and the Second Optional Protocol, which puts an end to the death penalty.

### **3.10. The Hague Convention on Jurisdiction, etc., for the Protection of Children, 1996.**

The Hague Convention on Jurisdiction<sup>567</sup> is one of the most important conventions concerning the rights of children.<sup>568</sup> Convention came into force on 1<sup>st</sup> January, 2002 and as of March 2019, it has signed by 51 States. This Convention also provides mechanisms for the determination of the country’s authorities which are responsible regarding the rights of children, parental accountability, and get in touch with for the public measures for protection or care of children.<sup>569</sup>

---

english/bodies/hrc/comments.htm. Last accessed on 23-08-2019.

<sup>563</sup> Aulona Haxhiraj, *The Covenant on Civil and Political Rights*, (2016).

[https://www.researchgate.net/publication/329000602\\_The\\_Covenant\\_on\\_civil\\_and\\_political\\_rights/link/5bef1e6ca6fdcc3a8ddbdf83/download](https://www.researchgate.net/publication/329000602_The_Covenant_on_civil_and_political_rights/link/5bef1e6ca6fdcc3a8ddbdf83/download). Last accessed on 25-8-2019.

<sup>564</sup> Abashidze, A. Gugunskiy, D. Koneva, A. Simonova, M. Solntsev. A Current Problems of Interstate Cooperation of Russian Federation for the Protection of Children in Case of Disputes between Parents Living in Different States. *Asian Social Science*. (2015) 11:14. 337-342, Article 28

<sup>565</sup> Christian Tomuschat; *International Covenant on Civil and Political Rights, Professor emeritus at Humboldt University, Berlin* (2008).

<sup>566</sup> Adopted by United Nations General Assembly on 16th December, 1966

<sup>567</sup> Convention of 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

<sup>568</sup> Abashidze, A. Gugunskiy, A Current Problems of Interstate Cooperation of Russian Federation for the Protection of Children in Case of Disputes between Parents Living in Different States. *Asian Social Sciences*, (2015) 11:14.

<sup>569</sup> *Ibid.* p. 21.

Different courts at the domestic level have interpreted this covenant according to their constitution such as U.S Supreme Court held that "the Senate, by including this declaration on non-self-execution, has implicitly asserted a power to determine that the provisions of the treaty are not self-executing."<sup>570</sup> The Federal Court of Appeals of U.S held that "the extent to which an international agreement establishes affirmative and judicially enforceable obligations without implementing legislation must be determined in each case by reference to many contextual factors: the purposes of the treaty and the objectives of its creators, the existence of domestic procedures and institutions appropriate for direct implementation, the availability and feasibility of alternative enforcement methods, and the immediate and long-range social consequences of self- or non-self-execution".<sup>571</sup> On the other hand practice of Australia and England has been observed in a matter and the court observed that though in the UK the Covenant has not been invoked by the parliament,<sup>572</sup> layers give reference and British Courts are using the Covenant as a basis for finding rights.<sup>573</sup> UK and Australia do not consider the treaties as domestic law and both States have Bill of Rights.<sup>574</sup> Some authors are of the view that the 1966 Covenant has not been studied at the comprehensive level by many States in academic discussions and applications and there are fewer publications on this Covenant, therefore, it has a less practical operation.<sup>575</sup>

---

<sup>570</sup> Foster v. Neilson, 27 U.S. (2 Pet.) 253, 314 (1829) (holding that "our Constitution declares a treaty to be the law of the land. . . . to be regarded in Courts of Justice as equivalent to an Act of the Legislature, whenever it operates itself without the aid of any Legislative provision," but noting that some treaties do not operate of themselves).

<sup>571</sup> Saipan v. United States Department of the Interior, 502 F.2d 90, 97 (9th Cir. 1974).

<sup>572</sup> Derbyshire County Council v. Times Newspapers Ltd., 1992 Q.B. 770, 827 (opinion of Butler-Sloss, L.J.). In the United Kingdom, which has no rule comparable to Article VI of the U.S. Constitution that would make treaties the "law of the land," a treaty does not become domestic law unless explicitly transformed into domestic law by an act of parliament.

<sup>573</sup> Ibid, p. 894.

<sup>574</sup> Koowarta v. Bjelke-Petersen, 153 C.L.R. 168, 224-25 (1982) (Austl.) (stating that a treaty becomes domestic law in Australia only if an implementing statute is adopted).

<sup>575</sup> Khazova, O.A., Sheljutto, M.L., Matveeva, M.V. [The Hague Conventions on Protection of Children in the Russian Federation. The application, performance, possible accession. (2013).

### 3.11. The Hague Convention on the Protection of Children in Inter-Country Adoption, 1993

This Convention is an attempt to deal with international adoption, child trafficking, and child laundering to save and protect the children from exploitation and abuse.<sup>576</sup> The main and fundamental objects of the convention are that inter-country adoption must be made in the best interest of the child for avoiding child trafficking and exploitation and to create a mechanism of collaboration between the different States and also set some recognized standards at international level for the adoption of the children.<sup>577</sup> This Convention has the potential to be a worldly ratified document and it deals with a vast range of child-related issues, protects children.<sup>578</sup> The focus of the Convention is to settle and address cross border problems in relation to children and provide a special legal structure for the redressal of child issues.<sup>579</sup> To enforce the convention with international standards the number of changes has been made in domestic enactments/legislation to criminalize the deeds for improper advantages/gains from international adoptions.<sup>580</sup> It is a unique feature of this convention that during an emergency, disaster situations or conflicts children can be adopted without adopting legal procedures; this may be to avoid trafficking of children.<sup>581</sup> After adoption and for enforcement of The Hague Convention an excessive bureaucratization has been observed for creating as many as possible

---

<sup>576</sup> Hague Convention on private International Law. 7 December 2010.

<sup>577</sup> Isabelle Lammerant, Marlène Hofstetter. "Adoption: at what cost? For an Ethical Responsibility of receiving countries in inter-country adoption". *Terre des homes*. 2007; HCCH 2008.

<sup>578</sup> Practical Handbook on the Operation of the 1966 Hague Child Protection Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children., HCCH, Hague Convention on the Private International Law. Website: [www.hcch.net](http://www.hcch.net). Last accessed on 14-09-2019.

<sup>579</sup> *Ibid*, p. 11.

<sup>580</sup> UNDP, Child Adoption. Trends and Policies Report. 2009. [https://www.un.org/esa/population/publications/adoption2010/child\\_adoption.pdf](https://www.un.org/esa/population/publications/adoption2010/child_adoption.pdf). Last accessed on 12-09-2019.

<sup>581</sup> United Nations, "Second Periodic reports of States parties due in 1998, Rwanda (CRC/C/70/Add22).

additional obstructions for the replacement of children.<sup>582</sup>

### 3.12. The Hague Convention on the Civil Aspects of International Child Abduction

Regarding civil aspects of international child abduction this Convention is a very important treaty which covers different features and terms in an international context like abduction, wrongful removal, wrongful retention, abductor, person, court, judicial authority, country of origin, requesting country, country addressed, access rights and visitation rights.<sup>583</sup> The basic background behind this convention was the increase in divorce rates and the international travel of separated parents had created serious concerns for the international community; the main issue was either non-custodial or joint custodial parents.<sup>584</sup> In *Charalambous* case; the Court observed the main theme of the Convention was that; Hague Convention has fixed six weeks to decide a case in trial and appellate forum just to provide an expeditious justice to the parties.<sup>585</sup>

When a child is removed by one of the joint holders of the said child without the consent of the other and on this point, the law protects the rights of the other partner, although the State laws also provide remedies to this situation when this act is committed at the international\_level, this Convention comes into operation.<sup>586</sup> There are some serious problems or issues with this Convention such as interpretation of defenses of

---

<sup>582</sup> Elizabeth Bartholet, International Adoption: Current Status and Future Prospects. *Harvard Law School*, (1993):95.

<sup>583</sup> Explanatory Report by E. Perez-Vera. Hague Conference on Private International Law. Acts documents de la Quatorzieme session, vol. III, 1980, p. 426.

<sup>584</sup> J.D. Candidate, 1995, 'The Hague Convention on the Civil Aspects of International Child Abduction: Are the Convention's goals being achieved?'. *Indiana University School of Law, Bloomington*: B.A (1991).

<sup>585</sup> *Charalambous v. Charalambous*, 627 F.3d 462 (1st Cir. 2010).  
<https://www.fjc.gov/sites/default/files/2015/Hague%20Convention%20Guide.pdf>. Last accessed on 09-09-2019.

<sup>586</sup> Elisa Pérez Vera, Explanatory Report: Hague Conference on Private International Law, in 3 Acts and Documents of the Fourteenth Session ("Explanatory Report"), (1994):71. 447-48.

return and in this context, the most common defense is under article 13 and in this defense, the return may be refused.<sup>587</sup> There are some other problems for non-compliance with the convention such as; imposition of conditions on return, lack of the proper mechanism to enforce the visitation rights, and general tendency to refuse return on the plea of grave risk to the child.<sup>588</sup> In January 2003 a bilateral conference between Pakistan and England under this convention had been held and it was agreed between two sides that cases of child adoption and custody will be handled by this convention.<sup>589</sup> While implementing this convention; 1999 the German Federal Supreme Court upheld a conviction of the Pakistani origin parent for removing his son to Pakistan for a child's education because said removal had violated the visitation rights of the mother.<sup>590</sup>

### **3.13. The Convention on the Elimination of All Forms of Discrimination against Women. (CEDAW)<sup>591</sup>**

It was an exceptional achievement of State parties in collaboration with international bodies to prepare and to implement a convention to enforce the rights of children and women.<sup>592</sup> The premier consensus on the centrality of children and female's rights program had been presented at the World Conference on the Rights of the Child (CRC) in 1993, which says that:

---

<sup>587</sup> Gloria Folger DeHart, *The Relationship Between the 1980 Child Abduction Convention and the 1996 Protection Convention*, 33 *N.Y.U. J. INT'L L. & POL.* 83 (2000).

<sup>588</sup> Peter Nygh, *Review of the Hague Convention on the Civil Aspects of Child Abduction. Meeting of the Special Commission* (2001).

<sup>589</sup> *Judicial Seminars on International Child Protection. United Kingdom-Pakistan Judicial Conference on Child and Family Law, London, England, Jan. 15-17, 2003.* at <http://www.hcch.net/e/conventions/seminar.html>. Last accessed on 6-08-2019.

<sup>590</sup> *Bürgerliches Gesetzbuch*, (1896), official law gazette of the German Reich, 195.

<sup>591</sup> *The Convention on the Elimination of All forms of Discrimination against the Women*, adopted by the UN General Assembly on 18 December, 1979, United Nations, Treaty Series, vol. 1249, p. 13.

<sup>592</sup> Oona Hathaway, *Do Human Rights Treaties Make a Difference?* *Yale Law Journal*, (2002):112.

*“The human rights of women and the girl child are an unchallengeable, integral, and indivisible part of human rights. The full and equivalent participation of women in political, civil, economic social and cultural life, at the national, regional and international levels, and the abolition of all kinds of discrimination on grounds of sex are priority purposes of the international community”*.<sup>593</sup>

In this Conference it had been, unanimously, agreed that no substantial progress on human rights can be achieved without providing equal rights to the women and child and also eradicate all kinds of inequalities against both.<sup>594</sup> The complementarity of the CRC and CEDAW is known in UNICEF policy statements and they are professed as reciprocally reinforcing children and women’s rights.<sup>595</sup> There had been several reasons for drafting a Convention for the safeguard rights of women, both at the domestic and international level and in this regard certain important factors were considered such as; family market research had shown that the structures of family, family laws and gender-based labor division had seriously affected women’s financial wellbeing, not less than the labor market arrangements and also labor laws.<sup>596</sup> It is also an admitted situation that women do not enjoy an equal economic status in wealth and gains of a family.<sup>597</sup> In many countries, the responsibilities of married couples, especially the women, are administered by common or civil legal doctrines, customary laws, or local traditions that often discriminate against the women and for this reason principles of Convention are

---

<sup>593</sup> World Conference on the rights of the Child (CRC) in 1993. The Vienna Declaration and Platform of Action.

<sup>594</sup> Savitri Goonesekere and Rangita De Silva-De Alwis, *Women’s And Children’s Rights In A Human Rights Based Approach To Development*, Women’s And Children’s Rights In A Human Rights Based Approach To Development. New York, 2005 UNICEF 3 UN Plaza, NY, NY 10017. 2005.

<sup>595</sup> Savitri Goonesekere and Rangita De Silva-De Alwis, *Women’s And Children’s Rights In A Human Rights Based Approach To Development*. (UNICEF), New York, 2005 UNICEF, p. 4.

<sup>596</sup> Committee on the Elimination of Discrimination against Women, *General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women*. CEDAW/C/GC/29, Distr.: General 26 February 2013.

<sup>597</sup> Committee on the Elimination of Discrimination against Women, 26 February 2013.

not complied with.<sup>598</sup> Concerning this Convention; it is also necessary to apprehend/understand the concept and word of “family”, statements of States in the United Nations reveal that “the concept of the family must be understood in a wider sense”.<sup>599</sup> The Human Rights Committee in its General Comment No. 28 and report on the observance on International Year of Family said: “families assume diverse forms and functions among and within countries”.<sup>600</sup>

Some important UN documents that incorporated the Human Rights in connection with CEDAW and CRC are; the UN Program for Reform adopted in 1997, UNDP’s Human Development Report 2000 with the theme “Human Rights and Human Development, the 2003 UN Inter-agency “Common Understanding of Human Rights-Based Approach to Development Cooperation, UNICEF’s policy document 1990, a policy statement on women empowerment 1994 and the Executive Directives on human rights and programming 1998. On 6 October 1999 UN General Assembly adopted an Optional Protocol for a procedure to consider individual complaints.<sup>601</sup>

### **3.14. The ILO Convention No. 182 on the Worst Forms of Child Labor (WFCL) (ILO C182), 1999<sup>602</sup>**

By signing and ratifying this Convention No. 182 the country commits that it will work

---

<sup>598</sup> Committee on the Elimination of Discrimination against Women, 26 February 2013. p. 5.

<sup>599</sup> General Comment No. 4, on the right to adequate housing (article 11 (1) of the International Covenant on Economic, Social and Cultural Rights). See E/1992/23, annex III, Para. 6.

<sup>600</sup> CCPR/C/21/Rev.1/Add.10, Para. 27: “In giving effect to recognition of the family in the context of article 23, it is important to accept the concept of the various forms of family, including unmarried couples and their children and single parents and their children, and to ensure the equal treatment of women in these contexts (see general comment No. 19, Para. 2). Single-parent families frequently consist of a single woman caring for one or more children, and States parties should describe what measures of support are in place to enable her to discharge her parental functions on the basis of equality with a man in a similar position.”

<sup>601</sup> United Nations. Treaty Series, vol. 2131, p. 83.

<sup>602</sup> Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 2000.

for elimination and prohibition of all kinds of worst forms of labor.<sup>603</sup> This Convention has the fastest ratification of all conventions since 1919.<sup>604</sup> The ILO's International Program on Elimination of Child Labor is under obligation to assist signing nations in this context and also to monitor the implementation. In the same session in 1999 the authority had also adopted Worst Forms of Child Labor Recommendation.<sup>605</sup> As of 2018, 182 countries have ratified this convention.<sup>606</sup> The worst forms of child labor as explained by this Convention are; slavery of child, sale of a child, trafficking of children, bonded labor from a child, use of children in armed conflicts, commercial sexual abuse and exploitation of children (CSEC), prostitution of a child, pornography and use of children in the commission of crimes.<sup>607</sup> Under this convention time specific programs for eradication of all forms of forced labor has been enacted; that also works on elimination of commercial sexual abuse and child pornography.<sup>608</sup>

### **3.15. The UNICEF (United Nations International Children's Emergency Fund)**

After World War-II the conditions of children in Europe and other war-affected areas were very plight. The United Nations considering the whole situation created its organization termed UNICEF (United Nations International Children's Emergency Fund) in 1953.<sup>609</sup> This organization globally started its successful campaign to improve

---

<sup>603</sup> Van Daele, Jasmien Engineering Social Peace: Networks, Ideas, And the Founding of the International Labor Organization. *International Review of Social History*. (2005): 435–466. Last accessed on 12-03-2021.

<sup>604</sup> Ibid. p. 32.

<sup>605</sup> Worst Forms of Child Labor Recommendation No. 190.

<sup>606</sup> Ibid. p. 5.

<sup>607</sup> Haimson, Leopold H. and Sapelli, Giulio. Strikes, Social Conflict, and the First World War: An International Perspective. *Milan: Fondazione Giangiacomo Feltrinelli*, (1992). Last accessed on 21-04-2021.

<sup>608</sup> Kumaraveloo, K Sakthiaseelan; Lunner Kolstrup. Christina Agriculture and musculoskeletal disorders in low- and middle-income countries. *Journal of Agro-medicine*. (2018) 23(3): 227–248. Last accessed on 21-04-2021.

<sup>609</sup> UNICEF. Theory of Change. Preventing and Responding to Violence against Children and

the poor conditions of children.<sup>610</sup> A six years-long struggle the UNICEF has introduced ‘Declaration of the Rights of Child’ and UN Generally Assembly passed the same in the year 1959.<sup>611</sup> This declaration is considered the “*Magna Carta*” on the rights of the child; the basic rights of the child had been introduced in this declaration. Child protection through peacekeeping is another milestone on the part of the United Nations.<sup>612</sup> Under this organization different progressive steps are being taken like education of children, deployment of child protection advisors, advocacy, capacity building, awareness-raising, legal reforms, and training, etc. the Guardian Weekly magazine says that UNICEF has admitted its failures with child abuse issues.<sup>613</sup> The UNICEF after conducting several types of research has highlighted the main causes of child abuse such as in rich countries poverty is not the issue behind child abuse and neglect.<sup>614</sup> In such States i.e. in the United States, broken families and child abuse within families are real causes of child abuse.<sup>615</sup> UNICEF has also evolved some legal issues such as recording evidence of victims, requiring an age-sensitive questionnaire, and also interview techniques to facilitate the disclosure of sexual abuse.<sup>616</sup>

---

Adolescents, 2017. <https://www.unicef.org/documents/preventing-and-responding-violence-against-children-and-adolescents-theory-change> Last accessed on 22-02-2020.

<sup>610</sup> Hunter R et al. Antecedents of Child Abuse and Neglect in Premature Infants: *A Prospective Study in a Newborn Intensive Care Unit. Pediatrics*, (1978) 61:629–635.

<sup>611</sup> Hunter R et al. Antecedents of Child Abuse and Neglect in Premature Infants. *Department of Pediatrics Center for prevention, USA*, (1978):37.

<sup>612</sup> <https://peacekeeping.un.org/en/child-protection>. Last accessed on 13-03-2019.

<sup>613</sup> <https://www.theguardian.com/global-development/2018/feb/13/unicef-admits-failings-with-child-victims-of-alleged-sex-abuse-by-peacekeepers>. Last accessed on 13-03-2019.

<sup>614</sup> For UNICEF by Andres B. Johnsson and Carol Bellamy, *Child Protection, A Handbook for Parliamentarians*, 2004. [http://archive.ipu.org/PDF/publications/childprotection\\_en.pdf](http://archive.ipu.org/PDF/publications/childprotection_en.pdf). Last accessed on 23-10-2019.

<sup>615</sup> *Ibid*, p. 64.

<sup>616</sup> World Health Organization, 2003. *Hidden in Plain Sight, A statistical Analysis of violence against children*, United Nations Children’s Fund (UNICEF), September 2014 ISBN: 978-92-806-4767-9. [https://reliefweb.int/sites/reliefweb.int/files/resources/Hidden\\_in\\_plain\\_sight\\_statistical\\_analysis\\_EN\\_3\\_Sept\\_2014.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf). Last accessed on 23-10-2019.

Pakistan has ratified these international treaties which provide special protection to the children. Amongst these international commitments, the CRC is the most significant as it shapes the national policy guidelines on the children's issues. It gives special emphasize to the children rights.

### **3.16. Lack of Applicability of CRC Commitments in Pakistan**

UNCRC imposes number of duties upon the State parties to protect and implement the rights of the child. Pakistan is signatory to the Convention; therefore, it is required that Pakistan must promulgate new laws or amend the existing laws in confirmation with the Convention. At Federal level; Pakistan has only amended PPC by incorporating the definitions of child abuse and no other law(s) has been amended. Even the procedural law Cr. P. C has not been amended for speedy and effective trial of child abuse cases. In CRC; article 24 provides for right of health and health services but in Pakistan there is no such legislation for the provision of this basic right. Article 26 enshrines for the right of social security to those children whose parents have not enough income and in Pakistan no such policy or law has been promulgated. Right of education has been mentioned in article 28 of CRC to be provided to every child but due to number of reasons there are huge numbers of children in Pakistan who are out of schools. In child abuse cases one of the most important rights of the victim child is the right of rehabilitation after being exploited by any means. In Pakistani laws there are no special provisions for the rehabilitation of child victim. Pakistan's child protection system is still in its nascent stages and there is no central database or child protection register to record an access the overall situation of child abuse and protection. Pakistan being a party to the UNCRC has international obligations, which adds a layer of complexity to current legislative and policy frameworks. Pakistan's common law regime requires enabling legislation to make

the international conventions part of domestic law. In the absence of such legislation, the UNCRC acts as policy guidelines on all children related issues in the official rhetoric. Many child protection issues such as child sexual abuse, corporal punishments, and early marriage are conceptualized in socio-economic, cultural and religious terms rather than as child rights issues. There are no known prevalence studies or organization except “*Sahil's Cruel Numbers*”. This lack of data leaves a gap in understanding the true nature and scale of child protection issues in Pakistan.

### **3.17. Conclusion**

From the enactment of the UDHR in 1948 the international community has realized that the basic fundamental rights ought to be made available to common people just to harmonize the fabric of society at international and domestic levels. Since the children are considered as future of any nation and they are more protected, therefore, considering this importance of children the States under the United Nations gathered and formulated the Declaration of the Rights of the Child which later converted into “the United Nations Convention on the Rights of the Child”. This Convention is the most ratified convention of the world and the States have undertaken to implement this Convention in their domestic laws. This Convention has the strong backing of UNICEF because for implementation of this Convention all the relevant bodies and organizations are performing their parts in collaboration with UNICEF, including the provision of funds, resources, and expertise. Amongst the other States; Pakistan has ratified this Convention and as a consequence thereto Pakistan has amended its penal as well as procedural laws, in 2016 criminal law amendment has been made to incorporate the vision of this Convention. *Khyber Pakhtunkhwa* Child Protection Act, 2010, *Sindh* Child Protection Authority Act, 2011, *Balochistan* Child Protection Act, and other laws have been

promulgated to implement the provisions of this Convention. Still there are number of rights as mentioned in CRC is required to be implemented through amendments and promulgation of new laws. The Hague Convention on the Protection of Children in inter-country adoption, The Hague Convention on Civil Aspects of International Child Abduction and Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) are promulgated at international level under the different heads of United Nations. The European Union has also enacted some important conventions and treaties for the enforcement of child rights such as; The European Social Charter, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Convention on the Exercise of Children's Rights and the Convention Concerning the Custody of Children. All these conventions thoroughly cover the protection, enforcement, and implementation of child rights throughout the European member States.

## Chapter No. 4

### REPORTING AND INVESTIGATION MECHANISM REGARDING CHILD ABUSE IN PAKISTAN

To eliminate any untoward and extremely unbearable situations and crimes, there have to be some very effective, result-oriented, targeted, purpose-specific, and deterrent based laws that are to be enacted, implemented, and executed throughout the country.<sup>617</sup> Usually, in underdeveloped countries, the legislation(s) is weaker as compared to developed countries and it is one of the most important reasons not to control and eliminate the social evils i.e. child sexual abuse.<sup>618</sup> When a worldwide view is taken on the legislation(s) it appears that the developed countries have enacted some very effective laws which have mostly controlled this issue with some rehabilitation processes.<sup>619</sup> The legislation on the elimination of child sexual exploitation and abuse must be dealing from the grass-root level to punish the real culprit until the final decision of the case involving child sexual abuse.<sup>620</sup> In the underdeveloped countries the trauma is that there are general laws which deal with all kinds of cases without considering the fact that child sexual abuse is a sensitive issue; for example in Pakistan; the Code of Criminal Procedure, 1898 is the procedural law which deals with all kinds of offences, utilizing

---

<sup>617</sup> Asimov M. Delegated legislation in the United States and United Kingdom, *Oxford Journal of Legal Studies*, (2020):253.

<sup>618</sup> Ben Mathews, *Mandatory Reporting Laws and Identification of Child Abuse and Neglect: Consideration of Differential Maltreatment Types, and a Cross-Jurisdictional Analysis of Child Sexual Abuse Reports*. Brisbane: Australian Centre for Health Law Research, Queensland University of Technology, (2014). DOI:[10.3390/socsci3030460](https://doi.org/10.3390/socsci3030460)

<sup>619</sup> The Child Prevention and Treatment Act, 40 years of safeguarding America's Children, 2014. US Department of Health and Human Services.

[https://www.acf.hhs.gov/sites/default/files/cb/capta\\_40yrs.pdf](https://www.acf.hhs.gov/sites/default/files/cb/capta_40yrs.pdf). Last accessed on 14-10-2019.

<sup>620</sup> *Ibid*, p. 23.

the procedure, and the Cr. PC also deals with cases of child sexual abuse.<sup>621</sup> Although the Convention on the Rights of Child instigates the States to enact the specific laws to cater to this problem, most of the States in underdeveloped countries have not enacted such requisite laws.<sup>622</sup>

Part V, Chapter XIV deals with the procedure for reporting and investigation of the criminal cases by the police and this chapter is applied along with Police Rules 1934 and 2002. This procedure starts from lodging of First Information Report<sup>623</sup> in cognizable offences, section 161 deals with the examination of witnesses by the police<sup>624</sup>, and section 164 provides for recording of statement and confession by the competent magistrate<sup>625</sup>. Section 172 deals with the final report of the police after thorough investigation of the case<sup>626</sup>. Sections 200 to 205 narrate procedure for proceedings in complaint cases<sup>627</sup>. Section 221 to 240 are relating to farming of charge. Section 241 to 250-A are relating to trial before the magistrate and these general sections also provide procedure for trial of cases of child abuse under section 377 of PPC. Chapter XXII-A from sections 265-A to 265-N deals with the trial by the High Courts and Court of Sessions. These general sections also deal with the trial of child abuse cases by the Court of Sessions.

---

<sup>621</sup> Save the Children Sweden, Pakistan Program. *A situation analysis of CSEC in Pakistan by working group against child abuse against CSA/E* 2004. 2009.

<sup>622</sup> Mehnaz A, Shah N, Mala A, et al. Psychosocial determinants of nutritional neglect in a developing country, *J Coll. Physicians Surgeon Pak* (2014); 24(5): 335-9. DOI: 04.2014/JCPSP.335339.

<sup>623</sup> Code of Criminal Procedure, 1898, Section 154.

<sup>624</sup> Ibid. Section 161.

<sup>625</sup> Ibid. Section 164.

<sup>626</sup> Ibid. section 72.

<sup>627</sup> Ibid. section 200 to 205.

## 4.1. Appropriate Legislation for Mechanism and Process

In Pakistan, there are several laws on this subject but unfortunately, all said laws do not cover the basic requirements to eliminate child sexual abuse.<sup>628</sup> The prevalent laws are the Islamabad Capital Territory Child Protection Act, 2018<sup>629</sup> which provides only some definitions, some bodies with the most difficult process to conduct business, and few institutions like the establishment of Child Protection Advisory Board.<sup>630</sup> The Juvenile Justice System Act, 2018 is recently legislated by the parliament and this law deals with the juvenile offenders not with the minors affected by sexual abuse. The general penal law applicable in Pakistan is the Pakistan Penal Code, 1860<sup>631</sup> which provides definitions of different offences and in 2016 through Criminal Amendment Act, 2016<sup>632</sup> some offences relating to child abuse have been added in this general law in compliance of the Convention on the Rights of Child (as per the statement of an object), the details have been mentioned in Chapter 1.

## 4.2. Existing Legislative and Policy Frameworks

The Asia Foundation has estimated that there has been an increase in the cases of child abuse, cases informed about after the 2016 Criminal Amendment.<sup>633</sup> The most interesting aspect of these amendments is that amendments only provide the definitions of few offences relating to children but this ordeal is so serious that there has to be some very specific legislation on this topic. Another issue with these amendments is that these

---

<sup>628</sup> Tufail M. Child protection in Pakistan, *Int. J Child Health Hum Develop* (2008) 2 (11): 225-8.

<sup>629</sup> Act No. XXI of 2018. Islamabad, 22nd May, 2018. (No. F.9(4)2018-Legis)

<sup>630</sup> Islamabad Capital Territory Child Protection Act, 2018. section 6.

<sup>631</sup> Criminal law second amendment Act, 2016 in Pakistan Penal Code, 1860 (XLV of 1860).

<sup>632</sup> Act No. VI of 2016. Islamabad, 4th February, 2016. (No. f.22(1)2014-Legis)

<sup>633</sup> Australia Government, Department of Foreign Affairs and Trade, Daft Country Information Report Pakistan, 2019. <https://dfat.gov.au/about-us/publications/Documents/country-information-report-pakistan.pdf>. Last accessed on 02-11-2019.

amendments have been made in substantive law i.e. Pakistan Penal Code, 1860 and there is no change or amendment(s) in procedural law i.e. the Code of Criminal Procedure, 1898 and all the trials of these offences are being dealt with under general procedure. The Punjab Destitute and Neglected Children Act 2004<sup>634</sup> (Amended 2017) is another law prevailing in Pakistan for the protection of children. This Act has the same fate being non-practicable and non-effective because it provides no process of prosecution and punishments to the offenders of child sexual abuse.

### **4.3. Gaps between Pakistan's Child Protection Legislative and Policy Frameworks and Existing Child Protection Issues**

The above discussion of existing legislation, plans and policies indicate that there are certain gaps between Pakistan's Child Protection Legislative and Policy Frameworks. The efforts to develop a legal and institutional base for child protection seem to be issue-based and lack consistency and directions. Furthermore, these struggles are affected by popular attitudes, practices and beliefs about who is to be considered a child and how children should be treated in Pakistan. Explanation of this situation includes the presence of both institutional bottlenecks, individual, societal beliefs and ideologies. These issues are based on policy makers, beliefs, and assumptions about children, childhood, children status in society and necessary elements of child protection in the context of Pakistan.

---

<sup>634</sup> Act No. XVIII of 2004.

#### 4.4. Courts' Interpretation Regarding Nature of Child Abuse Cases

At Federal level the Anti-Terrorism Act is applicable and in a judgment of a Division Bench of Lahore High Court has observed that raping a 6/7 years of age girl is an act which is cruel, offensive and wicked, therefore, same falls under the expression of "heinous offence" as used in the preamble of above said Act.<sup>635</sup> This act of the offender requires extra-ordinary remedy under the law i.e. such an act constitutes offence under the Anti-Terrorism Act.<sup>636</sup> In *Salman Akram Raja's* case, the Honorable Supreme Court remarked that rape is an offence which is against the whole community, and the case is reported and registered in the name of State and if there is out of court settlement then Courts have to consider this fact.<sup>637</sup> In another leading judgment, the Lahore High Court observed about the application of provisions of Anti-Terrorism Act that commission of any act, creating fear and insecurity in any section of people would fall within the ambit of the case as contemplated under section 6 of Anti-Terrorism Court and Anti-Terrorism Court would assume the jurisdiction for the trial of the case.<sup>638</sup> The Court further held that when an offence of unnatural lust happens in a society with a child the whole society feels fear and insecurity regarding their children of the same age, the impact of such an offence can be seen amongst the people of the vicinity.<sup>639</sup>

The heinous offence is an offence which is sinful, terrible, brutal, and offensive.<sup>640</sup> The offence of raping a 6/7 years girl is an act which by all standards is

---

<sup>635</sup> State vs. Abdul Malik alias Malkoo, PCr.LJ 2000 Lahore High Court 913.

<sup>636</sup> Ibid. p.1.

<sup>637</sup> *Salman Akram Raja vs. Government of Punjab through Chief Secretary*, SCMR 2013 Supreme Court 203. (A full Bench Judgment)

<sup>638</sup> *Abdul Aziz vs. Muhammad Punhal*. MLD 2017 MLD Karachi High Court 1321. (Appeal case)

<sup>639</sup> Ibid. p. 2.

<sup>640</sup> Ibid.

cruel, wicked, and offensive and the same could come within the ambit of term 'heinous offence' and the same is triable by Anti-Terrorism Court.<sup>641</sup> It is need of the hour to suitably amend penal laws to for making certain wrongs against the children punishable, also to provide a new and fair deal to the child.<sup>642</sup> High Court remarked that the Government must analyze and scrutinize the desirability to take some affective and affirmative action in relation to child abuse.<sup>643</sup> At the province-level few enactments have also been promulgated by the provincial assemblies and The Khyber *Pakhtunkhwa* Child Protection and Welfare Act, 2010<sup>644</sup> is one of the examples of these laws. The *Balochistan* Child Protection Act, 2016<sup>645</sup> has been promulgated by the provincial assembly to cater and eliminate the situations of child abuse. The next law is the Sindh Child Protection Authority Act, 2011<sup>646</sup> which provides some definitions of offences relating to child abuse.

As a general, child abuse cases register under section 376 and 377 of PPC and both these offences are triable by the court of Sessions but not Anti-Terrorism Court. In few cases the provisions of Anti-Terrorism Act are inserted, especially the cases which got highlighted in media; therefore, there are very few number of cases in which provisions of Anti-Terrorism Act are added. A critical analysis of this enactment shows that the basic requirement for the protection of children has not been complied with by the concerned legislation because the State must promulgate laws for the protection of a child. Pakistan, both, nationally and internationally committed to protecting the children from being abused.<sup>647</sup> Pakistan had signed the Convention on the Rights of the Child in

---

<sup>641</sup> Abdul Aziz vs. Muhammad Punhal, MLD 2017 Karachi High Court 1321.

<sup>642</sup> Ibid.

<sup>643</sup> Ibid.

<sup>644</sup> Act No. XIII of 2010, dated: 4th October, 2010.

<sup>645</sup> Act No. VII of 2016, dated: 17th November, 2016.

<sup>646</sup> Act No. XIV of 2011, dated: 9th June, 2011.

<sup>647</sup> Tufail M. Child protection in Pakistan, *Int. J Child Health Hum Develop*, (2008).

the year 1990 but no such specific legislation has been enacted, in compliance of CRC and in the year 2016 a criminal amendment has been made in a general law which does not provide any speedy trial of offences of child abuse.<sup>648</sup> Child sexual abuse is a multi-factorial issue in its nature, therefore, a multi-dimensional approach is required for identification and eradication of this high-risk scenario, the child empowerment programs are to be started, knowledge and training based sessions ought to be conducted in schools.<sup>649</sup> In Pakistan there are two types of laws; first are based on *Shariah* principles and second are common law based laws and when the government tries to implement these two types of laws there are implications such as parentage, age of majority, corporal punishment, and marriage.<sup>650</sup>

The discrepancies in the present prevailing law(s) can be cured through proper and effective legislation in collaboration with the international conventions and legislation of developed countries.<sup>651</sup> Pakistan may have recourse to regional countries' legislation on this subject, may frame result-oriented rules and procedures for eradicating child abuse.<sup>652</sup> Since Pakistan is a Federation consisting of one Federal government and province governments, therefore, an appropriate solution may be that the Federal government should formulate standards and provincial governments to enact laws and rules for a particular jurisdiction in that province.<sup>653</sup> The private sector's contribution

---

<sup>648</sup> Salmivalli K. Lagerspetz K. Björkqvist K. Osterman, Kaukiainen A. Bullying as a group process: Participant roles and their relations to social status within the group. *Aggressive Behavior*. (1996): 22: 1-15.

<sup>649</sup> Mehnaz A. Shah N, Mala A. Psychosocial determinants of nutritional neglect in a developing country, *J Coll. Physicians Surg Pak* (2014).

<sup>650</sup> Anees Jilani, Pakistani Laws and the Convention on the Rights of the Child. *A Study Conducted for the United Nations Children's Fund*, (1989).

<sup>651</sup> The Economist, A report from the Economist Intelligence Unit. *Out of the Shadow: Shining Light on the Response to Child Sexual Abuse and Exploitation*. A 40-country benchmarking index. <https://outoftheshadows.eiu.com/wp-content/uploads/2019/01/Out-the-Shadows-Whitepaper.pdf>. Last accessed on 29-10-2019.

<sup>652</sup> The Economist. A report from the Economist Intelligence Unit. *Out of the Shadow: Shining Light on the Response to Child Sexual Abuse and Exploitation*. A 40-country benchmarking index. p. 6.

<sup>653</sup> Tahirih Justice Center, Falling through the cracks: How laws allow child marriage to happen in

may be a very good solution because when a business company will advertise and raise campaign against the child abuse the common man will understand and will have easy access to those campaigns and advertisements.<sup>654</sup> The media, nowadays, has become the fourth pillar of the modern State and playing a very vital role in mind making regarding different issues of society.<sup>655</sup> The continuing campaign and highlighting the issue of child abuse on media will create pressure on legislators, law enforcement agencies to proceed strictly against the offenders of child abuse and future perpetrators not to do any such act.<sup>656</sup>

#### 4.5. National Legislative and Policy Frameworks

The real issue with Pakistan concerning child abuse is the weak legislation because there is no such proper legislation and if there has been some legislation; there are no rules of procedure for conducting effective prosecution.<sup>657</sup> At provincial and federal levels; some definitions of offences relating to child abuse have been added but the procedural law i.e. Cr. PC has not been amended accordingly. The trial of the cases of child abuse is being conducted under Cr. PC and it takes huge time to conclude; therefore, the federal and provincial laws are not sufficient to meet with current requirements of our society. In Pakistan, there are no quantitative estimations regarding the causes of child sexual abuse or sexual exploitation.<sup>658</sup> Under any existing law(s) in Pakistan, there are no post-event

---

today's America, August 2017, <https://www.tahirih.org/wp-content/uploads/2017/08/TahirihChildMarriageReport-1.pdf>. Last accessed on 29-10-2019.

<sup>654</sup> Children's rights, Children's Rights and Business Principles, UNICEF, United Nations Global Compact, Save the Children. <http://childrenandbusiness.org/>. Last accessed on 29-10-2019.

<sup>655</sup> Arpan, Between the Lines—an analysis of media reportage on child sexual abuse. 2014.

<sup>656</sup> BBC, How a pedophile's hands led to his conviction, August 15th 2018. <https://www.bbc.com/news/av/stories-45190746/how-a-paedophile-s-hands-led-to-his-conviction>.

<sup>657</sup> Adnan Ali Hyder and Fauzia Aman Malik, Violence against Children: A Challenge for Public Health in Pakistan, *Department of International Health, Bloomberg School of Public Health, Johns Hopkins University*, (2007).

<sup>658</sup> Hussain R, Fikree FF, Berendes HW. The role of son preference in reproductive behavior in Pakistan. *Bull World Health Organ* (2000);78:379-88.

care and support system or victim support services that could weaken the trauma faced by the child.<sup>659</sup> All aforementioned laws, both at Federal level or provincial levels, are not result-oriented because even in the presence of all said laws the number of cases involving child abuse is being occurred in daily routine and this ratio is increasing day by day. Pakistan is a Federation comprising of federating units (provinces) and territories and generally held by a traditional approach or approaches and therefore, does not have a single enactment, every province has different legislation, and hence the Pakistan government is struggling to comply with international obligations, under different conventions and treaties.<sup>660</sup> After the 18<sup>th</sup> amendment, the child security issue is to be dealt with by the provincial governments; therefore, there is no uniform and single enactment for the safeguard of children and trial of offenders of child abuse.<sup>661</sup>

Although, Pakistan has signed CRC, Pakistan is the fifth amongst the countries where children's condition is very bleak and they continue to be under abuse<sup>662</sup> and first in sub-continent to offer worse conditions for the children.<sup>663</sup> The accurate data collection regarding child abuse is also important but in Pakistan, at the government's level, there is no such institution for the collection of data and due to lack of accurate data the preventive measures are also not result-oriented.<sup>664</sup> Allocation of budget, rules of business, streamlining the implementation and establishing the required offices is another

---

<sup>659</sup> Society for the Protection of the Rights of the Child. *The state of Pakistan's children 2002*. Karachi: *Oxford University Press*, (2004):264.

<sup>660</sup> Jibeen, T. & Roberts, William. From home to shelter home: Victimization of young women in Pakistan, *Canadian Journal of Behavioral Science*, (2014): 46(4), 475-484.

<sup>661</sup> Khan, A. Sayeed, A. Shaikh, S., Jamal, A., & Kamran, S. Child protection system mapping and assessment 2013- Punjab. *Collective for Social Science Research UNICEF*: (2013) [http://www.researchcollective.org/Documents/EXECUTIVE\\_SUMMARY\\_Punjab.pdf](http://www.researchcollective.org/Documents/EXECUTIVE_SUMMARY_Punjab.pdf).

<sup>662</sup> Mehnaz, A. State of children in Pakistan-- confronting reality, *The Journal of the Pakistan Medical Association* (2011):61(6), 518-519.

<sup>663</sup> Munir Moosa Sadruddin, Ph.D Research Scholar. Institute of Education and Social Sciences. Hamdard University, Karachi. Email: munirmoosa@yahoo.com. *Study on the Important Issues of Child Rights in Pakistan*, (2014):17.

<sup>664</sup> Farah Malik, Determinants of Child Abuse in Pakistani Families: Parental Acceptance-Rejection and Demographic Variables. *International Journal of Business and Social Science*. (2010).

problem with the newly enacted laws and these reasons are the major reason for not complying with the international conventions,<sup>665</sup> therefore, all the newly enacted laws do not have any impact on the present situation regarding child abuse cases in Pakistan.<sup>666</sup>

Pakistani community is overwhelmed by the uncontrolled child exploitation; more than 10 minor were physically abused on every day in the year 2018,<sup>667</sup> which is 11 percent augment in child exploitation cases as contrasted to the first six months of 2017,<sup>668</sup> as per figures (cruel numbers) exposed by *Sahil*, (an NGO).<sup>669</sup> The statistics further revealed that 3832 children were abused in 2018 as compared to the 3445 child abuse incidents reported in 2017 from all over Pakistan.<sup>670</sup> Incidents of child sexual abuse (CSA) of male minors had been augmented by 55 percent while cases of female minors' sexual abuse and 45 percent of male minors in 2018 as compared to 2017.<sup>671</sup> BBC Urdu in its report, according to which the data produced in National Assembly in February 2018, revealed that in the last five years, 17,862, cases of sexual exploitation had been reported around the country, the gender breakdown of the data highlighted that out of these cases 10,620 girls and 7,242 boys had been physically abused in last five years under discussion. Some important articles have been enshrined in the Constitution of Pakistan which addresses problems of children; however, the important fact remains silent that the Constitution of Pakistan does not differentiate among adults and minors.<sup>672</sup>

---

<sup>665</sup> Save the Child, Implementing Child Rights in Pakistan: Alternative Report for UN CRC, 2015. <https://resourcecentre.savethechildren.net/node/9506/pdf/uncrc20alternative20report20pakistan20final20june2030202015.pdf>. Last accessed on 26-10-2019.

<sup>666</sup> Save the Child, Implementing Child Rights in Pakistan: Alternative Report for UN CRC, 2015. p. 8.

<sup>667</sup> Cruel Numbers by Sahil, A compilation of statistics on Child Sexual Abuse Cases in Pakistan. Report of 2018, p. 15.

<sup>668</sup> Cruel Numbers by Sahil, 2018. p. 9.

<sup>669</sup> <https://pamirtimes.net/2018/08/30/cruel-numbers-2322-children-abused-in-pakistan-during-first-six-months-of-2018-up-by-32/>. Last accessed on 12-10-2019.

<sup>670</sup> Zahid Ali Shah, graduated from Quaid-e-Azam University, Islamabad, <https://nation.com.pk/blogger/zahid-ali-shah>. Last accessed on 12-10-2019.

<sup>671</sup> Ibid.

<sup>672</sup> BBC Report of Pakistan: Child abuse in Pakistan, February, 2018. in National Assembly of

For example, Article 11 (3)<sup>673</sup> forbids compulsory/forced labor and employment and slavery of minors who are under the age of 14. Additionally, Article 25 (A)<sup>674</sup> obligates the State for compulsory and free for all children between the ages of 5 and 16 years. Moreover, Article 25 (3)<sup>675</sup> and Article 26 (3)<sup>676</sup> make possible and permit the State party to promulgate an equality-based approach and provisions for women and minors. Child Protection (Criminal Laws Amendment) Bill, 2009, “National Commission on the Rights of Children Bill, 2009”, and the “Charter on the Child Rights Bill, 2009”.

#### **4.6. Important Federal and Provincial Legislation relating to Child Rights.**

##### **a. At the Federal Level.**

- i. “Islamabad Capital Territory Child Protection Act, 2018” (For ICT)
- ii. “Juvenile Justice System Act, 2018”
- iii. “National Commission on the Rights of Child Act, 2017”. (NCRC)
- iv. “The Criminal Law (Second Amendment) Act, 2016”.
- v. “The protection of Breast-Feeding and Child Nutrition Ordinance, 2002”.
- vi. “The Employment of Children Act, 1991”.
- vii. “The Probation of Offenders Ordinance, 1060”.
- viii. “The West Pakistan Probation of Offenders Rule”.
- ix. “The Child Marriages Restraint Act, 1929”.
- x. “The Guardian and Wards Act, 1890”.

---

Pakistan.

<sup>673</sup> Constitution of Islamic Republic of Pakistan, 1973.

<sup>674</sup> Ibid.

<sup>675</sup> Ibid.

<sup>676</sup> Ibid.

- xi. "Prevention of Electronic Crimes Act, 2016".
  
- b. In the Province of Punjab.
  - i. "The Punjab Prohibition of Child Labor at Bricks Kilns Act, 2016".
  - ii. "The Punjab Restriction on Employment of Children Act, 2016".
  - iii. "The Punjab Free and Compulsory Education Act, 2014".
  - iv. "The Punjab Reproductive, Maternal, Neo-Natal, and Child Health Authority Act, 2014".
  - v. "The Punjab Destitute and Neglected Children Act, 2004" (Amended in 2017)
  - vi. "The Punjab Juvenile Justice System Act, 2002".
  
- c. In the Province of Sindh.
  - i. "The Sindh Prohibition of Employment of Children Act, 2017".
  - ii. "The Sindh Prohibition of Corporal Punishment Act, 2016".
  - iii. "The Sindh Child Marriages Restraint Act, 2013".
  - iv. "The Sindh Child Protection Authority Act, 2011".
  - v. "The Sindh Children Act, 1955".
  
- d. In the Province of Khyber *Pakhtunkhwa*.
  - i. "The Khyber *Pakhtunkhwa* Child Protection and Welfare Act, 2010".
  - ii. "The Khyber *Pakhtunkhwa* Child Protection and Welfare (Amendment) Act, 2018".
  - iii. "The Khyber *Pakhtunkhwa* Prohibition of Employment of Children Act, 2015".

- e. In the Province of *Balochistan*.
  - i. “The *Balochistan* Juvenile Smoking (*Balochistan* Repeal) Act, 2018”.
  - ii. “The *Balochistan* Child Protection Act, 2016”.
  - iii. “The *Balochistan* Protection and Promotion of Breast Feeding and Child Nutrition Act, 2014”.
  
- f. In *Gilgit Baltistan*
  - i. “The *Gilgit Baltistan* Child Protection Response Act, 2016”.
  - ii. “The *Gilgit Baltistan* Prohibition of Corporal Punishment against “Children Act, 2015”.
  - iii. “The *Gilgit Baltistan* Child Protection Act, 2012”.
  
- g. In Azad Jammu and Kashmir.
  - i. “The Child Rights (Care and Protection) Act, 2016”.
  - ii. “The Azad Jammu and Kashmir Juvenile Justice System Act, 2003”.
  - iii. “The Employment of Children (Adaption) Act, 1986”.<sup>677</sup>

#### 4.7. General Attitudes Regarding Reporting

The Quetta High Court has remarked that “in such cases, the prestige and respect of family are involved as the child of someone has been defamed. People are reluctant in filing reports to the police and it is a natural course that the guardian of the victim must have consulted his relatives, whether to file a report or not.”<sup>678</sup> In the cases of sodomy and *Zina*, the family honor, where a very young child, can be defamed for the whole of his

---

<sup>677</sup> Source of all Acts: 1. <http://www.na.gov.pk> 2. <http://www.pas.gov.pk> 3. <http://www.pap.gov.pk> 4. <http://www.pakp.gov.pk> 5. <http://www.balochistan.gov.pk> 6. <http://www.ajkassembly.gov.pk> 7. <http://www.gbla.gov.pk>. (Last accessed on 14-07-2019).

<sup>678</sup> Muhammad Siddique vs. state, PCr.LJ 2018 Balochistan High Court 1538 (Sibi Bench). Case FIR No. 84/2015, under section 365, 377 & 34 of PPC, at police station City Dera Murad Jamali.

life, no father will involve an innocent person in false cases; the delay in such cases is natural.<sup>679</sup> In *Juma Khan* case the High Court observed that FIR, was lodged on the third day of the incident, the complainant had explained that due to mental shock and trauma, she was not in a position to lodge the FIR, said feelings of an unmarried woman in the society was very natural and could be termed as a genuine explanation for the delay.<sup>680</sup> Federal Shariat Court<sup>681</sup> in case of *Jahan Zeb*<sup>682</sup> has observed that complainant had no hostility or negative design against the accused persons, to wrongly engage them on the charge of that nature, to put at stake the honor of his son and his entire family for life. No reason and ulterior motive existed to involve accused in the offence of sodomy with a minor of 12 years, when, there was no enmity between the parties to make such allegation, which also stigmatizes the minor victim for all his life.<sup>683</sup> That is the case of sodomy and *Zina* the delay, generally, occurs due to the reason that people feel hesitant because of respect of family honor, the career of victim/minor,<sup>684</sup> guardian of the victim in such like case must have consulted his relatives, whether to file a report or not<sup>685 686</sup> and courts most of the times do not take it fatal for the case of the prosecution.

The delay in registration of criminal cases in child abuse cases may affect the case of the prosecution at bail stage. The Honorable Superior Courts have observed the principles regarding delay and its effects. The Peshawar High Court in the case of *Umair* has observed that delay in lodging case to the police without explanation makes the case

---

<sup>679</sup> Kamran alias kami vs. State, PCr.LJ 2012 Lahore High Court 1200. (Appeal case)

<sup>680</sup> Juma vs. state, YLR 2019 Karachi High Court 628. (Appeal case)

<sup>681</sup> Jahan Zeb vs. State, YLR 2012 Federal Shariat Court 752. (Appeal case)

<sup>682</sup> FIR No. 155/2006, u/s 377 of PPC read with section 12 of Offence of Zina (Enforcement of Hadd) Ordinance, 1979 at police station Gunjial, District Khushab. (Trial case details)

<sup>683</sup> Amjad Hussain vs. State, PCr.LJ 2011 Federal Shariat Court 1534. (Appeal case).

<sup>684</sup> Muhammad Siddique vs. State. PCr.LJ 2018 Quetta High Court 1538. (Appeal case). See also: Ejaz Hussain vs. State, MLD 2018 Sindh High Court 1164. (Appeal case).

<sup>685</sup> Yasir vs. State, MLD 2018 Quetta High Court 1014. Balochistan. (Appeal case).

<sup>686</sup> Hamid Ullah vs. State, PLD 2018 Quetta High Court 71. (Appeal case)

of further inquiry and for grant of bail<sup>687</sup>. Where matter was reported to the police with a delay of two days and medical examination shows no date and time on said examination report; bail was granted to the accused due to said delay.<sup>688</sup> There has been delay of eight days in registration of case against the accused, bail was granted to the accused in the alleged sodomy case.<sup>689</sup> In allegations of sodomy; there was delay of three days, no trustworthy witness, no abrasion on the body of the victim and medical examination of the victim was paradoxical thus bail was granted.<sup>690</sup> Allegations of attempt of sodomy were leveled and matter reported to the police after four days of alleged occurrence, bail was granted to the accused.<sup>691</sup> F.I.R was lodged after three days of occurrence and medical was also conducted after three days, case is of further inquiry thus bail was granted to the accused.<sup>692</sup> There has been delay of thirty eight hours and there were no marks of violence on the body of the victim, benefit of doubt has been given to the accused and he was admitted to bail.<sup>693</sup> Three days in lodging of criminal case and according to medical report the accused was incapable to perform sexual intercourse; therefore, bail was granted to the accused.<sup>694</sup> In a case of commission of sodomy there has been delay of four months and eleven days which has been observed to be case of further inquiry and grant of bail.<sup>695</sup> In a case of attempt of commission of sodomy there were ten days unexplained delay in lodging criminal case besides the fact that place of occurrence was about half kilometer away from the police station; hence bail was granted.<sup>696</sup>

---

<sup>687</sup> Umair vs. State, MLD 2021 Peshawar High Court 527.

<sup>688</sup> Muhammad Tanveer vs. State, YLR 2021 Lahore High Court 1736.

<sup>689</sup> Muhammad Nauman Hanif vs. State, SCMR 2016 Supreme Court 1399.

<sup>690</sup> Shahid vs. State, MLD 2014 Lahore High Court, Lahore 190.

<sup>691</sup> Asgahr Ali vs. State, YLR 2008 Lahore High Court, Lahore 1986.

<sup>692</sup> Haji Muhammad Aslam vs. State, MLD 2006 Lahore High Court, Lahore 624.

<sup>693</sup> Safdar Ali vs. State, YLR 2004 Lahore High Court, Lahore 49.

<sup>694</sup> Muhammad Nadeem vs. State, YLR 2003 Lahore High Court, Lahore 3244.

<sup>695</sup> Sibtain alias Bhola vs. State, MLD 2002 Lahore High Court, Lahore 1008. See also: Fayyaz vs. State, 2017 PCRLJN 199, Karachi High Court, Muhammad Ayoub vs. State, 2021 PCRLJ 821, Lahore High Court, Lahore.

<sup>696</sup> Noor Muhammad vs. State, YLR 2000 Karachi High Court 1008.

The Superior courts while appreciating the evidence in the cases of child abuse have also considered the delay as fatal to the prosecution. The delay of two days has not been plausibly explained and the eye-witness did not support the version of the prosecution; therefore, the court acquitted the accused.<sup>697</sup> In another case where minor victim was allegedly subjected to sodomy; the delay has not been explained by the victim or the complainant witness and semen had not been obtained, hence court acquitted the accused.<sup>698</sup> In a case of kidnapping and abduction; the inordinate delay has not explained by the victim child and the benefit of doubt was given to the accused who was acquitted.<sup>699</sup> In a case it has been alleged that accused had committed murder of the minor son of the complainant after committing sodomy with him, there had been delay of twenty hours in lodging case against the accused, and the stance of the complainant has not been corroborated by independent piece of evidence; therefore, accused was acquitted.<sup>700</sup> There had been delay of eight days in reporting matter to the police and same has not satisfactorily been explained and such delay cast serious doubts about the veracity of prosecution case, accused was acquitted.<sup>701</sup>

Allegedly the accused committed sodomy with the minor son of the complainant, criminal case registered after one day of occurrence, prosecution witness did not support the stance of the complainant and the court acquitted the accused from charge of sodomy.<sup>702</sup> Two criminal cases were registered after fifteen months regarding one occurrence of *zina-bi-jabr* liable to *tazir*, sodomy, sale etc., the court had given benefit of doubt and acquitted the accused persons.<sup>703</sup> Excessive and unwarranted delay of about

---

<sup>697</sup> Mehboob Iqbal vs. State, SCMR 1996 Supreme Court 1910.

<sup>698</sup> Jehangir vs. State, PCr.LJ 2011 Federal Shariat Court 960.

<sup>699</sup> Amjad Ali vs. State, PCr.LJ 2011 Lahore High Court. Lahore 950.

<sup>700</sup> Muhammad Jamil vs. State. YLRN 2017 Lahore High Court. Lahore 4.

<sup>701</sup> Ishtiaq Masih vs. State, PCr.LJ 2015 Lahore High Court. Lahore 797.

<sup>702</sup> Yousaf Khan vs. State, YLR 2013 Karachi High Court 1168.

<sup>703</sup> Mumtaz Ahmad vs. State, YLR 2012 Federal Shariat Court 2529.

eight days in lodging of F. I. R. while police station was at a distance of one kilometer from venue of occurrence, had cast a reasonable suspicion upon genuineness and correctness of prosecution version; therefore, accused was acquitted.<sup>704</sup> Accused was charged to commit *zina* with the minor daughter of the complainant, matter was reported to the police after unexplained delay of three days, the court gave benefit of doubt to the accused who was acquitted the accused.<sup>705</sup>

Now, the next situation in this context is that why several cases of child abuse do not register and it is because of the dilemma that parents feel hesitant to report the case to the police due to some factors i.e. the generally negative view of the society that people will think negatively about the child.<sup>706</sup> Further; the future of the child will be stigmatized and destroy because of this allegation, non-trust of general masses on policing system meaning thereby that people are more than hesitant to inform the incident to the police for the reason that of the attitude of police and culture of the police station.<sup>707</sup> Sometimes police itself cancels the case of being false and motivated by other factors. But in the case of false cases, the police do not initiate proceeding against the person giving false information to public servants.<sup>708</sup> Case FIR No. 225/2019,<sup>709</sup> Case FIR No. 243/2019,<sup>710</sup> Case FIR No. 383/2019,<sup>711</sup> Case FIR No. 321/2019,<sup>712</sup> Case FIR No. 320/2019,<sup>713</sup> Case FIR No. 331/2019,<sup>714</sup> Case FIR No. 229/2019,<sup>715</sup> Case FIR No.

---

<sup>704</sup> Muhammad Habib vs. State, YLR 2002 Lahore High Court, Lahore 3855.

<sup>705</sup> Sabir alias Sabir Hussain vs. State, YLR 2017 Quetta High Court 1270. Also in cases: Gulzar Shah vs. State, MLD 2021 Karachi High Court 169. Muhammad Imran vs. State, YLRN 2021 Lahore High Court 71, Lahore. Ashiq Ali vs. State, PCr.LJ 2018 Lahore High Court, Lahore 1084.

<sup>706</sup> Hamid Ullah vs. State, PLD 2018, Quetta High Court 71.

<sup>707</sup> Ibid p.5.

<sup>708</sup> Section 182 of Pakistan Penal Code, 1860.

<sup>709</sup> Case FIR No. 225/2019 at police station Nishtar Colony, Lahore. (Trial case details)

<sup>710</sup> Case FIR No. 243/2019 at police station Nishtar Colony. (Trial case details)

<sup>711</sup> Case FIR No. 383/2019 at police station Kahna, Lahore (gang rape). (Trial case details)

<sup>712</sup> Case FIR No. 321/2019 at police station Kahna, Lahore. (Trial case details)

<sup>713</sup> Case FIR No. 320/2019 at police station Kot Lakhpat, Lahore. (Trial case details)

<sup>714</sup> Case FIR No. 331/2019 at police station Kot Lakhpat, Lahore (gang rape). (Trial case details)

<sup>715</sup> Case FIR No. 229/2019 at police station Liaqatabad, Lahore. (Trial case details)

812/2019,<sup>716</sup> Case FIR No. 379/2019<sup>717</sup> and Case FIR No. 1335/2019<sup>718</sup> and many other cases were canceled by the local police on the statements of victims in which they exonerated the accused persons and most interestingly all these cases were of rape but the police have not initiated criminal proceedings against the alleged victims and complainants by presenting false information. The State should take measures against such cases because due to such type of cases time and energy of police officers/investigation officers, forensic labs and other relevant departments are wasted and the government treasury bears the unwanted burden. Because sometimes people misuse the law for attaining their ill designs, therefore, the State should take strict measures against such false and self-created cases.

#### **4.8. Local Policies and Procedures Regarding Reporting**

The local body laws may help for the enforcement of child rights in Pakistan because the said laws deal with the situations at very basic root levels. In Pakistan, the local body system is more than weak and ineffective for the implementation of basic rights and in absence of a strong local body system the police and other relevant institutions are not performing their duties or even there are no local procedures regarding reporting of cases of child sexual abuse.<sup>719</sup> The cases are registered under the Criminal Procedure Code<sup>720</sup> and the cases of child sexual abuse are also registered under the same section of the law. There is no National Urban Policy at the federal or provincial level for urban and rural policies. The policy of developed countries is considered as a most important part of

---

<sup>716</sup> Case FIR No. 812/2019 at police station Kahna, Lahore. (Trial case details)

<sup>717</sup> Case FIR No. 379/2019 at police station Garden town, Lahore. (Trial case details)

<sup>718</sup> Case FIR No. 1335/2019 at police station Kahna, Lahore. (Trial case details)

<sup>719</sup> The News International. "Govt. Panel Reviewing Weaknesses of Local Govt. System: Saeed Ghani." October 30, 2018. <https://www.thenews.com.pk/print/387279-govt-panel-reviewing-weaknesses-of-local-govt-system-saeed-ghani>. (Last accessed on 14-07-2019).

<sup>720</sup> Section 154 of the Code of Criminal Procedure, 1898.

local government laws, systems, and also for legislation on this topic.<sup>721</sup> However, in 2006 the province of Punjab established an urban unit which was converted into a private company.<sup>722</sup> The Punjab Local Government Act,<sup>723</sup> the Khyber *Pakhtunkhwa* Local Government Act,<sup>724</sup> amended through the Khyber *Pakhtunkhwa* Local Government (Amendment) Act,<sup>725</sup> the Sindh Government Act<sup>726</sup>, *Balochistan* Local Government Act<sup>727</sup> and *Gilgit Baltistan* Local Government Act,<sup>728</sup> are substantive as well as procedural laws but they do not provide any specific procedure for implementation of basic rights of the child at gross root level.

The local government representatives are the best ones to understand the situation on ground and make policies for the addressal of grievances. In local government laws the concerned representative may be made responsible for the proper creation and maintenance of local dispensaries for rehabilitation of victim child. The National Reconstruction Bureau (NRB) is responsible for providing the mechanism for local government laws and local government systems in Pakistan.<sup>729</sup> Since laws relating to local governments in Pakistan have not been developed to tackle the basic needs of society, therefore, society is unable to get any help from these existing laws.<sup>730</sup> Every new government tries to amend the existing laws or brings new laws but it is very unfortunate for the society that, so far, not a single productive law has been promulgated

---

<sup>721</sup> The Local Government System in Pakistan, Country Profile 2017-2018. [www.clgf.org.uk/pakistan](http://www.clgf.org.uk/pakistan). Last accessed on 14-07-2019.

<sup>722</sup> Ibid, p.1.

<sup>723</sup> The Punjab Local Government Act, 2019 (Act XIII of 2019).

<sup>724</sup> The Khyber Pakhtunkhwa Local Government Act 2013 (Act No. XXVII of 2013)

<sup>725</sup> The Khyber Pakhtunkhwa Local Government (Amendment) Act, 2019 (Act No. XXV of 2019)

<sup>726</sup> Sindh Government Act, 2013 (Act No. XLII of 2013), enforced on 26th August, 2013.

<sup>727</sup> Balochistan Local Government Act, 2010 (Act No. V of 2010) dated: 13th May, 2010.

<sup>728</sup> Gilgit Baltistan Local Government Act, 2014.

<sup>729</sup> <http://www.pide.org.pk/pdf/PDR/2001/Volume4/845-867.pdf>. Last accessed on 16-07-2019.

<sup>730</sup> <http://www.pide.org.pk/pdf/PDR/2001/Volume4/845-867.pdf>. Last accessed on 16-07-2019, p.

to fulfill the basic criteria.<sup>731</sup>

It is also important to discuss here that Pakistan is a State having different provinces having number of local government laws enacted and these laws having their own themes and provincial governments' agendas.<sup>732</sup> To enact a comprehensive and detailed law there is a universal principle that law should be implemented throughout the country with a time limit and result oriented objects, which Pakistan does not have.<sup>733</sup> It would be safe to say that in all local government laws and systems, there is the need for basic principle of administration of justice that has not been foreseen and due to this reason, the highhandedness of police and other allied institutions is often seen.<sup>734</sup> The local bodies' representatives are supposed to be very close to general masses and can help them at the time of needs, since in Pakistan per capita income is very low and to get justice is an expensive matter in our society.

Therefore, it has to be kept in mind that needy people must be helped by the local representative or some procedure/mechanism must be evolved to address such like issues in local government laws.<sup>735</sup> The local body laws lacking for accountability of local police by the local representatives, no provision for cooperation between government medical officials and local representatives in the cases of child abuse, and also lacking provisions for establishment of local rehabilitation of victim child.

---

<sup>731</sup> Tabeer, Consolidating Democracy in Pakistan, Comparative Analysis of Local Government Laws in Pakistan. <https://pildat.org/wp-content/uploads/2019/04/ComparativeAnalysisofLocalGovernmentLawsinPakistan.pdf?> Last accessed on 19-07-2019.

<sup>732</sup> Dailytimes.com.pk. Website. Pro-People Agenda. Dr. Ikramul Haq. March 3, 2019. <https://dailytimes.com.pk/360674/pro-peoplcagenda>. Last accessed on 19-07-2019.

<sup>733</sup> Tabeer, p. 9.

<sup>734</sup> Tabeer, Consolidating Democracy in Pakistan, Comparative Analysis of Local Government Laws in Pakistan. p. 14. <https://pildat.org/wp-content/uploads/2019/04/ComparativeAnalysisofLocalGovernmentLawsinPakistan.pdf?> Last accessed on 19-07-2019.

<sup>735</sup> Ibid, p. 20.

#### 4.9. Difficulties Regarding Reporting

The reporting of child exploitation cases in Pakistan is one of the most difficult tasks for the victim and his/her parents and it is because of numerous factors.<sup>736</sup> In Pakistan, there is no mandatory reporting procedure of the cases of child exploitation and due to this reason, a large number of cases remain un-registered or non-reported.<sup>737</sup> In Pakistan, three major organizations i.e. UNICEF, Human Rights Commission of Pakistan, and WHO are working for collecting data across the country but these organizations clearly state that the collected data is not accurate because a large number of cases are unreported.<sup>738</sup> These organizations are considered are reliable for collection of relevant data which work nationwide with heavy infrastructure and means. Inconsistent or no standard regarding non-reporting will lead a situation that the most preventive measures could not be implemented and enacted;<sup>739</sup> this will directly affect the researches because in the absence of accurate data the researcher would not be able to frame a proper policy.<sup>740</sup> The most common reasons for non-reporting are family honor, cultural taboo and concepts of morality (so-called concept),<sup>741</sup> people consider it as a stigma for the child for the whole of his/her life and also for the family of the victim,<sup>742</sup> shame, and guilt.<sup>743</sup> In third world countries, the cases of female victims are usually not reported

---

<sup>736</sup> Munir, A. B. B. Child protection: Principles and applications, *Child Abuse Review* (1993).

<sup>737</sup> Aisha Mehnaz, Child Abuse in Pakistan, *Current Perspective* (2018).

<sup>738</sup> Adnan and Malik, Violence against the Children, (2017) p. 8.

<sup>739</sup> Christina L. Power, Child Sexual Abuse, A systematic review of meta-analytic studies assessing the prevalence of child sexual abuse and A meta-analysis of the prevalence of contact and non-contact child sexual abuse as reported by adolescents in the past 10 years. *The University of Edinburgh* (2004), p. 5.

<sup>740</sup> Ibid, p. 43.

<sup>741</sup> Ibid. p.47.

<sup>742</sup> Sethi IA, Iqbal U, Sethi KA, Sethi QI, Akram DS et al. Pak Pediatric, *Europe PMC* (2002);26:95-6.

<sup>743</sup> Solotaroff, J. L. & Pande R. P. Violence against women and girls: Lessons from South Asia. *Washington, DC: World Bank Publications.* (2014).

considering it a family honor and such an incident is concealed and not reported<sup>744</sup> for the reason that society will reject the said female forever.<sup>745</sup>

#### 4.10. The Structure of Investigations

Investigation means the mechanism for the gathering of evidence conducted by the investigating agency or by any other person who, under the law, is competent or authorized to conduct an investigation.<sup>746</sup> The structure of investigation depends upon some important factors and the coordination among all the law implementation agencies, it is not only the investigating officer to act properly but all other departments such as special branch, Federal Investigation Agency, Intelligence Bureau, telecommunication companies, etc. have to coordinate with the investigating officer.<sup>747</sup> But practically; there is not such coordination among the concerned departments. Non-trained, having no requisite qualification and inefficient investigating officer, mostly, conducts the investigation and remains unable to perform his duties correctly and in this way he destroys the case of the victim. In the present era of modern technology; the scientific techniques and methods are necessary for collecting evidence in the cases of child abuse but in the law enforcing agencies there are very few qualified and trained investigating officers for conducting investigation of child abuse cases. It is a dilemma of the underdeveloped countries that the law enforcement agencies do not have developed mechanisms for investigation and interrogation.<sup>748</sup> In Pakistan several factors weaken the investigation system and performance of the investigating officer, the major factor may

---

<sup>744</sup> Eva M. C. Jonzon, Child Sexual Abuse, Disclosure, Social Support, and Subjective Health in Adulthood, *Stockholm*. (2006), <http://hdl.handle.net/10616/38843>. Last accessed on 12-03-2020.

<sup>745</sup> Faiza Aziz, "Child Abuse", *Journal of Ayub Medical College*, 19, No. 3 (2007):1-2. Also see: Naz, F. & Kausar, R. Parental Rejection and Comorbid Disorders in adolescents with Somatoform disorders. *University of the Punjab*, (2012).

<sup>746</sup> The Code of Criminal Procedure. 1898, section 2 (1).

<sup>747</sup> Comments of Aftab Sherpao made in a talk show, Jirga, on GEO TV on June 7, 2010.

<sup>748</sup> Tahir Niaz, "Govt. Stops Funding to Forensic Agency," *Daily Times*, February 15, 2009

be the poor analytic capacity of the investigating officer.<sup>749</sup> Other factors may be a non-capacity building of investigating officer, no proper and regular training.<sup>750</sup> This lack of training, less education, and non-acquaintance with modern techniques lead improper forensic, DNA, and medical evidence and this fact destroy the whole prosecution and administration of the criminal justice system.<sup>751</sup>

#### **4.11. Present Forms and Procedures for Reporting and Investigation**

There has to be some modern, scientific and up to date procedure for reporting and investigation of any case of child sexual abuse because it needs some special consideration and expertise but it is the dilemma of the Pakistani society that no such procedure is available under the present enacting law(s), even, not in the latest promulgated laws.<sup>752</sup> The first set back is the societal norms that case is registered very late, which favors the accused not only at the bail stage but also in trial of the case and later on the formalities being observed by the police which further delays the procedure.<sup>753</sup> The said delay not only affects the case of the prosecution but also diminishes the evidence from the crime scene i.e. obtaining fingerprints, collection of evidence from the place of occurrence, the early arrest of the accused and many other important aspects of the case.<sup>754</sup> Case is registered under Criminal Procedure code<sup>755</sup>

---

<sup>749</sup> Punjab Police Predicted GHQ Attack on July 15, News, October 10, 2009. See also Sabrina Travernise and Waqar Gillani, "Frustrated Strivers in Pakistan Turn to Jihad," New York Times, February 27, 2010.

<sup>750</sup> Frederic Grare, Political Dimensions of Police Reform in Pakistan, Policy Outlook (Washington, D.C.: Carnegie Endowment for International Peace, (2010).

<sup>751</sup> [http://academia.edu/1261859/law\\_of\\_investigation](http://academia.edu/1261859/law_of_investigation). Last accessed on 07-11-2019.

<sup>752</sup> Police Reforms: Way Forward, Complaint Redressal Mechanism and other Operational Matters. <http://ljcp.gov.pk/nljcp/assets/dist/Publication/b1896-title-brochure-final-14-01-2019-pdf.pdf>. Last accessed on 21-07-2019. (Last accessed on 21-07-2019).

<sup>753</sup> Hassan Abbas, Stabilizing Pakistan Through Police Reform, Asia Society, Report by the Independent Commission on Pakistan Police Reform, 2012. P. 89. [https://asiasociety.org/files/pdf/as\\_pakistan\\_police\\_reform.pdf](https://asiasociety.org/files/pdf/as_pakistan_police_reform.pdf). (Last accessed on 21-07-2019).

<sup>754</sup> Hassan Abbas, Stabilizing Pakistan Through Police Reform, Asia Society, Report by the Independent Commission on Pakistan Police Reform. 2012. p. 89.

which has a basic requirement that the station house officer (SHO) is under legal duty to record the stance of the complainant and register a criminal case but the agony of an informant/complainant starts from the very beginning when registration of case is delayed on one pretext or another which damages the case of the prosecution.<sup>756</sup>

In next stage, the investigation of the case is held under Police Rules<sup>757</sup> and Rule 24.1<sup>758</sup> says that first information, as mandatory under section 154 and 155 of the CRPC, 1898, must be recorded in a relevant register and thereafter the matter shall have proceeded under the law.<sup>759</sup> A complete and comprehensive chapter in Police Rules is available for investigation of a criminal case.<sup>760</sup> The Police Rules 1934 are being discussed here because these Rules are more comprehensive, detailed and Police Rules 2002 do not cover all relevant aspects as compare to Rules of 1934. In Code of Criminal Procedure, 1898 chapter XIV is available for conducting the investigation into criminal cases but this chapter provides general procedure for carrying on investigation in every criminal case. In this chapter no specific provisions is available for child abuse cases and the existing provisions are working for a better system. In the cases of child abuse cases; there is need for the special provisions and sections for conducting the investigation of child abuse cases. The provisions for child abuse cases can be distinguished from the provisions of general offences. The police must immediately reach the place of occurrence and the officer reaching the place of occurrence shall take all possible measures to preserve the crime scene from any disturbance, to collect all possible evidence from the available witnesses, to record all the particulars of the offence, secure

---

<sup>755</sup> Section 154 of the Code of Criminal Procedure, 1898.

<sup>756</sup> Police Reforms: Way Forward, Complaint Redressal Mechanism and other Operational Matters, p. 57.

<sup>757</sup> Police Rules, 1934. (Act No. V of 1861)

<sup>758</sup> Chapter 24.1 of Police Rules, 1934.

<sup>759</sup> Chapter 24.1 of Police Rules, 1934.

<sup>760</sup> Chapter 25 of Police Rules, 1934.

potential evidence and arrest the real culprit<sup>761</sup> but unfortunately, the matter is reported to the police with a considerable delay due to which investigation affects a lot.<sup>762</sup> The technical assistance may be obtained by the investigating officer from all concerned departments,<sup>763</sup> including the handwriting experts,<sup>764</sup> medico-legal opinion,<sup>765</sup> and chemical examiner.<sup>766</sup>

The next step is the trial and the prosecution of cases of child sexual exploitation in the courts through public prosecutor(s) and in this regard, the provincial governments, in general, have established prosecution service in all provinces. The Punjab Criminal Prosecution Service,<sup>767</sup> The Sindh Criminal Prosecution service,<sup>768</sup> The Khyber Pakhtunkhwa Criminal Prosecution service,<sup>769</sup> and The *Balochistan* Criminal Prosecution service<sup>770</sup> but it is very interesting to note that this law does not contain any specific provisions regarding the conducting of investigation and prosecution in child sexual abuse cases except provincial law in KPK which provides four months' time to conclude the trial. This situation can be seen clearly in Punjab where the Act contains 5 provisions<sup>771</sup> for prosecutors regarding prosecution which is very general and no reference is made with cases of child sexual abuse. The Police Rules must be amended with particular provisions for conducting and supervising the investigation in the cases of

---

<sup>761</sup> Rule 25.10 of Chapter 25 of Police Rules, 1934.

<sup>762</sup> Ibid.

<sup>763</sup> Rule 25.14 of Chapter 25 of Police Rules, 1934.

<sup>764</sup> Rule 25.15 of Ibid.

<sup>765</sup> Rule 25.19 & 25.47 of Ibid.

<sup>766</sup> Rule 25.41 & 25.45 of Ibid.

<sup>767</sup> The Punjab Criminal Prosecution service (Constitution, Functions and Powers) Act, 2006 (Act No. III of 2006).

<sup>768</sup> The Sindh Criminal Prosecution service (Constitution, Functions and Powers) Act, 2009 (Sindh Act No. IX of 2010).

<sup>769</sup> The Khyber Pakhtunkhwa Criminal Prosecution service (Constitution, Functions and Powers) Act, 2005 (Khyber Pakhtunkhwa Act No. I of 2005).

<sup>770</sup> The Balochistan Criminal Prosecution service (Constitution, Functions and Powers) Act, 2003 (No. PAB/Legis: V(8) 2003, dated 17-10-2003).

<sup>771</sup> The Balochistan Criminal Prosecution service (Constitution, Functions and Powers) Act, 2003, Section 9 to 13.

child sexual abuse.<sup>772</sup> Although under section 173 of Cr. PC 14-daytime has been provided for completion of investigation but this provision is not being followed; therefore, it is the need of the hour to fix some serious penalty for non-compliance of this provision. The imposition of penal shall create deterrence for the delinquent police officials and at the same time it will enhance the effectiveness of the investigation. In practice it will also improve the speed of prosecution and overall will be beneficial for the whole system.

#### **4.12. Standard Forms and Procedures for Reporting and Investigation**

It is momentous to keep an eye on the children and if unfortunately, some untoward incident of child abuse happens, the parents/caretaker or guardian must observe any physical signs of abuse, behavioral signs of child abuse and disclosure by a child must, immediately, be reported to the concerned law enforcement agency.<sup>773</sup> The concerned must continue to observe the child, consult some relevant professional, remain in contact with the relevant agency, maximum take care of the child, and talk to his parents if any, teacher and other relevant.<sup>774</sup> The next step is how to submit a incident to the law enforcement agency; it must be immediate, with the reasons for reporting, possible known details, description of offence, and other information.<sup>775</sup> But as a whole in Pakistan, the parents feel hesitant to inform the matter of child sexual exploitation and

---

<sup>772</sup> Hassan Abbas, *Stabilizing Pakistan Through Police Reform*. (2012). p. 90.

<sup>773</sup> *Ibid.* p. 71.

<sup>774</sup> HM Government, *Working Together to Safeguard Children. A Guide to inter-agency working to safeguard and promote the welfare of children*, July 2018. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779401/Working\\_Together\\_to\\_Safeguard-Children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf). Last accessed on 02-08-2019. (Last accessed on 13-09-2019).

<sup>775</sup> <https://www.betterhealth.vic.gov.au/health/healthyliving/child-abuse-reporting-procedures>. Last accessed on 13-09-2019.

abuse to police for so many reasons like fear of not being taken seriously, fear of taking it wrong, fear of reprisal, fear of societal stigma with the affected child, police towards this crime, and future of the victim minor child.<sup>776</sup>

The UNICEF Inter-Agency Standing Committee has formulated a model for addressing this problem and issued the guidelines in this respect.<sup>777</sup> This committee has maintained that concerned law enforcement agencies must take such information irrespective of whether such complaint an offence or not.<sup>778</sup> The management has to establish a comprehensive system to entertaining all such complaints,<sup>779</sup> the concerns must keep safety, confidentiality, anonymity, and welfare needs of the victim or case of the victim.<sup>780</sup> In this context with the above-referred issue, there are some good practices which ought to be implemented, practices are; the victim must be listened carefully and response must be calm and responsible, make sure the protection of child victim and also his/her family, and the best medical care must be provided.<sup>781</sup> In Australia, under the domestic laws, it is obligatory upon the people to report the matter to concern department, specific laws have been enacted, laws are; Family Court of Western Australia,<sup>782</sup> Children and Community Services (Child Care) Regulations,<sup>783</sup> Children and Community Services (Family Day Care) Regulations and Children<sup>784</sup> and Community

---

<sup>776</sup> <https://www.betterhealth.vic.gov.au/health/healthyliving/child-abuse-reporting-procedures>. (Last accessed on 13-09-2019), p. 8.

<sup>777</sup> Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse. Model Complaints and Investigation Procedures and Guidance Related to Sexual Abuse and Sexual Exploitation by UNICEF in collaboration with IASC Task Force on Protection from Sexual Exploitation and Abuse (PSEA).

<sup>778</sup> Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse, p. 19.

<sup>779</sup> Ibid, p. 20.

<sup>780</sup> Ibid, p. 21.

<sup>781</sup> Ibid, p. 24.

<sup>782</sup> Family Court of Western Australia, 1997.

<sup>783</sup> Children and Community Services (Child Care) Regulations, 2006.

<sup>784</sup> Ibid, p. 6.

Services (Outside School Hours Care) Regulations.<sup>785</sup> Children and Community Services Act,<sup>786</sup> the informant cannot be liable for damages and hearsay evidence is acceptable in child abuse cases.

### **4.13. Advanced Countries' Mechanism and Procedure for Reporting and Investigation**

In developed countries; important steps have been taken for the advanced procedure and mechanism evolved by different departments for example, the system of Australia.<sup>787</sup> In Australia, there are certain protocols executed and recognized by different States and the federal governments.<sup>788</sup> The protocols are Edward Memorial Hospital,<sup>789</sup> Princess Margaret Hospital for Children,<sup>790</sup> Child Protection and Child Safe Standards (PROTECT),<sup>791</sup> and Working with the Royal Commission Queensland Inmate Engagement Strategy,<sup>792</sup> are working together and their inter-se relations, information sharing and collective measures to address the situation makes a productive and effective system to eliminate the child abuse.

---

<sup>785</sup> Community Services (Outside School Hours Care) Regulations, 2006.

<sup>786</sup> Children and Community Services Act, 2004.

<sup>787</sup> Ibid. P. 10.

<sup>788</sup> Child protection for Australian Aid Projects Procedure (MPF1266).

<https://policy.unimelb.edu.au/MPF1266>. Last accessed on 15-08-2019. Also: South Australia's Department for Child Protection, <https://www.abc.net.au/news/2018-09-16/australia-facing-an-epidemic-of-child-abuse-and-neglect/10233898>. Last accessed on 15-08-2019.

<sup>789</sup> <https://www.kemh.health.wa.gov.au/Other-Services/SARC/Sexual-assault>. Last accessed on 09-06-2022

<sup>790</sup> <https://pch.health.wa.gov.au/Our-services/Child-Protection-Unit> Last accessed on 15-08-2019.

<sup>791</sup> <https://www.education.vic.gov.au/school/teachers/health/childprotection/Pages/default.aspx> Last accessed on 09-06-2022.

<sup>792</sup> [https://www.childabuseroyalcommission.gov.au/sites/default/files/IND.0738.001.0001\\_R.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/IND.0738.001.0001_R.pdf) Last accessed on 15-08-2019.

## 4.14. Adoption of Modern Techniques and Procedures in Reporting and Investigation

The following steps must be observed during an investigation of crimes of child sexual abuse; reporting of crimes on a priority basis, access of a child to all possible child welfare services, the continuation of educational services, caretakers' rights and responsibilities. The custody of a child during an investigation and other custodian issues of victim child.<sup>793</sup> Financial responsibility and other finance occurred during the investigation, confidentiality of the victim child, and his family members to create trust and safety of the victim child.<sup>794</sup> By developing and adopting modern techniques; the developed countries have evolved a great system that not only helps the abused children, their parents and at the same time makes further measures and policies to cater and eradicate this issue.<sup>795</sup> The child protection laws in the United Kingdom are very strong and besides the legislation, there are many guidelines for each State to protect the children from abuse. In Northern Ireland, the Children (Northern Ireland) Order,<sup>796</sup> Safeguarding Board Act (Northern Ireland)<sup>797</sup>, Children Services Co-operation Act (Northern Ireland),<sup>798</sup> and Criminal Law Act (Northern Ireland)<sup>799</sup> have been promulgated. There are policies and guidelines accessible in Northern Ireland, children and young

---

<sup>793</sup> Theodore AD, Runyan DK. A medical research agenda for child maltreatment: negotiating the next steps, *Pediatrics* (1999), 104:168–177.

<sup>794</sup> [https://www2.illinois.gov/dcf/aboutus/notices/Pages/pr\\_policy\\_procedure.aspx](https://www2.illinois.gov/dcf/aboutus/notices/Pages/pr_policy_procedure.aspx). (Last accessed on 14-09-2019) See Also: National Commission of Inquiry into the Prevention of Child Abuse. *Childhood matters: the report of the National Commission of Inquiry into the Prevention of Child Abuse*. Vol. 1. London, Her Majesty's Stationery Office, 1996.

<sup>795</sup> Kinney J. The homebuilder's model. In: Whittaker JK et al. Reaching high-risk families: intensive family preservation in human services, *Modern applications of social work*. New York, NY. Aldine de Gruyter, (1990):31-64.

<sup>796</sup> Children (Northern Ireland) Order, 1995.

<sup>797</sup> Safeguarding Board Act (Northern Ireland), 2011.

<sup>798</sup> Children Services Co-operation Act (Northern Ireland), 2015.

<sup>799</sup> Criminal Law Act (Northern Ireland), 1967.

people's policy,<sup>800</sup> working to improve the best interest of the children, young people residing in the Northern Ireland, having positive and long-term fallouts (Department for Education, 2016).

“Co-operating to Safeguard Children and Young People in Northern Ireland (Department of Health)<sup>801</sup> and revised regional ‘Core Child Protection Policies and Procedures for Northern Ireland (Safeguarding Board for Northern Ireland).<sup>802</sup> In England's Keeping Children safe in education<sup>803</sup> Working Together to safeguard children,<sup>804</sup> Education Act,<sup>805</sup> Education (Independent School Standards) Regulations,<sup>806</sup> Non-Maintained Special School (England) Regulations<sup>807</sup> and Guidance for independent Schools have been promulgated to save children from any kind of abuse. Likewise in Scotland and Wales “National Guidance for child protection in Scotland (Scottish Government)<sup>808</sup> and keeping learners safe: the responsibility of local establishments, governing bodies and administrators of self-governing schools under the Education Act 2002 (Welsh Government).<sup>809</sup> As an adoption of modern techniques; National Surveys must be conducted by the responsible government institutions to collect the data for further research and guidelines<sup>810</sup>. Along with general medical examination; the medical professional must be responsible for maintaining all possible eventualities, sexually

---

<sup>800</sup> Children and young people's strategy 2017-2027.

<sup>801</sup> “Co-operating to safeguard children and young people in Northern Ireland (Department of Health, 2017).

<sup>802</sup> Safeguarding Board for Northern Ireland, 2018.

<sup>803</sup> Keeping Children safe in education, 2018.

<sup>804</sup> Working Together to safeguard children, 2018.

<sup>805</sup> Education Act, 2002

<sup>806</sup> Education (Independent School Standards) Regulations, 2014

<sup>807</sup> Non-Maintained Special School (England) Regulations, 2015

<sup>808</sup> National Guidance for child protection in Scotland (Scottish Government, 2014

<sup>809</sup> Keeping learners safe: the role of local authorities, governing bodies and proprietors of independent schools under the Education Act 2002 (Welsh Government, 2012

<sup>810</sup> Kolko DJ, Brown EJ, Berliner L. Children's perceptions of their abusive experience: Measurement and preliminary findings. *Child Maltreatment*. (2002);7(1):41–53.

transmitted diseases, and modes to overcome the same<sup>811</sup>. Interviewing a child is very important by the investigating agency and for that purpose traditional methods must be replaced by the newly emerging modes<sup>812</sup>.

#### 4.15. Specialized Investigating Officers

UK Home Secretary once said that “Police will need a license to practice for child sex abuse cases”<sup>813</sup> and this statement shows that modern world has recognized that the cases of child abuse are serious issues and which may cause impacts on society as a whole, therefore, some specially trained police officer will be required to deal with such cases. Amber Rudd further said that she wants that only registered and especially trained investigating officers with specialized expertise to investigate the cases of child sexual abuse.<sup>814</sup> This statement was an outcome of a report by “Her Majesty’s Inspectorate of Constabulary on the record of the Metropolitan police on child protection” which shows that serious mistakes have been pointed out in 75% of child sexual abuse cases.<sup>815</sup> In this report, it is further mentioned that the Met Police system is “ineffective” and police requires some trained police officers to investigate child sexual abuse cases.<sup>816</sup>

Some other factors are compelling the national institutions that there have to be some trained and skilled police officers who could investigate the cases of child sexual

---

<sup>811</sup> Cronch LE, Viljoen JL, Hansen DJ. Forensic interviewing in child sexual abuse cases: Current techniques and future directions. *Aggression and Violent Behavior*. (2006);11(3):195–207

<sup>812</sup> Ibid.

<sup>813</sup> <https://www.theguardian.com/uk-news/2016/nov/30/police-need-licence-to-practise-child-sex-abuse-cases-says-rudd>. (Last accessed on 12-09-2019)

<sup>814</sup> <https://www.theguardian.com/uk-news/2016/nov/30/police-need-licence-to-practise-child-sex-abuse-cases-says-rudd>. (Last accessed on 12-09-2019)

<sup>815</sup> <https://www.theguardian.com/uk-news/2016/nov/25/report-exposing-met-police-failings-on-child-sex-abuse-shocking> (Last accessed on 12-09-2019)

<sup>816</sup> <https://www.telegraph.co.uk/news/2019/03/28/police-watchdog-criticises-scotland-yard-handling-child-abuse/> (Last accessed on 12-09-2019)

abuse.<sup>817</sup> Non-collaboration with other professionals and institutions is another factor that should have been addressed and it can be dealt with if officers would be trained and skilled and they would be in the capacity to collaborate with other professionals and institutions.<sup>818</sup> Office working hours of the police officers are also very stressful issues because the duty of officers dealing with the matters of child sexual exploitation and abuse is delicate which needs extra relaxation and recreation which is not available to such officers.<sup>819</sup> Now, there is an important question that whether the police officer investigating the cases of child abuse will suffer some trauma or not, the answer is yes; because the officer conducting an investigation may experience some serious un-wanted scenes which a normal human being would never to see or experience and this fact may lead to a secondary form of trauma.<sup>820</sup>

From the above discussion, it could safely be said that investigation conducted by non-trained and unskilled police officers is damaging the cases of child sexual abuse and at the same time also seriously affecting the health, capability, and performance of police officers.<sup>821</sup> The present condition, capability, training, and skills of police officers investigating child abuse cases in Pakistan are more than poor and weak because they do not have a very strong backing of law(s), training, equipment, modern techniques, qualified/educated police officers and trained staff.<sup>822</sup> Somehow, the provincial

---

<sup>817</sup> Kinney, Burns, Bradley, Dantzer, and Weist's. Sexual Assault Training of Law Enforcement Officers, (2008).

<sup>818</sup> Brady, J.L., Guy, J.D., Poelstra, P.L., Brokaw, B.F. Vicarious traumatization, spirituality, and the treatment of sexual abuse survivors: a national survey of women psychotherapists. *Professional Psychology: Research and Practice* (1999), 30:4, p.386-393.

<sup>819</sup> Anderson, D.G. Coping strategies and burnout among veteran child protection workers. *Child Abuse & Neglect* (2000), 24:6, p.839-848.

<sup>820</sup> Maceachern, Jindal-Snape D. Jackson S. School of Education, Social Work and Community Education, *University of Dundee, Dundee, UK.* (2019).

<sup>821</sup> The Commission on Peace Officer Standard and Training, State of California. *Guidelines for the Investigation of Child Physical Abuse and Neglect, Child Sexual Abuse and Exploitation.* <https://www.ncjrs.gov/pdffiles1/Digitization/125335NCJRS.pdf>. Last accessed on 21-08-2019.

<sup>822</sup> Professor Masud Ahmed Malik. A Working Paper on Tackling Child Sexual Abuse. The country needs a specialized Child Sexual Abuse Unit within the police department, *Center for Global &*

governments have managed to establish some gender-based violence units in the police but the same un-trained and un-skilled police officers are conducting an investigation which results in a lengthy trial and later on the acquittal of the accused and sometimes the victim side due to facing of the ordeal of lengthy trial quits or compromises the case.<sup>823</sup> Therefore, it is need of the hour to establish specialized, fully trained, well educated, and energetic police officials who could well investigate the cases of child sexual abuse with definite results.<sup>824</sup>

#### **4.16. Especially Trained Judicial Officers and Court Staff**

In the modern and developed countries, the legislatures have enacted some laws in which the concept of the trained and skilled judiciary has been introduced because the cases of child sexual abuse need some extra and special care and caution, in all respects. But in Pakistan, this process is very slow and there is no specific legislation is available on this subject and sensitive issue but the High Courts have established some courts to deal with cases of child abuse for example in District Lahore a special court is designated to deal with trials of child abuse cases. The performance of these courts is exceptionally good because of seasoned, experienced presiding officer/judicial officers. The disposal of cases by these courts is worth appreciating and very good but in these courts, the dilemma is the investigation and investigating officers because a poor, weak, and non-professional investigation(s) always destroys the case of the prosecution. The real issue with the Pakistani society is that there are several cases registered and pending in the courts but the numerical strength of judicial officers is very less as compare to these numbers.

---

*Strategic Studies Islamabad*, (2017). <https://cgss.com.pk/paper/pdf/Tackling-Child-Sex-Abuse.pdf>. Last accessed on 21-08-2019.

<sup>823</sup> Ibid, p. 6.

<sup>824</sup> Ibid, p. 5.

In the province of Punjab, the Lahore High Court, Lahore in collaboration with Punjab Judicial Academy has conducted training programs on gender-based violence for judicial officers. The programs are “Training of Tutors Workshop on Gender-Based Violence Cases”<sup>825</sup> Training of Trainers Workshop on Gender (by International Association of Women Judges,<sup>826</sup> 3-Day Training Program on Gender-Based Violence case,<sup>827</sup> 2-Day Workshop on “Gender Sensitization” for Judicial Officers,<sup>828</sup> 2-Day Workshop on “Gender Sensitization” for Judicial Officers,<sup>829</sup> 2-Day Workshop on “Gender Sensitization” for Judicial Officers<sup>830</sup> and workshop on “Gender-Based Violence cases”<sup>831</sup> and many others as well.

The problems with the court staff are the same as with the other concerned departments i.e. police and prosecution. The court staff is not that trained and professional as it should be in the cases of child sexual abuse. Since in these cases the minor children have to appear before the court for recording evidence and also for cross-examination, therefore, the court staff ought to be trained for handling and dealing with this dilemma and traumatic situation, being faced by the Pakistani society. Training sessions ought to be conducted for the professional training of the court staff and in this context, it is not the duty of the court at the district level, even, at High Courts level but the concerned government must provide funds and infrastructure for such training at district and subdivision level, so that the required results may be achieved.

---

<sup>825</sup> [http://www.pja.gov.pk/tot\\_ws\\_2019](http://www.pja.gov.pk/tot_ws_2019), <http://www.pja.gov.pk/search/node/gender>. Last accessed on 19-10-2019.

<sup>826</sup> Training of Trainers Workshop on Gender (by International Association of Women Judges. from 02-10-2017 to 06-10-2017. <http://www.pja.gov.pk/node/799>. Last accessed on 19-10-2019.

<sup>827</sup> <http://www.pja.gov.pk/search/node/gender>, <http://www.pja.gov.pk/node/869>. From 02-03-2018 to 04-03-2018. Last accessed on 19-10-2019.

<sup>828</sup> <http://www.pja.gov.pk/search/node/gender>, <http://www.pja.gov.pk/node/793>. <http://www.pja.gov.pk/node/869>. Last accessed on 19-10-2019. From 24-09-2017 to 25-09-2017.

<sup>829</sup> <http://www.pja.gov.pk/node/812>. Last accessed on 19-10-2019.

<sup>830</sup> <http://www.pja.gov.pk/node/794>. Last accessed on 19-10-2019.

<sup>831</sup> [http://www.pja.gov.pk/pics\\_gbv\\_2019](http://www.pja.gov.pk/pics_gbv_2019). Last accessed on 19-10-2019.

#### 4.17. The Non-Governmental Organizations and Child Abuse Cases in Pakistan

In Pakistan, numbers of Non-governmental Organizations (NGOs) are working to safeguard the child's rights and their contribution is worth appreciating concerning the security and protecting the child rights in Pakistan. These Non-governmental Organizations are 'Society for the Protection of the Rights of Child'<sup>832</sup> 'Voice of Children'<sup>833</sup> 'Children First'<sup>834</sup> CHAEF-Children's Health and Education Fund,<sup>835</sup> 'Save the Children'<sup>836</sup> 'CCF-Child Care Foundation of Pakistan'<sup>837</sup> 'AGHS Legal aid-Child Rights Unit'<sup>838</sup> 'Make a Wish Foundation'<sup>839</sup> 'KONPAL Child Abuse Prevention Society';<sup>840</sup> '*Irada Aaghosh*'<sup>841</sup> '*Sahil*'<sup>842</sup> 'Initiator Human Development Foundation' (IHDF)<sup>843</sup> and 'Alliance for the Rights of the Child' (ARC).<sup>844</sup>

---

<sup>832</sup> Society for the Protection of the Rights of Child, 151-B, street 37, F-10/1, POB 301, Islamabad, Pakistan, field offices at Karachi, Quetta, Hyderabad, Peshawar and Lahore. Ph. 092-51-2291553.

<sup>833</sup> Voice of Children, office address at 6-, Block-D-12, G-8 Markaz, Islamabad, Pakistan. ph. 051-2854838.

<sup>834</sup> Children First, address House No. 79, street No. 92, Sector 1-8/4, Islamabad, Pakistan. Ph. No. 092-51-4861484.

<sup>835</sup> CHAEF-Children's Health and Education Fund, SF-2, Plot 17-C, 2nd Zamzama Commercial Lane, Phase-5 D.H.A, Karachi, ph. 0092-300-8202828, filed offices at Lahore and Karachi.

<sup>836</sup> Save the Children.

<sup>837</sup> CCF-Child Care Foundation of Pakistan, A-6-A-E, 105, New Super Town, Defence Main Boulevard, Lahore, tel: 042-3661031.

<sup>838</sup> AGHS Legal aid-Child Rights Unit, 131-E/1, Gulberg-III, Lahore Pakistan, Tel: 92-42-35763234, 35710709.

<sup>839</sup> Make a Wish Foundation, 208-A Clifton Center, Block5, Clifton, Karachi, Pakistan. Tel: 92-21-35863016, 35874195, filed office at Lahore.

<sup>840</sup> KONPAL Child Abuse Prevention Society, House No. 4-N Block6, PECHS, Karachi, Pakistan. Tel: 92-21-34552220.

<sup>841</sup> Irada Aaghosh, 682-Kamran Block. Allama Iqbal Town. Lahore. Pakistan. Tel: 042-35411426, 35411427.

<sup>842</sup> Sahil, office No. 13, First Floor, Al-Babar Center, F-8 Markaz, Islamabad, Pakistan. tel: 92051-2260636, 2856950. Field offices: Jaffarabad, Abbottabad, Sukkar and Lahore.

<sup>843</sup> Initiator Human Development Foundation (IHDF), Suite No. 5 & 6, 2nd Floor, Block C-3, Taj Camples, M.A Jinnah Road, Karachi, Pakistan. Tel: 0346-2669911, 0333-2225421, 92021032784477.

<sup>844</sup> Alliance for the Rights of the Child (ARC), F-178/3. Block 5, Kehkashan, Clifton, Karachi, Pakistan, Tel: 092-21-5867300.

#### **4.18. The Role of different NGOs and Offices concerning the Child Rights in Pakistan.**

All these NGOs are working for the best interests of children and their protection from any of violence including sexual abuse. These NGOs conduct programs for training parents, teachers, and children to combat child abuse, provide legal aids, and other welfare programs. They conduct programs, especially, on bound labor, child labor, and forced labor of the children. The SAHIL specifically working on the cases of child abuse and this organization has done a lot of contributions in the shape of different programs and seminars for the protection of the child from being abused, this organization also collects data on this issue. They issue a magazine namely “cruel Numbers”<sup>845</sup> after every six months in which they issue data of child abuse and this data is considered as the most reliable data on child abuse, in the latter part the researcher will discuss and examine the reports of this organization, in details.

#### **4.19. SAHIL (An NGO)**

*Sahil* is a premier organization for the collection of data on child abuse since 2003 from different sources i.e. newspaper and other sources throughout the country and publishes the same with the name and title “Cruel Numbers”. The aforementioned data collection aims to provide a general idea of the state of affairs of violence against the children in the form of child sexual abuse, early age marriages, child kidnapping, to provide facts and figures and information to the concerned authorities for taking action and arrange measures for the elimination of this social as well as legal issue. At present, the credibility of the data provided by this institution is considered as the most reliable one

---

<sup>845</sup> <http://sahil.org/cruel-numbers/>. Last accessed on 30-09-2019.

and being quoted at the concerned forums at national and international levels. Now, the researcher will examine the latest report “Cruel Numbers” published by *Sahil*.<sup>846</sup> The data of the report shows that total 3832 incidents of child abuse have been gathered from newspapers throughout the country i.e. Islamabad Capital Territory (ICT), four provinces, Azad Jammu and Kashmir (AJK) and *Gilgit Baltistan* (GB).<sup>847</sup> The collected data shows that a total number of 3832 incidents and cases have been reported during the year 2018 which is 11% more as compared to 2017 cases 3445 which means that more than 10 children have been exploited during the year 2018.<sup>848</sup> According to this data of 3832 cases of child abuse, 55% of victims were female minors and 45% were male victims.<sup>849</sup>

This report has also mentioned and stated the age brackets of affected victims regarding their age. 6 to 10 and 11 to 15 years old were boys which were more defenseless to child sexual abuse and in age brackets 0-5 and 16 to 18 victims were female victims of child abuse.<sup>850</sup> The categories of offences about child abuse have also been mentioned in this report; 923 cases of abduction, 631 of sodomy/unnatural lust,<sup>851</sup> 597 of rape,<sup>852</sup> missing children 452, 356 attempt of rape,<sup>853</sup> 306 of gang sodomy/unnatural lust,<sup>854</sup> sodomy murder 31 cases,<sup>855</sup> rape-murder 32 cases,<sup>856</sup> 220 of gang rape,<sup>857</sup> and 99 of child marriage have been reported throughout the country. In 2018 the increase in sodomy/unnatural lust has been more traumatic and heartbreaking

---

<sup>846</sup> <http://sahil.org/cruel-numbers/>.

<sup>847</sup> Sahil, Cruel Numbers, 2018.

<https://drive.google.com/file/d/1HwqlcktvfGb16y9iljjWcGLgUJf-g4kl/view>. p. 9.

<sup>848</sup> Ibid. p.9.

<sup>849</sup> Ibid.

<sup>850</sup> Ibid. p. 10.

<sup>851</sup> Ibid. p. 19.

<sup>852</sup> Ibid. p.19.

<sup>853</sup> Ibid. p. 21.

<sup>854</sup> Ibid. p. 28.

<sup>855</sup> Ibid. p. 29.

<sup>856</sup> Ibid. p. 29.

<sup>857</sup> Ibid. p. 30.

which is 61 %, rape 15% as compared to 2017.<sup>858</sup> 5628 of a total number of abusers were identified i.e. gangs involved in 2826 cases of abuse, 130 cases of child marriage, 876 cases' abusers not mentioned in newspapers.<sup>859</sup> Now the next portion of the report is a place of occurrence/the places where offence took place, 1571 cases occurred in closed places, 544 took place in open places, and in 1587 place of occurrence have not been mentioned in newspapers. From a total of 3832 cases, 63% cases were from Punjab, Sindh 4%, 27% cases from KPK, 3 % from Islamabad Capital Territory, 2% cases from *Balochistan*, 34 cases from Azad Jammu and Kashmir and 6 cases from *Gilgit Baltistan*.<sup>860</sup> And from the total number of cases 72% cases from rural and 28% cases urban areas. 86% of incidents were reported at the police station, in 56 cases police denied to record the case and 39 cases were not registered. 33% of cases of child sexual abuse had been enlarged as evaluated to available data of 2017.<sup>861</sup> However, murder after sexual abuse was reduced by 16% (92 cases), and in 2017 cases were 109.

This report has also mentioned the nature of abusers i.e. who have been the abusers and have what relationship with the victim. Acquaintance were 1787, not mentioned 537, acquaintance with stranger 467, strangers 410, neighbor 112, relative 73, *Molvi* 66, teacher 57, acquaintance with relative 54, incest 33, police 25, shopkeeper 21, landlord 14, watchman 10, female abettor with stranger 6, stepfather 5, spiritual leader and acquaintance with neighbor 4 respectively, acquaintance with relative 3, van driver, taxi driver, rickshaw driver, doctor, acquaintance with teacher 2 each, tailor, school peon, relative with stranger, acquaintance with police 1 each.<sup>862</sup> 2018's data when compared with 2017, neighbor offenders increased 133%, relative 62%, and *Molvi* 78%. In 2017

---

<sup>858</sup> <https://drive.google.com/file/d/1HwqlcktvfGb16y9iljjWcGl.gUJf-g4kF/view>. p. 9.

<sup>859</sup> Sahil, *Cruel Numbers*, 2018, p. 32.

<sup>860</sup> *Ibid.* p. 22.

<sup>861</sup> *Ibid.* p. 23.

<sup>862</sup> *Ibid.* p. 33.

total cases of child sexual abuse (CSA) were reported while in 2018, 2327 cases were appeared which is 33% increase as compared to last year i.e. 2017 and in these 2327 case 51% (1177 cases) were minor girls and 49% (1150 cases) were minor boys. The cases of sodomy/unnatural lust rapidly increased by 52% and cases of rape 2%. In the category of an attempt of child sexual abuse the cases have been increased by 81% (total 573) as compared to 2017 (total cases 317).

Five most vulnerable Districts from each province.

a. From all provinces<sup>863</sup>

Punjab	CSA cases	Sindh	CSA cases	KPK	CSA cases	Balochistan	CSA cases
Multan	136	Khairpur	62	Haripur	20	Quetta	5
Rawalpindi	128	Karachi	50	Mansehra	19	Loralai	4
Faisalabad	116	Ghotki	37	Nowshehra	16	Sibbi	3
Vehari	104	Larkana	32	Peshawar	16	Jaffarabad	2
Khanewal	103	Dadu	25	Abbottabad	13	Naseerabad	2

Status of registration of cases of child sexual abuse (CSA) is also very important because the figure is very alarming which shows that out of total 2327 cases of child sexual abuse 91% were recorded at the police stations, in 26 cases police declined to register a case and 28 cases were un-recorded. Data shows that 1064 cases in 136 cases of sexual abuse occurred after the abduction. Categories of crimes of sexual abuse after abduction in 2017 were 70 cases and in 2018 it was 54, while cases of gang rape after the abduction has been decreased 8%, 72% were minor girls and 28% were male kids.

<sup>863</sup> Sahil, Cruel Numbers, 2018. p. 37.

#### **4.20. The Governmental Institutions and Organization**

The Federal and Provincial governments have established different institutions and departments for the protection and safeguarding the children, some of the institutions have been established under laws (Acts of the parliament). The Destitute and Neglected Children Welfare Bureau is working in the province of Punjab, having its offices at important cities of the province of Punjab. The Provincial Board of Management Workers Children Education, Lahore is working for the education and general care of the children of the workers. The National Institute of Child Health is working on the health-related issues of the children. The National Commission for Child Welfare and Development is one of the prominent institutions which specifically works for the betterment of the children and draws policies and rules for the general welfare of the children. Human Rights Cell is established at the Supreme Court of Pakistan and all High Courts of respective provinces and other areas such as Azad Jammu and Kashmir and *Gilgit Baltistan* for the redressal of the grievances of the general people and also child-related issues. The Federal Ombudsman is also a prominent institution that is also contributing for the welfare and betterment of the children, recently this office in collaboration with the Human Rights Commission of Pakistan has worked on *Kasur* issue and published a comprehensive report.

##### **a. The National Commission for Child Welfare and Development (NCCWD)**

The National Commission for child welfare and development performs its duties as to submit recommendations to the government of Pakistan at the Federal level; its major responsibilities are to make policies and parameters to implement the policies concerning

child welfare.<sup>864</sup> This body also coordinates with the different departments in context to implement the policies of relevant ministry and the federal government.<sup>865</sup> It has its offices at a provincial level including at the district level to facilitate and coordinate with provincial governments to implement policies regarding children.<sup>866</sup> This commission has assured the UN to establish the Pakistan Commission for the welfare and protection of the Rights of children and will provide adequate financial and human resources.<sup>867</sup>

### **b. The Pakistan Bait-ul-Mal**

The Pakistan *Bait-ul-mal* is a charity based social welfare governmental organization to needy and poor people in Pakistan. It has been established 1992 through an Act<sup>868</sup> of the parliament. This organization notably contributes to poverty alleviation employing several programs; it facilitates widows, orphans, individuals, and other needy people. In the recent past this organization used to work in sponsorship with the Benazir Income Support Program, financial assistance to charitable institutions, rehabilitation centers, residential accommodations in the shape of shelter homes, education assistance to orphans and provide help and relief to needy in disaster areas.<sup>869</sup> Pakistan *Bait-ul-Mal* has also formulated the “the Child Support Program (CSP)” in which the poor and needy children are provided with a concept of ‘Universalization of Primary Education’ in which Rs. 300/- to Rs. 600/- per month are given to children for educational expenses.<sup>870</sup> But this governmental organization has neither direct nexus with the child abuse cases nor provides financial assistance to other relevant departments dealing with to eliminate

---

<sup>864</sup> <https://www.coursehero.com/file/p68rfrf/In-Pakistan-the-NCCWD-National-Commission-for-Child-Welfare-and-Development/>. Last accessed on 03-10-2019.

<sup>865</sup> Ibid.

<sup>866</sup> <https://www.coursehero.com/file/p68rfrf/In-Pakistan-the-NCCWD-National-Commission-for-Child-Welfare-and-Development/>. Last accessed on 03-10-2019.

<sup>867</sup> Ibid.

<sup>868</sup> Pakistan Bait-ul-Mal Act, 1991 (Act No. 1 of 1002)

<sup>869</sup> <http://www.pbm.gov.pk/>. Last accessed on 03-10-2019.

<sup>870</sup> <http://www.pbm.gov.pk/csp.html>. Last accessed on 03-10-2019.

child abuse issues.

### c. The Human Rights Cell

The August Supreme Court of Pakistan has established the Human Rights Cell in Islamabad for providing expeditious remedies in the matter of infringements of constitutional fundamental rights as guaranteed under the Constitution of Pakistan.<sup>871</sup> This cell works under the administration of Honorable Chief Justice of Pakistan and grievances of general people are addresses,<sup>872</sup> relief is provided to poor people without going through the formal procedures. The speedy and provision of justice to a common man without any expense has helped to create the trust of the common man upon the premier court of the country.<sup>873</sup> This cell in human rights activities has contributed a lot to eliminate the social evils like *Karo-Kari*, *Vani*, and dangerous kite flying which are detriments to the life of the common man.<sup>874</sup> Some important human rights cases are: missing persons' cases,<sup>875</sup> rape cases,<sup>876</sup> torture and harassment cases,<sup>877</sup> acid throwing cases,<sup>878</sup> and abduction of women and children, and environmental pollution cases.<sup>879</sup>

---

<sup>871</sup> Constitution of Islamic Republic of Pakistan, 1973, article 9 to 29.

<sup>872</sup> <http://www.supremecourt.gov.pk/web/page.asp?id=337>. Last accessed on 03-10-2019.

<sup>873</sup> Ibid.

<sup>874</sup> Ibid.

<sup>875</sup> Human Rights Cell No. 965/2005, Constitutional Petition No. 05/2007. Constitutional Petition No. 29/2007, Constitutional Petition No. 37/2007. Constitutional Petition No. 55/2007. Human Rights Cell No. 2724/2007, Human Rights Cell No. 7679-G-/2007 and C.M.A. No. 4420/2009.

<sup>876</sup> Human Rights Cell No. 8752/2006 (Applicant: Sumaira BiBi), Human Rights Cell No. 5446/2006 (Applicant: Zohra BiBi), Human Rights Cell No. 5525/2006 (Applicant: Samina BiBi). Human Rights Cell No. 4850/2006 (Applicant: Nadira BiBi) and Human Rights Cell No. 4245/2006 (published in Daily Khabrain on 17.08.2006)

<sup>877</sup> Human Rights Cell No. 2760/2006 (Illegality in jail/gross violation of Prison Rules at District jail Lahore), Human Rights Cell No. 1061/2007 (Toetue in jail. on Khabrain News). Human Rights Cell No. 29/2009, Human Rights Cell No. 4246/2006 (Protection/justice and assistance). Human Rights Cell No. 6320/2006 (Illegal detention) and Human Rights Cell No. 57/2009 (Torture and maltreatment)

<sup>878</sup> Human Rights Cell No. 12912-P/2009 (Acid throwing)

<sup>879</sup> S.M.C. No. 3/2003 (Environmental Pollution), S.M.C. No. 11/2005 (lost on innocent lives of children due to kite flying). S.M.C. No. 12/2005 A/W Constitution Petition No. 22/2005 (Abduction and rape of Sonia Naz) and S.M.C. No. 1/2006 (Miserable condition of women in jail)

#### **d. The Children Welfare and Protection Bureau**

The Government of Punjab province has established the Child Protection and Welfare Bureau, established in 2004, having its head office in Lahore and regional offices at various districts of Punjab.<sup>880</sup> This establishment provides care, education, rehabilitation, and training to destitute and neglected children of society and also to protect the children from the criminals.<sup>881</sup> This institution also provides food and shelter to the children to make them a notable and productive citizen.<sup>882</sup> Under this head the Child Protection Courts had been established which deal with cases like custody and reunification of rescued and protective children.<sup>883</sup> The Bureau has a dedicated, educated, and skilled professional team which includes child protection officers, law officers, psychologists, and doctors, etc. The Bureau has its offices at Faisalabad, Gujranwala, Multan, Sialkot, Bahawalpur, and Rawalpindi with effective functions.<sup>884</sup> The basic functions and duties of this Bureau are to provide rescue to the destitute children, legal assistance to the child (as and when require), family tracing of the destitute children, to establish rehabilitation center to take children to established rehabilitation units, the reunification of children with their families, psychological counseling/coaching, establish open reception centers at various places, capacity building of the children, to create mass awareness among the general masses and research and monitoring.<sup>885</sup> The Bureau recently, on 10-07-2019, has arranged a walk for child rights in Rawalpindi,<sup>886</sup> and on 19-07-2019 a child protection and welfare Bureau, Lahore has organized an awareness-raising walk against the child

---

<sup>880</sup> <https://cpwb.punjab.gov.pk/>. Last accessed on 05-10-2019.

<sup>881</sup> Ibid.

<sup>882</sup> Ibid.

<sup>883</sup> Ibid.

<sup>884</sup> Ibid.

<sup>885</sup> Ibid.

<sup>886</sup> <https://cpwb.punjab.gov.pk/node/282>. Last accessed on 04-10-2019.

abuse and in this walk member of society, doctors, and lawyers participated.<sup>887</sup>

#### e. The Federal Ombudsman (*Wafaqi Mohtasib*)

The office of the *Wafaqi Mohtasib* (Ombudsman) of Pakistan has been established by the Federal Government through an Order.<sup>888</sup> The main objects for establishing this office is to diagnose, redress, and correct an injustice happened with a person because of maladministration through an omission or act by the relevant government institution or individuals.<sup>889</sup> According to a report from the Office of Ombudsman approximately 246 million boys and girls, usually, experience sexual violence every year.<sup>890</sup> It has established its office in different cities of the country through which different types of complaints are received including the complaints regarding the abuse of children.<sup>891</sup> The official website of the office the Federal Ombudsman has also a special helpline for the children and helpline is 1055 or 1056 and all issues relating to children are dealt with through this online complaint system.<sup>892</sup> The office of the Federal Ombudsman conducts different studies regarding important issues; including the issues of child abuse; recently the Office has conducted research and published a report in collaboration with the Human Rights Commission of Pakistan on Kasur child abuse issue.<sup>893</sup>

---

<sup>887</sup> <https://cpwb.punjab.gov.pk/node/284>. Last accessed on 04-10-2019.

<sup>888</sup> Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983.

<sup>889</sup> Federal Ombudsman, Report on the Kasur Tragedy & Redressal of Systematic Issues. Mapping Issues & Respond to Sexual Violence against Children.

[http://www.mohtasib.gov.pk/images/pdfs/Report\\_Kasur.pdf](http://www.mohtasib.gov.pk/images/pdfs/Report_Kasur.pdf). Last accessed on 06-10-2019.

<sup>890</sup> <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>. Last accessed on 06-10-2019.

<sup>891</sup> <http://www.mohtasib.gov.pk/>. Last accessed on 07-10-2019.

<sup>892</sup> Ibid.

<sup>893</sup> Federal Ombudsman, Report on the Kasur Tragedy & Redressal of Systematic Issues. Mapping Issues & Respond to Sexual Violence against Children.

## f. The National Commission for Human Rights Pakistan

The government of Pakistan, in compliance with Paris Principles, has established a National Commission for Human Rights (NCHR) through an Act of Parliament (Act XVI of 2012) and the National Commission on the Rights of Child Act, 2017. The Commission has worked for the enforcement and protection of rights of general masses<sup>894</sup> and in this regard, the Commission has investigated the *Tharparker* incident from Sindh,<sup>895</sup> petitions, complaints, *suo moto* notices on human rights violations,<sup>896</sup> and investigation of *Kasur* Child Abuse incident.<sup>897</sup> In a report on the *Kasur* Child Abuse issue, the Commission has published a final fact-finding report namely “The *Kasur* Incident of Child Abuse”<sup>898</sup> in which the Commission has pointed out all deficiencies, measures for betterment, and redressal of the grievances of child abuse. This report says that the *Kasur* incident depicts our ethical standards and at the same time disappointed contribution of religious leadership, precautionary measures, law enforcement organizations, and political leadership.<sup>899</sup>

Although, Pakistan has signed the CRC and also ratified its optional protocols regarding the sale of children, child prostitution and child pornography, however, overall condition of child rights indicates that State needs more effective measures with constant

---

<sup>894</sup> <https://nchr.gov.pk/category/success-stories-achievements/>. Last accessed on 06-10-2019.

<sup>895</sup> <https://nchr.gov.pk/2016/03/31/investigating-tharparker-incident-and-visit-to-sindh/>. Last accessed on 06-10-2019.

<sup>896</sup> <https://nchr.gov.pk/2015/12/15/petitions-complaints-suo-moto-notices-on-human-rights-violations/>. Last accessed on 06-10-2019.

<sup>897</sup> <https://nchr.gov.pk/2015/07/01/investigation-of-kasur-child-abuse-incident/>, Last accessed on 06-10-2019.

<sup>898</sup> The *Kasur* Incident of Child Abuse, Fact finding report by National Commission for Human Rights, Government of Pakistan. <https://nchr.gov.pk/wp-content/uploads/2019/01/Fact-finding-report-Kasur-final-draft.pdf>. Last accessed on 06-10-2019.

<sup>899</sup> The *Kasur* Incident of Child Abuse. Fact finding report by National Commission for Human Rights, Government of Pakistan, p. 6.

and dedication, following international treaties, is required.<sup>900</sup> While making the recommendations the report has revealed some very astonishing facts, for example, the children were being abused since 2010 and perpetrators were using the videos for blackmailing the children and their parents and extorting money from them. Crime prevention and social prevention mechanisms have miserably failed to apprehend the situation and protecting the children from being abused.<sup>901</sup> The most important fact observed by the Commission is the unsuitable use of Anti-Terrorism laws against the local inhabitants and registration of criminal cases against the locals by the police has added fuel to the fire.<sup>902</sup>

### **g. The Human Rights Commission of Pakistan**

The Human Rights Commission of Pakistan is one of the oldest independent, non-profitable, and domestic organizations working since 1987 in Pakistan.<sup>903</sup> The Commission is overwhelmed to protect, monitor and promote human rights awareness in Pakistan, it is not connected with either government or any political party in Pakistan.<sup>904</sup> The fundamental goal of this Commission is to create awareness among general masses about human rights as elaborated in international treaties/conventions and the constitution of Pakistan.<sup>905</sup> It works independently for focusing attention on human rights by governmental and international institutions, promoting democratic governance in Pakistan and provide redressal to victims of human rights, etc. the structure of the

---

<sup>900</sup> The Kasur Incident of Child Abuse, Fact finding report.

<sup>901</sup> The Kasur Incident of Child Abuse, Fact finding report by National Commission for Human Rights, Government of Pakistan. p. 8. <https://nchr.gov.pk/wp-content/uploads/2019/01/Fact-finding-report-Kasur-final-draft.pdf>. Last accessed on 06-10-2019.

<sup>902</sup> Ibid.

<sup>903</sup> <http://hrcp-web.org/hrcpweb/>. Last accessed on 10-10-2019.

<sup>904</sup> <http://hrcp-web.org/hrcpweb/effective-awareness-raising-and-reporting-processes-way-forward-in-curbing-increase-in-child-sexual-abuse-cases>. Last accessed on 10-10-2019.

<sup>905</sup> Ibid.

Commission is very wide, it has more than 4, 000/- members across Pakistan. Ms. Asma Jahangir (late) is the co-founder of the commission, who worked a lot for the betterment, awareness, enforcement, and implementation of human rights, even though the Courts of law.<sup>906</sup> This commission also works for the protection of rights of child and in this regard it conducts the seminars for creating awareness regarding the rights of child.

#### **4.21. The Indicators of the Child Abuse**

The indicators and signs that usually appear in a child who is a victim of child abuse may be different from case to case and not every child needs to have some signs or indicators.<sup>907</sup> There are some general signs or indicators which could be found in a victim of child abuse; such as difficulty in sitting, especially in a child of sexual abuse, have no proper interaction with family, when a child is abuse from family.<sup>908</sup> In the cases of sexual abuse, the victim child restricts himself for physical activities.<sup>909</sup> The general behavior of the victim child changes, even on very petty issues.<sup>910</sup> Victim child often complaints on very minute issues, the issues which can easily be ignored.<sup>911</sup>

##### **a. The Physical Indicators of Sexual Abuse**

There are several physical indicators of sexual abuse, for example, difficulty in sitting or walking, constant lack of administration in hazardous actions or long period, pain or itching in the genital area, stained or bloody underclothes, torn, bleedings or bruises in

---

<sup>906</sup> <http://hrcp-web.org/hrcpweb>. Last accessed on 08-10-2019.

<sup>907</sup> Child Abuse and Neglect <https://www.childwelfare.gov/topics/can/>. Last accessed on 21-10-2019.

<sup>908</sup> Ibid.

<sup>909</sup> Preventing Child Abuse and Neglect <https://www.childwelfare.gov/topics/can/>. Last accessed on 21-10-2019.

<sup>910</sup> Child Welfare Information Gateway, Protecting Children, Strengthening Families. *Recognizing Child Abuse and Neglect: Signs and Symptoms*, 2007. <https://www.childwelfare.gov/pubPDFs/signs.pdf>. Last accessed on 21-10-2019.

<sup>911</sup> Child Welfare Information Gateway, Protecting Children, Strengthening Families. 2017. p. 4.

external genitalia, venereal disease, especially in pre-teens pregnancy and vaginal or anal areas.<sup>912</sup> Sexually transmitted diseases, persistent soiling of bedwetting, inappropriate sexual behavior depending on child's age, sleep disorder, obsessive and compulsive washing, unusually fearful and wary of physical conduct with others.<sup>913</sup> Coercive and aggression based, abnormal behavior is that age group and substantial difference between the same age group.<sup>914</sup> Age-inappropriate play with toys, injuries to the genital or anal area, self or others, sophisticated or unusual sexual knowledge, swelling or infection, age-inappropriate sexually explicit drawing, displaying explicit sexual acts, prostitution, bizarre, and seductive behavior.<sup>915</sup> Pregnancy or fear of pregnancy, signs of pain, urinary tract infection, and self-mutilation.<sup>916</sup>

### **b. The Medical Indicators of Child Sexual Abuse**

Signs of depressions and anxiety, child harm him/her without any reason, presence of blood in undergarments of a child, the child complains of consistent or in interval pain in genital parts, there may be symptoms of infection in child's urinary or genital part and pregnancy,<sup>917</sup> physical problems like health issues and soreness in the genital and anal area.<sup>918</sup> Gastrointestinal disorders include irritable bowel syndrome, gynecological disorders including chronic pelvic pain, menstrual irregularities, somatization which

---

<sup>912</sup> <https://www.nj.gov/def/reporting/indicators>. Last accessed on 09-10-2019.

<sup>913</sup> <https://www.childprotection.sa.gov.au/reporting-child-abuse/indicators-abuse-or-neglect>. Last accessed on 09-10-2019.

<sup>914</sup> South Australia, Dept. of Education and Children's services. Responding to problems sexual behavior in children and young people, Guidelines for staff in education and care settings. ISBN: 9780980547221 (pbk.), [https://www.education.sa.gov.au/sites/g/files/net691/f/responding\\_to\\_problem\\_sexual\\_behaviour\\_in\\_child\\_ren\\_and\\_young\\_people.pdf](https://www.education.sa.gov.au/sites/g/files/net691/f/responding_to_problem_sexual_behaviour_in_child_ren_and_young_people.pdf). Last accessed on 10-10-2019.

<sup>915</sup> <http://www.torontocas.ca/indicators-child-abuse>

<sup>916</sup> Department of Education, Government of Western Australia. <https://www.education.wa.edu.au/>. Last accessed on 10-10-2019.

<sup>917</sup> <https://familydoctor.org/signs-childhood-sexual-abuse>. Last accessed on 10-10-2019.

<sup>918</sup> <https://www.nhs.uk/live-well/healthy-body/spotting-signs-of-child-sexual-abuse>. Last accessed on 10-10-2019.

attributes to a preoccupation with bodily processes. There may be some disability in the abused child in their growth,<sup>919</sup> maybe a development of fear from abusers who may be family members, caretakers, or teachers, etc.<sup>920</sup>

### **c. The Psychological Indicators of Child Sexual Abuse**

The victim child may demonstrate so many psychological signs which may be assessed or seen, even, by a layman and these indicators sometimes result in serious issues. Psychological indicators of child abuse may be depressive symptoms, substance abuse, anxiety, body image concerns, low self-esteem, and cognitive impairment, symptoms such as re-experiencing numbing and hyper arousal, loss of social competence, increased or inappropriate sexual behavior.<sup>921</sup> There may be some verbal communication difficulties and fear of future hospitalization.<sup>922</sup>

### **d. The Other Indicators of Child Sexual Abuse**

The development delays or delays in growth have also been observed in some cases because of the fear in the mind of the sexually abused child that he/she has been a victim of child abuse.<sup>923</sup> Another issue observed by the researchers that when child abuse has happened at the workplace, the victim has the fear of loss of a job which creates mental

---

<sup>919</sup> Dunne, T. P. & Power, A. Sexual abuse and mental handicap: preliminary findings of a community based study, *Mental Handicap Research*, (1990):3, 111-125. .

<sup>920</sup> Ahlgrim Delzell, L., & Dudley, J. R., Confirmed, unconfirmed, and false allegations of abuse made by adults with mental retardation who are members of a class action lawsuit, *Child Abuse & Neglect* (2001):25, 1121-1132.

<sup>921</sup> [https://apps.who.int/iris/bitstream/handle/10665/42495/9241545615\\_eng.pdf](https://apps.who.int/iris/bitstream/handle/10665/42495/9241545615_eng.pdf) . last accessed on 10-10-2019.

<sup>922</sup> Kvam, M. H., Is sexual abuse of children with disabilities disclosed? A retrospective analysis of child disability and the likelihood of sexual abuse among those attending Norwegian hospitals. *Child Abuse & Neglect*, (2000):24, 1084-2000.

<sup>923</sup> Sobsey, D., & Doe, T. Patterns of sexual abuse and assault. *Sexuality and Disability*. (1991) 9(3), 243-259. <https://doi.org/10.1007/BF01102395>. <https://psycnet.apa.org/record/1992-19972-001>

and stress issues.<sup>924</sup> The victim of child abuse may lose his/her confidence in dealing with routine matters.<sup>925</sup> The victims with special abilities are mostly victimized (approximately) by the well-known perpetrators and due to this reason most of the time the victims do not disclose the occurrence/report the matter which may also harm his/her general qualities/mental faculties.<sup>926</sup> It has been observed that in the cases of custodial disputes most the time the allegations are false, on instigation on one side,<sup>927</sup> and in such like situations the minor misinterprets the situation and many times he/she uses these types of allegations for getting some other motives and this fact destroys the personality of the victim in the future times.<sup>928</sup> In many time the child deliberately assumes such type of issues.<sup>929</sup> Experimental research reveals the children who are often subject to sexual abuse have shown more sexuality in their behavior.<sup>930</sup>

#### 4.22. Conclusion

The reporting and investigation of cases of child abuse are one of the most significant stages in a criminal case registered under criminal law and to make it more effective and result-oriented there has to be strong appropriate legislation. The legislation must not only define all possible forms of child abuse but also provide a speedy process for reporting, investigation, and prosecution. In Pakistan, there are several legislations for

---

<sup>924</sup> Sobsey, D., & Doe, T. Patterns of sexual abuse and assault. (1991).

<sup>925</sup> Ibid, p. 151.

<sup>926</sup> Baladerian, N. J. Sexual and physical abuse of developmentally disabled people. Available from Mental Health Consultants, *Culver City*, (1990).

<sup>927</sup> Furniss, T. The multi-professional handbook of child sexual abuse: Integrated management, therapy and legal intervention, *London: Routledge*, (1991):342-346).

<sup>928</sup> Everson, M., & Boat, B. False allegations of sexual abuse by children and adolescents. *Journal of the American Academy of Child and Adolescent Psychiatry*. (1989): 28. 230-235.

<sup>929</sup> Berliner, L. & Conte, J. R. Sexual abuse evaluations: Conceptual and empirical obstacles. *Child Abuse & Neglect*, (1993):17, 111-125.

<sup>930</sup> Deblinger, E., McLeer, S. V., Atkins, M. S., Ralphe, D. & Foa, E. Post-traumatic stress in sexually abused, physically abused, and nonabused children. *Child Abuse & Neglect*, (1989):13. 403-408. See also: Friedrich, W. N., Sexual victimization and sexual behavior in children: A review of recent literature, *Child Abuse & Neglect*, (1993):17, 59-66. Friedrich, W., Eeilke, R., & Urquiza, A. Behavior problems in young sexually abused boys, *Journal of Interpersonal Violence*. (1988):3. 21-27.

the protection of children, both at Federal and Provincial levels, but all these legislations are not effective and result-oriented due to which there is a very low conviction rate. To promulgate proper and effective legislation there has to be some appropriate mechanism such as debates, conferences, researches, and all possible methods should be adopted, the governmental, private sectors such as media and all other major stakeholders must contribute to the uniform Federal legislation for the protection of children.

The present crime reporting system is full of flaws; therefore, the same is more that defective. The current crime reporting system is required to be amended and a compulsory reporting system must be introduced so that no crime against a child must be left unattended and in this regard, the concerned governments may introduce a local efficient system for reporting. The investigation of child abuse cases must, immediately, be reformed and a comprehensive procedure based on modern and scientific techniques must be established and concerned investigating officers must be qualified and trained for investigating the cases of child abuse. To achieve better results of the investigation; the procedures, policies, and mechanisms of modern and developed countries may be adopted. The court proceedings, time to conclude the trial, process of recording of evidence is the most delicate stages of any criminal trial and especially the cases of child abuse. Modern research says that judicial officers dealing with child abuse cases must be well trained experienced and must have exposure to modern techniques. The trial ought to be completed in a maximum possible time; the public prosecutors must also be well trained and acquainted with the delicacy of the issue. The role of governmental and non-governmental organizations has to be exceptional because it is a matter of future of any nation. Presently many non-governmental organizations are working for the betterment of the child and their role is appreciable. The National Commission for Child Welfare and Development, Human Rights Cell, Children Welfare, and Protection Bureau,

National Commission for Human Rights Pakistan, and Human Rights Commission of Pakistan is playing a pivotal role for the welfare and protection of children in Pakistan. Recently on *Kasur* issue, the Human Rights Commission of Pakistan in collaboration with the Federal Ombudsman office has published a report in which the details of the *Kasur* issue have been mentioned. Some indicators occur in the children who are victims of child abuse, the indicators or signs may be physical, medical indicators, psychological indicators, and other indicators. These indicators may suggest which type of abuse a child would have faced and what type of behavioral and other changes will arise in the future in the personality of a child.

## Chapter No. 5

### ADMISSIBILITY OF CHILD'S EVIDENCE IN THE CASES OF CHILD ABUSE

The purpose of leading evidence in a trial is to enable the court to reach a fair conclusion regarding the facts in issue and relevant facts.<sup>931</sup> As such, in general, the law does not prohibit any person to testify before a court of law and the same is the case with the testimony of a child witness.<sup>932</sup> The importance of child testimony becomes more valuable in the cases of child abuse because it is the child who is direct and star witness to the occurrence.<sup>933</sup> From historical point of view; from 1988 to 1991 the position of 'child witness' in the criminal justice system had been under a profound transformation and the general barriers which earlier had been placed before the testimony of a child witness were removed or relaxed.<sup>934</sup> Although; it is difficult to absorb that an innocent child appears before a court for deposing an extremely unwanted and teased incident happened to him but at the same time the affected child is the best person to depose about the occurrence.<sup>935</sup> The rules regarding the child evidence are clear which require that a child must give his own account of events rather a third person to whom a child would have narrated the occurrence and in such case, the third person would lead hearsay evidence and it is an admitted position of law that direct evidence is admissible rather

---

<sup>931</sup> Amanda Elizabeth Wade, *The Child witness and the Criminal Justice Process. A case study in law reform* (1997). [http://etheses.whiterose.ac.uk/422/1/uk\\_bl\\_ethos\\_249578.pdf](http://etheses.whiterose.ac.uk/422/1/uk_bl_ethos_249578.pdf). Last accessed on 12-01-2020.

<sup>932</sup> *Ibid*, p. 1.

<sup>933</sup> *Ibid*, p. 8.

<sup>934</sup> *Ibid*, p. 8.

<sup>935</sup> Edwards, S. *Violence against women: feminism and the law*, *Open University Press: Milton Keynes* (1990):147.

hearsay evidence.<sup>936</sup> The Peshawar High Court<sup>937</sup> observed that sentence could be based on the solitary testimony of the victim with the condition that same was proficient of being relied upon and was corroborated by medical as well as circumstantial evidence. The High Court<sup>938 939</sup> held that the solitary testimony of the victim is adequate for conviction if it is not spoiled and is corroborated by medical as well as circumstantial evidence. Generally, in cases of *Zina* and sodomy, hardly there is any witness other than victim as it is very rare that the offence would take place because of the others or at a public place. Sole testimony of the victim would be attached great sanctity and would be sufficient to base the conviction of the accused if the same is confidence-inspiring.<sup>940</sup>

### 5.1. The Admissibility of Child Evidence

In Pakistan; the Qanun-e-Shahadat Order, 1984<sup>941</sup> is the relevant law which governs competence of a witness including the child witness, the relevant article is reproduced for ready reference:

*“Who may testify: All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind or any other cause of the same kind”:*

*“Provided that a person shall not be competent to testify if he has been convicted by a Court for perjury or giving false evidence”:*

---

<sup>936</sup> Edwards, S. Violence against women: feminism and the law, (1990) p. 31.

<sup>937</sup> Hazrat Bilal vs. State, PCr.LJ 2013 Peshawar High Court 800. (Appeal case)

<sup>938</sup> Ibrahim vs. State, YLR 2013 Peshawar High Court 436. (Appeal case)

<sup>939</sup> Yasir vs. State, MLD 2018 Balochistan High Court 1014. (Appeal case)

<sup>940</sup> Saleem Khan vs. State, PCr.LJ 2001 Federal Shariat Court 503. (Appeal case)

<sup>941</sup> Article 3 of Qanun-e-Shahadat Order, 1984.

*“Provided further that the provisions of the first proviso shall not apply to a person about whom the Court is satisfied that he has repented thereafter and mended his ways”:*

“Provided further that the Court shall determine the competence of a witness in accordance with the qualifications prescribed by the injunctions of Islam as laid down in the Holy Qur'an and *Sunnah* for a witness, and, where such witness is not forthcoming the Court may take the evidence of a witness who may be available”.

*“Explanation: A lunatic is not incompetent to testify unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them”.*

The word tender age is mentioned in the language of the statute and the Superior Courts of the country have elaborated, interpreted, and explained the same through several precedents. According to this provision of law, the child is a competent witness and basic requirements for allowing a child to testify in the court are that the child must comprehend the questions put to him and he is capable of giving rational answers. The competency of a child witness falls under the exception to the general rule which does not permit a person of tender age to give evidence regarding any fact in a court of law.

Admissibility of evidence of child under Article 3 of Qanun-e-Shahadat Order, 1984 has been elaborated and a principle has been laid down by Lahore High Court in the case of *Muhammad Boota*,<sup>942</sup> Court held that no age limit of a witness had been

---

<sup>942</sup> Case FIR No. 140/2005, dated 02-03-2005 under section 302, 34 of PPC at police station Factory area, District Sheikhpura. (Trial case)

enshrined under Article 3 of Qanun-e-Shahadat Order, 1984. The statement of a child witness is acceptable in evidence unless the court considers that the said witness is prohibited from comprehending the question put to him or from giving rational answers.<sup>943</sup> Trial Court is to conclude as to whether or not a child witness is barred from an understanding question put to him due to his tender age.<sup>944</sup> No legal obligation exists to check the intelligence of a child witness in a documented form; the only prerequisite is the satisfaction of the court.<sup>945</sup> Principles concerning the admissibility of evidence of a child have been enunciated by Lahore High Court in the case of *Ghulam Farid* and held that a child of tender age, because of his/her youth, is not disqualified as a witness.<sup>946</sup> No universal rule of general application can be drawn that in no case testimony of child witness is believed.<sup>947</sup> Each case depends upon its particular facts and circumstances.<sup>948</sup> Conviction on the statement of child witness could be recorded on the solitary testimony of a child, with the condition that the same has been constantly corroborated by circumstantial evidence.<sup>949</sup> Great care and vigilance are to be observed throughout the examination of a child witness, specifically in case of major punishment.<sup>950</sup>

UNICEF in collaboration with UNODC has mentioned some important factors regarding the child's evidence and its admissibility.<sup>951</sup> There are two main questions of the admissibility of a child's evidence; the first question is admissibility and second is

---

<sup>943</sup> State vs. Muhammad Boota, YLR 2014 Lahore High Court. Lahore 304. (Appeal case)

<sup>944</sup> Ibid.

<sup>945</sup> Ibid.

<sup>946</sup> Ghulam Farid vs. State, PCr.LJ 2014 Lahore High Court, Lahore 1803. (Appeal case)

<sup>947</sup> Ibid.

<sup>948</sup> Ibid.

<sup>949</sup> Ibid.

<sup>950</sup> Umar Zaman vs. State, PCr.LJ 2013 Peshawar High Court 708. (Appeal case)

<sup>951</sup> UNICEF, UNODC, Justice in Matters involving Child Victims and Witnesses of Crime. Model Law and Related Commentary, New York 2009. p. 49.

reliability.<sup>952</sup> The question of admissibility is related to whether the child witness is competent to testify for the determination of a case and the question of reliability is related to weight that must be given to the evidence of a child.<sup>953</sup> In this context the court must determine as to admissibility and reliability of child evidence; evaluating the facts of every case and in this regard, the age of the child must not be a hurdle to make his/her evidence admissible and reliable.<sup>954</sup> There are international standards which require that a court must undertake a competency test or competency examination of a child to conclude whether that a child is capable to give rational answers to the questions put to him and if a child passes the said test then the child is a competent witness and if not; then the child is not a competent witness.<sup>955</sup>

While discussing the competency and admissibility of testimony of a child witness; Bottoms and Goodman had mentioned that a person/judge or any other one who has his own children may analyze the trustworthiness of a child and he can evaluate the capability more efficiently than the one who has no children and this formula can be applied to defence, social worker, etc.<sup>956</sup> Stafford is of the view that the customary rules of evidence either have been changed or relaxed for the evidence of a child witness and the fundamental principle of evidence i.e. qualified witness has also been changed for the child witnesses, so in this situation, the admissibility and reliability of a child witness have increased.<sup>957</sup> It is further maintained that a child, often, does not know and understand the legal implications and consequences of his evidence, taken on oath; therefore, in this situation, it is the duty of the court to evaluate the truth, preferably

---

<sup>952</sup> Umar Zaman vs. State, PCr.LJ 2013 Peshawar High Court 708.

<sup>953</sup> Ibid.

<sup>954</sup> Ibid.

<sup>955</sup> Ibid.

<sup>956</sup> Bette L. Bottoms & Gail S. Goodman, "Perceptions of Children's Credibility in Sexual Assault Cases", *Journal of Applied Social Psychology* (1994):24, 702.

<sup>957</sup> STAFFORD, C. F. The child as witness, *Washington Law. Rev.* (1962):37:303-324.

through some cogent corroboration.<sup>958</sup> Jerome Frank in 1949 has elaborated a principle for assessing the credibility and admissibility of a witness and he mentioned that “whenever there is a question of the credibility of a witness, of the believability, the reliability, of their testimony; then, unavoidably the trial judge or jury must guess the facts”.<sup>959</sup>

## **5.2. The Evidence of a Victim Child in the Cases Involving Child Sexual Abuse**

The cases involving child sexual abuse are often difficult to deal with, on the part of police while investigating, prosecutor while scrutinizing the available evidence, and also the court while adjudicating, assessing evidence of witnesses including the child witness and finally deciding the case. While discussing and evaluating the issues relating to a child witness, one seeks guidance from different sources i.e. the law, existing research, and precedents of Superior Court which have interpreted the nature, importance, scope, evaluation, and admissibility of child evidence. Now the researcher will mention and discuss different precedents of Superior Courts of Pakistan in which the evidence of child witness has been evaluated on different parameters, further the researcher will also mention the point of view of different jurists who have worked on this topic. In the case of Muhammad Abbas,<sup>960</sup> the Lahore High Court<sup>961</sup> held that under Art. 3 of Qanun-e-Shahadat Order, 1984, testimony of child witness is related to his capacity and competency to understand the questions and then to address them rationally.<sup>962</sup> The Higher Courts have elaborated that word tender age and ruled that tender age solely is no

---

<sup>958</sup> Barry Nurcombe, M.D., The Child as Witness: Competency and Credibility, *Journal of the American Academy of Child Psychiatry* (1980):1.

<sup>959</sup> Jerome Frank. Courts on Trial. *Princeton: Princeton University Press* (1949):16.

<sup>960</sup> FIR No. 311/2011 u/s 302 of PPC, police station Khudian, District Kasur. (Trial case details)

<sup>961</sup> Muhammad Abbas vs. State. PCR.LJ 2018 Lahore High Court 537. (Appeal case)

<sup>962</sup> Ibid.

ground to discredit the testimony of witnesses if otherwise it was proved that child witness is mature enough to understand the consequences of his statement.<sup>963</sup> Word tender age as enshrined in law does not denote any meticulous age of witness, it is only the capability of a witness to apprehend questions rationally, and then to reply to them,<sup>964</sup> the court can adjudge the understanding of the witness to give evidence from the recorded evidence.<sup>965</sup> In another case, the Court ruled that what the law necessitates is not the factor of age but the intelligence of a particular child witness in the given circumstances of the case.<sup>966</sup> That the law<sup>967</sup> did not mention any age description or limit of the child; law requires only intelligence and capability of apprehending the questions and their rational answers. The Supreme Court of Pakistan says that testimony of a child having/possessing adequate understanding can be believed and relied upon for conviction.<sup>968</sup>

In *Ahsan Banghash's* case, the Karachi High Court made historical observations that if a child gives a statement which indicates that such witness understands questions and has given answers intelligently and rationally, the same cannot be ignored due to tender age of the witness<sup>969</sup>. The court further remarked that under article 3 of Qanun-e-Shahadat Order, 1984 a child if gives a statement which indicates that such witness understands the questions and gives answers intelligently and rationally, the same could not be ignored due to the tender age of the witness.<sup>970</sup> The *Gilgit Baltistan* Chief Court held that evidence of a child witness, could not be discarded merely on account of his

---

<sup>963</sup> Muhammad Abbas vs. State, PCr.LJ 2018, Lahore High Court 537.

<sup>964</sup> Muhammad Yaqub vs. State, PCr. LJ 1993 1852. (Appeal case)

<sup>965</sup> Qadeer Hussain vs State, PCr.LJ 1993 Supreme Court Azad Kashmir 2158.

<sup>966</sup> Qadeer Hussain vs. State, PCr.LJ 1994 Azad Jammu & Kashmir 188. (Appeal case)

<sup>967</sup> Article 3 of Qanun-e-Shahadat, 1984.

<sup>968</sup> Muhammad Ismail vs. State, SCMR 1995 Supreme Court 1615. (Appeal case)

<sup>969</sup> Ahsan Banghash vs. State, PCr.LJ 2017 Karachi High Court, Sindh 509. (Appeal case)

<sup>970</sup> Ibid. (Findings of the Court)

being of tender age.<sup>971</sup> It is held that a child of 8/9 years gives a statement which indicates that the witness understands the questions and gives answers rationally then the testimony cannot be ignored merely due to tender age.<sup>972</sup> In *Abdul Karim's*<sup>973</sup> case, the Peshawar High Court observed that child can be a good witness provided he is capable of understanding and able to give rational answers to questions put to him.<sup>974</sup> Ekman says that the competence of a child as a witness can be evaluated by considering sufficient intelligence, ability to observe, recall and communicate events, understanding, an ability to comprehend the seriousness of an oath, and an admiration of the obligation to tell the truth.<sup>975</sup> Research says that a 3 to 7 years old child can well recall his memory regarding the misdeed happened to him.<sup>976</sup> At the same time, another research says that a child of 3 to 4 years can also well recall the memory.<sup>977</sup> The question in each case, which a court is to satisfy, is whether a particular child, who had appeared in court, is intelligent enough to be able to understand as to what evidence he is giving and he should be able to give rational answers to the questions. No particular age has been given by the legislature which determines the question of competency of a witness and the same would depend upon the capacity of the child to understand the questions.<sup>978</sup>

From aforementioned precedents it can be said that in the cases of child abuse there are certain legal and prudential requirements i.e. that the child witness understands the questions put to him and could rationally answer the same, the rationality of answers

---

<sup>971</sup> Arif Hussain vs. State, YLRN 2018 Gilgit-Baltistan Chief Court 259. (Appeal case)

<sup>972</sup> Mudasar Ali vs. State, MLD 2011 Lahore High Court 873. (Appeal case)

<sup>973</sup> FIR No. 147/05 u/s 302 of PPC, police station Lal Qila, District Lower Dir. (Trial case)

<sup>974</sup> Abdul Karim vs. State, PCr.LJ 2016 Peshawar High Court 513. (Appeal case)

<sup>975</sup> Ekman P. *Lying, leakage, and clues to deceit*. In: *Telling Lies*. New York, NY: WW Norton; 1985:25–42

<sup>976</sup> Merritt KA, Ornstein PA, Spicker B. Children's memory for a salient medical procedure: implications for testimony. *Pediatrics*. (1994);94(1):17–23

<sup>977</sup> Leichtman MD, Ceci SJ. The effects of stereotypes and suggestions on pre-schoolers reports. *Dev Psychol* (1995);31(4):568–578

<sup>978</sup> Waseem Ahmad vs. State, PCr.LJ 2016 Karachi High Court, Sindh 13.

is always dependent upon the facts and circumstances of the case. Another query which has been solved by the above said precedents is that the tender age of the child witness is no ground to brush aside his evidence or to ignore such evidence.<sup>979</sup> Although the Superior Courts have different views regarding the admissibility of child evidence but when we minutely observe the precedents it could be found that Courts only require the scrutiny of evidence, keeping in mind all available evidence and facts of the case. Courts further require that before recording child evidence the trial courts must satisfy itself as to competence of child witnesses. Superior Courts furthermore guide that evidence of a child must be recorded immediately after the occurrence so that element of coaching by other persons could be ruled out.<sup>980</sup>

#### **a. Leading Precedents for Determination of Intelligence of a Child Witness.**

For the determination of intelligence of child witness, the Lahore High Court in the case of *Abdul Majeed*<sup>981</sup> observed that what law requires is not the age of the minor witness, but the intellect of a child witness in the circumstances of the case.<sup>982</sup> No hard and fast rule could be made to ascertain whether a child is a competent witness or not, but it depends upon the facts and circumstances of each case.<sup>983</sup> Court had to accept such evidence with great care and caution because a child of tender age is a dangerous witness; who could easily repeat glibly a story put into his/her mind, and would not possess discretion to distinguish between what he/she had seen and what

---

<sup>979</sup> FIR No. 311/2011 under section 302 of PPC at police station Khudian, District Kasur . p. 2.

<sup>980</sup> Ibid No. 7, p. 2. (Trial case)

<sup>981</sup> *Abdul Majeed vs. State*, PCr.LJ 2002 Lahore High Court, Lahore 41.

<sup>982</sup> Ibid.

<sup>983</sup> Ibid.

he/she had heard.<sup>984</sup> Court as a matter of prudence is generally chary of putting absolute reliance on the testimony of child witness, and look for corroboration of the same from other circumstances in the case.<sup>985</sup> The child evidence must be scrutinized before it could be acted upon, and should not be relied upon, until and unless, it is corroborated by some strong circumstances in the case, because children are the most untrustworthy class of witnesses; their tender age, reiteration superficially as of their information, what they would have heard from others, by the expectation of prize and wish of notoriety, they often mistake dreams of reality; and was seriously influenced by fear of punishment.<sup>986</sup> Determining the test for the truthfulness of such witness is corroboration from independent source and conformity with the remaining evidence.<sup>987</sup> The intrinsic value of child testimony of such witness had to be adjudged and it was not safe to rely upon the statement of a child witness unless corroborated as a rule of prudence, the element of coaching was not involved, and great caution was to be taken that in the evidence of child.<sup>988</sup>

### **b. Child witness: Memory, Accuracy, and Retrieval**

Research indicates that human memory comprises multiple factor-like interacting systems with the addition of encoding, storing, and recalling information which depends upon the age and maturity of a child.<sup>989</sup> The encoding and storing capabilities are always different with every age or child and may not be equal.<sup>990</sup> Another concept is very important that is procedural memory which is based on knowledge of action, habits, and

---

<sup>984</sup> Abdul Majeed vs. State, PCr.LJ 2002 Lahore High Court 41.

<sup>985</sup> Humayun Hassan vs. Arslan Humayun, PLD 2013 Supreme Court 557.

<sup>986</sup> Ibid.

<sup>987</sup> Ibid.

<sup>988</sup> Ayub vs. Munsif, PCr.LJ 2015 Peshawar High Court 369. (Appeal case)

<sup>989</sup> Cordon, I. M., Pipe, M.-E., Sayfan, L., Melinder, A., & Goodman, G. S. Memory for traumatic experiences in early childhood. *Developmental Review* (2004):24, 101–132.

<sup>990</sup> Cohen, N. J., & Squire, L. R. Preserved learning and retention of pattern-analyzing skill in amnesia: Dissociation of knowing how and knowing that. *Science*, (1980):210, 207–210.

physical skills of a child, giving evidence.<sup>991</sup> Procedural memory relies on verbal recalling.<sup>992</sup> Generally, courts obligate that a child witness must recall and pin down the place and time of occurrence or wherefrom child witness got the knowledge of certain facts relating to the issue in hand.<sup>993</sup> The next query is the accuracy of memory of a child and it often depends upon the age of the witness, and for accuracy, the qualitative and quantitative nature of accuracy is also worth important.<sup>994</sup> When young children, elder children, and adults are compared, it has been found that adults have more clear and pinpointed memory collection based on more accurate knowledge, perception, and understanding.<sup>995</sup> Research divulges that children of 3 to 4 years old are more reliable witnesses<sup>996</sup>.

Testimony of different children with different age groups may differ from each other and in this context; the major factor is the retention of events, social atmosphere of a child, recall, and storing of facts and events.<sup>997</sup> The last query under this discussion is the retrieval of memory by the witness, especially a child witness. Experts say and research indicates that young children face more difficulties as compare to elder children to retrieve the memory, on command.<sup>998</sup> Experts further elaborate that young children, who have been the victim of child sexual abuse, on a later stage, are likely not to retrieve

---

<sup>991</sup> Cohen, N. J. & Squire, L. R. Preserved learning and retention of pattern-analyzing skill in amnesia: Dissociation of knowing how and knowing that, *Science*, (1980).

<sup>992</sup> Ibid. p. 209.

<sup>993</sup> Nadel, L. Multiple memory systems: What and why, an update. *Cambridge, MA The MIT Press*, (1994).

<sup>994</sup> Baker-Ward, L., Ornstein, P. A. Gordon, B. N. Follmer, A. & Clubb, P. How shall a thing be coded? Implications of the use of alternative procedures for scoring children's verbal reports. *Sage Publications*, (1995).

<sup>995</sup> Bukatko, D. & Daehler, M. W. Child development: A thematic approach, *Boston: Houghton Mifflin Company* (3rd ed.). (1998) See also: Goodman, G. S., & Melinder, A. The development of autobiographical memory: A new model, *London: Psychology Press* (2007).

<sup>996</sup> Goodman, G. S. & Melinder, A. Child witness research and forensic interviews of young children: A review, *Legal and Criminological Psychology* (2007); 12:1-19.

<sup>997</sup> Eisen, M. L. Goodman, G. S., Qin, J., Davis, S., & Crayton, J. Maltreated children's memory: Accuracy, suggestibility, and psychopathology. *Developmental Psychology*. (2007):43, 1275-1294.

<sup>998</sup> The Cognitive Interview Fisher and Geiselman (1992) developed one of the first standardized interviews in response to problems with typical police interviews.

the bad deeds happened to them and this fact also hampers the prosecution in a court of law.<sup>999</sup> Besides this research, the experts are of the view that this issue still needs more research and accuracy for some better and concrete views.<sup>1000</sup> At the same time, the authors have another view that when a child of sexual abuse is interviewed with a constant question-answer session, he can retrieve the happening of events and this consistency can improve retrieval.<sup>1001</sup>

### **5.3. Corroboration and Admissibility in the case of Child Testimony**

Corroboration in criminal cases is one of the imperative factors and especially, in the case of a child witness, corroboration ought to be independent evidence or material which should establish two things i.e. offence had been committed with the victim and committed by the accused person.<sup>1002</sup> The Supreme Court of Pakistan decided that consistent credible, confidence-inspiring, and straightforward truth and innocent statement of a child witness could safely become the basis of conviction with the condition that the same was supported by other evidences i.e. circumstantial, medical, recovery and reports of serologist, etc.<sup>1003</sup> The Peshawar High Court, in a case when the offender had been charged for the murder and on the evidence of child witness the court observed that the child was a straightforward witness; what he had seen, he narrated; therefore, was a natural witness, his evidence cannot be discarded being solitary

---

<sup>999</sup> Keary, K., & Fitzpatrick, C. Children's disclosure of sexual abuse during formal investigation. *Child Abuse and Neglect* (1994):18, 543-548.

<sup>1000</sup> Kuehnle, K. Child sexual abuse evaluations: The scientist-practitioner model. *Behavioral Sciences and the Law* (1999):16, 5-20.

<sup>1001</sup> Gee, S. & Pipe, M.-E. Helping children to remember: The influence of object cues on children's accounts of a real event. *Developmental Psychology* (1995):3, 746-758.

<sup>1002</sup> Harding, R. Foreword in *Sexual Assault Law Reform in the 1980's: To Where From Now?*, *Proceedings of the Institute of Criminology, University of Sydney*, (1987).

<sup>1003</sup> Amjad Javed vs. State, 2002 SCMR, p. 1247, Supreme Court. (Appeal case)

witness.<sup>1004</sup> On corroboration, the court held that ocular account has been corroborated by circumstantial evidence in the shape of recovery of blood-stained earth, and the autopsy report of the deceased.<sup>1005</sup>

The cases of child sexual abuse always remain a challenge not only for the prosecution but also for the court, to assess the evidence of a child witness because this evidence most of the time requires corroboration from some independent evidence.<sup>1006</sup> In a case it was alleged that the accused<sup>1007</sup> forcibly took away the minor on a motorcycle, committed sodomy; the victim appeared before the court and narrated the whole story, said witness was cross-examined, nothing was on record to show that victim was tutored; the said statement had been corroborated by the circumstantial witnesses, and medical evidence.<sup>1008</sup> In another case allegedly the accused committed rape with a minor girl, who narrated the occurrence in the mode and manner it had happened,<sup>1009</sup> the statement was recorded after satisfaction of the court,<sup>1010</sup> and the Court held that minor victim could not mala fide charge the accused for such a heinous offence,<sup>1011</sup> the said statement was corroborated by medical evidence. In another case the accused committed carnal assault and filmed the process; the case was structured upon the statement of the victim, who furnished graphic details of the carnal assault,<sup>1012</sup> statement was corroborated by Forensic report, same could be pressed into service to support ocular account in place of clinical finding, and the court must adopt a dynamic approach to employ scientific

---

<sup>1004</sup> Rehmat Ullah vs. Jan Alam, YLR 2015 Peshawar High Court 249. (Appeal case)

<sup>1005</sup> Ibid.

<sup>1006</sup> Brewer, K. D., Rowe, D. M. & Brewer, D. D. Factors related to prosecution of child sexual abuse cases, *Journal of Child Sexual Abuse*. (1997):6, 91 –111. [https://doi.org/10.1300/J070v06n01\\_07](https://doi.org/10.1300/J070v06n01_07).

<sup>1007</sup> FIR No. 84/2015 under section 365, 377 and 34 of PPC at police station City Dera Murad Jamali, Balochistan. (Trial case)

<sup>1008</sup> Ibid.

<sup>1009</sup> Abdul Haq vs. State, PCr.LJ, 2018 Peshawar High Court 12. (Appeal case) (facts of the case)

<sup>1010</sup> Ibid. (Trial Court proceedings)

<sup>1011</sup> Ibid. (Observations of Court of appeal)

<sup>1012</sup> Muhammad Irfan vs. State, PCr.LJ 2018 Lahore High Court, Lahore 1319. (Appeal case)

methodologies to reach out a culprit in the new era of forensic.<sup>1013</sup>

In a case before the honorable Supreme Court<sup>1014</sup> the accused was convicted by Trial Court which was maintained by High Court, the plea raised by the accused was that his conviction was based upon the sole evidence of child witness, without corroboration.<sup>1015</sup> The Court ruled that though, in principle, a conviction could be based upon the evidence of a child witness but Courts generally prefer to adopt the settled principle of prudence and rule of care attached to sole testimony of child witness despite child's intelligent deposition.<sup>1016</sup> Facts of the case were that only a child of 9/10 years was a sole eye witness of the occurrence whose evidence was under consideration before High Court and Court held ocular evidence furnished by an innocent child had fully been corroborated by prosecution witnesses,<sup>1017</sup> and the statement furnished by child witness had further been corroborated by other prosecution witness and medical evidence, therefore, evidence of the child witness was relied upon being corroborated.<sup>1018</sup> Child eye-witness aged 5/1-2 years used to accompany his deceased sister aged 10 years to the house of accused being their tutor, who had communicated the information of the incident to his father,<sup>1019</sup> Trial Court recorded his statement, found him intelligent,<sup>1020</sup> consistent, worthy of credence, straightforward and confidence-inspiring, conviction could safely be recorded and corroborated by circumstantial, medical evidence, and the recovery.<sup>1021</sup> Testimony of child witness has to be evaluated with great care and vigilance and it is not safe to rely

---

<sup>1013</sup> Muhammad Irfan vs. State, PCr.LJ 2018 Lahore High Court 1319.

<sup>1014</sup> Ulfat Hussain vs. State, SCMR 2010 Supreme Court 247. (Appeal case)

<sup>1015</sup> Ibid. defence plea.

<sup>1016</sup> Ibid. Court rulings.

<sup>1017</sup> Jamil Ahmad vs. State, MLD 2003 Lahore High Court 1420. (Appeal case)

<sup>1018</sup> Ibid.

<sup>1019</sup> Amjad Javed vs. State, SCMR 2002 Supreme Court 1247. (Appeal case)

<sup>1020</sup> Ibid.

<sup>1021</sup> Ibid.

upon the evidence of child witness unless corroborated.<sup>1022</sup>

From the above discussion, it can safely be said that corroboration is a piece of evidence which supports the main evidence, independent, and proceed from some autonomous source. The courts generally for corroboration consider the independent evidence, the medical evidence i.e. evidence of a doctor, forensic report, and report of DNA as a corroborative piece of evidence. Another aspect concerning the corroboration is standard of corroboration, courts observe that the only requirement is an independent source of said evidence which is corroborating the other evidence and in this context, the medical evidence is considered as more reliable corroborative evidence. While discussing the concept of corroboration it is also pertinent to mention the legal requirements to prove the case, on this point, there is no such particular requirement, even a single witness can testify and the court can base a conviction on the sole evidence.<sup>1023</sup> In Qanun-e-Shahadat Order, 1984 there is no specific number of witnesses is required i.e. requirements under articles 3 and 17 except in a few situations where number of witnesses are required such as financial matters where two males or one male and two females are required.<sup>1024</sup> The concept of corroboration is based on the principle of prudence which requires that when a conviction is to be passed; the courts must see that some independent evidence is available on record to support the other witness/evidence. In the cases of child sexual abuse, the solitary statement of victim is sufficient to pass conviction, with the condition that said solitary statement must be confidence-inspiring and should appeal to a common mind.<sup>1025</sup>

---

<sup>1022</sup> Muhammad Saeed vs. State, MLD 2001 Lahore High Court 477. (Appeal case)

<sup>1023</sup> Muhammad Khan's case, PCr.LJ 2020 Karachi High Court 10.

<sup>1024</sup> Kamran alias kami vs. State 2012 PCr.LJ 1200. (Appeal case)

<sup>1025</sup> Muhammad Siddique vs. State, 2018 PCr.LJ 1538, Quetta High Court. (Appeal case)

Balochistan. The same principle has been observed in Hamid Ullah vs. State, PLD 2018 Balochistan High Court, p.71 and Muzammal Shah vs. State MLD 1991 Peshawar High Court 1944. Hamid Ullah vs. state, PLD 2018 Quetta High Court 71. Shoukat Ali vs. state, PCr.LJ 2018 Balochistan High Court 1275. Yasir

## 5.4. The satisfaction of the Court as to the Competency of a Child

### Witness

In a leading judgment on child witness, the age limit for child witness, requirements of corroboration, and satisfaction of the court, the Lahore High Court held that there is no age limit of a witness which had been enshrined under Article 3 of Qanun-e-Shahadat Order, 1984, testimony of a child witness is acceptable in evidence, unless the court considered that a witness has been prohibited from comprehending the question put to him or from giving rational answers.<sup>1026</sup> The trial court is to decide whether or not a witness is disallowed from understanding the question put to him for the reason of his tender age.<sup>1027</sup> No legal embargo existed to determine the intelligence of a child witness in a written shape, there is only one requirement which is the satisfaction of the court.<sup>1028</sup> In *Abdul Haq's* case, the Peshawar High Court observed that statement of a minor child who appeared as a witness in a rape case and the trial court after being satisfied recorded the statement, therefore, the testimony of said witness observed to be reliable and admissible.<sup>1029</sup> The court has further observed that the intelligence of a child in question and answer format is not the obligation of law, the court is quite competent to give its observation about the intelligence of the witness, meaning thereby that the only prerequisite is the satisfaction of the court (Court observed it as a test).<sup>1030</sup> Test of the intellectual capacity of child witness by the trial court by

---

and two others vs. state, MLD 2018 Quetta High Court 1014. Imran Ali vs. State, SCMR 2015 Supreme Court 1372. Amjad Javed case, SCMR 2002 Supreme Court 1247. (Appeal case).

<sup>1026</sup> Ahsan Banghash Case, PCr.LJ 2017 Karachi High Court 509. (Appeal case)

<sup>1027</sup> Ibid, p. 15.

<sup>1028</sup> Ibid, p. 15. (Appeal case)

<sup>1029</sup> Abdul Haq vs. State, PCr.LJ 2018 Peshawar High Court 12. (Appeal case)

<sup>1030</sup> Abdul Majeed vs. State, PCr.LJ 2002 Lahore High Court 41. (Appeal case) Karu Singh and others versus Emperor, AIR 1942 Pat; 159. Lakhon Singh versus Emperor, AIR 1942 Pat; 183. State of Orissa versus Machindra Majhi and another AIR 1964 Orissa 100.

asking a few simple and ordinary questions before recoding examination.<sup>1031</sup>

### 5.5. The Requirements of Qanun-e-Shahadat Order, 1984

With regard to the child witness, the court under article 3 of Qanun-e-Shahadat Order, 1984 has to determine whether a witness who appears to testify in court is able to comprehend the question put to him and was able to give balanced replies to the questions.<sup>1032</sup> The girl of eight years subjected to cross-examination, answering questions intelligently, and her statement indicating that she fully understood the question and made rational answer, such girl observed to be a competent witness to testify under article 3 of Qanun-e-Shahadat Order, 1984.<sup>1033</sup> <sup>1034</sup> In a case, it was objected that preliminary inquiry as to the competence of minor witness had not been conducted and the Court observed that non-holding of such inquiry was not so important as to rule out her statement from consideration which could be relied upon as she was capable of understanding and answering the questions.<sup>1035</sup> The conducting of the introductory/preliminary examination by the trial court is a rule of prudence and not a legal obligation upon the court.<sup>1036</sup> Most of the times question arises in the courts that whether asking of preliminary questions and recording their answers is compulsory or not, Superior Courts have different views on this point, some precedents say that preliminary inquiry must be conducted and recorded by the trial court. Some judgments say that no particular requirement to record the preliminary inquiry or record it in written

---

<sup>1031</sup> State vs. Abdul Rahim, PCr.LJ 1984 Karachi High Court 41. (Appeal case)

<sup>1032</sup> Qanun-e-Shahadat Order, 1984, article 3.

<sup>1033</sup> Nazir Hussain vs. State, PLD 1984 Lahore High Court 509. (Appeal case)

<sup>1034</sup> Muhammad Ilyas vs. Kabir Hussain YLR 2015 Supreme Court of Azad Kashmir 806. (two criminal appeals i.e. 16/2002 & 21/2002) 2003.

<sup>1035</sup> Ibid, p.2.

<sup>1036</sup> Ibid, p.3.

form.<sup>1037</sup> The Courts held that manner of asking questions must be proper, polite and reasonable and sufficient time must be given to the child witness to think and reply to the questions,<sup>1038</sup> the Courts have taken the preliminary inquiry as a rule of prudence<sup>1039</sup> which must be followed by the trial courts while recording the statement of the child witness.

## 5.6. The Preparation of Child Witness for Evidence in the Court

It is a legal question whether a child witness is to be prepared for deposing his/her evidence in the court, who will prepare the child witness, whether such preparation amounts to tutoring or not. To conduct examination-in-chief and cross-examination in the court is the most important stage for testimony of any witness, particularly, a child witness. Precedents of Superior Courts and jurists' views are that the conducting examination-in-chief and cross-examination in the court is an art coupled with prevalent laws. As per jurists, there are more or less five important stages i.e. preparation, rapport, free narrative account of the occurrence, questioning, and closing.<sup>1040</sup> The preparation comprises of two parts first is relating to facts of the case and second is the environment of the court.<sup>1041</sup> It is also advisable not to investigate from a child within the police station due to the uncomfortable atmosphere of the police station<sup>1042</sup> because most the children feel hesitant to be in the police station,<sup>1043</sup> distractions must be eliminated or at

---

<sup>1037</sup> MELE-SERNOVITZ, S. (1979), p. 16.

<sup>1038</sup> Goldstone, S. & Goldfarb, J. L. (1966), p. 16.

<sup>1039</sup> Ibid. p. 20.

<sup>1040</sup> Bentovim, A. and Tranter, M. The sexual abuse of children and the courts in The child witness: Do the courts abuse children? *British Psychological Society: Leicester* (1988):55.

<sup>1041</sup> Boggs, S.R. and Eyberg, S. Interview techniques and establishing rapport in Through the eyes of the child. (The Child Witness, A Training Manual by UNICEF, 2016-2017, Rachel Odede. UNICEF Representative).

<sup>1042</sup> Central Planning and Training Unit. Investigative interviewing: A guide to interviewing. (The Child Witness, (1992). A Training Manual by UNICEF, 2016-2017, Rachel Odede. UNICEF Representative).

<sup>1043</sup> Gordon, M.A. Recent Supreme Court rulings on child testimony in sexual abuse cases.

least reduced,<sup>1044</sup> interruptions must be minimum,<sup>1045</sup> and all electronic devices must be switched off to secure focus of the child witness.<sup>1046</sup> If a child wishes to accompany some friend or relative with him he may be allowed to make him more comfortable.<sup>1047</sup> It is advised that ask simple questions, as simple as can be, use easy language, explain general purposes of evidence and avoid specific reference to events happened to him, not to emphasize to offence, staring at child witness must be avoided and during evidence, a child must not be touched because he has already faced trauma at the hands of alleged accused.<sup>1048</sup> While asking questions; the concerned person/prosecutor must not ask leading, defamatory, scandalous, compound questions, and inconsistent questions.<sup>1049</sup> Maximum efforts are to be made that sexual terminology must be avoided, so that the victim child may not recall that ordeal again.<sup>1050</sup>

The Court preparation is a tool used to encourage the child witness to depose before a court the relevant facts, it also includes removing fears of child witness regarding court, to get him/her understand the need of testimony and court process.<sup>1051</sup>  
<sup>1052</sup> The objective of this preparation is to enable a child witness for proper and result

---

*Journal of Child Sexual Abuse* (1992) 1(2):59 – 71.

<sup>1044</sup> Mitnick, M. The use of language in interviewing children in American Prosecutors Research Institute, *Conference Proceedings*. (1998).

<sup>1045</sup> Mitnick, M. The use of language in interviewing children in American Prosecutors Research Institute, *Conference Proceedings*. (1998). P. 21

<sup>1046</sup> Saywitz, K. The child as witness: experimental and clinical considerations in *Through the eyes of the child*. (The Child Witness, A Training Manual by UNICEF, (2016-2017).

<sup>1047</sup> Saywitz, K., Nathanson, R. and Snyder, L. Credibility of child witness: the role of communicative competence in American Prosecutors Research Institute, (1998).

<sup>1048</sup> Spencer J.R. and Flin, R.H. The evidence of children: the law and the psychology. *Blackstone Press* (1990).

<sup>1049</sup> Walsh, B. Interviewing v interrogation in American Prosecutors Research Institute (ed.) *Finding Words Conference Proceedings. Savannah*. (1998).

<sup>1050</sup> Whitcomb, D., Shapiro, G.R. and Stellwagen, C.D. When the victim is a child: issues for judges and prosecutors. *US Department of Justice* (1985).

<sup>1051</sup> Davies, G. and Westcott, H. Video technology and the child witness in *Children as Witnesses John Wiley and Sons Ltd: Chichester* (1992):211.

<sup>1052</sup> Spencer, J.R. and Flin, R.H. The Evidence of Children: The Law and the Psychology. *Blackstone Press* (1993)

oriented testimony.<sup>1053</sup> The jurists say that scope of preparation may be to assess the need of a child for a court appearance, to help a child witness to appreciate the court procedure, roles of other participants including the lawyers/legal counsels, to understand his role and to manage stress and anxiety while appearing before a court.<sup>1054</sup> At the same time the jurists have pointed out certain issues relating to the preparation of child witness for court, the issues may be whether such preparation amounts to coaching/tutoring,<sup>1055</sup> who has prepared such child witness,<sup>1056</sup> and whether child witness has been prepared in the company of adult witnesses.<sup>1057</sup>

### 5.7. Evidence of Child Witness in the Court

Deposing evidence means 'examination-in-chief' and 'cross-examination' also known as the process of recording evidence in the case. Generally, it consists of, firstly, in a narrative form and secondly (cross-examination) in a question-answer format. In the Pakistani legal system the prosecutor<sup>1058</sup> appointed by concerned Government, may be assisted by private counsel, produces the evidence including the evidence of a child witness. Some of the jurists consider this system of leading/producing evidence as futile exercise because the witnesses are already tutored and coached by the party presenting such evidence/witness.<sup>1059</sup> The child/victim-witness must be allowed to explain the

---

<sup>1053</sup> Murray, K. *Preparing Child Witnesses for Court: A Review of Literature and Research. Central Research Unit, (1997).*

<sup>1054</sup> Davies, G. and Westcott, H. The child witness in the courtroom: Empowerment or protection. *Memory and Testimony in The Child Witness. Edited by Zaragoza, M.S., Graham, J.R., Hall, G.C.N., (1995)*

<sup>1055</sup> Saywitz, K.J. Improving children's testimony: the question, the answer and the environment in *Memory and Testimony in The Child Witness* edited by Zaragoza, M., Graham, J.R., Hall, G.C.N., *Sage Publishers, (1995):113.*

<sup>1056</sup> Dezwirek-Sas, L. Empowering child witnesses for sexual abuse prosecution in *Children as Witnesses* edited by Dent, H. and Flin, R. *John Wiley & Co, (1992).*

<sup>1057</sup> Saywitz, K.J. and Snyder, L. Improving children's testimony with preparation in *Child Victims, Child Witnesses. Edited by Goodman, G.S. and Bottoms, Guilford Press, (1993)*

<sup>1058</sup> Section 492 and 493 of Code of Criminal Procedure, 1898.

<sup>1059</sup> Palmer, R. and Mc Quoid-Mason, D. *Basic Advocacy Skills. Butterworths. (The Child*

answer and the formalities ought to be avoided, questions must be asked in a very polite and explanatory manner for a better understanding of the child/victim-witness.<sup>1060</sup> There are some issues such as; that the prosecutor does not contribute enough (maybe due to over workload) to prepare a child witness, conversation with the child witness which could make him comfortable is often avoided, technical and legal questions are frequently asked without considering the fact that child is unable to understand the legality of the same (even the present law permits so).<sup>1061</sup>

### **5.8. Cross-Examination on Child Witness**

The admissibility, credibility, and reliability are always dependent upon the outcome of every piece of evidence after the process of cross-examination. In Pakistan, Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 ensures and promises the right of a fair trial to every offender person. The right of the fair trial also takes an account of the right of cross-examination or to confront the person who alleges some allegation against the person under trial.<sup>1062</sup> A cross-examination is a tool of words and actions which the adverse party employs for thrashing out the truth from the testimony of the witness produced by the other party and create doubts in the evidence of the other party.<sup>1063</sup> In the Pakistani legislation and court proceedings, the cross-examination in the cases of minor child witnesses is conducted by the lawyers or the accused on the same pattern as available for the adult witnesses but in some modern criminal justice system, the legislation has been enacted to protect the minor or child witnesses.

---

Witness, A Training Manual by UNICEF, (2000) 2016-2017, Rachel Odede, UNICEF Representative).

<sup>1060</sup> Mofokeng v S (5 February 2015). (The Child Witness. A Training Manual by UNICEF. 2016-2017).

<sup>1061</sup> Ministry of Justice. Achieving best evidence in criminal proceedings. (2011).

<sup>1062</sup> Keenan, E.O. Making it last: Repetition in children's discourse. *Child Discourse. New York Academic press*, (1977):125-138.

<sup>1063</sup> Perry, N.W. and Wrightsman, L.S. *The Child Witness: Legal Issues and Dilemmas. Sage Publications*: (1991).

*Section 166 subsection 4: "Notwithstanding the provisions of subsections (1) and (2) or anything to the contrary in any other law contained but subject to subsection (5), the cross-examination of any witness under the age of thirteen years shall take place only through the presiding judge or judicial officer, who shall either restate the questions put to such witness or, in his or her discretion, simplify or rephrase such question".<sup>1064</sup>*

The above said provision has only been mentioned for the purposes of reference. Though in Pakistan, the courts have the powers to control the cross-examination under article 143, 145, and 146 of QSO, but the pattern of questions is the same as for the adult which creates many problems for the child witnesses. It is very unfortunate that in the underdeveloped countries the legal system is not that strong which could fulfill the requisite needs and the same is the case with cross-examination in a criminal case, specifically child abuse cases, where many of the times the witness has to face pure technical and legal questions due to which some unwarranted answers may occur, the legal disputes are termed as 'battle' and proceedings are termed as combating aggression.<sup>1065</sup> The Pakistani law<sup>1066</sup> says that evidence of a witness ought to be recorded in the attendance of the accused and he has a right of cross-examination under the law.<sup>1067</sup><sup>1068</sup> Cross-examination is essential for the discovery of truth and if the chance for cross-examination is not provided, the evidence would be inadmissible.<sup>1069</sup> Accused is entitled to cross-examine prosecution witness to procure facts in his support, though such facts could have no direct relation to facts of which witness had testified in his examination-

---

<sup>1064</sup> Section 166 (4) of the Criminal Procedure Act 51 of 1977 (United States of America).

<sup>1065</sup> Walker, A.G. Handbook on questioning children: A linguistic perspective. *Washington, D.C American Bar Association Center on Children and the Law*, (1994).

<sup>1066</sup> Section 353 of Code of Criminal Procedure, 1898.

<sup>1067</sup> Article 133 of Qanun-e-Shahadat Order, 1984.

<sup>1068</sup> Hidayat Ullah vs. State, YLR 2000 Federal Shariat Court 2330. (Appeal case)

<sup>1069</sup> Muhammad Junaid vs. State, PCr.LJ 2002 Lahore High Court 1575. (Appeal case)

in-chief.<sup>1070</sup>

Since the child evidence is a delicate matter and has to be dealt with great care and caution and the cross-examination has serious adverse effects on the child witness.<sup>1071</sup> The adverse effects may be the stress of cross-examination, a child is supposed to be expressive in a public place, attack on the credibility of a child witness to discredit him, traumatic for a child witness, non-training of prosecutors and defence counsels to deal a child witness and several professional techniques employed by defence side.<sup>1072</sup> The use of language during cross-examination and even in examination-in-chief is also an issue; generally, the same specialized language is used for examining and cross-examining an adult and child witnesses.<sup>1073</sup> This issue aggravates in the underdeveloped countries where the judicial system has not developed as per the needs of the hour, the courtroom language has its impacts and drawbacks, especially, in child witness cases.<sup>1074</sup> The general difficulties which a child faces in courtrooms regarding the language are; use of negative words, multifaceted questions, peripheral questions, leading questions, and use of technical and legal terms/vocabulary.<sup>1075</sup>

---

<sup>1070</sup> Ch. Zulifqar Ali vs. State, PCr.LJ 2002 Lahore High Court 1231. (Appeal case)

<sup>1071</sup> Walker, A.G. 1994, p. 41.

<sup>1072</sup> J Jacobson, G Hunter & A Kirby, 'Supporting Fair and Respectful Treatment of Witnesses'. A research-based briefing from the Institute for Criminal Policy Research, *Birbeck, University of London* (2014) [http://www.theadvocatesgateway.org/images/articles/icpr\\_witnesses\\_10\\_3\\_14.pdf](http://www.theadvocatesgateway.org/images/articles/icpr_witnesses_10_3_14.pdf). (Last assessed on 21-10-2019)

<sup>1073</sup> Davies, L.E. Anatomy of Cross-examination, *Prentice Hall Law and Business* (1993).

<sup>1074</sup> Ibid.

<sup>1075</sup> Zajac, R., O'Neil, S. and Hayne, H. Disorder in the courtroom? Child witnesses under cross examination, *Developmental Review* (2012):32, 181-204.  
[http://www.theadvocatesgateway.org/images/Zajac\\_et\\_al.pdf](http://www.theadvocatesgateway.org/images/Zajac_et_al.pdf). (Last assessed on 28-10-2019)

## **5.9. Difficulties Faced by Child Witnesses during Court Proceedings**

Children being not aware of the Courts' atmosphere, nature of proceedings, nature of their testimony in the court, and possible consequences of their evidence, therefore, the children feel certain difficulties during court proceedings. The difficulties may be unawareness of formal court protocols, issues for forgetfulness of events due to short and immature memory, child witness do not comprehend formal complications and consequences of their statement, children are not capable to observe sworn, hesitation from complete disclosure of events due to some important reasons and immaturity concerning understanding the question put by accused.<sup>1076</sup> Many a times, there is the relationship between the accused and child victim and people avoid bringing this relationship on court file but, since a child does not understand this issue, therefore, he brings this fact on record.<sup>1077</sup>

## **5.10. The Factors that why the Evidence of the Child is not Admissible**

The court while taking the testimony of a child has to determine that the child has the capability (1) to recall, register and explain the events reliably; (2) to differentiate the truth from falsehood; and (3) his duty to narrate the truth before the court.<sup>1078</sup> The research has also established certain important facts; as the child grows up, his capacity

---

<sup>1076</sup> Home Office. (UK), Witness Statements 2017. (The Child Witness, A Training Manual by UNICEF, 2016-2017).

<sup>1077</sup> Ministry of Justice. *Achieving Best Evidence in Criminal Proceedings Guidance on interviewing victims and witnesses, and guidance on using special measures.* (2011). [https://www.cps.gov.uk/sites/default/files/documents/legal\\_guidance/best\\_evidence\\_in\\_criminal\\_proceedings.pdf](https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/best_evidence_in_criminal_proceedings.pdf). (Last assessed on 28-10-2019).

<sup>1078</sup> Melton, G. B. Children's competency to testify. *Law Hum. Behavior*, (1981):573-585.

for recording, recalling, storing and reproducing the events develop rapidly, with growing age his perceptions regarding the things and events grow up.<sup>1079</sup> Another fact is that before recording the evidence of a minor is the questions and answers put by the court and replied by the minor, recording the same and if said questions answers would have not been recorded that may be fatal to the case of the prosecution.<sup>1080</sup> Research shows that child's testimony may be affected due to experiencing sexual abuse which may lead to emotional, feeling of shame, and motivational factors, children often conceal sensitive details in their deposition.<sup>1081</sup> The Pakistani Superior Courts have also discussed the important facts regarding the testimony of child witness, remarked that testimony of a child witness is not reliable due to certain reasons such as tender and old age and mental illness; further observed that great care is to be taken because the element of the coaching is not involved.<sup>1082</sup> The Courts has further ruled that "children are the most unreliable class of witnesses, for the reason, the tender age, they often mistake dreams for reality, repeat glibly as of their knowledge what they have heard from others and are great influences by fear of punishment, by the hope of reward and the desire of notoriety."<sup>1083</sup>

In the *Allah Ditta* case, the court remarked that evidence of child witness was dangerous unless immediately recorded before any possibility of coaching is eliminated and autonomous evidence is obligatory from which corroboration is to be required not only about the factum of crime but also to attach the accused with the crime.<sup>1084</sup>

---

<sup>1079</sup> Brown, A. L. The development of memory: knowing, knowing about knowing, and knowing how to know, *Child Development Behavior*, (1975):10, 103-152.

<sup>1080</sup> Melton, G. B. (1981), p. 129.

<sup>1081</sup> Leander, L., Granhag, P., & Christianson, S. A. Children exposed to obscene phone calls: What they remember and tell, *Child Abuse & Neglect*, (2005): 29, 871-888. <https://doi.org/10.1016/j.chiabu.2004.12.012>. (Last assessed on 28-10-2019)

<sup>1082</sup> State vs. Farman Hussain and others PLD 1995 Supreme Court I. (Appeal case)

<sup>1083</sup> Amir Khan vs. State, PLD 1985 Lahore 18. (Appeal case)

<sup>1084</sup> Allah Ditta vs. Sstate, 2017 PCr.LJ. 789. Lahore High Court. (Appeal case)

In *Farhan Hussain's* case the Supreme Court observed that evidence of a child witness is an insubstantial issue and generally it is not safe to rely upon it unless as a rule of carefulness, it is corroborated, great heed to be taken that element of the coaching is not involved in the evidence.<sup>1085</sup> The Court observed that “we feel it would be most unsafe to base the conviction upon the sole testimony of the young child unless strongly corroborated”.<sup>1086</sup> The scholars who oppose that evidence of a sexually abused child must not be relied upon; have raised the objections (1) victim child does not possess the mental capacity to differentiate between fact and fantasy, (2) though the child is truthful he may misinterpret the situation, (3) child is trustworthy but may have been misled, (4) sexually abused child may be fabricating situation on behest of another person.<sup>1087</sup> In this context Dawson<sup>1088</sup> has mentioned some important questions which must be ascertained before recording evidence of a child of sexual abuse, questions may be; 1) is the sexually abused child emotionally disturbed, 2) whether a child possesses cognitive and emotional competence, 3) whether the story narrated by the child is credible, 4) whether a child can bear the stress of appearing in a court, and lastly 5) whether psychological preparation is required before appearing in the court.<sup>1089</sup>

The children of 4 to 6 years ought to be under more scrutiny and consideration by a judge because at this age temporariness is more prominent which may lead to a false deposition<sup>1090</sup> and sometimes a direct question may able him to recall events promptly.<sup>1091</sup>

---

<sup>1085</sup> State through A. G Sindh Karachi vs. Farhan Hussain, PLD 1995 Supreme Court 1. (Appeal case)

<sup>1086</sup> Sultan vs. State, PLD 1965 (West Pakistan) 615, Karachi High Court. (Appeal case)

<sup>1087</sup> Mele-Sernovitz, S. Parental sexual abuse of children. The law as a therapeutic tool for families. In: *Legal Representation of the Maltreated Child, Washington, D.C* (1979).

<sup>1088</sup> Dawson, P. The psychology of eyewitness testimony: developmental study of long term memory for film, *Doctoral dissertation. New School for Social Research* (1981).

<sup>1089</sup> Jones, D. P. H. & MC Quiston, M. Interviewing the Sexually Abused Child. *National Center for the Prevention and Treatment of Child Abuse and Neglect*. (1985)

<sup>1090</sup> Goldstone, S. & Goldfarb, J. L. The perception of time by children. In: *Perceptual*

The German researchers have made more investigations on this point and from their investigation, four main points may be extracted i.e. the number of details, expressive deposition method, constancy over time, and underlying motivation.<sup>1092</sup> But the prevailing view is that no specific rule of universal application can be made applicable that in any case the testimony of a child witness should be believed or disbelieved because each case is dependent upon its particular facts and circumstances.<sup>1093</sup> The mere fact that the evidence of the eye-witness of a crime is of a child of 10 years of age is not a justification for not relying upon it especially when the evidence is given without wavering, without the least suggestion of teaching anything of the kind, and there is corroboration of the evidence in so far as it narrates the facts or the child's subsequent conduct immediately afterward.<sup>1094</sup> The real tests are: how constant the story is with itself, how it stands the test of cross-examination, and how far it fits with the evidence and circumstances of the case.<sup>1095</sup>

A critical analysis of the aforementioned precedents shows that no precise age was given in law which could determine the question of capability of a child. Such evidence is always dependent upon capacity and intellect of the child, his/her capacity differentiates between fabrication and truth as well as his/her duty to tell what is true. No hard and fast rule could be made to ascertain whether a child is a competent witness or not, but it depends on facts and circumstances of each case. Courts had to accept such evidence with great care and caution because a child of tender age is a

---

Development in Children, *New York International Universities Press* (1966):9.

<sup>1091</sup> Kohlbert, L. Moral stages and socialization: the cognitive- developmental approach. In: *Moral Development and Behavior: Theory, Research and Social Issues*, *New York Holt, Rinehart & Winston* (1976).

<sup>1092</sup> Arntnez, F. *Psychologie der Zeugenuussage*, *Göttingen* (1970).

<sup>1093</sup> Kail, R. & Hagen J. W. Memory in childhood. In: *Hand- book of Developmental Psychology*. (1982).

<sup>1094</sup> Kohlbert, L. (1976), p. 29.

<sup>1095</sup> *Maqsood Khan vs. State*, SCMR 1982 Supreme Court 757. (Appeal case)

dangerous witness who could easily repeat glibly a story put into his mind and did not possess discretion to distinguish between what he/she had seen and what had heard. Courts, as a matter of prudence, are generally chary of putting absolute reliance on the evidence of child witness and look for corroboration of the same from other circumstances in the case.

### 5.11. Nature of Child Evidence

Presumption of truth is attached to the statement of victims of rape and their parents as normally nobody would own such allegations.<sup>1096</sup> Child Psychology is also one of the momentous consideration while taking the testimony of a child: a cross-examiner must keep in mind the psychological data, which has been supported by eminent jurists and judges: children are artless and mean to speak the truth, children are susceptible to influences, suggestions, promises, threats, false representations, and external influences which may be accidental or design.<sup>1097</sup> In *Tauqir Alam's* case the Karachi High Court had held that when a case of *Zina* or sodomy gained publicity portraying same as cruel and revolting, it is advised to examine the evidence with more than ordinary care-test because of shocking nature of crime and nature of the evidence available on record; especially the evidence of victim/minor.<sup>1098</sup> *Ajmer Bibi* reported that the accused Atlas Khan dragged her to dry pool and committed rape.<sup>1099</sup> The Federal Shariat Court observed that “solitary statement of victim is sufficient for a conviction of accused under *Tazir* if it transpired confidence-inspiring and found necessary corroboration from an

---

<sup>1096</sup> Muhammad Khan vs. State, PCr.LJ 2020 Karachi High Court 10. (Appeal case)

<sup>1097</sup> Farman Hussain vs. State PLD 1995 Supreme Court, 1. (Appeal case)

<sup>1098</sup> Tauqir Alam vs. State, MLD 1985 Karachi High Court 604. (Appeal case)

<sup>1099</sup> Atlas Khan vs. State, PCr.LJ 2014 Federal Shariat Court 1280. (Appeal case)

independent source”<sup>1100</sup>.

## 5.12. The Absence of Child/victim Evidence in a Child Abuse

### case

The child victim can depose the best evidence of the occurrence and if he has not been produced the court held that prosecution did not produce victim child aged 5 years to substantiate the allegation of sodomy against accused.<sup>1101</sup> It is further observed that no evidence is available to the effect that the victim child was not of sound mind, Trial Court did not even think fit to summon the child as a court witness, despite he is direct affectee of the gruesome crime and a natural witness.<sup>1102</sup> Statement of the child could have clinched the whole issue, the Court also observed that Article 3 of Qanun-e-Shahadat Order, 1984 did not at all contemplate age limit for a person to be a legally competent witness.<sup>1103</sup>

After perusal of this precedent, it transpires that in the case of *Zina* and sodomy the evidence of a child/victim becomes very vital being natural and star witness of the case. The High Court not only discuss the failure of the prosecution to summon the said witness but at the same time, the Court observed that, even, the trial court did not summon the said witness which means that if a witness, as per available record, the Court remarked that trial court “should have examined the victim” which shows the importance of the testimony of said child/victim-witness. The High Court also discussed the mandate of article 3 of Qanun-e-Shahadat Order, 1984 which did not bar the recording of evidence of a child witness when he is competent to testify rationally.

---

<sup>1100</sup> Atlas Khan vs. State, PCr.LJ 2014 Federal Shariat Court 1280.

<sup>1101</sup> Kazim Hussain vs. State, PCr.LJ 2008 Federal Shariat Court 971. (Appeal case)

<sup>1102</sup> Ibid.

<sup>1103</sup> Ibid.

It is the trial court that has to record the evidence of a child and in this context; some important duties are placed upon the trial court to observe while recording the evidence of a child witness. While discussing the child's testimony the Court observed that in any case, the rule of prudence demands that the evidence of child witness should not be relied with one exception that it is corroborated by some other evidence on the record,<sup>1104</sup> "Evidence of child witness is a delicate matter and normally it is not safe to rely upon unless corroborated as a rule of prudence".<sup>1105</sup> The Court observed that close and careful scrutiny, which was required for relying upon the evidence of child witness, was fully adopted by the Trial Court.<sup>1106</sup> That while examining a child, as prosecution witnesses, the questions and answers put to him/minor are to be recorded and if not recorded, that is illegality on the part of the court recording evidence.<sup>1107</sup>

Supreme Court in 1996 has settled guidelines for recording, admitting, and relying upon the evidence of a child witness, Court held that "to know whether or not the minor understands the nature of an oath, the judge can ask him the questions like; what becomes of a liar, or is it a good or bad thing to tell lies<sup>1108</sup>? The principle of a preliminary investigation by court and satisfaction of the court in the case of a child witness is also very important; the court may satisfy itself that he is competent to understand the questions put to him and of giving an intelligent reply. It is, however, desired that the court should make such a preliminary investigation to save the time of the court if it decides against the competency of the witness to give evidence before it."<sup>1109</sup>

In *Muhammad Qadeer's* case the High Court observed that "if a Judge who preliminary

---

<sup>1104</sup> Sultan vs. State, PLD 1965 (West Pakistan) 615. Karachi High Court. (Appeal case)

<sup>1105</sup> Ibid.

<sup>1106</sup> Shahzad Masih vs. State, YLR 2016 Karachi High Court 1922. (Appeal case)

<sup>1107</sup> Sabz Ali Khan vs. State, PCr.LJ 2015 Peshawar High Court 369. (Appeal case)

<sup>1108</sup> Ibid.

<sup>1109</sup> Ibid.

examined a child witness, laid down a memorandum/note that he was satisfied that the child witness was sharp enough and proficient of comprehending the question, there has been nothing in the law to prevent Appellate Court from admitting that note as adequate proof of the capability of the child to be a witness under Qanun-e-Shahadat, 1984.<sup>1110</sup>

Two important aspects are to be kept in mind while examining a child; first, questions must be asked in a very proper, polite and light manner so that child witness may give an answer and second, that the child witness must be given sufficient time to think and give an answer.<sup>1111</sup> The court atmosphere is also of fundamental importance because the child witness who may have his first and last chance to come to the court and depose, therefore, an easy and comfortable atmosphere must be provided, a conventional court structure is not appreciated because said atmosphere may not ease the child witness.<sup>1112</sup>

### 5.13. Conclusion

The Qanun-e-Shahadat Order, 1984 does not preclude a child to testify in a case, and in this context, the only requirement is that the child must understand the questions asked from him and give rational replies to those questions. The evidence of a child becomes more vital in the cases of sexual child abuse because in such cases it is the child who had been the victim and most of the time, the only eye-witness of the case. The Superior Courts in different precedents have observed that testimony of a child is admissible as a piece of evidence, however, the tender age of the child is a bar to preclude his/her

---

<sup>1110</sup> Muhammad Qadeer vs. State, YLR 2007 Lahore High Court 625. (Appeal case)

<sup>1111</sup> Arbour, L. Assault and Sexual Offences, *The Reform of the Criminal Law Conference*, London (1987).

<sup>1112</sup> Whitcomb, D. Prosecution of Child Sexual Abuse: Innovations in Practice, a paper prepared by the National Institute of Justice, *Washington, DC*. (1985).

evidence. There are only some precautionary measures are to be adopted before recording the evidence of a child. The superior courts say that the courts must examine the evidence of a child in the light of other available evidence and it is due to the reason that a child can be tutored and some time may lie due to fear and reward. The satisfaction of the court is the prime condition for the admissibility of child evidence. On the point of memory, accuracy to recall an incident, and retrieval of facts, the researchers have divergent views and most of them are agreed that the child witness may have a good memory, the accuracy of the incident, and retrieval of facts.

Most of the researchers believe that a child must be interviewed by the police in a very comfortable atmosphere, the police/investigating officer must record the evidence in a way that child must not feel that he is being interrogated. Thereafter, the public prosecutor must prepare a child witness in a way that he must not feel the agony of being victimized. The court proceedings must also not be formal rather it must be conducted in a polite and comfortable atmosphere, the court must control the process of examination-in-chief and cross-examination and unwanted and unnecessary questions must be avoided. There may be another scenario i.e. where there is no evidence of victim child, the superior courts while deciding the cases have observed that a victim child is a star witness of the occurrence, therefore, he must be produced unless there are strong reasons and if the victim child is not produced before the trial court that will be fatal to the case of the prosecution.

## Chapter No. 6

# CRITICAL ANALYSIS OF CASE LAWS IN HIGH COURTS, SUPREME COURT AND FEDERAL SHARIAT COURT

### 6.1. Case Study at Provincial level

In Pakistan; the federal and provincial governments are striving to achieve a child-friendly community and the rights of children are being safeguarded through the courts of the country.<sup>1113</sup> The provinces have taken important steps regarding legal reforms and policies for the fortification of child rights, however, due to lack of capacity building of professionals the required results are not achieved.<sup>1114</sup> At present, Pakistan has three types of courts those directly deal with the cases affecting the rights of the child.<sup>1115</sup> Every province has High Courts, Sessions Courts, and Courts of Magistrates for the enforcement and protection of rights of the child.<sup>1116</sup> The Sessions courts and Courts of Magistrates conduct the trials of the child abuse cases, the appeals of the said cases are heard by the High Courts.<sup>1117</sup> At Federal Level; there is Islamabad High Court. After the 18<sup>th</sup> Constitutional amendment, 2010 the provincial governments are responsible for the legislation regarding the protection of child rights and other relevant issues.<sup>1118</sup>

---

<sup>1113</sup> UNICEF, *The State of Children in Pakistan*, 2015, p, 9.

<sup>1114</sup> Ibid.

<sup>1115</sup> Ibid, p. 13.

<sup>1116</sup> Ibid.

<sup>1117</sup> Shahid Javed Burki "Provincial Rights and Responsibilities" *Published by the Lahore Journal of Economics* (2010).

<sup>1118</sup> Khan, A., Sayeed, A., Shaikh, S., Jamal, A., & Kamran, S. Child protection system mapping

## 6.2. Cases of Child Abuse: Practices of Peshawar High Court

In the case of *Sher Muhammad* the Peshawar High Court<sup>1119</sup> discussed the major steps and their importance in a criminal case of child abuse i.e. regarding the identity of accused and other issues, the Court remarked that occurrence having taken place in broad day, the question of mistaken identity of accused did not arise. F.I.R. was promptly lodged, site plan drawn up by Investigating Officer at the pointation of the complainant and also corroborated by medical evidence.<sup>1120</sup> In another case accused objected that occurrence was not witnessed by any public witness, the Peshawar High Court<sup>1121</sup> observed that Offence having been committed inside the shop of accused, there was no likelihood of being viewed by any outsider and the contention of the accused was repelled because such an immoral offence could not be committed in view of the general public. There is an important question regarding the number of witnesses, eyewitnesses and corroboration in the cases of the solitary statement of the victim, in *Rafi Ullah's*<sup>1122</sup> case the High Court<sup>1123</sup> maintained the conviction with observations that solitary statement of accused in case of *Zina* and sodomy is sufficient to convict the accused person, medical evidence had fully supported the version of the prosecution, and Forensic Science Laboratory was positive.<sup>1124</sup>

In another case, the Peshawar High Court held that “victim, age of 8/9 years, in his F.I.R. had directly charged accused of committing sodomy, the said averments were

---

and assessment 2013- Punjab. *Collective for Social Science Research* UNICEF: (2013) Islamabad. [http://www.researchcollective.org/Documents/EXECUTIVE\\_SUMMARY\\_Punjab.pdf](http://www.researchcollective.org/Documents/EXECUTIVE_SUMMARY_Punjab.pdf). (Last accessed on 13--01-2020)

<sup>1119</sup> *Sher Muhammad vs. State*, PCr.LJ 1999 Peshawar High Court 83. (Appeal case)

<sup>1120</sup> *Ibid.*

<sup>1121</sup> *Saleem Ullah Khan vs. State*, MLD 2000 Peshawar High Court 1290. (Appeal case)

<sup>1122</sup> *State vs. Ibrahim*, case F.I.R No.139/2008 dated 13-08-2008 under section 377/337 (i) & 367-A of PPC at police station Gandinagar, District Peshawar. (Trial case)

<sup>1123</sup> *Ibrahim vs. State*, YLR Note 2013 Peshawar High Court 436. (Appeal case)

<sup>1124</sup> *Ibid.*

also put forth before the Trial Court, his veracity had not been shattered by the defence in cross-examination, and his statement was found consistent throughout.<sup>1125</sup> In this case, the solitary testimony of the victim was only supported by medical evidence, therefore, the High Court ruled that semen on the swabs were found to be that of accused and had honestly been taken by the doctor which fully proved that penetration had taken place which established the offence of carnal intercourse.<sup>1126</sup> The Peshawar High Court on the point of whether a conviction can be based on the solitary testimony of the victim; observed that solitary word of the victim corroborated by medical evidence is considered sufficient to form the basis of conviction of accused.<sup>1127</sup> The worth and credibility of statement of the victim, character of the accused and corroboration has been observed by Peshawar High Court<sup>1128</sup> in the case of *Alam Noor* and remarked that the most significant statement in sodomy cases, would be that of the victim, subsequently it would be seen as to whether it had been corroborated by other convincing material or otherwise, and corroboration of evidence need not be direct evidence, but it should be independent evidence of such a character which would connect accused directly or indirectly with the alleged offence.<sup>1129</sup>

The courts often face a problem and question raised by the accused that the case has been lodged by the complainant with the consultation of other persons and the Peshawar High Court has ruled that consultation with elders of the family by victim facing the trauma of unnatural offence; would not be fatal to the case of prosecution by any stretch of the imagination.<sup>1130</sup> The concepts of ill-will of complainant towards the accused, the substitution of the accused, and contradictions are often seen in a criminal

---

<sup>1125</sup> Ibrahim case YLR Note 2013 Peshawar High Court 436. (Appeal case)

<sup>1126</sup> Ibid, p. 3.

<sup>1127</sup> Saleh Shah vs. State, PCr.LJ 2003 Peshawar High Court 1103. (Appeal case)

<sup>1128</sup> Alam Noor vs. State, MLD 2004 Peshawar High Court 1148. (Appeal case)

<sup>1129</sup> Ibid, p. 5.

<sup>1130</sup> Jibran vs. State, MLD 2016 Peshawar High Court 1479. (Appeal case)

trial and also in the case of child abuse. The Peshawar High Court<sup>1131</sup> observed that people stay away from the glare of undesirable exposure; the parents feel the disgrace and humiliation to which they were put to by the accused.<sup>1132</sup> The victim had narrated the occurrence in detail and it was unbelievable that a boy of 12/13 years could establish a bogus case to engage the accused; or that he could substitute the accused of someone else.<sup>1133</sup> Complainant did not have any hostility, grudge or hatred against the accused to incorrectly involve him in the case and the Court further observed that minor contradictions would not render the complete case un-trustworthy and could be overlooked, and had said witness been not arrived accused would have completed the commission of offence of sodomy.<sup>1134</sup>

In the cases of child abuse; the accused most of the time takes a plea that he has been falsely been implicated in the case and the courts have to resolve this question whether the accused has falsely been implicated or not. While deciding a bail application of *Wajid Hussain*, the Peshawar High Court<sup>1135</sup> has elaborated the questions of false implication and tender age of accused, the Court held that where there was no enmity between the parties to make allegation which could also stigmatize the complainant side.<sup>1136</sup> Peshawar High Court<sup>1137</sup> in another bail application observed some important principles of a criminal case regarding sodomy and remarked that complainant, a minor boy of 10/11 years, delay in lodging the F.I.R. had been plausibly explained and medical evidence had fully supported the allegations. *Muhammad Ijaz* challenged the bail

---

<sup>1131</sup> Alam Khan vs. State through Additional Advocate General, YLR 2013 Peshawar High Court 714. (Appeal case)

<sup>1132</sup> Ibid. p.7.

<sup>1133</sup> Ibid.

<sup>1134</sup> Ibid.

<sup>1135</sup> Wajid Hussain vs. State, YLR 1999 Peshawar High Court 1602. (Appeal case)

<sup>1136</sup> Ibid.

<sup>1137</sup> Jehanzeb vs. State, PCr.LJ 1999 Peshawar High Court 46. (Appeal case)

granting orders before Peshawar High Court<sup>1138</sup> and Court held that the victim boy had categorically charged the accused with the commission of the offence in his statement recorded under S. 164, Cr. P.C. Anal swabs of the victim were found stained with semen, reasonable grounds, thus, existed for believing that the accused had attempted to commit sodomy with the boy by intoxicating him,<sup>1139</sup> bail granted to accused by Sessions Court was recalled. In the case of Dr. *Anwar Zada* a doctor tried to enter his finger in the anus of the child. The Peshawar High Court in his post-arrest bail passed material observations that offence as heinous as a child of 11 years of age had been allegedly put to sexual abuse by a doctor, who is the messiah in the society, confidentiality of patients especially if they were women, and children were considered to be the benchmarks of the noble profession<sup>1140</sup>. *Qayyum Ullah*<sup>1141</sup> case is one of the leading cases on offence of sodomy, in which court ruled that father or mother, would not like to stigmatize their innocent child for the entire life, by leveling a false charge of sodomy implicating innocent person, with whom they had no grudge or animosity.

There are number of cases where the Peshawar High Court acquitted the accused person(s) due to number of reason which are being discussed herein-below. The case against Muhammad *Iqbal* was that he committed sodomy with the minor victim and F.I.R was lodged after unexplained delay of two days.<sup>1142</sup> There have been no injuries on rectum, anus region and there was delay in sending swabs to chemical examiner.<sup>1143</sup> Trousers allegedly stained with semen were not taken into custody by the police,

---

<sup>1138</sup> Muhammad Ijaz vs. Sher Shah, MLD 1997 Peshawar High Court 969. (Appeal case)

<sup>1139</sup> Ibid.

<sup>1140</sup> Dr. Anwar Zada vs. State, PCr.LJ 2017 Peshawar High Court 1510.

<sup>1141</sup> Quyyum Ullah vs. State, YLRN 2016 Peshawar High Court 178. (Appeal case) case F.I.R No. 714/2010 dated 03-06-2010 under section 377 of PPC, read with section 12 of Offence of Zina (Enforcement of Hudood) Ordinance, 1979 at police station Agha Mir Jan Shah, Peshawar.

<sup>1142</sup> State vs. Muhammad Iqbal, PCr.LJ 1984 Peshawar High Court 257.

<sup>1143</sup> Ibid.

therefore, accused was given benefit of doubt and acquitted.<sup>1144</sup> In the case of *Murtaza*; the ocular evidence was not supported by the medical evidence, the evidence of last seen was also doubtful, judicial confession of the accused was retracted at trial, hence the accused was acquitted.<sup>1145</sup>

A seven class student was allegedly subjected to rape by the accused person. The Peshawar High Court while hearing appeal against conviction observed that during medical examination of the victim no marks of violence have been observed by the medical officer.<sup>1146</sup> The court further ruled that the prosecution did not opt to get DNA sample grouping of the accused and the victim.<sup>1147</sup> The medical officer had admitted that old healed tear of hymen was found on the person of the victim which means that first sexual contact had taken place more than two weeks back.<sup>1148</sup> The medical examination of the victim was conducted after seven days of the occurrence.<sup>1149</sup> The swabs taken from posterior fornix and cervix were returned with the observation that possibility of semen detection after three days was very rare but it is known phenomena that semen remained active and alive up to 17 days with the victim.<sup>1150</sup> The criminal case was registered after six days of the occurrence without justified excuse. Due to these deficiencies the accused was acquitted.<sup>1151</sup> In another case a child of sixth class was subjected to offence of sodomy, his grandfather reported the case to police<sup>1152</sup>. Initially complainant stated he was last seen witness but during trial he denied this fact and he improved his statement. The police got recorded the confessional statement of the

---

<sup>1144</sup> State vs. Muhammad Iqbal, PCr.LJ 1984 Peshawar High Court 257.

<sup>1145</sup> Murtaza vs. State, PCr.LJ 1996 Peshawar High Court 358.

<sup>1146</sup> Hashim vs. State, PCr.LJ 2020 Peshawar High Court 895.

<sup>1147</sup> Ibid.

<sup>1148</sup> Ibid.

<sup>1149</sup> Ibid.

<sup>1150</sup> Ibid.

<sup>1151</sup> Ibid.

<sup>1152</sup> Noor Shah Gul vs. Asim Ullah, PLD 2015 Peshawar High Court 1.

accused after four days of his arrest which was doubtful because same may be result of torture and threat and subsequently the accused retracted from his confessional statement.<sup>1153</sup> Even the identification parade of the accused was not conducted in accordance with the law.<sup>1154</sup> During medical examination of the victim child it was found that there were no marks of violence on the person of the victim. Genesis and origin of the occurrence appeared to be shrouded in deep mystery.<sup>1155</sup> There had been inherent improbabilities, serious omissions, infirmities, as well as other circumstantial; the prosecution failed to establish the case against the accused. Therefore, the accused was rightly acquitted the accused.<sup>1156</sup>

As discussed in the above said precedents that in most of the cases of child abuse the accused is acquitted due to deficiencies in investigation, no proper medical examination, non-conducting of DNA grouping, and defects in prosecution. Therefore, in Pakistan, the conviction ratio in the cases of child abuse is very low and the above precedents show the reasons for low conviction. The Peshawar High Court in several judgments has elaborated on the reasons; non-existence of medical and last seen evidence to support the charge was available, evidence about the victim having been last seen in the company of accused and was not credible.<sup>1157</sup> On the point of registration of case; the High Court observed that F. I. R. lodged after a delay of 2 days without any reason, neither any person in the village informed of occurrence nor any steps are taken for lodging report with promptitude.<sup>1158</sup> Injuries on rectum, anus or part anal region not found, delay in forwarding swabs taken from the rectum of the complainant for chemical analysis, not explained, trousers stated to be stained with semen and blood but

---

<sup>1153</sup> Noor Shah Gul vs. Asim Ullah, PLD 2015 Peshawar High Court 1.

<sup>1154</sup> Ibid.

<sup>1155</sup> Ibid.

<sup>1156</sup> Ibid.

<sup>1157</sup> Murtaza vs. State, PCr.LJ 1996 Peshawar High Court 358.

<sup>1158</sup> State vs. Muhammad Iqbal, PCr.LJ 1984 Peshawar High Court 257. (Appeal case)

investigating officer neither deposing to that effect nor taking same into possession.<sup>1159</sup> Non availability of medical evidence, no DNA report, unexplained delay in lodging case, only last seen evidence, and improvements in statements of witnesses are the main issues that most of the time affects the case of the prosecution and due to these reasons; the conviction level to the accused is very low.

### 6.3. Cases of Child Abuse: Practices of Sindh High Court

The Sindh High Court in the case of Adnan, a 5 years old boy, has observed the value of DNA report; the High Court remarked that DNA report confirmed that DNA profile of the victim matched with DNA profile of the accused.<sup>1160</sup> The Sindh High Court also remarked that nobody had witnessed the occurrence but the strong circumstantial evidence was available which led to the conclusion that it was accused who had committed the crime.<sup>1161</sup> *Shamoon Masih's* case, in which 9/10 years old girl was subjected to sodomy, trial court convicted the accused, The Sindh High Court<sup>1162</sup> observed that case was promptly lodged, the victim had fully supported the prosecution version, corroborated by medical evidence, and the court further ruled that complainant had no enmity with the accused to implicate him in a false case. There are some cases in which the Sindh High Court has also observed the following factors which affect the success of cases, also due to which the conviction rate is low, the Sindh High Court<sup>1163</sup> in the case of *Allah Bux* has observed that there is no direct evidence, recovery evidence did not inspire confidence and there is no corroboration. Accused *Yousaf Khan* involved in commission of offence of unnatural offence with the victim of 8 years old, medical was

---

<sup>1159</sup> State vs. Muhammad Iqbal, PCr.LJ 1984 Peshawar High Court 257. (Appeal case).

<sup>1160</sup> Malik Aqeel Ahmad vs. State, MLD 2016 Karachi High Court 129. (Appeal case)

<sup>1161</sup> Ibid.

<sup>1162</sup> Shamoon Masih vs. State, PCr.LJ 2001 Karachi High Court 57. (Appeal case)

<sup>1163</sup> Allah Bux vs. State, MLD 2002 Karachi High Court 61. (Appeal case)

conducted, and accused was convicted. In appeal, the High court<sup>1164</sup> acquitted the accused with the observation that FIR was lodged for one day unexplained delay, contradictions in the prosecution evidence, and absence of Examiner analysis report.

In the following cases; the Karachi High Court has observed the main factors which affect the case of prosecution and led to acquit the accused person. The complainant admitted that at the time of incident and registration number of the vehicle in which accused took the victim was not mentioned in the F.I.R.<sup>1165</sup> Deposition of victim revealed that accused took him in his car from the shop of video game but neither the complainant nor the investigation officer had inquired from the shopkeeper about the alleged incident.<sup>1166</sup> Doctor who had examined the victim admitted in his cross examination that provisional, final and chemical report did not prove the sodomy; hence, the accused was acquitted.<sup>1167</sup> Accused has allegedly committed sodomy with the minor son of the complainant and matter was reported to the police after one unexplained day of occurrence.<sup>1168</sup> Time of occurrence was differently stated by the victim child and F.I.R. prosecution witness stated a different place as narrated by the complainant and there was no report of chemical examiner.<sup>1169</sup> There were irregularities and illegalities during trial; therefore, accused was acquitted.<sup>1170</sup> No direct evidence was available to connect the accused with the commission of offence, the recovery evidence was also not worth importance, and the confession of the accused was not voluntary because there were injuries on the body of the accused. Charge of sodomy against the accused did not

---

<sup>1164</sup> Yousaf Khan vs. State, YLR 2013 Karachi High Court 1168. (Appeal case)

<sup>1165</sup> Jam Athar Kamal Junejo vs. State, PCr.LJN 2019 Karachi High Court 68.

<sup>1166</sup> Ibid.

<sup>1167</sup> Ibid.

<sup>1168</sup> Yousaf Khan vs. State, YLR 2013 Karachi High Court 1168.

<sup>1169</sup> Ibid.

<sup>1170</sup> Ibid.

prove and acquitted.<sup>1171</sup> In a case the accused was charged to commit kidnapping, rape and murder of six years old minor girl, as per record there was no eye witness to the occurrence and no last seen evidence was available on record to connect the accused with the commission of crime<sup>1172</sup>. The alleged last seen witness stated that he had seen the accused with the camel along with another person but as per record the accused was a carpenter by profession; therefore, there exists no reason to connect the accused with the crime, hence acquitted<sup>1173</sup>.

In a case of rape the accused was charged for committing the offence with 10 years old minor daughter of the complainant, victim child and complainant deposed against the accused but during cross examination the victim stated she does not know who put hands on her mouth and committed rape.<sup>1174</sup> Statement of the victim child was recorded after eight days delay from incident in which she narrated that it was accused who closed the door and put his hands on her mouth.<sup>1175</sup> There was no independent evidence except the testimony of the victim which was self-contradictory. The case has been registered after two days of occurrence, therefore, case of the prosecution is full of doubts, hence accused was acquitted.<sup>1176</sup> It were allegations against the accused person that he along with other accused committed *zina* with the minor daughter of the complainant, at alleged place of occurrence the accused had caught hold the arms of the victim child and co-accused was committing *zina*.<sup>1177</sup> The complainant in his deposition did not directly connect the accused with the commission of offence rather it was the victim who told him about the entire occurrence.<sup>1178</sup> Victim in her examination-in-chief

---

<sup>1171</sup> Allah Bux vs. State, MLD 2002 Karachi High Court 61.

<sup>1172</sup> Abdul Majeed alias Bohra vs. State, PCr.LJ 2022 Karachi High Court 231.

<sup>1173</sup> Ibid.

<sup>1174</sup> Gulzar Shah vs. State, MLD 2021 Karachi High Court 169.

<sup>1175</sup> Ibid.

<sup>1176</sup> Ibid.

<sup>1177</sup> Bilawal vs. State, YLR 2021 Karachi High Court 260.

<sup>1178</sup> Ibid.

stated that her cousin came at the spot and rescued her and she did not say a single word as to presence of the complainant at the spot.<sup>1179</sup> Victim also contradicted her statement while making improvements. Lady medical officer and investigating officer did not support the case of the complainant and accused was acquitted.<sup>1180</sup>

In a case of sodomy and *zina* the time and place of occurrence is always of vital importance because both play a pivotal role in successful prosecution. In case where there victim and witnesses depose different time and place of occurrence, the accused may be acquitted. Because the said differences create serious doubts in prosecution evidence. The non-availability of direct evidence may lead to give benefit to the accused and courts acquit the accused person(s). As discussed above; the courts have acquitted the accused person, even, solely on the basis of improvements in the statements of victim and other prosecution witness(s).

While deciding the bail application of accused *Maqsood Ahmad* the Sindh High Court<sup>1181</sup> historically observed that accused had purportedly committed offence of unnatural lust with a school-going boy with his co-accused, the medical evidence confirmed the commission of offence; delay in lodging FIR had been properly explained in the F.I.R.,<sup>1182</sup> the case against accused was one of concerning ethical turpitude, and it is high time when the Courts must restore the confidence of common people by enforcing the law in its true standpoint according to the principles of Islam.<sup>1183</sup> The allegations Against *Nadeem Ahmad* were that he during dacoity committed rape of a minor girl of 10 years old, while dismissing the bail the Karachi High Court<sup>1184</sup> held that the accused

---

<sup>1179</sup> Bilawal vs. State, YLR 2021 Karachi High Court 260.

<sup>1180</sup> Ibid.

<sup>1181</sup> Maqsood Ahmad vs. State, PCr.LJ 2000 Karachi High Court 313. (Appeal case)

<sup>1182</sup> Ibid.

<sup>1183</sup> Ibid.

<sup>1184</sup> Nadeem Ahmad vs. State, YLR 1999 Karachi High Court 2513. (Appeal case)

forcibly committed sexual intercourse by putting her in the fear of death. In *Abdul Ghaffar's* case, the High Court observed that the victim's statement was strongly corroborated by medical evidence as well as by the evidence of two other prosecution witnesses, bail was declined<sup>1185</sup>. *Syed Riyasat Shah* was arrested with allegations that he after committing sodomy with a minor boy, murdered him, threw his dead body in his water tank, the Sindh High Court<sup>1186</sup> while dismissing the bail application observed that the dead body of the victim was recovered from the water tank of the house of accused, the blood and semen sample of accused which were with anal swabs of the victim, and DNA report was positive. The Sindh High Court has also elaborated the principles which weaken the case and due to which the bails are granted, such as a medical examination was conducted after 20 days of occurrence.<sup>1187</sup> The Court further ruled that case has been registered after ten days of the occurrence which makes the case doubtful<sup>1188</sup> which means that delay in registration of case and in conducting the medical examination is fatal. Therefore, it can be said that delay in lodging a case (not in every case), for conducting medical examination, collection of samples of blood, semen and recoveries are fatal to the case of the prosecution.

#### **6.4. Cases of Child Abuse: Practices of Baluchistan High Court**

Khalid Ahmad alleged that accused *Rizwan* and *Zaheer* committed sodomy with his son 13/14 years old, medical examination of the victim was conducted, the trial court convicted the accused persons, who preferred appeal, High Court<sup>1189</sup> observed that medical officer opined that sexual assault with the victim has been made, forensic, DNA

---

<sup>1185</sup> Muhammad Younus vs. Abdul Ghaffar, MLD 1997 Karachi High Court 1622.

<sup>1186</sup> Syed Riyasat vs. Malik Aqeel, YLR 2010 Karachi High Court 1114. (Appeal case)

<sup>1187</sup> Abdul Sattar vs. State, PCr.LJ 2010 Karachi High Court 1690. (Appeal case)

<sup>1188</sup> State vs. Noor Muhammad, case F.I.R No. 1/1999 under section 377 & 511 of Pakistan Penal Code, 1860 read with section 18 of offence of Zina (Enforcement of Hadd) Ordinance. 1979 at police station Bhand Mari. (Trial case)

<sup>1189</sup> Yasir vs. State, MLD 2018 Balochistan High Court 1014. (Appeal case)

and serology analysis report was also in affirmative, and the prosecution witnesses remained unshackled on their evidence. In another case, the Baluchistan High Court ruled that complainant promptly lodged the case specifically nominating the accused persons, medical evidence has supported the ocular evidence<sup>1190</sup> but the medical and oral evidence was not in line, the High Court acquitted the accused.<sup>1191</sup> The complainant *Haleema Bibi* stated that her daughter *Habiba* raped by the accused, the Trial court convicted the accused persons, and the Baluchistan High Court<sup>1192</sup> while deciding appeal observed that medical evidence was in-line with ocular evidence.

The Quetta High Court in number of cases have acquitted the accused person due to infirmities during investigation and trial and same are explained hereunder. Prosecution case was that the accused committed sodomy with the minor son of the complainant and the victim while appearing as witness did not utter a word as to commission of sodomy with him by the accused.<sup>1193</sup> The victim was silent as to penetration and under section 377 of PPC; the penetration is required to constitute the offence. No report of the chemical examiner as to semen stained clothes of the victim and the accused, hence, the accused was acquitted.<sup>1194</sup> Statement of father of the minor victim was totally silent about commission of unnatural offence, he only deposed about the nude movie of the victim allegedly recorded by the accused persons. Said witness was also silent about first hand statement of the victim when he disclosed the alleged unnatural offence committed with him by the accused persons.<sup>1195</sup> Judgment could not be surrendered to the opinion of the doctor alone; such opinion was not binding for the court, when the same was rendered against the principles of medical jurisprudence,

---

<sup>1190</sup> Muhammad Siddique vs. State, PCr.LJ 2018 Balochistan High Court 1538. (Appeal case)

<sup>1191</sup> Aziz Ullah vs. State, PCr.LJ 2017 Balochistan High Court 1623. (Appeal case)

<sup>1192</sup> Shaukat Ali vs. State, 1623,2018 Balochistan High Court 1275. (Appeal case)

<sup>1193</sup> Aziz Ullah case, PCr.LJ 2017 Quetta High Court 1623.

<sup>1194</sup> Ibid.

<sup>1195</sup> Muhammad Rafiq vs. State, YLR 2015 Quetta High Court 1156.

especially, when the known and settled procedure of the medical examination of the victim of unnatural offence was not adopted.<sup>1196</sup> Comparison and grouping of the semen was highly essential to connect the accused with the commission of offence of sodomy which was not carried out in the present case.<sup>1197</sup> The accused was charged for committing the *zina* with the nieces of the complainant and the story of the prosecution was not believable because they stated that they were boarded through a vehicle to some other place for commission of *zina*<sup>1198</sup>. The alleged road used by the accused was a public road and the victims did not make hue and cry which was unnatural.<sup>1199</sup> The criminal case was not registered by the father or brother of the victims who was also unnatural.<sup>1200</sup> Medical examination showed that there were no marks of violence on the persons of the victims. Material contradictions, dishonest improvements and inconsistencies had been noted, therefore, accused was acquitted<sup>1201</sup>.

The penetration under section 377 of PPC is important for establishing the commission of offence of sodomy and if there would have been no penetration, there would be no offence. It is duty of the investigating officer to get medically examined the victim for the purpose of ascertaining penetration. In case the penetration has not been proved the accused has been acquitted. The report of chemical examiner as to semen stained clothes of the victim and the accused is also significant. If there is no such report; the courts consider it deficiency of the part of prosecution and accused may be acquitted. Therefore, it is duty of the prosecution to procure such report for successful prosecution. The courts have ruled that judgment could not be surrendered to the opinion of the doctor alone; such opinion was not binding for the court, and it is only a corroborative piece of

---

<sup>1196</sup> Muhammad Rafiq vs. State, YLR 2015 Quetta High Court 1156.

<sup>1197</sup> Ibid.

<sup>1198</sup> Amajd Ali vs. State, PCr.LJN 2022 Quetta High Court 17.

<sup>1199</sup> Ibid.

<sup>1200</sup> Ibid.

<sup>1201</sup> Ibid.

evidence. Comparison and grouping of the semen was highly essential for prosecution case and if there would have been no such grouping; the courts have acquitted the accused person. In nutshell; to prove penetration, medical examination of victim and accused, report of chemical examiner, semen grouping, and corroboration are main factors to establish the guilt of the accused and vice versa to acquit the accused.

### 6.5. Cases of Child Abuse: Practices in Lahore High Court

Muhammad Rashid who was deaf and dumb was subjected to offence of un-natural lust by the accused persons; the trial court convicted the accused persons. The Court<sup>1202</sup> in appeal observed that occurrence was not witnessed, the complainant had consistently deposed against accused persons, medical evidence had supported the allegation, there was no ill-will as to false involvement of accused, evidence was confidence-inspiring, no person will charge any person at the sake of the honor of his family for entire life, and the oral evidence was corroborated by medical evidence.<sup>1203</sup> In another case; the Court<sup>1204</sup> observed that doctor has affirmed the act of sodomy; statement of the victim was reliable and confidence-inspiring even after lengthy cross-examination, and no enmity with accused to falsely involve him in the case.<sup>1205</sup> The testimony of related witnesses could not be discarded solely on the basis of relationship with the deceased unless they had some enmity for false implication of accused, which lacked in the case.<sup>1206</sup> On the point of significance of medical evidence, the High Court ruled that no traditional static mode is available to be followed to prove a criminal charge as the court must adopt a dynamic

---

<sup>1202</sup> Jahan Zeb vs. State, YLR 2012 Federal Shariat Court 752. (Appeal case)

<sup>1203</sup> Ibid.

<sup>1204</sup> Rashid Minhas vs. Muhammad Fayyaz, PCr.LJ 2012 Federal Shariat Court 816. (Appeal case)

<sup>1205</sup> Ibid.

<sup>1206</sup> Muhammad Sadiq vs. State, PCr.LJ 2018 Lahore High Court 444. (Appeal case) The State versus Muhammad Sadiq Etc., case F.I.R No. 298/2000 dated 27-10-2000, under section 302 & 377 of Pakistan Penal Code at police station Shadani, District Liaquatpur. (Trial case)

approach to employ scientific methodologies to reach out a culprit in the new era of forensic, the forensic data, procured through the technical system, which is not amenable to human interference can be relied upon.<sup>1207</sup>

In another case, the Court has explained the value of medical and DNA evidence and ruled that where DNA test has not been conducted nor any report regarding semen grouping has been obtained, the case of the prosecution will have a fatal blow.<sup>1208</sup> On the point of corroboration, the Court ruled that when the oral testimony of the victim, complainant, and other witness is supported by the statement of the medical officer, positive DNA report, and the report of chemical examiner, such evidence can, safely, be relied upon for conviction.<sup>1209</sup> The Lahore High Court, while deciding the bail applications in the cases of child abuse, has observed important factors for granting and refusing the bails of the accused persons. On the point of medical evidence; the High Court granted bail when the medical examination was conducted after two days of occurrence<sup>1210</sup> and in another case of pre-arrest bail; the High Court ruled that the accused was nominated with specific allegations, victim directly implicated accused persons and two eye-witnesses supported the version of the prosecution, hence, the bail application was dismissed,<sup>1211</sup> even in a case the High Court recalled already granted bail on the ground that prosecution witnesses including victim steadfastly supported the story of the prosecution and reports of medical officer and the chemical examiner was also in line and positive.<sup>1212</sup>

---

<sup>1207</sup> Muhammad Irfan vs. State, PCr.LJ 2018 Lahore High Court 1319. (Appeal case)

<sup>1208</sup> Allah Ditta case, PCr.LJ 2017 Lahore High Court 789. (Appeal case)

<sup>1209</sup> Muhammad Mushtaq's case, MLD 2020 Lahore High Court 588. (Appeal case)

<sup>1210</sup> Suleman vs. State, YLR 2008 Lahore High Court 2722. (Appeal case)

<sup>1211</sup> Muzammal vs. State, PCr.LJ 2008 Lahore High Court 1521. (Appeal case)

<sup>1212</sup> Muhammad Shakil vs. State, YLR 2008 Lahore High Court 2102. (Appeal case)

In *Abdul Raheem*<sup>1213</sup> case the Lahore High Court has pointed out some factors due to which prosecution failed to prove the case, such as i.e. litigation over landed property was going on between the parties before the present incident, the occurrence was unseen, the minor victim only had narrated the occurrence who was 10 years old, both the accused were tried as juveniles being 14 to 16 years of age, medical evidence had not proved the commission of offence with the victim and had not corroborated his statement, positive report of Chemical Examiner about anal seminal swabs of the victim being simply of corroborative nature was of no significance, when the substantive evidence about the commission of offence was not a believable and safe deposit of the anal swabs in the office of Chemical Examiner was doubtful as the prosecution witness entrusted with the job had been given up by the prosecution as being unnecessary. Where the prosecution<sup>1214</sup> witnesses made several dishonest improvements to bring the case in line with the prosecution story and made up the deficiency in the prosecution case, none of the witnesses and the Investigating Officer, found even a stain of blood or semen on the mattress on which the minor was allegedly lying in injured condition, especially when the anus was found to be bleeding, the conduct of Investigating Officer was also not above board, as he himself became the complainant of the case, and without any lawful justification he started investigating the case himself without any entrustment, Investigating Officer being an eye-witness of the occurrence, the case should have been investigated by some other independent officer, inordinate delay of 4 days in the recovery of the last worn clothes of the deceased was also unexplained, no semen grouping and a DNA test was got conducted, and medical evidence was also self-contradicting regarding the cause of death of the deceased.

---

<sup>1213</sup> *Abdul Raheem vs. State*, YLR 2013 Lahore High Court 1250. (Appeal case)

<sup>1214</sup> *Muhammad Yaqoob Ijaz vs. State*, YLR 2013 Lahore High Court 2125. (Appeal case)

In a case of kidnapping, rape and unnatural offence; the complainant alleged that his minor daughter was kidnapped, raped and subjected to unnatural offence by the accused persons.<sup>1215</sup> The accused persons were implicated in the case through supplementary statement, there was no circumstantial evidence, and accused was acquitted.<sup>1216</sup> There has been no eye-witness of the occurrence, story of the unnatural offence has been told by the victim to the witnesses and there have been contradictions in their statements, therefore, accused was acquitted from the charge of sodomy.<sup>1217</sup> The matter was reported to the police after the delay of eight days while police station was one and half kilometer from the place of occurrence which created serious doubts in the case of prosecution.<sup>1218</sup> The victim child of 10 years twisted the story by stating that it was only an attempt of commission of sodomy by the accused and this testimony of the victim was contrary to that of complainant.<sup>1219</sup> No signs of sodomy or injuries were found of the victim at the time of his medical examination. The place of occurrence stated by the prosecution witnesses and in the contents of F.I.R was different; therefore, accused was acquitted.<sup>1220</sup>

In a case of sodomy with thirteen years old boy; there have been five accused persons out of which four were not known to the prosecution, no identification parade has been conducted and the witnesses were having hands-in-gloves with the police.<sup>1221</sup> The story of commission of sodomy was not supported by medical evidence and chemical report, recoveries found to be planted one and accused was acquitted.<sup>1222</sup> The case against the accused was under section 377 of PPC, there has been solitary statement

---

<sup>1215</sup> State vs. Ameer Alam, YLRN 2018 Lahore High Court 64.

<sup>1216</sup> Ibid.

<sup>1217</sup> Razzaq vs. State, PCr.LJ 1991 Lahore High Court 942.

<sup>1218</sup> Muhammad Habib vs. State. YLR 2002 Lahore High Court 3855.

<sup>1219</sup> Ibid.

<sup>1220</sup> Ibid.

<sup>1221</sup> Khalid Hussain vs. State, PCr.LJ 1989 Lahore High Court 1785.

<sup>1222</sup> Ibid.

of the complainant against the accused and the remaining witnesses did not support the stance of the complainant. The semen obtained was not proved to have remained in proper custody,<sup>1223</sup> Report of chemical examiner regarding one swab was not brought on record and there has been delay of thirty six hours for lodging F.I.R, therefore, accused was acquitted.<sup>1224</sup> A six years old boy was allegedly attempted to commit sodomy by the accused person and the witnesses were real brothers who stated the occurrence before the trial court.<sup>1225</sup> The accused was acquitted by the trial court and in appeal the appellate court ruled that no offence of attempt of sodomy was proved against the accused, the stage of alleged preparation is not punishable under the law, and court dismissed the appeal.<sup>1226</sup> The case against the accused was that he allegedly committed sodomy with a 7 to 9 years old minor boy.<sup>1227</sup> The Lahore High Court observed that when the evidence of the child victim aged 7 to 9 years old has not been corroborated and having number of contradictions, is not safe to rely on such testimony of the child.<sup>1228</sup>

A boy of tender age has allegedly been subjected to sodomy by the accused person. Bleeding profusely per medical evidence was found but no blood-stained earth has been seen at the place of occurrence.<sup>1229</sup> It was stated in the evidence that accused ran away from the place of occurrence after committing sodomy with the minor but there has been contradiction that unnatural intercourse has been committed by the accused at that particular place.<sup>1230</sup> In a case a five years son of the complainant was kidnapped and murdered after commission of sodomy. Recovery of iron rod has been shown to be affected from the accused but the prosecution chance witnesses did not mention that

---

<sup>1223</sup> Abdul Rauf vs. Ali Muhammad, PCr.LJ 1989 Lahore High Court 1220.

<sup>1224</sup> Ibid.

<sup>1225</sup> State vs. Ishfaq Ahmad, PCr.LJ 1985 Lahore High Court 2846.

<sup>1226</sup> Ibid.

<sup>1227</sup> Allah Diwaya vs. State, 1975 PCr.LJ 1319, Lahore High Court, Lahore.

<sup>1228</sup> Ibid.

<sup>1229</sup> Zulifqar vs. State, PCr.LJ 1977 Lahore High Court 364.

<sup>1230</sup> Ibid.

accused was armed with iron rod. Medical evidence revealed that sodomy with the minor has been committed. Oral and medical evidence did not corroborate each other, therefore, accused was acquitted.<sup>1231</sup> In a case; the allegations against the accused were that he was a man of loose character who committed sodomy with the minor victim but the doctor who medically examined the victim opined that no semen was detected on the anal swabs sent the chemical examiner, therefore, accused was acquitted.<sup>1232</sup> Where matter was reported to the police with a delay of two days and medical examination shows no date and time on said examination report; bail was granted to the accused due to said delay.<sup>1233</sup>

The contradictions in the oral evidence of victim, complainant, and the other witnesses are always fatal to the case of the prosecution. For a successful prosecution; there has to be consistencies in evidence of all produced witnesses because if there would have been any contradiction the same would favor the accused in the shape of doubts. The courts have acquitted the accused person in child abuse cases due to contradictions and dishonest improvements. The hearsay evidence, as a general rule, not admissible in evidence, if there would have been a case based on hearsay evidence it should corroborate from some cogent evidence and courts acquit the accused person due to hearsay evidence and non-corroboration. Some precedents have been discussed above in which the medical officer while conducting the medical examination of the victim and accused has not obtained the semen for chemical examination due to which courts acquitted the accused. Therefore, it is the prime duty of the medical officer as well as investigating officer to obtain the semen for chemical examiner's report. In some judgments it has also been discussed that when semen were obtained, the same have not

---

<sup>1231</sup> Sanwal vs. State, YLR Note 2022 Lahore High Court 1.

<sup>1232</sup> Muhammad Rafique vs. State, PCr.LJ 2021 Lahore High Court 553.

<sup>1233</sup> Muhammad Tanveer vs. State, YLR 2021 Lahore High Court 1736.

been kept in proper custody and not sent in time for chemical examination due to which benefit has been given to the accused. For a strong corroboration; there has been strong, independent and confidence inspiring evidence. The inter se corroboration of testimony of victim, complainant, other witnesses, DNA report, report of chemical examiner, last seen evidence and circumstantial evidence is the most significant element. Due to lack of suitable corroboration number of accused are given benefit and acquitted.

## 6.6. Cases of Child Abuse: Practices in *Gilgit Baltistan* Chief Court

Accused *Shoaib Ahmad*,<sup>1234</sup> who was identified through CCTV footage was arrested for commission of sodomy with the deceased minor; in this case the Court<sup>1235</sup> observed last seen evidence was available i.e. CCTV footage, dead body, blood-stained stone and weapon of offence (knife) were recovered on the pointation of accused, and statement of prosecution witnesses was also in line with the statement of other. The *Gilgit-Baltistan* Chief Court<sup>1236</sup> in a case observed that offences of sodomy fall under the provisions of Anti-Terrorism Act which are non-compoundable and any compromise is illegal and unlawful. Allegations against *Zeebo* and another were that they committed sodomy with a minor boy of 9 years, the trial court convicted the accused persons for 7 years rigorous imprisonment, Chief Court of *Gilgit Baltistan*<sup>1237</sup> and Appellate Court of *Gilgit Baltistan*<sup>1238</sup> upheld the conviction. *Muzaffar* was booked in a criminal case with allegations of the attempt of rape, post-arrest was dismissed by the court of Sessions, the Chief Court granted the bail with the observations that neither the clothes of the victim was taken off

---

<sup>1234</sup> State vs. Shoaib Ahmad and two others; case F.I.R No. 99/2014, under section 302/34, 377 & 364-A of PPC, at police station City Gilgit, District Gilgit. (Trial case)

<sup>1235</sup> Shoaib Ahmad vs. State, PCr.LJ 2019 Gilgit-Baltistan Chief Court 57. (Appeal case)

<sup>1236</sup> State vs. Zaheer-ud-Din, MLD 2018 Gilgit-Baltistan Chief Court 314. (Appeal case)

<sup>1237</sup> Zeebo vs. State, Criminal Appeal No. 32/2013 dated 15-04-2015.

<sup>1238</sup> Zeebo vs. State, GBLR 2015 Supreme Appellate Court 289. (Appeal case)

for the commission of rape and this allegation is yet to be determined during the trial by a trial court that whether such offence has been committed or not.<sup>1239</sup> The *Gilgit-Baltistan* Chief Court<sup>1240</sup> while dismissing the post-arrest bail observed that offence was heinous and does not permit to release accused on bail.

### **6.7. Cases of Child Abuse: Practices in Azad Jammu & Kashmir Court**

The value of medical reports and statement of victim has been elaborated in the case of *Shahbaz Ahmad* and others, the Court<sup>1241</sup> relied upon the provisional and final report of the doctor which stated that sodomy with the victim has been committed by the accused person, the Court further ruled that in the cases of sodomy and rape statement of the victim is, usually, available which is of fundamental importance and courts have to rely upon the same. In *Naveed Rasool's* case, the Shariat Court of Azad Kashmir<sup>1242</sup> observed that the evidence of the victim had been supported by medical evidence, on the point of penetration; the Court ruled that penetration is proved through the bleeding of the anus and the positive report of Chemical Examiner. In another case; the Court observed that the evidence of the victim child and that of his father (eye-witness) was corroborated by medical evidence;<sup>1243</sup> therefore, sentence of the accused under S.377, PPC was consequently upheld.

In a matter of bail; the Court<sup>1244</sup> observed that allegation leveled in the FIR, medico-legal report, the contents of the statements of witnesses showed that accused

---

<sup>1239</sup> Muzaffar vs. State, YLR 2019 Gilgit-Baltistan Chief Court 719. (Appeal case)

<sup>1240</sup> Aqib vs. State, MLD 2108 Gilgit-Baltistan Chief Court 1023. (Appeal case)

<sup>1241</sup> Istikhar Hussain vs. Shahbaz, YLR 2013 Supreme Court of Azad Jammu and Kashmir 747. (Appeal case)

<sup>1242</sup> Habib Ullah vs. State, PCr.LJ 2007 Shariat Court, Azad Kashmir 1851. (Appeal case)

<sup>1243</sup> Azhar Aziz vs. State, PCr.LJ 1996 Supreme Court of Azad Kashmir 1522. (Appeal case)

<sup>1244</sup> Subedar Major vs. Abid Shah, PCr.LJ 2018 Supreme Court Azad Kashmir 270. (Appeal case)

committed heinous offence of moral turpitude, non-receipt of the report of the Chemical Examiner could not be made ground for releasing the accused on bail, and there is no allegation of false implication.<sup>1245</sup> On the point of delay for lodging case, the Court held that the delay of more than two months in lodging the F.I.R. was plausibly explained which even otherwise by itself was not sufficient to make the prosecution case doubtful.<sup>1246</sup> When the statement of victim is supported by the medical report and Report of Chemical Examiner; the bail application may be dismissed.<sup>1247</sup>

### 6.8. Cases of Child Abuse: Practices at Islamabad High Court

Under this head, the cases occurred at the Federal Territory of Pakistan i.e. Islamabad has been discussed. In *Farooq Hussain*<sup>1248</sup> case there were certain important questions i.e. delay in lodging case, discrepancies in the prosecution evidence, solitary statement of the victim, before Federal Shariat Court<sup>1249</sup> and Court held that F.I.R. was lodged after about 12 days of the occurrence and explanation tendered for such delay that the attempts for conciliation or compromise were being made, did not appear to be convincing. The Court further held that various discrepancies in statements of two alleged eye-witnesses had belied their testimonies, appeared to be unacceptable being exaggerated. The statement of the victim has neither been corroborated by any credible piece of evidence nor from Medical or Chemical Examiner's Report. Rule of prudence, as well as safe administration of justice, demanded that solitary statements on which conviction had to be based should be unimpeachable. In a case the accused persons were intending to

---

<sup>1245</sup> Subedar Major vs. Abid Shah, 2018 PCr.LJ, p. 270.

<sup>1246</sup> Majid Hanif vs. State, YLR 2004 Supreme Court of Azad Kashmir 2283. (Appeal case)

<sup>1247</sup> Matloob Hussain vs. State, YLR 1999 Supreme Court of Azad Kashmir 2283. (Accused has applied bail in offence under section 377 of PPC read with section 12 Azad Jammu and Kashmir Offence of Zina (Enforcement of Hudood) Act, 1985). (Appeal case)

<sup>1248</sup> State vs. Farooq Hussain and another, case F.I.R No. 231/1999 under section 377 of Pakistan Penal Code, 1860 at police station Reawt, Islamabad. (Trial case)

<sup>1249</sup> Farooq Hussain vs. State, MLD 2003 Federal Shariat Court 1516. (Appeal case)

commit sodomy with a tender age boy and on their failure; the accused persons killed the victim, eye-witness narrated that he was also with the victim/deceased, accused first attempted sodomy and later on killed the deceased, the said witness also stated about the injury details upon him and deceased but his medical was not produced and several injuries were different on deceased, as observed by Medical Officer and the statement of alleged eye-witness has not been corroborated through any other evidence, the accused were acquitted.<sup>1250</sup>

### **6.9. Comparative Analysis of Cases of Child Abuse in Different Provinces**

A comparative study and analysis of the cases of child sexual abuse in different provinces shows that in Punjab and Khyber *Pakhtunkhwa* there are more cases as compare to other provinces and other areas such as Azad Kashmir and *Gilgit Baltistan*. This difference is due to several reasons such as in the province of Sindh the general system is governed by 'Waderas' or sort of local tribe leaders, less literacy rate, large rural areas, and non-reporting of cases, therefore, the ratio of reported cases is low. The population of the province of Balochistan is mostly settled in rural areas where the literacy rate is very low; the community is based on a tribe where the Jirga and tribe systems resolve most of such type of cases. As a result, the concept *Vanni*, *Karo Kari*, and other such types of un-Islamic, illegal, and unlawful customs exist. In Punjab the literacy rate is comparatively better from the other provinces; therefore, people report the cases of child sexual abuse. Another important factor is the media i.e. print and electronic media that cover comparatively developed areas which are in Punjab, Kashmir, and *Gilgit Baltistan* and when any incident comes to media, it gets the attention of all forums; for this reason, the

---

<sup>1250</sup> Mehmood Azam vs. State, YLR 2018 Islamabad High Court 621. (Appeal case)

examples of *Zainab* murder case and *Kasur* video scandal are perfect. The study of the geographical area of the crime of child abuse can be seen from a report of a Non-Governmental Organization (NGO) namely *Sahil*, 'Cruel Numbers', in which it is mentioned that in Punjab 63% (2403 cases), Sindh 27% (1016 cases), Khyber *Pakhtunkhwa* 4% (145 cases), Federal area 3% (130 cases), *Balochistan* 2% (98 cases), Azad Jammu & Kashmir 34 cases and *Gilgit Baltistan* 6 cases were reported.<sup>1251</sup>

### 6.10. Critical Analysis of Decided Cases

The Superior Courts in Pakistan while deciding the cases of child sexual abuse have settled guiding principles for the trial courts, law enforcement agencies, prosecution, forensic labs, and other relevant institutions and departments. The guiding principles which have been elaborated by the Higher Courts are; that the case must be registered at the earliest or if there would have been any delay such delay must be explained, even in some cases the courts have observed that in cases of child abuse the delay does not matter because people do not want to destroy the life of their minor children and consultation with elders of family in this regard is not fatal,<sup>1252</sup> even otherwise people avoid the glare of undesirable publicity.<sup>1253</sup> The Courts have further observed that in the cases of child abuse no father or guardian dares to falsely implicate the accused person.<sup>1254</sup> The next question is the nature of evidence in the shape of eye witness; the courts held that it is difficult to have an eye witness because no accused will dare to do this illegal act in front of the people or at a public place<sup>1255</sup> and this guideline has further helped in the better prosecution.

---

<sup>1251</sup> Cruel Numbers 2018 by Sahil. A compilation of statistics on Child Sexual Abuse cases in Pakistan.

<sup>1252</sup> Ibid. p. 4.

<sup>1253</sup> Alam Khan's case, YLR 2013 Peshawar High Court 714.

<sup>1254</sup> Ibid. p. 6.

<sup>1255</sup> Sher Muhammad's case, PCRLJ 1999 Peshawar High Court 83.

Another important question is the corroboration<sup>1256</sup> between ocular and medical evidence.<sup>1257</sup> Ocular evidence is depositions of witness(s) regarding the occurrence while on the other hand, the medical evidence comprises of post mortem report, injury report, the examination of a doctor, report of DNA and report of chemical examination. The statement of the victim is also important because in most cases said statement is solitary and it is a question of law whether such solitary statements can be relied upon; the precedents of Superior Courts guide that such solitary statement can be relied upon for conviction.<sup>1258</sup> There are some precedents in which almost all required parameters for a successful prosecution have been observed by the High Courts, the case of *Shamoon Masih*<sup>1259</sup> is a perfect example of such cases where the Anti-Terrorism Court convicted the accused, medical and ocular evidence had corroborated each other and during cross-examination, defence could not shake the credibility of the witnesses<sup>1260</sup> and in the cases when medical and ocular evidence do not corroborate each other the courts acquit the accused persons.<sup>1261</sup>

### **6.11. Child Abuse cases: Practices in the Supreme Court of Pakistan**

The Honorable Supreme Court of Pakistan has taken this serious issue as a heinous offence and most of the time the convictions are upheld. The Supreme Court, while maintaining the conviction, has made some very important observations and held that minor discrepancies in a criminal case involving offences of *Zina* and sodomy must be ignored. On the point of oral evidence, the Court observed that the statement of the father

---

<sup>1256</sup> Ibrahim's case, YLR Note 2013 Peshawar High Court 436.

<sup>1257</sup> Ibid, p. 4.

<sup>1258</sup> Ibid. p.5.

<sup>1259</sup> Shaukat Ali's case, PCRLJ 2018 Balochistan High Court 1275. (Appeal case)

<sup>1260</sup> Istikhar Hussain's case, YLR 2013 Azad Kashmir Court 747. (Appeal case)

<sup>1261</sup> Majid Hanif's case, YLD 2004 Supreme Court of Azad Kashmir 2283.

of the deceased was based on the statement of his son who had been subjected to sodomy, while he was injured; the said statement was fully supported by medical evidence, and corroborated by the circumstances of the case.<sup>1262</sup> The prosecution witnesses had made statements which were in line with each other, minor discrepancies pinpointed out in evidence were extremely unimportant and irrelevant which pertained to unrelated details and did not imitate in any manner on the truthfulness of the prosecution version.<sup>1263</sup> The Court has ruled that evidence of an interested witness cannot be discarded because of any relation of witness with the victim or complainant<sup>1264</sup> unless it is established that there has been some motive or ill-will.<sup>1265</sup>

When the evidence of prosecution witnesses, recovery of dead bodies at the instance of accused, and the medical evidence are put in juxtaposition, it would establish the guilt of the accused.<sup>1266</sup> On the point of false deposition against the accused; the Court observed that if there is reason as to why the complainant and the victim would depose against the accused,<sup>1267</sup> that any sane person would not like to put at stake his or her family honor as well as the career of a young minor daughter for petty disputes.<sup>1268</sup> It is not possible for a girl of 14/15 years to falsely implicate her stepfather in such a disgraceful offence especially in absence of any allegation as to victim having any motive to falsely implicate the accused, medical and recovery also supported the stance of the victim.<sup>1269</sup> That when the solitary statement of the victim is corroborated with the

---

<sup>1262</sup> Muhammad Akbar vs. State, SCMR, 2007, Supreme Court 1192, (Appeal case)

<sup>1263</sup> Ibid. p. 4.

<sup>1264</sup> Sheraz Tufail vs. State, SCMR 2007 Supreme Court 518. (Shariat Appellate Jurisdiction)

<sup>1265</sup> Mutahir Shah vs. State, SCMR 1982 Supreme Court 114. Supreme Court of Pakistan. (Appeal case)

<sup>1266</sup> Gulzar Ahmad vs. State, SCMR 2002 Supreme Court 596, Supreme Court of Pakistan. (Appeal case)

<sup>1267</sup> Sain vs. State, SCMR 2007 Supreme Court 698, Supreme Court of Pakistan. (Appeal case)

<sup>1268</sup> Mushtaq Ahmad vs. State, SCMR 2007 Supreme Court 473. (Appeal case) Also in Nasreen Bibi vs. Farrukh Shahzad, SCMR 2015 Supreme Court 825.

<sup>1269</sup> Hamid Khan vs. State, SCMR 1981 Supreme Court 448. (Appeal case)

medical report and ultrasound report,<sup>1270</sup> the statements of natural witnesses of the locality are further corroborated by the police officials,<sup>1271</sup> then such evidence is admissible in evidence and can be relied upon. Supreme Court<sup>1272</sup> in another case remarked that sole testimony of the victim of sodomy is sufficient to convict the accused person and if medical evidence would also be in-line with ocular evidence then it fully proves the case of sodomy and *Zina*.<sup>1273</sup>

The recovery of weapon of offence has vital importance in a criminal trial and the Courts are always very conscious regarding said recovery because it may connect the facts which lead to establishing a charge against the accused person. In a case the accused persons enticed away a minor boy, took him to sugarcane where they committed sodomy with him and done him to death with a knife. The Supreme Court in a case observed that weapon of offence i.e. “*Churri*” (a knife) has been recovered from the accused which was stained with human blood and the forensic report confirmed that said blood was of deceased, therefore, the Court maintained the conviction awarded by the Federal Shariat Court.<sup>1274</sup> If the recovered weapon of offence is deposited in the relevant forensic laboratory after a reasonable and unexplained delay; the said recovery of weapons loses its evidentiary credentials.<sup>1275</sup> In the criminal administration of justice; the circumstantial evidence always remains under discussion in the courts, the Supreme Court observed that recovery of the dead body of deceased at the instance of accused, that deceased was last seen with accused, no previous enmity or ill-will between accused and complainant, and medical evidence is an example of established circumstantial

---

<sup>1270</sup> Mushtaq Ahmad’s case, SCMR 2007 Supreme Court 473. (Appeal case)

<sup>1271</sup> Zakriya vs. State, SCMR 2006 Supreme Court 439. (Appeal case)

<sup>1272</sup> Muhammad Asif vs. State, SCMR 2009 Supreme Court 338. (Appeal case)

<sup>1273</sup> Fayyaz alias Fayyazi vs. State, SCMR 2006 Supreme Court 1042. (Appeal case)

<sup>1274</sup> Asif vs. State, SCMR 2006 Supreme Court 476. (Appeal case)

<sup>1275</sup> Hamid Nadeem vs. State, SCMR 2011 Supreme Court 1233. (Appeal case)

evidence.<sup>1276</sup> In another case the Supreme Court ruled that circumstantial evidence is one of the modes to find out the guilt or innocence of the accused if circumstantial evidence is sufficient to connect the accused with the offence beyond any reasonable doubt; the accused can be awarded capital punishment based on such evidence.<sup>1277</sup> Where un-designed coincidence of circumstances are proved and the claim of such circumstances are so much strong that no other explainable conclusion can be drawn except the guilt of the accused, the court is bound to draw an inference against the accused, circumstantial evidence, however, must be clear, cogent and convincing.<sup>1278</sup>

The Supreme Court has always been of the view that when a case of child abuse in which a minor is affected, the accused must be awarded exemplary punishment.<sup>1279</sup> The Supreme Court further remarked that “considering the facts of the case, the judgment of acquittal of the trial court is perverse, arbitrary, foolish and capricious, but also based on a misreading, non-reading, and non-appraisal of evidence and had rightly been converted into conviction by the Federal Shariat Court<sup>1280</sup> on valid reasons”,<sup>1281</sup> also showed displeasure on less punishment.<sup>1282</sup> The Supreme Court has also elaborated the principles and factors which adversely affect the case and held that discrepancies regarding crime empties, dates of sending samples to forensic lab and arrest of the accused are not minor and can affect the case of the prosecution,<sup>1283</sup> in this case, the Supreme Court only converted the death sentence to life imprisonment.

---

<sup>1276</sup> Muhammad Irshad vs. State, SCMR 1999 Supreme Court 596. (Appeal case)

<sup>1277</sup> Sheraz Tufail's case, SCMR 2007 Supreme Court 518. (Appeal case)

<sup>1278</sup> Talib Hussain vs. State, SCMR 1995 Supreme Court 1538. (Appeal case)

<sup>1279</sup> Haroon vs. State, SCMR 1988 Supreme Court 1063. (Appeal case)

<sup>1280</sup> Criminal appeal No. 321-L of 2001.

<sup>1281</sup> Criminal appeal No. 321-L of 2001.

<sup>1282</sup> Muhammad Haroon vs. State, SCMR 1988 Supreme Court 1063. (Appeal case)

<sup>1283</sup> Israr Ali vs. State, SCMR 2007 Supreme Court 525. (Appeal case)

The Court has elaborated on the relationship between the DNA report and report of chemical examiner, the significance of both and their independent as well joint effect on the cases of child abuse. That when no DNA test has been conducted to connect the accused with semen found on vaginal swabs of the alleged victim, the positive report of the chemical examiner would be of no effect because the positive report of chemical examiner only shows the commission of sexual intercourse with the victim and positive DNA report will establish that accused committed that intercourse.<sup>1284</sup> Where there are more than one accused persons involved in a case; the samples of each accused person must be sent for cross-matching and if such samples have not been sent, the benefit must be given to accused persons,<sup>1285</sup> The Court has independently elaborated the significance of DNA and ruled that DNA test makes available the courts with a source of identifying perpetrators with a high scale of confidence<sup>1286</sup>. By applying DNA technology the courts are in a better position to arrive at a conclusion whereby the real culprit would be convicted and wrongfully caught up accused would be acquitted.<sup>1287</sup> The Supreme Court has elaborated the value of penetration, its effects on the case, how to prove a case of an unnatural offence concerning penetration. The Court held that unnatural offence comprises of penetration of the penis into the anus and only penetration is sufficient to set up the offence and evidence of ejaculation is not essential for conviction.<sup>1288</sup> The Court observed that the medical evidence alone cannot be corroborative, as injuries cannot speak of their infectors; such evidence is a weak type of evidence.<sup>1289</sup> Medical evidence by itself cannot throw any light on the individuality of attackers, but in the case of inimical evidence, it is the aspect of the ocular evidence which requires corroboration,

---

<sup>1284</sup> Muhammad Javed vs. State, SCMR 2019 Supreme Court 1920. (Appeal case)

<sup>1285</sup> Hashim Qasim vs. State, SCMR 2017 Supreme Court 986. (Appeal case)

<sup>1286</sup> Salman Akran vs. Govt. of Punjab, SCMR 2013 Supreme Court 203. (Appeal case)

<sup>1287</sup> Ibid.

<sup>1288</sup> Sain's case, SCMR 2007 Supreme Court 698. (Appeal case)

<sup>1289</sup> Israr Ali vs. State, SCMR 2007 Supreme Court 525.

because the danger to relying on the ocular evidence in such cases is that the witnesses may falsely implicate their enemies.<sup>1290</sup> At the highest, therefore, the fact that the medical evidence is consistent with the ocular evidence may furnish some limited corroboration of the ocular evidence if it can lead to the inference that the eye-witnesses have spoken the truth, this, however, would be in special circumstances.<sup>1291</sup>

In *Salam Akram Raja's* case, the Supreme Court discouraged the compounding of the offence of rape, explained the duties of the State, and remarked that rape is an offence which is against the public at large and whole society, the case is reported in the name of the State, therefore, where complainant party did not come forward to pursue the matter due to out-of-court resolution. The State must come forward to follow the case, the courts should also take into consideration such aspects of the case while extending the benefit to the accused.<sup>1292</sup> The Supreme Court of Pakistan has also elaborated points on the basis of which an accused person is acquitted i.e. since the cases are based on particular facts; therefore, the Court has mentioned the facts and their ultimate conclusions. Deceased child was done to death by strangulating him after he was subjected to sodomy; however, to establish the individual participation of each one of the accused, in the crime, it was all the more necessary that samples of semen of the accused should have been sent to chemical examiner with swabs for cross matching.<sup>1293</sup> Only one parcel was found to be stained with the human semen, while rest was not. No sample of semen was obtained from other three accused, therefore, accused were acquitted.<sup>1294</sup> Alleged offences of kidnapping, commission of *zina-bil-jabr* and murder of the deceased had never been witnessed by anybody and prosecution failed to bring on record any

---

<sup>1290</sup> Machiland and 2 others vs. State, PLD 1976 Supreme Court 695. (Appeal case)

<sup>1291</sup> Ibid.

<sup>1292</sup> Salman Akran Raja;s case, SCMR 2013 Supreme Court 203.

<sup>1293</sup> Hashim Qasim vs. State, SCMR 2017 Supreme Court 986.

<sup>1294</sup> Ibid.

direct evidence on record.<sup>1295</sup> The testimony of the witnesses was not credible and hardly believable. Prosecution failed to establish the case against the accused person.<sup>1296</sup> The case of the prosecution has been rested upon the circumstantial evidence and the prosecution given up the important witness besides the fact that said witness was present in the court for recording evidence.<sup>1297</sup> Offence was committed with the eight years old boy but the prosecution failed to establish the guilt of the accused and accused was acquitted.<sup>1298</sup> Delay of two days in lodging F.I.R was not plausibly explained by the prosecution, eye witnesses who had been given up and examined as court witnesses did not support the stance of the victim child although they were first cousin of the victim, and medical examination of the victim was also delayed; hence, the accused was acquitted from the charge of sodomy.<sup>1299</sup> There was a solitary statement of the victim child and the other witnesses were given up by the prosecution. Infirmity in the statement of the victim child naming the accused was sufficient to acquit the accused from the case of sodomy.<sup>1300</sup>

The Supreme Court in the case of *Hazoor Bakhsh* ruled that infirmity in testimony of prosecution witness could not be overcome by reference to any other reliable evidence and accused was acquitted from the charge of kidnapping, abduction and sodomy.<sup>1301</sup> Prosecution evidence against all three accused persons in the case was identical and on the same footing but the testimony of the victim and that of the complainant had not been believed against the two acquitted accused.<sup>1302</sup> Anal swabs of the victim, no doubt, were found to be stained with semen but belated sending of the

---

<sup>1295</sup> Sarfraz Ahmad vs. State, SCMR 2016 Supreme Court 1635.

<sup>1296</sup> Ibid.

<sup>1297</sup> Zafar Abbas vs. State, SCMR 2010 Supreme Court 939.

<sup>1298</sup> Ibid.

<sup>1299</sup> Mehboob Iqbal vs. State, SCMR 1996 Supreme Court 1910.

<sup>1300</sup> Abdul Haleem vs. Muhammad Amin Khan, SCMR 1989 Supreme Court 418.

<sup>1301</sup> Hazoor Bakhsh vs. State, PLD 1985 Supreme Court 233.

<sup>1302</sup> Hafeez alias Hafeeza vs. State, PLD 2006 Supreme Court 279.

same from *Malkhana* to the chemical examiner was not explained.<sup>1303</sup> Version put forth by the victim was not supported by medical evidence and accused was acquitted.<sup>1304</sup> Evidence of last seen by the relative of the complainant, extra-judicial confession before the real uncle of the victim child was not believable and credible.<sup>1305</sup> The medical evidence was also inconsequential because same did not connect the accused with the commission of offence of sodomy. Hence, the accused was acquitted from the charge of unnatural offence.<sup>1306</sup>

The Supreme Court in different cases has discussed the cases and issues therein where the prosecution had failed to establish case against the accused. Where there are more than one accused persons; the prosecution must depose evidence in such a way that individual participation of each accused must be narrated so that trial court may reach a just conclusion. When there were discrepancies regarding individual participation the court have acquitted the accused persons. The samples of semen of the accused should have been sent to chemical examiner with swabs for cross matching so that relevant reports must be submitted to the trial court for decision; where it has not been done the courts had given benefit of it to the accused. Infirmity in the statement of the victim child naming the accused, his role and description is always fatal to the case of prosecution. In *Javed Iqbal's*<sup>1307</sup> case, the facts were that the accused abducted the victim, committed rape, the trial court convicted the accused persons; the High Court upheld the conviction and accused persons filed an appeal before the Supreme Court.<sup>1308</sup> The Court observed that father of the victim neither in FIR nor before the trial court mentioned that he went to madrasa to inquire about his daughter that why she did not return to home, such

---

<sup>1303</sup> Hafeez alias Hafeeza vs. State. PLD 2006 Supreme Court 279.

<sup>1304</sup> Ibid.

<sup>1305</sup> Bashir Ahmad vs. Fida Hussain, SCMR 2010 Shariat Appellate Jurisdiction 495.

<sup>1306</sup> Ibid.

<sup>1307</sup> Javed Iqbal vs. State, SCMR 2008 Supreme Court 1380. (Appeal case)

<sup>1308</sup> Ibid.

conduct of the complainant was quite un-natural, the complainant also did not mention that how in a short time he reached to the place of occurrence, directly, when the occurrence took place in a different village.<sup>1309</sup> The victim admitted before the trial court that she made a hue and cry when accused persons abducted her from a populated area and she also made improvements.<sup>1310</sup> The probable time of rape mentioned in the medical report of the victim did not coincide with the time of occurrence as alleged by the victim.<sup>1311</sup> The trouser of the victim has neither been produced before the investigation officer nor before the doctor and the doctor had not opined about the same having any stain of blood or semen, therefore, considering these facts of the case, the Court had acquitted the accused persons.<sup>1312</sup>

In another case, the Supreme Court ruled that delay of a month in lodging FIR, un-natural conduct of the victim is not raising hue and cry during rape, absence of a medical report, doubtful extra-judicial confession are the factors which adversely affect the case of the prosecution, accused persons were acquitted.<sup>1313</sup> The main factors which affect the case of prosecution are; delayed registration of case, late conducting of medical examination of victim and accused, un-natural behavior of the victim after the occurrence, absence of medical and DNA reports.

## **6.12. Child Abuse cases: Practices in Federal Shariat Court**

The Federal Shariat has been established through the Constitution of Pakistan to check and scrutinize the existing law; whether the said laws are in accordance with the

---

<sup>1309</sup> Javed Iqbal vs. State, SCMR 2008 Supreme Court 1380.

<sup>1310</sup> Ibid. proceedings before trial court.

<sup>1311</sup> Ibid.

<sup>1312</sup> Javed Iqbal vs. State, SCMR 2008 Supreme Court 1380.

<sup>1313</sup> Muhammad Nawaz vs. State, SCMR 2016 Supreme Court 267. Also in Rais Khan vs. State. SCMR 1985 Supreme Court 1170.

injunctions of Islam. The Federal Shariat is also the court of appeal in the cases of *Zina* under *Hudood Ordinance, 1979* and its appellate jurisdiction have been explained in a precedent; appellate jurisdiction under section 417 of Code of Criminal Procedure, 1898 can be exercised by the Federal Shariat Court if gross injustice has been done in the administration of criminal justice, wherein findings given by the trial court are perverse, illegal and based on a misreading of the evidence, and leading to miscarriage of justice.<sup>1314</sup> The Court has established certain guidelines regarding the trial of child abuse cases such as the medical report is corroborative to the statements of prosecution witnesses and the Court has further ruled that complainant could not be believed to have falsely implicated the accused in the case putting at stake the honor of his family by involving his 5/6 years old innocent daughter in the affair.<sup>1315</sup>

On the point of the solitary statement of the victim; the Court observed that the solitary statement of the minor victim has great sanctity attached,<sup>1316</sup> is sufficient to prove the allegation as the same must be consistent, corroborated, trustworthy, fully supported by medical evidence and report of the chemical examiner.<sup>1317</sup> When the statement of the victim/child is supported by some independent witnesses; then it cannot be said that there is no corroboration and the statement of victim/child has been corroborated through other witnesses.<sup>1318</sup> The corroboration in a criminal trial is a *sine qua non* and it can be from an independent source, an independent source is any piece of evidence which is not generated by the victim or complainant.<sup>1319</sup> An example of corroboration maybe that ocular evidence of the victim, medical report, witnesses, report of the chemical examiner,

---

<sup>1314</sup> Abdul Baqi vs. Dawood, PCr.LJ 2020 Federal Shariat Court 368. (Appeal case).

<sup>1315</sup> Inayat Masih vs. State, PCr.LJ 2009 Federal Shariat Court 69. (Appeal case) See also: Jahan Zeb vs. State, YLR 2012 Federal Shariat Court 752. (Appeal case)

<sup>1316</sup> Saleem Khan vs. State, PCr.LJ 2001 Federal Shariat Court 503. (Appeal case).

<sup>1317</sup> Muhammad Aslam vs. State, PCr.LJ 2012 Federal Shariat Court 530. (Appeal case).

<sup>1318</sup> Muhammad Azam vs. State, PCr.LJ 2008 Federal Shariat Court 250. (Appeal case).

<sup>1319</sup> Ishtiaq alias Sahqu vs. State, PCr.LJ 2006 Federal Shariat Court 790. (Appeal case).

and the evidence of doctor.<sup>1320</sup> The Court ruled that minor discrepancies in the investigation can be ignored if the prosecution successfully proves its case through testimonies of witnesses; proved penetration and medical evidence.<sup>1321</sup> In another case, the Court has observed that the major discrepancies in prosecution case may be; no eye-witness of the occurrence, evidence regarding occurrence is contradictor, statements of witnesses are contradictory, medical examination of accused has not been conducted, and much other negligence of the police.<sup>1322</sup>

In the cases of *Zina* and sodomy, the commission of an offence is always kept secret by the accused and most of the time the circumstantial and last seen evidence is used to conclude whether the accused has committed the offence or not. The Federal Shariat Court while discussing the last seen evidence has established principles regarding the last seen evidence; the aspects of previous enmity/no previous enmity<sup>1323</sup> or motive against the accused to falsely implicate him,<sup>1324</sup> the evidence of the witnesses who last saw the victim with the accused person,<sup>1325</sup> recovery of last worn clothes,<sup>1326</sup> and it is the duty of the trial court that how to create a link between the available evidence.<sup>1327</sup> The circumstantial evidence is also very important in child abuse cases; the Federal Shariat Court while observing on circumstantial evidence held that this evidence most of the time consists of last seen evidence, the conduct of the accused soon after the alleged occurrence, recovery of the dead body at the instance of accused, recovery of shoes, etc. of deceased and medical evidence i.e. report of the chemical examiner,<sup>1328</sup> even the

---

<sup>1320</sup> Muhammad Sabir vs. State, PCr.LJ 2005 Federal Shariat Court 158. (Appeal case).

<sup>1321</sup> Ibid.

<sup>1322</sup> Naeem-Ud-Din Butt vs. State, PCr.LJ 2004 Federal Shariat Court 1598. (Appeal case).

<sup>1323</sup> Muhammad Ashraf vs. State, PCr.LJ 2006 Federal Shariat Court 132. (Appeal case).

<sup>1324</sup> Ibid.

<sup>1325</sup> Ibid.

<sup>1326</sup> Ibid.

<sup>1327</sup> Ibid.

<sup>1328</sup> Nadeem vs. State, PCr.LJ 2005 Federal Shariat Court 1010. (Appeal case).

circumstantial evidence may form the part of corroboration but this type of corroboration must be carefully scrutinized.<sup>1329</sup> The Court has further ruled that in circumstantial evidence; courts have to see that there has to be a chain of events which starts from the hands of the accused reached to the neck of the deceased and if such chain would have not been completed, the accused may get the benefit of the doubt.<sup>1330</sup>

When any case based completely and entirely on circumstantial evidence, then, each and every piece of evidence gathered must provide all links making out one direct chain where one end of its noose fixed in the neck of the accused and the other end touches the dead body.<sup>1331</sup> Any connection missing from the chain would break the whole chain and in that event, a conviction could not be falsely recorded. The Courts had to exercise more caution before accepting and resting their opinion of being guilty on circumstantial evidence collected apparently in a dishonest, dubious, and rough manner. The Federal Shariat Court<sup>1332</sup> mentioned that for circumstantial evidence the requirements may be i.e. 1) presence of accused at the place of occurrence i.e. to be established by oral evidence, medical evidence, by way of post mortem report, 2) establish not the only commission of an unnatural offence by the accused, 3) the direct evidence of last seen, and running of accused from the place of occurrence.<sup>1333</sup> The Federal Shariat Court<sup>1334</sup> has observed certain legal and important aspects of cases of sodomy in a detail judgment; held that 1) victim lodged report on the day of occurrence nominating the accused with specific role, giving details of occurrence, 2) Doctor on receiving of report of Chemical Examiner, which was positive concerning the swabs and

---

<sup>1329</sup> Rashid Minhas vs. Fayyaz, PCr.LJ 2012 Federal Shariat Court 816. (Appeal case).

<sup>1330</sup> Ibid.

<sup>1331</sup> Imran vs. State, SCMR 2015 Supreme Court 155. Jail Criminal Appeal No. 195/1 of 2003 .

<sup>1332</sup> Muhammasd Bilal vs. State, PCr.LJ 2011 Federal Shariat Court 1062. (Appeal case).

<sup>1333</sup> Nadeem,s case, PCr.LJ 2005 Federal Shariat Court 1010. (Appeal case).

<sup>1334</sup> Rashid Minhas vs. Fayyaz, PCr.LJ 2012 Federal Shariat Court 816. (Appeal case).

piece of *Shalwar*, given his opinion that act of sodomy was committed with the victim, 3) For taking the advantage of matching or grouping, the defence had neither raised that point at the trial stage, 4) evidence of the minor victim was distinctly innocent, trustworthy and confidence-inspiring during his complete statement and cross-examination, 5) No conflict existed between medical evidence and evidence of the victim, statement of the victim was fully corroborated by the circumstances leading to the offence of sodomy.<sup>1335</sup>

The Federal Shariat Court has also provided guidelines for taking into consideration of medical evidence; the Court ruled that in the absence of convincing evidence, either direct or circumstantial, the medical evidence, which was confirmatory, would not be adequate to connect the accused with the commission of the offence.<sup>1336</sup> In another case; ruled that no accused must be convicted in the case of *Zina* without semen grouping and a positive DNA report<sup>1337</sup> while in *Khadim Hussain*<sup>1338</sup> case, the Federal Shariat Court had observed that mere non-matching of the DNA profile of the accused is not enough for the acquittal of the accused. In *Mazhar's* case, the Court observed that the non-conducting of DNA test is not to help the accused of rape because the case against the accused is proved based on other evidence such as the statement of the victim, her father, and doctor along with the report of the chemical examiner.<sup>1339</sup>

---

<sup>1335</sup> The State versus Amjad Hussain, FIR No. 84/2009, dated 22-01-2009, under section 377 of PPC read with section 12 of Offence of Zina (Enforcement of Hadd) Ordinance, 1979 at police station Sadiqabad, District Rawalpindi. Amjad Hussain versus State, PCr.LJ 2011 Federal Shariat Court 1534. (Trial case)

<sup>1336</sup> Wazir Muhammad vs. State, YLR 2018 Federal Shariat Court 1071. (Appeal case).

<sup>1337</sup> Zohra Bibi vs. State, PCr.LJ 2013 Federal Shariat Court 772.

<sup>1338</sup> Khadim Hussain vs. State, PCr.LJ 2011 Federal Shariat Court 1443.

<sup>1339</sup> Mazhar vs. State, YLR 2012 Federal Shariat Court 652.

Allegedly the accused has committed sodomy with the minor son of the complainant and matter was reported to the police on next day of occurrence<sup>1340</sup>. The minor victim was given up by the prosecution and it was the minor who was the star witness of the occurrence<sup>1341</sup>. The doctor did not observe any sign of violence on the body of the victim and the report of the chemical examiner showed that swabs taken from the victim's body were not stained with semen. As per doctor no penetration has been taken place, therefore, accused was acquitted<sup>1342</sup>. F.I.R which was lodged after about five and half hours of the incident of unnatural offence, neither mentioned the name of the accused nor his features was given. Co-accused was exonerated by the prosecution and present accused was convicted on the same set of evidence<sup>1343</sup>. The accused person was not previously known to the prosecution but no identification parade was conducted, doctor opined that anus, sphincter of the victim was normal and there was no abrasion of laceration; therefore, benefit of doubts had been given to the accused and acquitted<sup>1344</sup>. The investigating officer did not investigate the matter properly regarding all aspects of the case because under the law he was duty bound to collect all possible evidence<sup>1345</sup>. The doctor who performed the potency test of the accused failed in his duty to procure semen of accused for the purpose of ascertainment whether it matched with semen found on the anal swabs of the victim<sup>1346</sup>. Such was case of culpable neglect and indifference on the part of the investigating officer and also of doctor<sup>1347</sup>. Judge, in order to record conviction, must be convinced that the prosecution had successfully established guilt of accused without any shadow of reasonable doubt.

---

<sup>1340</sup> Mushtaq Ahmad vs. State, YLR 2020 Federal Shariat Court 754.

<sup>1341</sup> Ibid.

<sup>1342</sup> Ibid.

<sup>1343</sup> Muhammad Imran vs. State, YLR 2014 Federal Shariat Court 459.

<sup>1344</sup> Ibid.

<sup>1345</sup> Kazim Hussain alias Qazi vs. State, PCr.LJ 2008 Federal Shariat Court 971.

<sup>1346</sup> Ibid.

<sup>1347</sup> Ibid.

Allegation of sodomy not proved against the accused and he was acquitted<sup>1348</sup>.

In a case Federal Shariat Court observed that without considering the gravity of the occurrence where 8/9 years boy was allegedly subjected to sodomy; the investigating and medical officer did not deem it necessary to obtain semen sample of accused when he was medically examined to determine his sexual potency<sup>1349</sup>. Semen matched would have clinched the issue but the prosecution opted to give up such important aspect. In the present case the circumstantial evidence is a weak type of evidence, place of occurrence was a public road but no independent witness associated, medical evidence did not support the case of prosecution, and hence accused was acquitted<sup>1350</sup>. The conduct of the complainant in making allegations about the commission of offence had rendered case highly doubtful because in F.I.R he mentioned two persons with details of their parentage and address.<sup>1351</sup> F.I.R was lodged on next day of occurrence and the complainant had sufficient time to consult his minor son as to identity of the accused persons but complainant made supplementary statement and substituted the both accused persons<sup>1352</sup>. Subsequently he exonerated one of the accused. Another prosecution witness was brother of the complainant whose evidence was also not credible. The victim child also did not corroborate the complainant; therefore accused was acquitted<sup>1353</sup>. There was no eye-witness of the occurrence and the available evidence on record regarding the occurrence was also contradictory<sup>1354</sup>. Money dispute between the complainant and accused exists and accused was not medically examined for his potency test, hence

---

<sup>1348</sup> Kazim Hussain alias Qazi vs. State, PCr.LJ 2008 Federal Shariat Court 971.

<sup>1349</sup> Muhammad Arshad vs. State, PCr.LJ 2008 Federal Shariat Court 1019.

<sup>1350</sup> Ibid.

<sup>1351</sup> Muhammad Sarwar alias Sara vs. State, PCr.LJ 2005 Federal Shariat Court 1091.

<sup>1352</sup> Ibid.

<sup>1353</sup> Ibid.

<sup>1354</sup> Naeem-ud-Din Butt vs. Qalb-e-Abbas, PCr.LJ 2004 Federal Shariat Court 1598.

accused was acquitted from the charge of sodomy.<sup>1355</sup>

A student of seventh class was allegedly subjected to commission of sodomy by the accused; father of the victim who accompanied him to police station was neither cited as witness nor produced at trial and minor victim was not medically examined by the doctor<sup>1356</sup>. No marks of violence admittedly were present at the body of the victim. Owner of the place of occurrence and person who rescued the victim have not been produced as prosecution witnesses. Therefore, the case of the prosecution was full of doubts and accused was acquitted<sup>1357</sup>. The mother of the victim child stated before the court she was an eye-witness but the victim contradicted her on this point that nobody had seen the occurrence, anal swabs taken after four days of the occurrence and there was possibility that those were washed away with passing of stools within twenty four hours<sup>1358</sup>. During course of investigation the accused was shown innocent; therefore, he was acquitted from the charge of sodomy<sup>1359</sup>. The prosecution witnesses deposed in contradiction with the medical evidence that allegations of sodomy committed upon the victims and story of the prosecution was fabricated<sup>1360</sup>. The case of the prosecution was extremely unsatisfactory and not corroborated; therefore, accused was acquitted.<sup>1361</sup> There has been no eye-witness of the occurrence except a chance witness who was examined by the police after three days of occurrence and the complainant reported the case after unexplained three days<sup>1362</sup>. Oral evidence of the complainant had not been supported by the medical evidence and the trouser worn by the victim boy was not handed over to the investigating officer. There was no report of chemical examiner as to

---

<sup>1355</sup> Naeem-ud-Din Butt vs. Qalb-e-Abbas, PCr.LJ 2004 Federal Shariat Court 1598.

<sup>1356</sup> Muhammad Faisal vs. State, YLR 2003 Federal Shariat Court 2759.

<sup>1357</sup> Ibid.

<sup>1358</sup> Imtiaz Ahmad vs. State, MLD 1996 Federal Shariat Court 457.

<sup>1359</sup> Ibid.

<sup>1360</sup> Syed Afsar Shah vs. State, MLD 1998 Federal Shariat Court 1137.

<sup>1361</sup> Ibid.

<sup>1362</sup> Muhammad Akram vs. State, MLD 1995 Federal Shariat Court 950.

penetration and the accused was acquitted<sup>1363</sup>.

In another case it had been alleged that accused committed sodomy with an eight years old boy and the accused was convicted by the trial court<sup>1364</sup>. The accused preferred an appeal before Federal Shariat Court and the Court observed that bad blood existed between the parties and there has been four days delay in lodging case against the accused, hence the accused was acquitted from the charge of sodomy.<sup>1365</sup> A sense of not reliable independent evidence has created serious doubts over the authenticity of the case particularly when the parties belong to two different rival groups; material brought on record did not go to the length of establishing the charge against accused beyond a reasonable doubt, therefore, accused was acquitted from charge of sodomy.<sup>1366</sup> An 8/9 years old boy was allegedly subjected to sodomy whose solitary statement was not corroborated by medical evidence and no semen stains on body or genitals of the victim were found.<sup>1367</sup> No marks of blood or violence on knees or elbows were found on the victim. Anal swabs were sent to chemical examiner after a delay of number of days, therefore, accused was acquitted<sup>1368</sup>. That as per record of the case; the witnesses were related to the complainant, minor victim of 12 years old and complainant was inimical towards the accused.<sup>1369</sup> The evidence was not directly connecting the accused with the commission of offence, statement of the victim was not supported by the medical evidence and there was no corroboration, hence accused was acquitted.<sup>1370</sup> A victim of six years old boy was allegedly subjected to unnatural offence by the accused person, other prosecution witnesses did not support the testimony of the victim, and later on the

---

<sup>1363</sup> Muhammad Akram vs. State, MLD 1995 Federal Shariat Court 950.

<sup>1364</sup> Raees vs. State, PCr.LJ 1993 Federal Shariat Court 585.

<sup>1365</sup> Ibid.

<sup>1366</sup> Nazar Hussain vs. State, PCr.LJ 1993 Federal Shariat Court 2076.

<sup>1367</sup> Nigah Shah vs. State, PCr.LJ 1988 Federal Shariat Court 1925.

<sup>1368</sup> Ibid.

<sup>1369</sup> Karim Bux vs. State, PCr.LJ 1985 Federal Shariat Court 2613.

<sup>1370</sup> Ibid.

victim in examination-in-chief did not blame the accused, hence he was acquitted from the offence of sodomy.<sup>1371</sup>

The Federal Shariat Court of Pakistan have elaborated the reasons of inefficient prosecution of child abuse cases. In this context the courts have observed that, generally, the evidence of the interested, related or chance witnesses cannot be termed as corroborative piece of evidence and independent witnesses may strength the case of the prosecution. In recent decisions the courts have ruled that solitary statement of the victim must be supported by medical evidence because the modern sciences have developed the mechanisms to identify the culprits and if solitary statement is not supported by medical evidence, the said statement is not sufficient to convict the accused. Another important issue is the penetration; the courts have noted that to prove the penetration it is necessary that report of chemical examiner be obtained and if such report is not available the prosecution would not be able to prove penetration. The evidence obtained through medical process is also significant which could prove some important aspects of the cases such as medical examination of victim and accused and if this evidence is not procure the case of the prosecution would be a weak case and there would high chances of acquittal of accused.

In most of the child abuse cases there is circumstantial evidence and the principle of circumstantial evidence is that it should be in shape of chain of facts which starts from the hands of the accused and ends at the neck of the victim. Therefore, the prosecution must collect all possible evidence to make and maintain such chain of facts to convert it admissible. The medical and medical officer plays a pivotal role in the investigation and collection of evidence. The medical officer is required to collect all possible and essential

---

<sup>1371</sup> Maqbool Ahmad vs. State, MLD 1993 Federal Shariat Court 2265.

evidences such as semen collection, external examination of the victim and examination of accused but if he does not perform his duties vigilantly the same will damage the case. At the same time the duties and roles of investigation officer is important. The courts have acquitted the accused persons in child abuse cases where investigating and medical officer have not performed their duties. The identity of the accused is extremely momentous and if the accused is unknown then under the law identification parade is required and if such process would have been followed; the courts have acquitted the accused.

### 6.13. Significance of DNA Report in Child Abuse Cases

“DNA or deoxyribonucleic acid is in every single cell throughout our bodies. DNA is where our genetic code lives and it makes each of us unique individuals”. “It also determines everything from our eye color to particular aspects of our personalities to our health”.<sup>1372</sup> DNA profiling has first been used in the *Narborough* village in the United Kingdom in 1980.<sup>1373</sup> The “rape kit” is referred to a sexual assault forensic examination i.e. a pot which comprises a checklist, materials, directions, along with envelopes and containers to package any specimens collected during the exam; a rape kit may also be referred to as a Sexual Assault Evidence Kit (SAEK). The contents of the kit may be different due to change jurisdiction.<sup>1374</sup> Once DNA is conducted, there is a procedure for how the evidence is managed and used in an investigation; the result and related evidence will be handed over to law enforcement department that may send it to a forensic lab and the lab will examine the material and develop DNA profiles that are

---

<sup>1372</sup> <https://www.genome.gov/19016904/faq-about-genetic-and-genomic-science/>. (Last accessed on 12-02-2020)

<sup>1373</sup> Michael Briody, The Effects of DNA Evidence on Sexual Offence Cases in Court, *Griffith University* (2002).  
[https://www.researchgate.net/publication/283630781\\_The\\_Effects\\_of\\_DNA\\_Evidence\\_on\\_Sexual\\_Offence\\_Cases\\_in\\_Court](https://www.researchgate.net/publication/283630781_The_Effects_of_DNA_Evidence_on_Sexual_Offence_Cases_in_Court). Last accessed on 14-01-2020.

<sup>1374</sup> <https://www.rainn.org/articles/rape-kit>. (Last accessed on 12-02-2020)

exclusive to a specific person or not.<sup>1375</sup>

For the purposes of better results the trained investigating officers may look for DNA evidence at positions which are related to the case, for example the site where the offence has been taken place, DNA evidence can also be gathered from the body and clothes of the victim who survived the attack during the sexual assault; besides, DNA may also be gathered from anyone who had been supposed to be in attendance at the crime scene, including the investigating officer, any witness, as well as anyone you may have had consensual interaction within the 72 hours prior.<sup>1376</sup> DNA evidence helps to construct a better and stronger case against the executor.<sup>1377</sup> Offenders of violence, usually, are inclined to be serial criminals, and sexual violence tends to be a serial crime when it is decided to a sexual assault forensic exam and DNA sampling, same enhance the probabilities of taking the offenders/perpetrator off the streets and preventing any future examples of sexual violence.<sup>1378</sup>

In Pakistan, there is no specific legal mechanism or legislation which deals with DNA evidence and the Courts, being, within the legal framework evaluate this type of evidence-based on article 59<sup>1379</sup> and 164<sup>1380</sup> of QSO. The Federal Shariat Court in a case

---

<sup>1375</sup> <https://www.rainn.org/articles/importance-dna-sexual-assault-cases>. (Last accessed on 12-02-2020)

<sup>1376</sup> J.E. Allard, the collection of data from findings in cases of sexual assault and the significance of spermatozoa on vaginal, anal and oral swabs. *Science and Justice* 37 (2) (1997):99-108.

<sup>1377</sup> K.I. Young, J.G. Jones, T. Worthington, P. Dimpson, P.H. Casey, Forensic laboratory evidence in sexually abused and adolescents, *Arch, Pediatr. Adolsc. Med.* 160 (2006):585-588.

<sup>1378</sup> G.M. Willott, J.E. Allard, Spermatozoa, their persistence after sexual intercourse. *forensic Science International* (1982):19, 135-154.

<sup>1379</sup> Article 59 of QSO: 'Opinions of experts: When the Court has to form an opinion upon a point of foreign law, or of science/or art, or as to identity of hand-writing or finger impressions, or as to authenticity and integrity of electronic documents made by or through an information system the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of hand-writing or finger impressions or as to the functioning, specifications, programming and operations of information system, are relevant facts. Such persons are called experts....'

<sup>1380</sup> Article 164 of QSO: 'Production of evidence that has become available because of modern devices, etc.: In such cases as the Court may consider appropriate, the Court may allow to be produced any evidence that may have become available because of modern devices or techniques.'

observed that the prosecution departments must take a maximum care and use the latest accessible technology to draw and locate the real criminal. Under Article 164 of QSO, a court might allow any available evidence to be produced before the court because of modern procedures or techniques.<sup>1381</sup> Furthermore, the Holy Qur'an and *Sunnah* did not prohibit application of scientific or logical techniques in discovering the truth. The Supreme Court in its latest judgment has observed that DNA report in cases of rape and sodomy must be conducted as part of investigation.<sup>1382</sup> On the contrary, the discovery and investigation had strongly been suggested by both.<sup>1383</sup> The courts in matters concerning to Offence of *Zina* under *Hudood* Ordinance had all the powers to allow the receiving of evidence including resort to a DNA test if required by the occasion.<sup>1384</sup> It is a fundamental duty of the courts to arrive at the truth without depriving an affected party to establish its point of view.<sup>1385</sup> The medical science and other modern technologies have contributed well towards the administration of criminal justice system, the DNA and other medical evidence most of the times are a corroborative piece of evidence<sup>1386</sup> but in some cases, it becomes the only evidence, therefore, in this context the Court observed; that conviction can be based on medical evidence where the DNA samples of the victim and accused matches through the forensic process.<sup>1387</sup>

The importance of the DNA report cannot be denied in the cases of rape and sodomy.<sup>1388</sup> The Court has elaborated the significance of DNA and ruled that DNA test facilitates the courts with a mechanism of recognizing perpetrators with a high degree of confidence, and by applying DNA technology the courts are in a better situation to reach

---

<sup>1381</sup> *Shahid Sahil vs. State*, PLD 2010 Federal Shariat Court 215. (Appeal case).

<sup>1382</sup> *Ali Haider vs. Jameel Hussain*, PLD 2021 Supreme Court 362.

<sup>1383</sup> *Ibid.*

<sup>1384</sup> *Ibid.*

<sup>1385</sup> *Ibid.*

<sup>1386</sup> *Muhammad Mushtaq vs. State*, MLD 2020 Lahore High Court 588. (Appeal case).

<sup>1387</sup> *Malik Aqeel Ahmad vs. State*, MLD 2016 Karachi High Court 129. (Appeal case).

<sup>1388</sup> *Muhammad Khan vs. State*, PCr.LJ (Note) 2020 Karachi High Court 10. (Appeal case).

an end whereby the real culprit would be convicted.<sup>1389</sup> The answer towards the identification of the culprit was dependent upon DNA only which could have linked the offender with the charge of the offence and the importance of the DNA could never be denied.<sup>1390</sup> The medical and DNA evidence may corroborate the other available evidence,<sup>1391</sup> the absence of which provides no corroboration to the case of the prosecution<sup>1392</sup> and on the absence of the DNA report, the Court ruled that in the absence of DNA analysis, the photocopy of a positive report of Chemical Examiner could not be connected against the accused with any degree of certainty,<sup>1393</sup> in a case no sample for DNA grouping has been sent to forensic lab for its report and even otherwise the Court ruled that the oral testimony could not be corroborated through medical evidence.<sup>1394</sup> In another case, the Court rules that if classification or grouping semen has not been conducted in a rape case, it could not be proved that particular accused person had committed the offence.<sup>1395</sup> The Court has also observed that if the semen were found on vaginal swabs of the victim but no DNA test has been conducted, in such like the situation the recovery of semen will lose its evidentiary value.<sup>1396</sup>

When the DNA test is not conducted and the report of semen has not been obtained, such an absence is always fatal to the case of the prosecution.<sup>1397</sup> There are some precedents in which the higher Courts observe that DNA grouping report is not the only evidence which can establish the case against the accused person; the Court further observed that it was not the prerequisite of law to confirm the semen through DNA

---

<sup>1389</sup> Salman Akran Raja case, SCMR 2013 Supreme Court 203. (Appeal case).

<sup>1390</sup> Muhammad Khan vs. State, PCr.LJ 2020 Karachi High Court 10. (Appeal case).

<sup>1391</sup> Bakhat Munir vs. State, PCr.LJ 2014 Peshawar High Court 1472. (Appeal case).

<sup>1392</sup> Tauqeer Abbas vs. State, PCr.LJ 2017 Lahore High Court 848. (Appeal case).

<sup>1393</sup> Muhammad Amir vs. State, YLR 2018 Lahore High Court 2592. (Appeal case).

<sup>1394</sup> Muhammad Siddique vs. State, SCMR 2019 Supreme Court 1048. (Appeal case).

<sup>1395</sup> Allah Ditta vs. State, PCr.LJ 2019 Islamabad High Court 1316. (Appeal case).

<sup>1396</sup> Parvaiz vs. State, PCr.LJ 2014 Lahore High Court 599. (Appeal case).

<sup>1397</sup> Allah Dittah vs. State, PCr.LJ 2017 Lahore High Court 1472. (Appeal case).

report to prove the ingredients of section 376 of PPC i.e. rape,<sup>1398</sup> the conviction can be passed when a solitary statement of victim is confidence-inspiring, even though there is no DNA report.<sup>1399</sup> It is also observed that when opinion of the lady doctor has corroborated the statement of the victim, in such like the situation the DNA could not negate the version of the victim and other ocular evidence.<sup>1400</sup> The Karachi High court in a case has explained that there are certain factors which affect the results of DNA report such as temperature and humidity (external factors) and bodily fluids (internal factor), the Court also observed that previously the samples had been gathered and tested, the higher would have been the chances of yielding solid outcomes, DNA sampling from vaginal swabs could reliably lead to an accused only if the sample was performed within the first 7 days of the rape.<sup>1401</sup>

A critical study of DNA evidence shows that by using this evidence properly and effectively may affect the decision of a child abuse case and may also increase in the sentence,<sup>1402</sup> the biological evidence of DNA is known as the most important evidence in a criminal trial, especially rape and unnatural offences.<sup>1403</sup> There had been several crimes that were difficult to investigate due to lack of evidence, these cases had been revisited, offenders had been apprehended and sentenced based on the modern form of evidence i.e. DNA evidence.<sup>1404</sup> This type of evidence, generally, strengthens the case of prosecution because of the uniqueness of DNA profiles,<sup>1405</sup> other characters of

---

<sup>1398</sup> Wishal Masih vs. State, YLR 2017 Islamabad High Court 2031. (Appeal case).

<sup>1399</sup> Aijaz Hussain vs. State, MLD 2018 Karachi High Court 1164. (Appeal case).

<sup>1400</sup> Khadim Hussain vs. State, PCr.LJ 2011 Federal Shariat Court 1443. (Appeal case).

<sup>1401</sup> Imran vs. State, PCr.LJ 2016 Karachi High Court 1888. (Appeal case).

<sup>1402</sup> Michael Briody, *The Effects of DNA Evidence on Sexual Offence Cases in Court*, (2002): 179.

<sup>1403</sup> Teresa Magalhaes, *Biological Evidence Management for DNA Analysis in Cases of Sexual. The Scientific World Journal* (2015).

<sup>1404</sup> Peter D. Martin, Hermann Schmitter, and Peter M. Schneider, 'A Brief History of the Formation of DNA Databases in Forensic Science within Europe' *Forensic Science International* (2001):119 (2), 225.

<sup>1405</sup> Ibid.

profiling,<sup>1406</sup> technical accuracy,<sup>1407</sup> and impartiality of origin of evidence.<sup>1408 1409</sup> To making it more reliable there are certain precautions such as procedures during selection, collection, labeling, packaging, handling, transportation, and storing,<sup>1410</sup> contamination may affect the accuracy of this evidence, and where there is more than one perpetrator.<sup>1411</sup> The courts are always cautioned regarding DNA evidence and should not take this evidence as conclusive proof, DNA evidence has to be acted upon when it is corroborated from independent evidence, and even in the confirmed match is unable to provide concrete proof of guilt.<sup>1412</sup> Although the DNA has opened new vistas in modern forensic science but its use depends upon the present legal structure of the country, there are different legal and administrative hurdles but at the present, this evidence is treated as an expert opinion.<sup>1413</sup>

#### **6.14. Effectiveness of Newly Enacted Legislation in Sindh, KPK, Punjab, Gilgit-Baltistan, and Balochistan.**

In Pakistan, the federal and provincial governments are encouraged and supported by UNICEF to enact and implement laws for the protection of child rights. The aforesaid governments have enacted the laws i.e. Sindh Child Protection Act, 2011, The Punjab

---

<sup>1406</sup> Connors, E, Lundregan, T, Miller, N. & McEwan, T. Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence After Trial, National Institute of Justice, US Dept of Justice. *Alexandria VA. Crim. Trac, DNA* (2002)

<sup>1407</sup> Golding, J, Stewart, T, Yozwiak, J & Sanchez, R. 'The impact of DNA evidence in a child sexual assault trial', *Child Maltreatment: Journal of the American Professional Society on the Abuse of Children*, vol. 5, no 4, (2000):373-383.

<sup>1408</sup> Mobbs, J. 'The National Criminal DNA Database — an Investigative Tool for the Future', *Use of DNA in the Criminal Justice System, Seminar Papers, Sydney University Law School*, (2001):11.

<sup>1409</sup> Cross, T. P., Alderden, M., Wagner, A., Sampson, L., Peters, B., & Lounsbury, K. Biological evidence in adult and adolescent sexual assault cases: Timing and relationship to arrest. *Journal of Interpersonal Violence*, (2017).

<sup>1410</sup> Acosta M. L. Collecting evidence for domestic and sexual assault: highlighting violence against women in health care system interventions. *International Journal of Gynecology & obstetrics*. (2002).

<sup>1411</sup> Balding D. J., Buckleton J. Interpreting low template DNA profiles. *Forensic Science International Genetics* 2009;4(1):1-10.

<sup>1412</sup> Karen Norrgard, 'Forensics. DNA fingerprinting, and CODIS' *Nature Education*. (2008):1 (1)

<sup>1413</sup> *Ibid.* p.14

Destitute and Neglected Children Act, 2017, The Khyber *Pakhtunkhwa* Child Protection and Welfare Act, 2010, The Child Rights (Care and Protection) Act, 2016, The *Balochistan* Child protection Act, 2016, and *Gilgit Baltistan* Child Protection and Welfare Act, 2013 for the basic need and also established different bodies to implement the laws and for the protection of the child.<sup>1414</sup> UNICEF has provided a country program to Pakistan which includes: 1) neonatal and child endurance; 2) dietary position of girls and boys; 3) children in school and learning; 4) children are protected from neglect, violence, and exploitation; and 5) safely controlled water and sanitation services.<sup>1415</sup> Pakistan in collaboration with UNICEF is enforcing the rights of children against abuse, exploitation, violence, and neglect through strengthening and reforming the existing laws, and enacting new laws on different levels.<sup>1416</sup> In the year 2017, UNICEF has provided technical implementation to *Balochistan*, for newly enacted law, to Islamabad Capital Territory and *Gilgit Baltistan* in response to child exploitation, violence and neglect<sup>1417</sup> and also the institutional capacity to implement child protection enactments, policies and standards to guard women and children from exploitation, violence, and abuse is strengthened.<sup>1418</sup>

The government of *Gilgit Baltistan*, to align with the CRC, has introduced a new law which shall provide a public protection system for the children who are victims of violence, exploitation, and neglect and through this enactment, the concerned government institutions will be in a position to identify the victims and provide them protection.<sup>1419</sup> Although some amendments have been introduced in Pakistan Penal Code

---

<sup>1414</sup> UNICEF, Annual Report, 2017.

[https://www.unicef.org/about/annualreport/files/Pakistan\\_2017\\_COAR.pdf](https://www.unicef.org/about/annualreport/files/Pakistan_2017_COAR.pdf). Last accessed on 21-01-2020.

<sup>1415</sup> UNICEF, Annual Report, 2017, p. 6-7.

<sup>1416</sup> Ibid. p. 43.

<sup>1417</sup> Ibid. p. 44.

<sup>1418</sup> Ibid. p.46.

<sup>1419</sup> Ibid. p. 67.

and some laws at provincial level i.e. Sindh Child Protection Act, Balochistan Child Protection Act, and Khabar Pakhtunkhwah Child Protection Act have been promulgated for the protection of child rights but only enactment of laws will not serve the requisite purposes. All the relevant departments and agencies ought to be in-line with each other for a better system. This system may be started with compulsory reporting, trained investigating officers, and efficient and expert medical evidence. The public prosecutors, police, medical officers, and public forensic laboratories must be linked together with most advanced forms of information technology so that process may be speed up for earlier decisions of the cases.

### **6.15. Conclusion**

The trial of the cases of sodomy under section 377 of PPC is, generally, conducted by the Magistrate First Class; the trial of the cases of rape under section 377 of PPC is conducted by the Court of Session (both Sessions Judge or Additional Sessions Judge), and the appeal in both aforesaid cases are, generally, heard by the concerned High Court of the Province. In some provinces i.e. KPK, there are specially established courts that hear the cases of child abuse, and the trial is concluded within four months. The High Courts, Federal Shariat Court, and the Supreme Court while hearing and deciding the appeals elaborate the law points, and set precedents for the trial courts for future decisions, at the same time the Superior Courts have the powers to alter, reduce, confirm/uphold the sentence, and also to acquit the accused. The High Court has also resolved the controversy as to public/private witness of the occurrence by observing that there is no likelihood of outsider to view the occurrence because the accused will manage

a hidden place.<sup>1420</sup> Regarding delay and consultation with elders of family for lodging a case, the High Court ruled that said consultation and delay would not be fatal because the victim and family have been facing the trauma of the incident,<sup>1421</sup> the courts have also excluded the defence of accused as to false implication in the case, with the observation that no parents would destroy the future of their child to implicate an innocent person.<sup>1422</sup>

The nature, value, and admissibility of the medical evidence have also been elaborated by the High Courts in their number of decisions, the Courts observe that evidence of the medical officer/doctor who examined the victim, forensic report, DNA report, and the report of the chemical examiner must be in line and if these are corroborating, it would mean that the prosecution has proved its case.<sup>1423</sup> The High Court has also observed that the medical evidence is a corroborative piece of evidence. The oral and medical evidence are always corroborating each other and minor discrepancies in the statements of prosecution must be ignored,<sup>1424</sup> evidence of an interested cannot be discarded because of any relation of witness with the victim,<sup>1425</sup> even the solitary evidence of the victim is sufficient to rely upon if corroborated by medical evidence.<sup>1426</sup> The Courts have also narrated the importance of the circumstantial evidence and observed that the circumstantial evidence can be relied upon for recording conviction if it fulfills the requirements.<sup>1427</sup> On DNA report the Court has observed that DNA and medical evidence are corroborative piece of evidence<sup>1428</sup> but in some cases, it becomes the only evidence and the Court observed that conviction can be based on medical

---

<sup>1420</sup> Saleem Ullah's case, MLD 2000 Peshawar High Court 1290.

<sup>1421</sup> Jibrān's case, MLD 2016 Peshawar High Court 1479.

<sup>1422</sup> Shamoan Masih case, PCr.LJ 2001 Karachi High Court 57.

<sup>1423</sup> Yasir's case, MLD 2018 Balochistan High Court 1014.

<sup>1424</sup> Muhammad Akbar's case, SCMR 2007 Supreme Court 1192.

<sup>1425</sup> Sheraz Taufail's case, SCMR 2007 Supreme Court 518.

<sup>1426</sup> Fayyaz's case, SCMR 2006 Supreme Court 1042.

<sup>1427</sup> Nadeem's case, PCr.LJ 2005 Federal Shariat Court 1010.

<sup>1428</sup> Muhammad Mushtaq's case, MLD 2020 Lahore High Court 588.

evidence where DNA samples of the victim and the accused matches through the forensic process,<sup>1429</sup> the importance of the DNA report cannot be denied in rape and sodomy case because it provides the courts with a mean of identifying perpetrators with a high degree of confidence to reach a conclusion whereby the real culprit could be convicted.

---

<sup>1429</sup> Malik Aqeel's case, MLD 2016 Karachi High Court 129.

## **Chapter No. 7**

### **RECOMMENDATIONS**

The researcher after conducting the thorough investigation into the matter of child abuse, violation, causes, effects of child abuse, flaws in present legislation, and problems of prosecution system are capable to make recommendations. There are certain aspects which require immediate reforms such as legislation i.e. a specific law is required that should cover immediate reporting of case of child sexual abuse cases, investigation must be conducted within 15-days the court prosecution should be speedy, the victim and witnesses must also be protected. The educational institutions and their curriculum should be so designed that it shall empower the children to save themselves from any kind of abuse. The media and other modes should, fully, be activated and encouraged to promote the child rights and highlight the issue of child abuse, with complete responsibility.

#### **1. Federal and Provincial Levels**

The violence against children around the world is a universal trauma and sexual abuse of the children is the worst form of the said violence. The civilized societies are putting their best efforts to reduce and eliminate the violence and for this purpose, the legislators are enacting effective laws and the executives are enforcing the said laws. At present, the situation of child sexual abuse in Pakistan is at the worst stage. The legislators, executives, and judiciary should perform their respective duties and obligations to cope with the situation. Healthcare and related institutions must establish a mechanism for

collecting data, providing the best healthcare facilities, rehabilitation assistance, and medication. The school administrations must also arrange a curriculum which should include awareness of child abuse and safeguard. The legislators must enact proper and effective laws to eliminate the incidents of child abuse. The judiciary and public prosecution must also perform their parts to eradicate this social evil.

## **2. Police System and Cases of Child Abuse**

That the police are a first government institution to whom a victim approaches after the incident, it investigates the matter, collects evidence and do all other requisite tasks. In present Pakistani police system there are number of deficiencies which are required to be removed; therefore, the researcher has made the following recommendations for better policing.

### **i. Pre-Service Training of the Investigating Officer(s)**

It is the duty of the concerned government to appoint the investigating officers for conducting investigation in child abuse cases and at the time of appointment the said officers must be provided a pre-service training to accomplish them for the basic requirements of investigation in child abuse cases. The pre service training must be so scheduled that an officer must develop basic skills and knowledge about his sensitive job. The said training must cover 1) assessment and nature of incident, 2) spot inspection, 3) collection of evidence, 4) use of scientific techniques, 5) collection and preservation of available evidence, 6) statement/interview of victim, 7) immediate medical assistance to victim, and 8) protection of victim and other witnesses. The government should also determine the minimum qualification(s) for the newly appointed investigating officer(s). The concerned officers should be given periodical trainings to

keep them up-dated with the latest techniques and knowledge.

## **ii. The Use of Modern Mechanisms and Techniques**

Since it is an era of technology and during crimes many of the electronic devices may be used and the offenders may keep record of the incident for future blackmailing. In child abuse cases; it has been seen that the accused person record the unfortunate incident in mobile phones and use the same at later time. Sometimes there is cameras/CCTV available at the place of occurrence or near the place of occurrence which may help the investigating officer to collect the relevant evidence. In many cases the accused use mobile phones for making videos of incidents of abuse and save them in memory cards, therefore, memory cards of the mobile phones may be another source of information of the incident. The forensic audit of the mobile phones and memory cards. Sometimes geofencing of the place of occurrence may also be required for collection of evidence.

The collection of blood stained earth and clothes, in case of death of victim, are also important pieces of evidence and it is the duty of the investigating officer to collect the same for medical and forensic examination. At the same time the semen collection and its in-time transmission to laboratory is also compulsory for the investigating officer.

## **iii. Training as to Skills and Knowledge**

In the cases of child abuse the victim is always a child and sometimes a very young child; therefore, it is very important that the investigating officer must have sufficient skills and knowledge to interact with the child and understand situation that the child is facing. The situation may be more complicated when the abused child is murdered by the culprit, in most of the cases the offence is committed at private place, therefore, in the

absence of star witness/abused child, the collection of evidence becomes more complex. The investigating officer must have the skills to communicate with the offender so that some incriminating material could be extracted such as confession. For the purposes of skills and knowledge; the investigating officers must be well trained and having regular trainings so that they may have specialized skills and knowledge and guesswork may be avoided in the final report. A child victim, generally, faces two types of traumas such as psychological and physical and it is the duty of the investigating officer to assess the both and start working on both sides and it will be possible when he or she would have enough skills and knowledge to deal with the situation. These trainings and skills may enable the investigating officer to 1) establish investigative protocols, 2) provide adequate personnel to both victim and witness, 3) reach out the other discipline, 4) share professional information, 5) keep communication open for all, and 6) confront the conflicts openly.

#### **iv. The Statement /Interview of Victim Child**

There is an increasing recognition that skills and sensitivity is required for effective statement/interview of the victim child and this type of statement is called forensic interview of the child victim. The poor statement/interview can damage the collection of important information and evidence which may possibly be collected for a strong prosecution case. In Pakistan there is no such training to the investigating officers for conducting the said forensic interviews of victim child; therefore, it is necessarily needed that proper training to enhance skills and knowledge must be provided to all investigating officers who conduct investigation in child abuse cases.

**v. The Investigation of Child Abuse Cases**

Investigation in a criminal case is conducted under the code of criminal procedure (Cr. P.C) and the police rules and for this purpose Chapter 25 of the police rules and some other provisions of Cr. PC are relevant. Under section 173 Cr. PC the police submits its final report within 14-days but in practice the said report is submitted, in most of the cases, after long period of time. Therefore, the law on the subject shall be amended and a specific and mandatory direction may be promulgated in the law for submission of final report in the cases of child abuse.

Whereas, if the Investigating Officer remains failed to do the needful, there should be consequences of his failure and in this regard, a strict penalty /punishment must be described in the relevant law. It is most appropriate situation that police stations for the cases of child abuse must separately be established, so that the victim, his or her family and the witnesses must not be afraid from the customary police stations rather they feel comfortable. Though the provision of Interim final report under section 172 Cr. P.C. has been provided in the law but in practice this provision is not implemented by the concerned police officers.

**vi. Duties of Investigating Officer**

It is the duty of the Investigating officer to implement the law and enforce the rights of the victim child. Besides, other it is also duty of the investigating officer to provide protection to victim, the witnesses and the family of the victim. It is because of the reasons that, practically speaking, in most of the cases, the accused persons in use their influence or use negative tactics to pressurize the victim and others.

## **vii. Significance of Intra-Agencies Relationship**

The fundamental importance of Inter-Agency working in combating child abuse cases is the effective cooperation and coordination between the different agencies. The sharing of information and technology always plays an important role for the result oriented mechanism. The transferring of experience based professional knowledge on thorough assessment regarding different technical issues may also a pivotal tool for tackling the child abuse cases. In Pakistani System, the following reforms may be made for effective conclusion of child abuse cases:

### **a. Coordination between Police, Medical Officials and Forensic Lab**

Soon after the incident, the police is supposed to visit the place of occurrence and collect the evidence and for this reason, most of the time the forensic unit for spot inspection is required, therefore, a mechanism must be develop that the said forensic unit must reach at the spot as soon as possible, to preserve and collect the possible evidence. In hospitals, a separate unit may be established for conducting medical examination of the victim as well as the accused, if arrested. The samples i.e. blood, semen, and DNA Grouping must be sent to forensic lab without any delay and for this purpose, and the general technicalities may be eased. The concerned forensic lab must also create a distinct unit for completion of reports upon the received samples. The reports of the samples must be transmitted to the police on priority basis, preferably through e-mails, just to save the time. Because it has been seen that the final report of the crime is mostly got delayed due to late receiving of forensic and medical reports.

In Pakistan, the prosecution in the cases of child abuse is often delayed due to multiple reasons and it is need of hour to resolve this issue. Before talking about the

solution, it is appropriate that the factors for delay may be narrated here; such as victim child and family not pursuing the case, involvement of huge finance/expensive justice, the tensile atmosphere of court, relationship between victim and accused and gender of the victim.

### **3. Improvements in Public Prosecution Systems**

Under the prosecution Act/legislation the public prosecutor has been made supervisor of the investigation but the said public prosecutor is unable to do the needful not number of reasons. The said reasons are; due to heavy workload, no proper training, and unawareness to modern techniques. The present public prosecution system does not have proper communication with the higher police officials and government's established laboratories for obtaining medical and forensic reports and these facts, mostly, affect the case and speedy trial of the offenders. Lack of proper infrastructure is another very important factor due to which the efficiency and capability of the public prosecutors directly affect. The interference of the other departments in the work of the public prosecutors is very common and most the times it creates hurdle not only in investigation but also the court proceedings and sometimes the inefficiency of the public prosecutor delay the processes.

The aforementioned drawbacks can be remedied by adopting certain measures such as the concerned legislation must be amended or separate legislation may be passed, the number of public prosecutors must be increased and proper and regular trainings must be conducted. The experts of modern investigation must be deputed to train the public prosecutors, so that they must be kept updated. At headquarter (district level) and sub-division level (Tehsil level) proper infrastructure must be established, this

infrastructure must be so arranged that every prosecutor must have enough space to manage records and files, record maintaining mechanism must be provided. There has to be a "one click" set up to communicate with the other departments and all relevant departments must be bound to reply and communicate, on priority basis, with the public prosecutors so that all reports i.e. police reports, medical reports, and forensic reports may be made available in the courts. Under the law, the district public prosecution department must be made bound to forward the final investigation report in child abuse cases within 10-daystime and in case of failure, there has to be some serious penalties and consequences.

#### **4. Court Trial in the Cases of Child Abuse**

The purpose and object of trial is to decide the factum of a case and at the same time to formally conclude and determine the rights and duties of the parties. In a criminal trial the guilt or innocence of the accused is determined. The trial in child sexual abuse cases is a sensitive job and there are number of technicalities involved in it.

##### **i. The Delay in Prosecution and Unwillingness of Victim**

The delay in deciding the cases of child abuse is fatal for the prosecution and criminal administration of justice system because due to this reason the victim and other witnesses avoid to go courts. The delay can be cured by designating special courts at headquarter and sub-divisions for conducting trial of child abuse cases and in this regard, the number of cases allocated to one court must be that can humanly be handed and decided. Short adjournments and training of judicial officers and court staff may also contribute a lot.

**ii. Involvement of Finance and Non-supportive Attitudes**

Since, in Pakistan, litigation is an expensive task due to which the people avoid from courts. In child abuse cases, the Government in collaboration with the concerned High Courts must design a mechanism in which the victim and his family may not be burdened bear the expense.

**iii. The Court's Atmosphere and Society's Behaviors**

The present atmosphere in the courts, in the child abuse cases, is not comfortable which requires immediate changes and up-gradation. In this regard, the courts dealing with the child abuse cases may be established away from the regular courts. The court rooms may be designed in such a way that the victim may feel ease and comfort while appearing and deposing the evidence. At the same time, the society must change its thinking regarding the child victim and there should be no stigma attached to the victim because the said stigma may damage the personality and future of the victim.

**iv. The Relationship between Victim and Accused**

In number of cases, when child abuse is happened as intra-familiar situation, the victim is closely known to the victim or may be relative of the victim. The court conducting the trial must also keep in mind that the said relationship may affect the statements of victim and other witnesses (relative of the victim and accused). The concern High Courts while conducting the training of the judicial officers may design the training while considering this fact.

**v. The Gender and Age of the Victim**

At the time of trial, the gender of the victim may be of vital importance because generally a female victim feel hesitation to narrate the incident to a male judge, therefore, in such like eventuality, it is appropriate that a female judge may be appointed. A very tender age victim is to be dealt very carefully because he can be taught by the others, therefore, the judicial officer conducting the trial shall also minutely consider the deposition of the teen ager victim.

**5. Create Awareness for Non-violent Treatment and Training of Children**

There is false thinking that some violence is essential for suitable grooming and guidance of children. Such attitudes are very risky because violence is needless, destructive, and counterproductive. By using the media and other public view sources, awareness has to be conveyed to the general masses that no positive or helpful outcomes could be achieved through violence. Society, as a whole, must not agree to violence against children, and also their human rights should be valued in all situations. The activities of awareness amongst the parents, children, families, and society always have the potential to reach a diverse community atmosphere, for this purpose, the competent authorities have to design public information activities and programs.

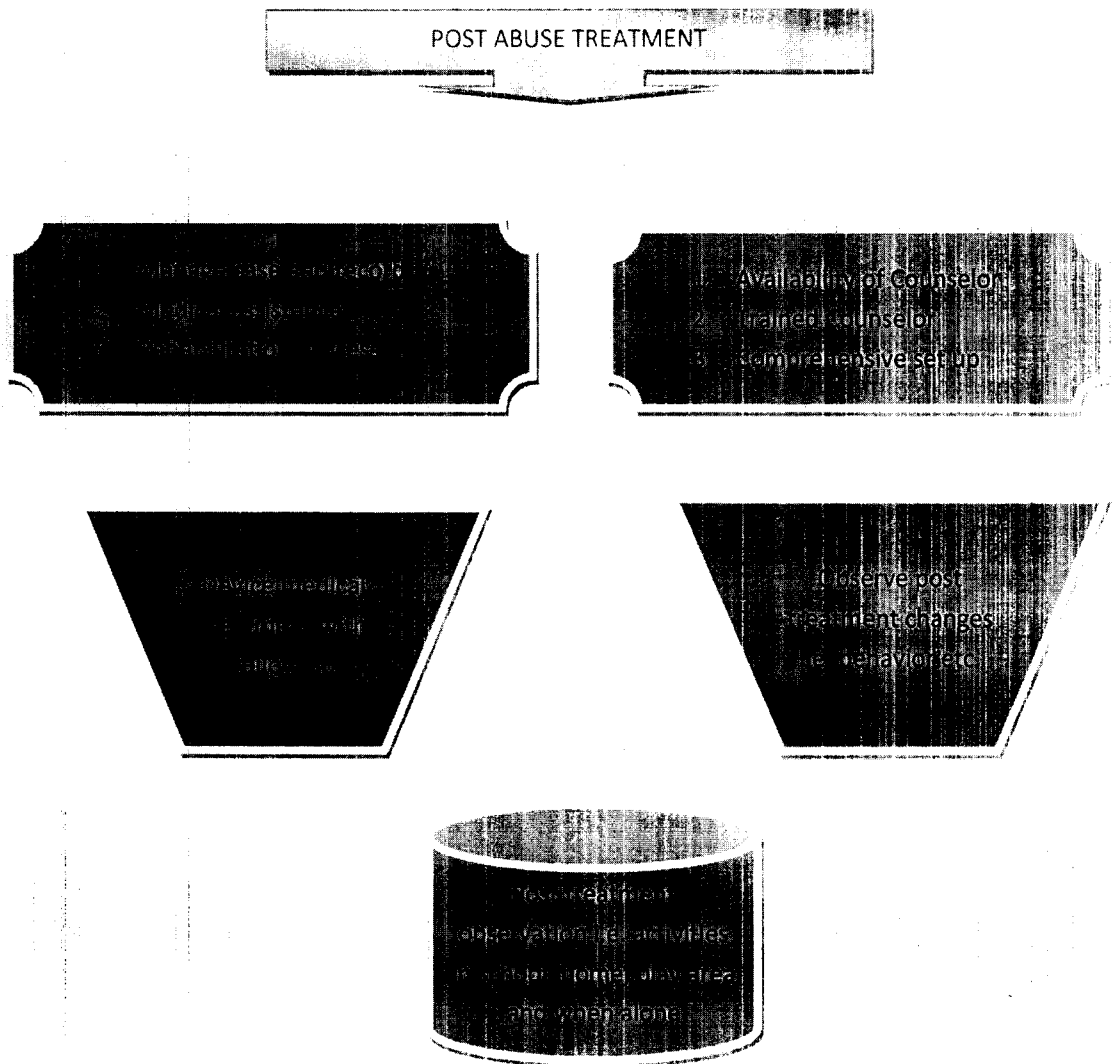
**6. Medical Examination at Healthcare Centers to Improve Reporting and Maintaining Data**

In underdeveloped countries, the victims of child abuse, generally, avoid going to healthcare centers or hospitals due to which not only the health of the victims affect but also the relevant data could not be collected. In primary healthcare centers, the complete

screening of the victims must be made compulsory and in this context, the relevant data must be preserved. Private pediatric practitioners must be included in primary healthcare centers. A mechanism must be established in which all relevant departments should coordinate with each other to supply intensive approaches to deal with issues. There has to be a National Network of State in the healthcare system for screening of victims of child abuse and remedies for rehabilitation. For this purpose the medical officers, nurses, and other medical staff must be trained to keep in view the required standards and goals. Without the proper screening and assessment, it is difficult for the healthcare officials to ascertain the sensitivity of child abuse trauma and its consequences. The detailed and comprehensive screening will lead the officials to the root cause and its possible treatments. The screening should be so designed that the victims must not feel ashamed and humiliated rather it should lead to rehabilitation. The officials conducting the assessment must also keep in mind that there are different types of consequences, concerning age differences, therefore, it is also important to keep in mind the age factor of the victim because the elder-age victims, as a general, suppress the memories and trauma either intentionally or unintentionally. Another but very important aspect of screening and assessment is confidentiality because the victims feel ashamed to narrate the incident due to the reason that there will be no confidentiality. Therefore, it is the duty of the assessor to ensure that the victim should feel easy and confident while narrating the occurrence.

The next step is to start treatment of the victim and for this purpose; the healthcare official has to provide maximum services i.e. proper handling and management of record of assessment and screening, counseling, medication. Post-incident precautions and observe recovery process, behavior changes, physical and mental disorders. The healthcare officials dealing with screening and assessment must

also keep in mind that the parent(s) who have been in the same trauma may have more tendencies to abuse other children; therefore, it is also important to break the cycle of abuse.



### 7. Sensitization about Gender Aspect in Violence Against Children

Over time, it has been established that all children have not the same danger and vulnerability to violence and abuse. The present research has highlighted and documented the teen-ager boys and girls, specifically from low socio-economic situations, are at high threat of violence. So the violence preventive policies must consist

of gender awareness and resolve the gender prejudiced practices such as compulsory school admissions of boys and girls. The aspect of neglect as to nourishment, love, and care must not be ignored. The strict discipline in schools for young children, most of the time, weakens their expressions of freedom, lowers their confidence, and negative inferences on their personality development.

#### **8. Future Research Directions**

Unfortunately, every society has its justifications to excuse and conceal violence against children. Such ridiculousness and institutional myths must be scientifically studied not only by the researcher but also by the government institutions. It is suggested that anthropological and ethnographic research must be conducted for a comprehensive understanding of the situation-specific justifications of violence and the fundamental information system that endures violence against children. In addition to this; organized longitudinal research must be conducted to point out the relationship between long-term cognitive and permanent damages affected by a child due to the result of violence experienced.

#### **9. Enforcing National and International Obligations for Child Rights**

The State of Pakistan has already signed a range of treaties and conventions i.e. CRC, particularly for the rights of children and usually for human rights i.e. Declaration on Human Rights, 1948. Initially; Pakistan has not enacted any specific law(s) in connection with CRC and due to this reason this convention cannot be invoked in Courts; unlike UK where it is possible. Subsequently, the 16<sup>th</sup> Criminal Amendment has been made for incorporation of principles and protections for the child rights provided by CRC but only few amendments in substantive law have been made which do not fulfill the basic

criterion. The procedural law has not been amended; therefore, it is needful to amend the procedural law. The other prevailing laws on the protection of rights of child abuse must be amended or even new law(s) may be enacted in connection for implementation of international treaties, conventions, and other obligations. It is also important that civil society, government mechanisms, and international institutions must work synergistically to enforce domestic and international legal and social responsibilities to make sure well-mannered and non-violent developmental junctures for children.

#### **10. The Use of Media and Media Regulation**

In the present era of modern techniques and globalization the social media and mass media are to be used to generate public awareness of what comprises of violence against children and the ordinariness of this abuse in the public. So called social customs which endorse physical punishment to discipline the children may gradually be changed by the use of mass media. Through media, especially through TV- shows and other social sites can unite the society to criticize the executors and offenders and to support the cause of protection for children. The Pakistan Electronic Media Regulatory Authority (PEMRA) and the social media regulating establishments may be aided with guidelines to strictly ban the wrong objects. The electric and print media is also a prominent source to highlight and develop awareness regarding violence against children and the importance of maintaining the rights of children. The media establishments should be encouraged to give priority and space to news of child abuse, gender-related reporting, the abuser should be highlighted, name and identity of victim should be avoided, name and identity of parents of the victim must be avoided, cross-checking of facts and materials, maintain language ethics, avoid sensational headlines and views, highlight actions against the accused person(s), and regular follow-up of child abuse cases.

### **i. Newspaper Coverage of Child Protection Issues in Pakistan**

The newspaper coverage provides a fair sense of issues of child abuse cases and the same provides the data for researchers, policy makers, and legislators, no doubt after due verification. The newspapers have wider readership; therefore, they provide general information and data, even to a common man and for this reason this wider readership may have wider potential to influence the approach and thinking of the readers. This coverage may also influence the legislators and policy makers.

### **11. Establishing Parent-Child Counseling Centers**

The concerned governmental departments must establish the parent-child counseling centers across country, where parents can be guided as to avoidance of neglect, safety against ordinary harms of children, and child protection. The above established centers can be utilized by many ways such as aid community teamwork for child protection through watching and daycare. Child nourishment wakefulness and health can also be corresponded through such plans and centers. The center must facilitate the counseling to the children who experienced or victims of violence. Parents' education programs and parents' support groups may be established educating the parents to make maximum efforts for the prevention of child abuse. This program will directly serve the general community and indirectly to child rights. This may comprise of practicing and developing positive discipline techniques, developing and promoting interaction between parents and children, accessing and locating community support and services.

## **12. Child Rights in the School Curriculum**

The children spend considerable time in schools and madrasa in Pakistan; therefore, the said educational institutions can play a vital role in the prevention of child abuse by training the children. The online education course in any State forms the basis of children and in under-developed countries, it has more importance. To prevent the abuse and violence the education syllabus must be so arranged that a child must know that what is his basic right, what consists of violation against a child, how to fight for one's rights, whom the child must visit for assistance or to report, and how the children can guard themselves when they are alone to stay away from occurrences of exploitation. The addition of such topics in the curriculum is also expected to give confidence to societies and parents to discuss explicitly regarding abuse and protection with their children. It is not only the State which has all responsibilities to cope with the situation of child abuse, the local communities and other non-governmental organizations must also offer skill-based activities and curriculum to guide the children regarding the safety of the child. For this reason, the activities must evolve around the programs for the avoidance of child abuse and tackle future abusers as well.

## **13. Rehabilitation Centers for Child Victims**

Rehabilitation is described as specialized and dedicated healthcare units for restoring, improving, and maintaining the physical and mental health of child abuse victims. Rehabilitation also enables child abuse victims to attain and maintain their optimal physical, intellectual, sensory, psychological, and social functioning in society. The rehabilitation process can easily be adopted when it would have strength of law, for this purpose, there has to be some strict legislation, policies, rules, and regulations. By the operation of law, the issues of funding and human resources can also be tackled and dealt

with. Rehabilitation centers must be established for children who are victims of any form of child abuse and violence. These rehabilitation centers should have trained child welfare members/agents who can help child victims to resume a normal and safe life. Social Safety net Programs for Child Welfare are present in Pakistan which works under the Finance Ministry, therefore, this institution should effectively be used for the protection of child victims.

#### **14. Role of Non-Governmental Organizations (NGOs)**

The Non-Governmental Organizations (NGOs) can play a vital role in the prevention of cases of child abuse; can provide data from all over the country, and legal assistance to the victim and his/her family. In this backdrop SAHIL (A Non-Governmental Organizations (NGO) is providing its services in an efficient manner. It collects data, publishes it and also provides legal facilitations. *Sahil* Protection Networks are also working in the villages areas linked with the local administration.

#### **15. Summary of Proposed Amendments in Relevant Laws**

1. In existing law under section 173 of Cr. P. C. if the investigation of the case would have not completed within 14-days then the concerned officer is required to forward an interim report to the competent court. In child abuse cases; section 173-A must be inserted with 30-days' time stipulation for conclusion of investigation and submission of Final Report and the concept of interim report must be omitted.
2. In existing law; the statement of the witnesses including the child victim is recoded under section 161 of Cr. P. C. A new section 161-A may be added in law

- requiring the investigating officer to record the statement of the child victim in the supervision of the competent Magistrate.
3. In child abuse cases whenever an appeal or revision is filed, it should be decided at priority basis. Particularly when trial is pending so that trial must be completed as soon as possible.
  4. When accused is blood relative who falls in prohibited degree of the victim child; there should be specific provisions for extra care and cautions by the investigating officer as well as the trial court.
  5. Chapter XXII-A of Cr. P. C. which provides provisions for trial of cases including the child abuse cases, by the court of sessions, must be so amended that it should narrate a time frame of 30 days for the conclusion of trial of cases of child abuse.
  6. Article 164 of QSO must be amended for insertion of admissibility of videotapes and from article 130 onwards must also be amended for admissibility of statements/interviews in criminal the proceedings of child abuse cases. The specific article may also be inserted for recording the evidence of a child in the cases of child abuse.
  7. In QSO Article 133-A may be inserted to impose specific restrictions on cross examination over a child victim in child abuse cases. The cross examination must be limited to the facts of the case deposed in examination-in-chief because in article 133 of QSO it has been mentioned that cross examination may be beyond the examination-in-chief.
  8. In QSO; the adjournments for cross examination must be restricted to three and it should also be mentioned in the law that if the accused does not cross examine his right of cross examination must be closed. The child must not be asked to

stand in witness box or doc, rather comfortable sitting arrangements must be provided.

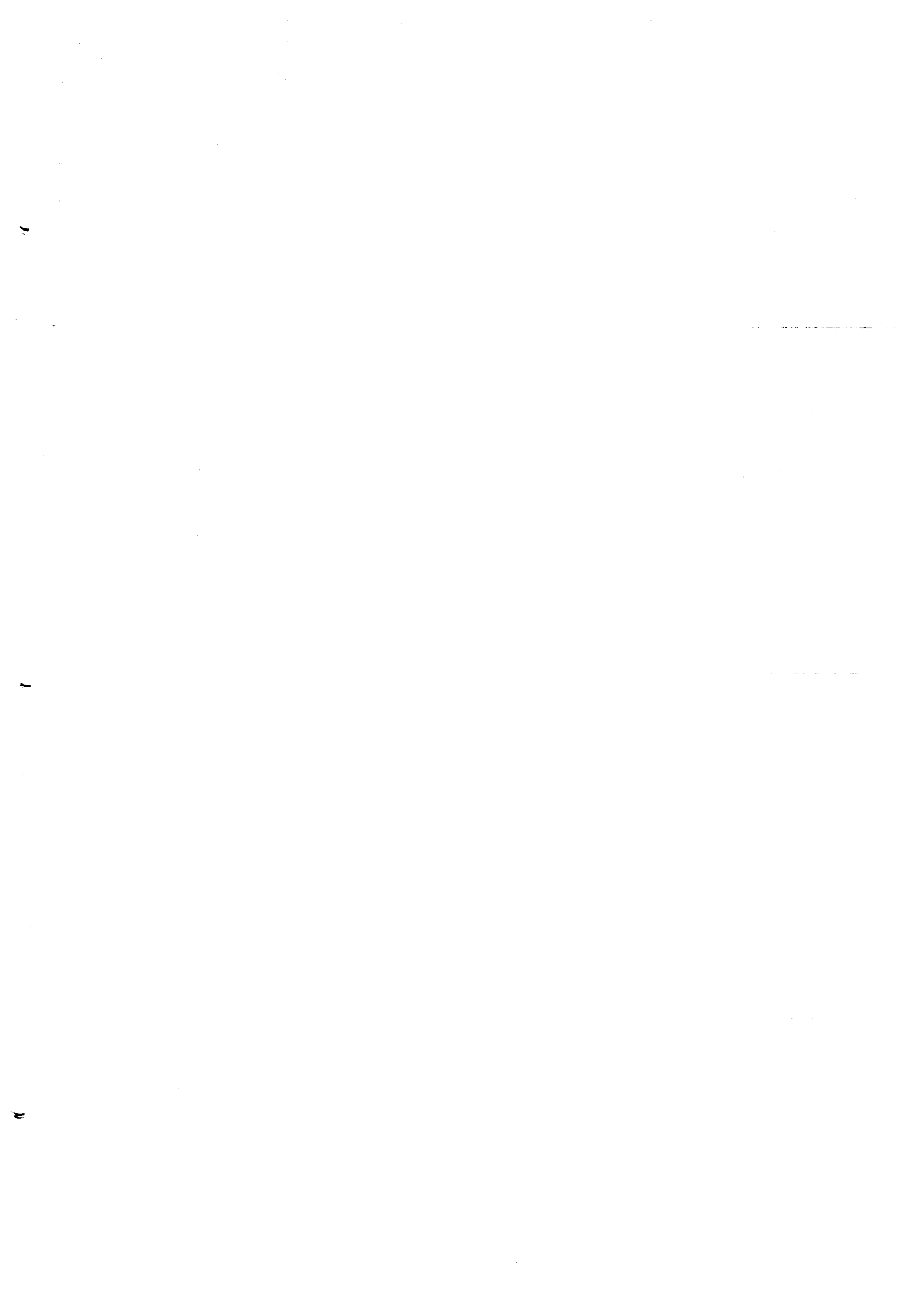
9. During the trial proceedings the Guardian or caretaker of the victim child must be allowed to associate him/her. This principle should be applicable from recording his/her statement by the police under section 161 Cr. P. C. and also in court proceedings.
10. The relevant Prosecution Act such Punjab Public Prosecution Act, 2006, must be amended and for a female child victim, the female public prosecutor must be appointed. At district level a senior female public prosecution must be appointed for supervision and liaison with victim and witnesses and for that purpose the relevant law ought to be amended. Because in existing laws there is no such provision(s) available.
11. The testimony of the child victim and witnesses may also be recorded in closed-circuit camera in criminal child abuse proceedings so that secrecy may be maintained which will also save the child's future.
12. By adding provision in Cr. P. C. a time limit for the length of a child's in-court testimony.
13. As a general rule; the hearsay evidence is not admissible. In child abuse cases; most of the times the victim child narrates his occurrence to his parents and subsequently their evidence is termed as hearsay evidence. The law ought to be amended and hearsay evidence must be made admissible. However, limitation of corroboration may be imposed.
14. The Law and Rules must be amended to permit closing of courtroom during child victim or witness testimony in criminal child abuse cases so that easy and comfortable atmosphere may be created for victim child.

15. The present Police rules and relevant law(s) must also be amended requiring sex offenders to register with a government agency such as police.
16. The Government through legislation must establish Child advocacy centers in every district and Tehsil for the first legal aid assistance to child victim and witnesses. Because in many cases, due to financial constraints, the victim child cannot get the immediate legal assistance.
17. The Code of Criminal Procedure and Police Rules should be amended for creating specialized units for the investigation and prosecution of child abuse. The specific separate police stations may be established for dealing the cases of child abuse having competent and trained staff.
18. The concerned provincial government(s) in consultation with respective High Court(s) as well as other institutions working for protection of child rights must establish courtrooms designed especially for children. In this context the requisite building rules may also be amended.
19. The concerned governments, by law or rules, must expand educational programs regarding the special needs of children for police, prosecutors, and the judiciary.
20. Expanding victim awareness, crisis response, and violence prevention programs throughout the nation's educational system.
21. By amending relevant Rules; at every District and Tehsil levels; a special and specialized medical unit must be established for dealing the issues of child abuse. More particularly the cases of child sexual abuse so that immediate medical aid must be provided to the victim child. If the child victim is required to be shifted in medical wards; the identity and cause of his/her admission in such wards are to be kept secret.

22. In every Forensic Laboratory; a specialized unit must be established for conducting DNA reports and other requisite reports, so that process of investigation and prosecution must be accelerated. For more convenience to the police and prosecution; the said units may be created at every District or Division level.
23. In the case(s) when accused is not known or escaped from the place of occurrence and the geo-fencing is required to be conducted. The concerned government(s) must promulgate law for the above said purpose so that evidence regarding the identity of the accused may be found.
24. The concerned government(s) in consultation with the experts must chalk out the duties of an investigating officer of child abuse cases. For this purpose provisions in the Code of Criminal Procedure, 1898 may be inserted. The check list of the duties of the investigating officer must be annexed in the Schedule of the Code of Criminal Procedure, 1898.
25. In many of the cases when victim is a child of very tender age; he/she requires constant counseling in the shape of psychiatric assistance and guidance. For that purpose the government must appoint a psychiatric in every hospital at District and Tehsil levels.
26. Strict time limitations must be imposed on the release of identifying information about child abuse victims in criminal proceedings by the police and the court. The police must keep secret the identity of the child victim. At the same time the trial court must not mention the name of the victim child during the trial proceedings.

## **16. To Enforce and Protect Child Rights in Pakistan in child Abuse Cases**

There are important child rights in child abuse cases which are recognized all over the world and same are enforced not only during investigation but also in trial as well as after trial of the case. These rights are enforced in Pakistan and there is dire need to enforce these rights in Pakistan during investigation and prosecution of the cases. The legislatures must incorporate these rights in all concerned laws so that there should have been state force and orders of the courts to enforce these rights. The following rights of the child in child abuse cases must be protected and enforced. Right to get protection from state and society, Right to register criminal case in case of abuse, and Right to have fair and effective investigation. Right of immediate medical treatment and assistance, Right of speedy and inexpensive justice, Right to be treated well during court proceedings, and Right as to secrecy during investigation and court trial. Right of proper hearing during trial, Right to access all possible government departments for rehabilitation, Right to be treated with dignity and compassion, Right to be protected from discrimination in court proceedings and Right to be informed regarding investigation and court trial. The other rights are: Right to express views and concerns and to be heard by police and the Court, Right to effective assistance through a legal practitioner at his own expense, if affordable, or at the expense of the state, Right to privacy during investigation and trial and Right to be protected from justice process hardship. Similarly many other rights such as; Right to safety in investigation and court trial, Right to reparation by the trial court if abuse is proved, Right to special preventive measures by the society, The best interests of the victim child are to be protected and to provide a meaningful and up-right standard of life. The state is responsible to enforce and protect these rights for safeguarding the best interest of the



children. Therefore, effective mechanism must be devised for the enforcement and protection of these rights. So that the children can be protected from all forms of abuse, violence and exploitation.

## Bibliography

### Articles

- A. Crews and Gordon. Do you know how your children are? International perspectives on child abuse, mistreatment, and neglect. *Ohio: Marshall University*, 2010.
- A. B. B. Munir, Child protection: Principles and applications. United Kingdom: *Child Abuse Review*, 2(2) 119–126 (1993).
- Abashidze, A Gugunskiy. Current Problems of Interstate Cooperation of Russian Federation for the Protection of Children in Case of Disputes between Parents Living in Different States. Bangalore: *Asian Social Science*, Vol. 11, No. 14. (2015): 337-342.
- Acosta M, L. Collecting evidence for domestic and sexual assault: highlighting violence against women in health care system interventions. *Carey: International Journal of Gynecology & obstetrics*, (2002); 78.
- Aisha, Mehnaz. State Of Children In Pakistan Confronting Reality. Islamabad: *The Journal of the Pakistan Medical Association*, (2011): 61(6), 518-519.
- Alderman Horal, Orazem Peter. School Quality, School Cost, and the Public/Private School Choices of Low-Income Households in Pakistan. Madison: *The Journal of Human Resources*, (2001) 36(2), 304-326.
- Alderson, Priscilla. 'UN Convention on the Rights of the Child: Some Common Criticisms and Suggested Responses'. *Child Abuse Review*, Vol. 9, Issue No. 6. (9): (2000) 439 – 443.
- Allard, J. E. The collection of data from findings in cases of sexual assault and the significance of spermatozoa on vaginal, anal and oral swabs. *Science Justice*, 1997: 37 (2) 99-108.

- Aluede, Oyaziwo. Psychological maltreatment of students: A form of child abuse and school violence. Dehli: *Journal of Human Ecology*, (2004) 16(4), 265-270. DOI: 10-1080/09709274.2004.11905748
- Anderson, D G. "Coping strategies and burnout among veteran child protection workers". Oklahoma: *Child Abuse & Neglect*, 2000, Vol. 24 No.6, pp.839-48. DOI: 10.1016/s0145-2134(00)00143-5.
- Andrea D. Theodore, Runyan DK. A medical research agenda for child maltreatment: negotiating the next steps. United States: *Pediatrics*, Vol. 104. 1999, 104:168–177.
- Arboleda, Cortes Maria, Canton Duarte, and J Canton Cortes. Characteristics Of Sexual Abuse Of Minors And Its Consequences On Victims. London: *Mental Health*, (2011) 25(2), 157–165. PMID: 21345542.
- Arias, Martha L. "The European Union Criminalizes Acts of Racism and Xenophobia Committed through Computer Systems". *Academic dictionaries and Encyclopedias*, 2011.
- Arnott, Stephen R. Family Law. Autonomy, Standing, and Children's Rights. United States: *33 William Mitchell Law Review*, Vol. 33, Issue No. 3, (2007):809.
- Arpan, "Between the Lines—an analysis of media reportage on child sexual abuse", 2014. <https://www.arpan.org.in/research/> Last accessed on 12-9-2019.
- Asimov, Micahel. Delegated legislation in the United States and United Kingdom. *Oxford Journal of Legal Studies*. Vol. 3, Issue No. 2 (Summer 1983): 253.
- Astor, Ron Avi, and Meyer H. Ann. The Conceptualization of Violence-Prone School Sub-contexts Is the Sum of the Parts Greater than the Whole? *Urban Education*, Volume 36, Issue No.3 (May, 2001). 511528.
- Aziz Faiza. "Child Abuse". Abbottabad: *Journal of Ayub Medical College*, 2007: 1-2.

- B, Egeland. A History Of Abuse Is A Major Risk Factor For Abusing The Next Generation. *Current controversies ion family violence. Thousand Oaks, CA, Sage*, (1993):197–208.
- B, N Gordon, Baker-Ward L. Children’s testimony: A review of research on memory for past experiences. *Clinical Child and Family Psychology Review*, 2001, 4, 157–181. <https://doi.org/10.1023/A:1011333231621>. Last accessed on 19-8-2019.
- Baladerian, N. J. Sexual and physical abuse of developmentally disabled people. *Mental Health Consultants*, (1990): 90230.
- Balding D. J., Buckleton J. Interpreting low template DNA profiles. *Forensic Science International: Genetics*. Vol. 4, Issue No. 1 (2009); 4(1):1–10.
- Bales, Kevin. Disposable People. *University of California Press*, Vol. No. 22, Issue No. 3 (August, 2000): 867-872.
- Bedont, Barbara, and Martinez Katherine Hall. Ending impunity for gender crimes under the International Criminal Court. *The Brown Journal of World Affairs*, Vol. VI, Issue-1, (1999): 65–85
- Bentovim, A. and Tranter M. The sexual abuse of children and the courts in the child witness: Do the courts abuse children?. *Psychological Society: Leicester*, Vol. 29, No. 4. 1988, 55.
- Bentovim, Arnon. Preventing Sexually Abused Young People From Becoming Abusers, And Treating The Victimization Experiences Of Young People Who Offend Sexually. *Child Abuse & Neglect*, Vol. 26, Issue 6/7, 2002: 661-678.
- Berlin, Lisa, J. Appleyard, Karen and Dodge A. Kenneth. Intergenerational continuity in child maltreatment: Mediating mechanisms and implications for prevention. Chicago: *Child Development*, (2011) 82(1), 162–176.
- Berrien, B, and Safanova T. In child abuse: a global view. *West port, conn: greenwood*,

- press*, (2001).
- Bette, Bottoms, Gail S, and Goodman. "Perceptions of Children's Credibility in Sexual Assault Cases". *Journal of Applied Social Psychology*. Vo. 24, Issue No. 8, 1994: 702-732.
- Black, Dubowitz. *Child neglect. Child abuse : medical diagnosis and management*. Philadelphia, PA, *Lippincott Williams & Wilkins*, 2001.
- Bloomington, B. International Treatment of Child Abduction and the 1980 Hague Convention. 15 *SUFFOLK TRANSNAT'L L.J.* (1991). 188
- Bonnie, Louise Houg. (2008). *The Role of Spirituality in the Ongoing Recovery Process of Female Sexual Abuse Survivors*, Minneapolis, Minnesota, (2006), [https://conservancy.umn.edu/bitstream/handle/11299/46810/Houg\\_umn\\_0130E\\_10011.pdf?sequence=3](https://conservancy.umn.edu/bitstream/handle/11299/46810/Houg_umn_0130E_10011.pdf?sequence=3).
- Borgh, Stolten, M. Van Ijzendoorn, and M.H. A Global Perspective On Child Sexual Abuse: Meta-Analysis Of prevalence Around the World. *Child Maltreatment*, (2011). 16(2):79-102.
- Bradshaw, Jonathan, and Antonia Keung. Trends In Child Subjective Well-Being In The UK. *Journal of Children's Services*, (2011). 6(1), 4-17. DOI:[10.5042/jcs.2011.0122](https://doi.org/10.5042/jcs.2011.0122)
- Brady, L Guy, Poelstra, and Brokaw. "Vicarious traumatization, spirituality, and the treatment of sexual abuse survivors: a national survey of women psychotherapists". *Professional Psychology: Research and Practice*, Vol. 30 No.4, (1999). pp.386- 393. <https://doi.org/10.1037/0735-7028.30.4.386>
- Briana Nelson, Wampler, K S. Further Understanding The Systemic Effects Of Childhood Sexual Abuse: A Comparison Of Two Clinical Couples, *Journal of Child Sexual Abuse*, Volume No. 11, Issue No. 3 (2002) 11(3), 85 – 106.

Briere John. Treating Adult Survivors Of Severe Childhood Abuse And Neglect, Further Development Of An Integrative Model. Sage Publications, Inc. The APSAC handbook on child maltreatment (2002). pp. 175–203.

Briere, John. Child Abuse Trauma: Theory and Treatment of the Lasting Effects. California: *Sage Publications*, (1992).

Briody, Michael. The Effects of DNA Evidence on Sexual Offence Cases in Court. *Current Issues in Criminal Justice, Volume 14, Issue 2*, (2002).  
<https://doi.org/10.1080/10345329.2002.12036257>

Bromfield, M. Chronic Child Maltreatment In An Australian Statutory Child Protection Sample. Unpublished Dissertation, Geelong: *Deakia University*, (2005).

Brown, Al. The development of memory: knowing, knowing about knowing, and knowing how to know. *Urbama Champaign: Center for study of reading*, (1975).

Brown, Gordon. Global Citizenship Commission, Implementation of Human Rights. London: *Equal Rights Trust*, (2016).

Brown, H. Stein J, and Turk V. Report of a second two year incidence survey on the reported sexual abuse of adults with learning disabilities, 1991 and 1992. *Journal of Applied Research in Intellectual Disabilities*, (1995), 8, 1-22.

Browne, A, and Finkelhor D. Impact of Child Sexual Abuse: A Review of the Research. *Washington: Psychological Bulletin*, (1986) 99(1), 66-77.

Bukatko, D. and Daehler M. *Child development: A thematic approach*. Boston: *Houghton Mifflin Company*, (1998).

Bukhari, Muslim, Aliza, and Kashamala Kiran, “Rights of Children and Parents”. (Jan 28, 2018). <https://islamonline.net/en/the-rights-of-children-on-parents-in-islam/>

Burki, Shahid Javed. “Provincial Rights and Responsibilities”. *Lahore Journal of*

- Economics*, Volume, 15, (2010).
- Chandy, J. M. and Resnick, M. D. Gender-specific outcomes for sexually abused adolescents. *Child Abuse & Neglect*, 20(12), (1996) 1219-1231.
- Cheema, Shahbaz Ahamd. DNA Evidence in Pakistani Courts: An Analysis. *Lahore: LUMS Law Journal*, (2016): 3(1).
- Christian, Tomuschat. International Covenant on Civil and Political Rights. *Berlin: Professor emeritus at Humboldt University*, 2008.  
[https://legal.un.org/avl/pdf/ha/iccpr/iccpr\\_e.pdf](https://legal.un.org/avl/pdf/ha/iccpr/iccpr_e.pdf)
- Christian, W, J M Levelle, and De Jong. Forensic evidence findings on per pubertal victims of sexual assault. *Pediatrics*, (2000). (106) 100-104.
- Christopher, F. Scott, and Sprecher Susan. Sexuality in Marriage, Dating, And Other Relationships: A Decade Review. *Hoboken: Journal of Marriage and the Family*, Volume, 62, Issue, 4. (2000). 999 1017.
- Chung, D. Violence, control, romance and gender equality: Young women and heterosexual relationships. Washington: *Women's Studies International Forum*, Volume, 28, (2005).
- Churchill, Robin R. and Urfan Khaliq, The Collective Complaints System of the European Social Charter: An Effective Mechanism for Ensuring Compliance with Economic and Social Rights?. UK: *European Journal of International Law*, Vol. 15 No. 3, (2004). 417-456.
- Cobia, CD, Sobanskya and Ingram M. Female survivors of childhood sexual abuse: Implications for couples' therapists. *Western Michigan: The Family Journal*, (2004). 12(3), 312-318.
- Cohen, N.J. and Squire L.R. Preserved learning and retention of pattern-analyzing skill in amnesia. Dissociation of knowing how and knowing that Science. *New York:*

*American Association for the Advancement of Science*, Vol. 210, No. 4466, (1980).

210, 207–210

Cole, P. M. and Putnam, F. W. Effect of Incest on Self and Social Functioning: A Developmental Psychopathology Perspective. *Washington, American Psychological Assn.: Journal of Consulting and Clinical Psychology*, (1992). 60(2), 174–184.

Connors, E, and Mc. Ewan. Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence after Trial, *National Institute of Justice. Alexandria VA: US Dept. of Justice*, (1996).

Cordon, I.M. Pipe M.E. and Sayfan L. Memory for traumatic experiences in early childhood. *New York: Developmental Review*, 2004: 101–132.

Cromer, Lisa Marie. “Factors That Influence the Believing Of Child Sexual Abuse Disclosures”. *Oregon: University of Oregon*, (June 2006).

Cross Theodore P. Alderden Megan, Lisa Sampson, Brittany Peters, Kaitlin Lounsbury and Wagner Alex. Biological evidence in adult and adolescent sexual assault cases: Timing and relationship to arrest. *Sage Publications: Journal of Interpersonal Violence*, (2017). 0886260517704229.

Culter, Susan, E. and Nolen-Hoeksema, Susan. Accounting for Sex Differences in Depression Through Female Victimization. *Childhood Sexual Abuse. Sex Rules: A Journal of Research*, (1991). 24(7-8), 425-438.

D. E. Lechner. *The New Webster dictionary of English language. U.S.A: Lexicon publication*, (2004).

D. L. Corwin. An interview with Roland Summit, Critical Issues in Child Sexual Abuse: Historical, Legal and Psychological Perspectives. CA: *Sage Publications Ltd. Thousand Oaks*, (2002):

- D.F. Hulbert, and Apt C. Female Sexual Desire, Response, and Behavior. SIECCAN, *The Sex Information and Education Council of Canada*. Vol. 14, Issue 1-2, (1994). 488-504.
- D'Amato, Anthony A. *International law: process and prospect*. London: Transnational Publishers, (1987). pp. 123-147.
- Daro, B. (Ed.). UNICEF's World Perspectives on Child Abuse. *International Society for prevention of child abuse and neglect: West Chicago*, (2006). IL: 8y77777
- Dayton, CJ, and Huth-Bocks AC. The influence of interpersonal aggression on maternal perceptions of infant emotions. *Associations with early parenting quality*, (2015). 1528-3542.
- <file:///C:/Users/Shahbaz%20Hussan/Downloads/Dayton2016InfluenceofInterpersonalAggression.pdf>
- De Hart, Gloria Folger. The Relationship between the 1980 Child Abduction Convention and the 1996 Protection Convention. *33 N.Y.U. J. INT'L L. & POL.* 83, (2000).
- De, Feyter K . Localizing Human Rights: A case study of the declaration on the rights of the Parents. *England: Cambridge University Press*, Vol. 16, Issue 2, (2017). p. 11-40.
- Deblinger, Esther, Mc. Leer, and Atkins MS. Post-traumatic stress in sexually abused, physically abused, and non-abused children. *Child Abuse & Neglect*, Vol. 13, Issue 3, (1989). 13(3), 403-408.
- Debra Whitcomb. Prosecution of Child Sexual Abuse. *Department of Justice Washington, D.C. National Inst. of Justice, Washington, DC: National Institute of Justice*, (1985).
- Debra. A. Poole, and Lindsay D. Stephan. Interviewing preschoolers: Effects of non-suggestive techniques, parental coaching, and leading questions on reports of

- non-experienced events. *Amsterdam: Journal of Experimental Child Psychology*, vol. 60 No. 1, (1995). 29-54.
- Detrick, Sharon, JE Doek, and Nigel Cantwell. The United Nations Convention on the Rights of the Child. Leiden: *Martinus Nijhoff Publishers*, (1992).
- Detrick, Sharon. A Commentary on the United Nations Convention on the Rights of the Child. Leiden: *Martinis Nijhoff Publishers*, (1999).
- Dezwirek-Sas, L. Empowering child witnesses for sexual abuse prosecution in Children as Witnesses. New York: *The Child Witness, A Training Manual by UNICEF*, 2016-2017.
- Diesen, C. and Diesen E.F. Assault on women and children: The legal practice. Stockholm: *Norstedts Juridik*, (2009).
- DiLillo, David, Michelle A. Fortier, and Andrea R. Perry. Child Abuse and Neglect. Lincoln: *Faculty Publications, Department of Psychology*, (2005).
- DM, Menick. The Problems of Sexually Abused Children in Africa, Or the Imbroglia Of A Twin Paradox: The Example Of Cameroon. *Child Abuse & Neglect*, (2001): 109–121. DOI: 10.1016/s0145-2134(00)00220-9
- Doane, Brian C. The Impact of Childhood Sexual Abuse: AA Qualitative Analysis of Healthy, Couples. Western Michigan University Press: *Perception*, (2015).
- Donald. G Fischer, and McDonald Wendy L. Characteristics of Interfamilial and Extra Familial Child Sexual Abuse. Washington: *Child Abuse & Neglect*, (1998): 22(9), 915–929.
- Doyle, Celia. “Current issues in Child Protection: *An Overview of the Debates in Contemporary Journals*”. *The British Journal of Social work*, (August 1996). Vol. 26, No.4, (1996), PP. 565-576.
- E, Keenan. Making it last: Repetition in children’s discourse. New York: *Academic*.

*press*, (1977)125-138.

Sjored J. Ebisch, Francesca Ferri and Vittorio Gallese. Touching moments: desire modulates the neural anticipation of active romantic caress. Italy: *Behavior Neuroscience*, (2014). doi: 10.3389/fnbeh.2014.00060

Elizabeth, Amanda Wade. The Child witness and the Criminal Justice Process: A case study in law reform. University of Leeds: *White Rose e-Thesis Online*, (1997).

Elizabeth, Bartholet. International Adoption: Current Status and Future Prospects. Princeton: *Princeton University Press*, (1993).

Elliot, Dietz Park. "Sex Offenses: Behavioral Aspects." In *Encyclopedia of Crime and Justice*. New York: *Free Press*, (1983).

Elvancy, Rosaleen Mc. How Children tell: Containing the Secret of Child Sexual Abuse. Dublin: *Dublin Institute of Technology*, (2008).

Evans, T. International human rights law as power/knowledge. The Johns Hopkins University Press: *Human Rights Quarterly*, (2005). 27(3), 1046–1068.

Everson, M, and Boat B. False allegations of sexual abuse by children and adolescents. North Carolina: *Journal of the American Academy of Child and Adolescent Psychiatry*, (1989). 230-235.

Feiring candice, Taska L, and Lewis Michael. Age and Gender Differences in Children's and Adolescent' Adaptation to Sexual Abuse. *Child Abuse & Neglect*, Volume 23, Issue, 2. (1999). 115-128.

Finkelhor David. Current Information on the Scope and Nature of Child Sexual Abuse. Hampshire: *The Future of Children*, Vol. 4, Issue 2, (1994). 4(2), 31.

Finkelhor, David, Richard Ormrod, and Mark Chaffin. Juvenile who commit sex offences against minors. New York: *Juvenile Justice Bulletin*, (2009).

Finkelhor, David. Sexually Victimized Children. Hampshire: *University of New*

*Hampshire-Main Campus press, (1979).*

Friedrich W. N. Sexual victimization and sexual behavior in children: A review of recent literature. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse & Neglect*, (1993). 17, 59-66.

Friedrich, William N. Beilke Anthony J. Robert L. and Urquiza. Behavior problems in young sexually abused boys. *Sage Publications: Journal of Interpersonal Violence*, (1988). 3, 21-27.

Fry, Fang X. Finkelhor D. Chen J. Lannen P. and Dunne MP. The burden of child maltreatment in China. Geneva: *Bulletin of the World Health Organization*, (2015). 93: 176–185.

Fuentes, Perez, G. Olfson, M Villegas, L. Morcillo, C. Wang, and Blanco C. Prevalence and Correlates of Child Sexual Abuse: A National Study. New York: *Comprehensive Psychiatry*, (2013): 54(1), 16-27.

Furniss, T. The multi-professional handbook of child sexual abuse: Integrated management, therapy and legal intervention. London: *Rutledge*, (1991).

Garbarino, J. and AC. Garbarino. Emotional maltreatment of children. Chicago: *National Committee to Prevent Child Abuse*, (1994).

Gee, Susan B. and Pipe, Margaret-Ellen. Helping children to remember: The influence of object cues on children's accounts of a real event. *American Psychological Association: Developmental Psychology*, (1995). 3, 746–758.

Ghani, Saeed. Comparative Analysis of Local Government Laws in Pakistan. Islamabad: *Consolidating Democracy in Pakistan*, (2018).

Gilles, Trudel. Sexuality and marital life: Results of a survey. Bethesda: *Journal of Sex & Marital Therapy*, (2002). 28 (3), 229-249.

Glover, Sciolla, and Loeb TB. Childhood Sexual Abuse Severity and Disclosure as

- Predictors of Depression among Adult African American and Latina Women. California: *National Institute of Health*, (2011). 199(7), 471-477.
- Goodman Gail S. and Melinder Anikka. The development of autobiographical memory: A new model. London: *Psychology Press*, (2007).
- Goodman, Gail S. and Melinder Anikka. Child witness research and forensic interviews of young children. England: *Legal and Criminological Psychology*, (2007). 12, 1-19.
- Goodman, Susan, and Joan Hurley. Reasonable Efforts: Who Decides what's Reasonable?. USA: *U.S. Department of Health and Human Services*, (1993).
- Goonsekere, Savitri, and Rangita De Silva-De Alwis. Women's And Children's Rights In A Human Rights Based Approach To Development, Women's And Children's Rights. New York, (2005) UNICEF 3 UN.
- Goonsekere, Savitri. "Realizing human rights of women and children: some reflections on law and policy". *Sage Publications, London and New Dehli: Development* (2001) 44(2), 15-21.
- Gordon, Malcolm, A. Recent Supreme Court rulings on child testimony in sexual abuse cases. London: *Informa Healthcare: Journal of Child Sexual Abuse*, (1992). The Child Witness, A Training Manual by UNICEF.
- Grare, Frederic. "Political Dimensions of Police Reform in Pakistan". New York: *Carnegie Endowment for International Peace*, (2010).
- Hacking Ian. *Rewriting the Soul: Multiple Personality and the Sciences of Memory*. Princeton: *Princeton University Press*, (1995).
- Hacking Ian. *World Making by Kind Making Child Abuse for Example*. Nelson Goodman Among the Social Scientists. Edinburgh: *Edinburgh University Press*, (1992).

- Hamad Norah Bin, Foundations for Sustainable Development; Harmonizing Islam, Nature and Law. New York: *Elisabeth Haub School of Law at Pace University*, (2107).
- Hamarman, Stephanie and Bernet, Willaim. Evaluating and Reporting Emotional Abuse in Children. New York: Elsevier: *Journal of the American Academy of Child and Adolescent Psychiatry*, (2000).
- Hamna Ahmed. The Impact of Public School Enrolment on Child Labor in Punjab, Pakistan. Lahore: *The Lahore Journal of Economics*, (2012).
- Hanson Karl, and Nieuwenhuys Olga. Re-conceptualizing Children's Rights in International Development. London: *Oxford University Press*, (2013).
- Harding, R. Sexual Assault Law Reform in the 1980's: To Where from Now? Proceedings of the Institute of Criminology. Sydney: *University of Sydney*, (1987).
- Haugaard, J. Jaffery and Reppucci N. Dickon. The Sexual Abuse of Children: A Comprehensive Guide to Current Knowledge and Intervention Strategies. San Francisco Publisher, (1988).
- Haxhiraj, Aulona. The Covenant on Civil and Political Rights. Albania: *Aulona Haxhiraj, University press*, (2016).
- Hayes David, and Spratt Trevor. Child welfare as child protection then and now: What social workers did and continue to do. Oxford University Press: *British Journal of Social Work*, Vol. 44, No. 3. (2014), 44(3), p. 615– 35.
- Helfer. R.E. A Review of the Literature on the Prevention of Child Abuse and Neglect. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse and Neglect*, (1982); 6: 251–261.
- Henderson-King, D. H. and Veroff J. Sexual satisfaction and marital wellbeing in the

- first years of marriage. Sage Publication, *Journal of Social and Personal Relationships*, (1994). 11(4), 509-534.
- Hill Catherine, and Kearsley Holly. *Crossing the line: Sexual harassment at school*. Published by AAUW 1111 Sixteenth St. NW Washington, (2011).  
[https://www.abacusdiagnostics.com/Collection\\_of\\_Evidence.pdf](https://www.abacusdiagnostics.com/Collection_of_Evidence.pdf)  
[https://www.academia.edu/10853610/Sexual\\_Abuse\\_of\\_Boys](https://www.academia.edu/10853610/Sexual_Abuse_of_Boys). Last accessed on 21-09-2019.
- Hunter R.S. Kilstrom N. Loda F. Antecedents of Child Abuse and Neglect in Premature Infants. Springfield, Ill., Thomas: *Pediatrics*, (1978).
- Hussain, Fikree FF, and Berendes HW. The role of son preference in reproductive behavior in Pakistan. Geneva: *Bull World Health Organ*, (2000). 78(3):379-88.
- Hyder, Adnan Ali, and Malik Fauzia Aman. Violence against Children: A Challenge for Public Health in Pakistan. Dhaka: *Journal of health, population, and nutrition*, (2017).
- Imran, Ahsan Nayzee. "Islamic Law and the CRC (Convention of the Rights of the Child)". Islamabad: *Islamabad Law Review*, Volume: 1, Nos. 1 & 2, (2000).
- Inyang Mfrekemfon P. "Rape and the Girl Child". New York: *IOSR Journal of Dental and Medical Sciences*, Volume 14, (2015). (IOSR-JDMS) e-ISSN: 2279-0853.
- J, M Gottman. A Theory of Marital Dissolution and Stability, *Journal Of Family Psychology*, (1993). 7, 57-75.
- J. Barthelemy. Social Aspects of Child Abandonment. Child Psychiatry and Human Development. *Human Sciences Press*, Vol. No. 11(4), (1981).
- J. R. Spencer and Flin RH. The evidence of children: the law and the psychology. London: *Blackstone Press*, (1990).
- J. R. Spencer, and Flin RH. The Evidence of Children: The Law and the Psychology.

- London: *Blackstone Press*, (1993).
- Jabeen, Tahira. A History of Contemporary Child Protection in the Global South (with a special focus on South Asian and Pakistan). *Punjab University: J.R.S.P.*, (2013).
- Jabeen, Tahira. Child Protection Legislation in Pakistan: Bringing International Child Rights Obligations. Peshawar: *Pakistan Journal of Criminology*, (2016).
- Jackson, Helene, and Ronald Nuttall. "Effects of Gender, Age, and History of Abuse on Social Workers' Judgments of Sexual Abuse Allegations". Fort Collins: *Social Work Research*, (1994). pp. 105-113.
- Jacobson, G Hunter, and A. Kirby. 'Supporting Fair and Respectful Treatment of Witnesses', A research-based briefing from the Institute for Criminal Policy Research. Birbeck publishers: *University of London*, (2014).
- James. J. Edwards, and Alexander Pamela C. The Contribution Of Family Background To The Long-Term Adjustment Of Women Sexually Abused As Children. Washington: *Journal of Interpersonal Violence*, (1992) 7, 306-320.
- Jerome, Frank. Courts on Trial. Princeton: *Princeton University Press*, (1949). P. 16.
- Jillani, Anees. Pakistani Laws and the Convention on the Rights of the Child. A Study Conducted for the United Nations Children's Fund. Islamabad: UNICEF, 1989.
- JM. Leventhal. Twenty years later: we do know how to prevent child abuse and neglect. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse & Neglect*, (1996). DOI: 10.1016/0145-2134(96)00054-3.
- Johnson, S. M. Emotionally Focused Couple Therapy with Trauma Survivors: Strengthening Attachment Bonds. New York: *Guilford Press*, (2005).
- Johnson, S. M. Integrating Marital and Individual Therapy for Incest Survivors: A Case Study. Washington: *Psychotherapy*, (1989). 26(1), 96–103.
- Jones and Mc. Quiston M. Interviewing the Sexually Abused Child. Denver: *National*

- Center for the Prevention and Treatment of Child Abuse and Neglect*, (1985).
- Jump, Rita Kenyon. Comparison of Behaviors of Suspected Sexually Abused and non-sexually Abused Preschool Children Using Anatomical Dolls. Publisher: *Western Michigan University Kalamazoo*, (August 1990).
- Kail, R, and Hagen J. W. Memory in childhood. *Hand-book of Developmental Psychology*, (1982).
- Karen, Saywitz J. Improving children's testimony: the question, the answer and the environment in Memory and Testimony in *The Child Witness*. *Sage: Y.S.* (1995). 113.
- Karen, Saywitz. The child as witness: experimental and clinical considerations in *Through the eyes of the child*. *La Greca, A. M. Alyn and Bacon*, (1990). 329.
- Kathleen. D. Brewer, Rowe, Daryl, M. and Brewer Devon, D. Factors related to prosecution of child sexual abuse cases. Philadelphia: *Journal of Child Sexual Abuse*, (1997). 6, 91 –111.
- Keary, K. and Fitzpatrick C. Children's disclosure of sexual abuse during formal investigation. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse and Neglect*, (1994) 18, 543–548.
- Khair, Sumaiya. Child Labor in Bangladesh, International Program on the Elimination of Child Labor. *International Labor Office, Geneva, ILO*, (2005).
- Khan, A. Sayeed, A. Shaikh, and S. Jamal. A. Child protection system mapping and assessment 2013- Punjab. *Collective for Social Science Research, UNICEF: Islamabad*, (2013).
- Kimberly, L. Cole, Sarlund-Heinrich, and Brown Laura. Developing and Assessing Effectiveness of a Time-Limited Therapy Group for Incarcerated Women Survivors of Childhood Sexual Abuse. Binghamton, NY: *Journal of Trauma &*

- Dissociation*, (2007). 8(2), 97-121.
- Kindy Yup-Ip Lam. Disclosure and Psychological Well Being of Sexually Abused Adolescents in Hong Kong. United States: *Journal of Sexual Abuse*, (2015). 24(7), 731-752.
- Kling, Kriston, C. Hyde Janet Shibley and Showers Carolin, J. Gender Differences In Self-Esteem: A Meta-Analysis. Washington (USA): *Psychosocial Bulletin*, (1999). 125(4), 470-500.
- Knight, Raymond A. Classifying Sexual Offenders: The Development and Corroboration of Taxonomic Mode Is. New York: *In Handbook of Sexual Assault*, (1990).
- Korff, Douwe. The Right to Life: A Guide to the Implementation of Article 2 of the European Convention on Human Rights. Council of Europe: *Human Rights Handbook* No. 8, (2006). p. 10.
- Kuehnle, K. Child sexual abuse evaluations: The scientist-practitioner model. New York, N.Y. John Wiley And Sons: *Behavioral Sciences and the Law*, (1999) 16, 5–20.
- Kvam, H. M. Is sexual abuse of children with disabilities disclosed? A retrospective analysis of child disability and the likelihood of sexual abuse among those attending Norwegian hospitals. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse & Neglect*, (2000).
- Kohlbert, L. Moral stages and socialization: the cognitive- developmental approach. In: *Moral Development and Behavior: Theory, Research and Social Issues*. New York Holt: *Rinehart & Winston*, (1976).
- Ladd Carll. Preservation and collection of biological evidence. Mediden: *Croatian Medical Journal*, (2001); 42(3):225–228.
- Lammerant, Isabelle, and Marlène Hofstetter. "Adoption: at what cost? For an ethical responsibility of receiving countries in inter-country adoption". France: *Terre des*

- homes*, (2007).
- Lee, Lyvers, and Edwards Micahel. Childhood Sexual Abuse and Substance Abuse in Relation to Depression and Coping. Bond University Research Repository: *Journal of Substance Use*, (2008). 13(5), 349-360.
- Leichtman, M. and Ceci S. J. The effects of stereotypes and suggestions on pre-scholars reports. Richmond, Va., American Psychological Association: *Developmental Psychology*, (1995). 31(4):568-578.
- Leonard, E. Davies. Anatomy of Cross-examination. Aspen Law & Business: *Prentice Hall Law and Business*, (1993).
- Leone, Sierra. Rape and other forms of sexual violence against girls and women. London: *Amnesty International*, (2000).
- Levesque, Roger J. Sexual Use, Abuse and Exploitation of Children: Challenges in Implementing Children's Human Rights. Brooklyn, New York: *Brooklyn Law review*, (1994).
- Lina, Leander, and Granhag. Children exposed to obscene phone calls: What they remember and tell. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse & Neglect*, (2005). 871-888.
- Littman, David. "Universal Human Rights and Human Rights in Islam". New York: *Midstream*, (1999).
- Loon Hans Van. The Hague Conference on Private International Law. Geneva: *Hague Justice Journal*, Volume 2 I (Number 2007).
- Lucy, Berliner, and Conte Jon R. Sexual abuse evaluations: Conceptual and empirical obstacles. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse & Neglect*, (1993) 17, 111-125.
- M. R. Hilton and G. C. Mezey. Victims and Perpetrators of Child Sexual Abuse.

Published online by Cambridge University Press: *British Journal of Psychiatry*, (1996) 408-415.

Maceachern, Alison, D. Sharon Jackson, and Jindal-Snape Divyal. Child Abuse investigation: police officers and secondary traumatic stress. Norwood, N.J.: Ablex Pub. Co: *Journal of Police and Criminal Psychology*, (2018).

Magalhaes, Teresa, Ricardo Jorge Dinis-Oliveira, Benedita Silva, Francisco Corte-Real. Biological Evidence Management for DNA Analysis in Cases of Sexual Assault. Boynton Beach, FL: Scientific World, Inc: *The Scientific World Journal*, (2015). ID 365674.

Mahanta Putul. "Rape, Sodomy and Murder of a Minor Girl". Bangalore: *Journal of Indian Academy of Forensic Medicine*, (2012).

Malik Farah. Determinants of Child Abuse in Pakistani Families: Parental Acceptance-Rejection and Demographic Variables. GC University, Lahore: *International Journal of Business and Social Science*, (2010).

Malik, Masud Ahmed. A Working Paper on Tackling Child Sexual Abuse The country needs a specialized Child Sexual Abuse Unit within the police department. Islamabad: *Center for Global & Strategic Studies Islamabad*, (2018).

Marie Baland Jean, and Robinson James 'Is Child Labor Inefficient?'. Jean-Marie Baland University of Namur James A. Robinson. *Journal of Political Economy*, Vol. 108. Issue No. 4, (2000). p. 667.

Martin, Peter D. and Hermann Schmitter. 'A Brief History of the Formation of DNA Databases in Forensic Science within Europe. Lausanne, Elsevier Sequoia, Ireland: *Forensic Science International*, (2001). 119 (2).

Mary, C. Townsend. Concept of Care in Evidence Based Practice. Philadelphia: *F.A Dawis Company Publishers*, (2006).

- Massod S. Muhammad. Multi-dimensional measurement of poverty in Pakistan: Provincial Analysis. Sargodha, Punjab: *University of Sargodha*, (2012).
- Mc-Alinden, Anne Marie. Deconstructing Victim and offender Identifies in Discourses on Child Sexual Abuse, Hierarchies, Blame and the Good/Evil Dialectic. Oxford University Press: *British Journal of Criminology*, (2014).
- Mehnaz, Shah, Nusrat. Mala Ashfaq and Krishan Rai Psychosocial determinants of nutritional neglect in a developing country. Karachi: *Journal of the Physicians and Surgeons Pakistan*, (2014). 24(5): 335-9.
- Mehnaz, Aisha. Child Abuse in Pakistan-Current Perspective. Karachi: *National Journal of Health Sciences*, (2018). [www.njhsciences.com](http://www.njhsciences.com). Last accessed on 04-11-2019.
- Merritt, K. A. Ornstein P. A. and Spicker B. Children's memory for a salient medical procedure: implications for testimony. Springfield, Ill., Thomas: *Pediatrics*, (1994) 94(1):17-23.
- Merry, Sally Engle. Crossing Boundaries: Ethnography in the Twenty-First Century, Polar Political and Legal Anthropology Review. *American Anthropological Association*, (2000) 23(2), 127-133. <https://www.jstor.org/stable/24498003>. Last accessed on 23-9-2019.
- Mitchall, L. Eisen, Goodman, Gail, Suzanne Davis and Cryotin John. Maltreated children's memory: Accuracy, suggestibility, and psychopathology. Richmond, Va., American Psychological Assn: *Developmental Psychology*, (2007) 1275-1294.
- Mitchell, Richard Charles. The UN Convention on the Rights of The Child in Post modernity: A Grounded Systemic Analysis of Children's Rights Educational Policies in Scotland and Canada. *University of Stirling Department of Applied Social Sciences*, (2006).

- Munir, Muhammad. "Rights of Children in Islamic Law: A Review of Some Existing Literature". Islamabad: *Allama Iqbal Open University: Maarif-e-Islami*, Vol. 13, Issue No. 1 (2014).
- Munir, Muhammad. A Review of the Book Rights of the child in Islam: theory, Mechanism, Practices, and convention on the rights of the child. Islamabad: *Islamic Research Institute Press*, (2017).
- Munir, Muhammad. Rights of the Child an Islamic Perspective on Preventing Violence, Abuse, and Exploitation of Children and Pakistani Law". Islamabad: *Hamdard Islamicus*, Vol. xxxviii, No. 4. (2015). P.33.
- Munir, Musa Saddridin. "Study on the important issues of child rights in Pakistan". Quetta: *The Dialogue*, Volume VI, No. 1 (2014).
- Murray, K. Preparing Child Witnesses for Court: A Review of Literature and Research. Central Research Unit: *Scottish Home Office*, (1997).
- Myres, S. McDougal, Lasswell, Harold D. *Human Rights and World Public Order: A Framework for Policy-Oriented Inquiry. Faculty Scholarship Series*, (1969). 273–274, 325–327.
- N. K. S. Reddy. The Essentials of Forensic Medicine and Toxicology. India: *Hyderabad press*, (1999). 324-342.
- Nadel, Lynn. Multiple memory systems: What and why, an update. Cambridge: *The MIT Press*, (1994).
- Nathanson Rebecca and K. Saywitz. Credibility of child witness: the role of communicative competence in American. Savannah, USA: *Prosecutors Research Institute Conference Proceedings*, (1998).
- Naz, and Kausar R. Parental Rejection and Comorbid Disorders in adolescents with Somatoform disorders. Lahore: *University of the Punjab*, (2012).

- Ndulo, Muna. The United Nations Responses to the Sexual Abuse and Exploitation of Women and Girls by Peacekeepers during Peacekeeping Missions. Cornell University Law School: *Berkeley Journal of International Law*, (2009).
- Nelms, Bobbie Crew. "Emotional Abuse: Helping Prevent the Problem". Tahun: *Journal of Pediatric Health Care*, (2019).
- Nieuwenhuys, Olga. Global Childhood and the Politics of Contempt. *Sage Publications: Alternatives*, (1998), 267-289
- Noll G. Jennie and Trickett Penelope K. Putnam Frank K. A Prospective Investigation of the Impact of Childhood Sexual Abuse on the Development of Sexuality. Washington: *Journal of Consulting and Clinical Psychology*, (2003).
- Norrgard, Karen. 'Forensics, DNA fingerprinting, and CODIS'. *An Analysis*, (2008): 11. <https://www.nature.com/scitable/topicpage/forensics-dna-fingerprinting-and-codis-736/>
- Nurcombe, Barry. The Child as Witness: Competency and Credibility. Washington: *Journal of the American Academy of Child Psychiatry*, (198) 25, 4473-480.
- O'Brien, S. Why They Did It: Stories of Eight Convicted Child Molesters. Springfield, Illinois, USA: *Charles C Thomas Publisher*, (1986).
- O'Hagan, K. P. Emotional and Psychological Abuse: Problems of Definition. Oxford, Elmsford, N. Y., Pergamon Press: *Child Abuse and Neglect*, (1995). 449-461.
- Dawson, P. The psychology of eyewitness testimony: developmental study of long term memory for film. New York: *New School for Social Research*, (1981).
- Palmer, R. and Mc'Quoid-Mason. Basic Advocacy Skills, the Child Witness. A Training Manual by UNICEF, 2016-2017.
- Paust, Jordan J. Self-Executing Treaties. Houston Law Center: *American Journal of International Law*, (1988).

- Perry N. W. and Wrightsman L. S. *The Child Witness: Legal Issues and Dilemmas*. California: *Sage Publications*, USA, (1991).
- Pierce, R. and Pierce, L. *The Sexually Abused Child: A Comparison of Male and Female Victims*. Oxford; New York: Pergamon: *Child Abuse and Neglect*, (1985). 9(2), 191 -199.
- Powell, Martin, B. and Wright, R. *Child abuse investigation: An in-depth analysis of how police officers perceive and cope with daily work challenges*. University of West-Minister, London: *An International Journal of Police strategies and Management*, (2006).
- Priebe Gisela, Hansson, and Svedin Carl Garon. *Sexual Abuse and Associations with Psychosocial Aspects of Health. A Population---Based Study with Swedish Adolescent*. Sweden: *Nordic Journal of Psychiatry*, (2010). 64(1), 40–48.
- Priebe, Gilesa, Hansson, Kjell, and Svedin Carl Goran. *Sexual Abuse and Associations with Psychological Aspects of Health. A Population-Based Study with Swedish Adolescents*. Oslo; Boston: *Scandinavian University Press: Nordic Journal of Psychology*, (2010).
- Pulla,Venkat Rao and Trar, Maliha Gul. *Child Protection System and Challenges in Pakistan*. ACCB Publishing, England: *International Journal of Humanities and Social Sciences*, Volume 5 No. 3 (2018).
- Quadara Antonia, Nagy Vicky, Darrel Higgins, and Natalie Seigel. *Conceptualizing the Prevention of Child Sexual Abuse*. Australian Government: *Australian Institute of Family Studies*, (2015).
- Qur'an 42: Verses 49-50).
- R. Kim, Mejia-Guevara, I. Corsi, and Aguayo V. M. *Relative importance of 13 correlates of child stunting in South Asia: Insights from nationally representative*

- data from Afghanistan, Bangladesh, India, Nepal, and Pakistan. Oxford; New York: Pergamon: *Social Science and Medicine*, (2017).
- Rafique, Hafiz Usman. Child abuse prevention in international law: A comparative study with Islamic law. PhD Thesis, International Islamic, University, Islamabad, 2018.
- Rehman, Abdul Al Sheha. Human Rights in Islam and Common Misconceptions. *The Judicial System in Islam*, (2013) <http://www.islamhouse.com/p/50418>
- Rind Bruce, Tromovitch Phillip. A Meta-Analytic Review Of Findings From National Samples On psychological Correlates Of Child Sexual Abuse, *The Journal of sex Research*, Volume No. 34, Issue No. 3 (1997) 34(3), 237-255. <https://www.jstor.org/stable/3813384>
- Roby Jini L. Women and Children in the Global Sex Trade toward More Effective Policy. London, Thousand Oaks: *Sage Publications, International Social Work*, Volume 48 (2) (2016). P. 136–147.
- Rodriguez, Christian, M. Professionals' Attitudes and Accuracy on Child Abuse Reporting Decisions in New Zealand. Sage Publications: *Journal of Interpersonal Violence*, Volume 17, (2002). p. 320.
- Romans, S. E. Martin J. L. Anderson J. C. and Mullen, P. E. Factors That Mediate Between Child Sexual Abuse and Adult Psychological Outcome. London, British Medical Assn: *Psychological Medicine*, Volume 25, (1995) 127-142.
- S. Goldstone, and Goldfarb J. L. Perceptual Development in Children. *New York International Universities Press: Development of time Concepts in children*, (1966).
- Sadrudin, Munir Moosa. Ph.D. Research Scholar, Institute of Education and Social Sciences, Hamdard University. Study on the Important Issues of Child Rights in Pakistan. Karachi: *The Dialogue*, (2012).

- Salmivalli, C. and Lagerspetz K. Bullying as a group process: Participant roles and their relations to social status within the group. *Aggressive Behavior, Volume 22*, (1996). 1-15.
- Sanderson, Passmore. *Against the Mutilation of Women: The Struggle against Unnecessary Suffering*. London: *Ithaca Press*, (1981).
- Santos, Ofelia Calcetas. Promotion and Protection of the Rights of Children: Sale of children, child prostitution and child pornography, (1995).  
<https://digitallibrary.un.org/record/200018?ln=en>
- Sarkar, Narendara Nath. Childhood Sexual Abuse And Its Impact On Women's Health. New Dehli: *International Medical Journal*, Volume 7 No. 2 (2010). 107-112.
- Saywitz, K. J. and Snyder L. Improving children's testimony with preparation in Child Victims, Child Witnesses. *The Child Witness, a Training Manual* by UNICEF, 2016-2017.
- Schachar, Russell, J. Rosemary Tannock, and Logan Gordon. Impulsivity and inhibitory control in normal development and childhood psychopathology. Sage Publications: *Developmental Psychology*, volume 26, (1990). 710-720.
- Scott, Willaim, A. and Scott Ruth and Mc'Cabe Morag. Family Relationship and Children Personality: A Cross-Cultural, Cross Source Comparison. London: *British Journal of Social Psychology*, Vol. 30 No. 1 (1991). 1-20.
- Sernovitz, Mele S. Parental sexual abuse of children. The law as a therapeutic tool for families, *Legal Representation of the Maltreated Child*. Washington, D.C: *National Association of Counsel for Children*. (1979).
- Seto, Micahel, C. Babchishin, Kelly, M. Pullman, and Mc Phill. The Puzzle Of Intra-Familial Child Sexual Abuse: A Meta-Analytic Comparing Intra-Familial And Extra-Familial Offenders With Child Victims. New York: Pergamon Press,

c1981: *Clinical Psychology Review*, Vol. 39, (2015). 42-57.

Sigurdardottir, Halldorsdottir, Sigridur Halldorsdottir and Bender Soley, S. Consequences of Childhood Sexual Abuse for Health and Well Being: Gender Similarities and Differences. Stockholm; Boston: *Scandinavian Journal of Public Health*, Vol. 42 No. 3 (2014). 2780286.

Sirajuddin. Nine-year-old girl found murdered after being raped, tortured in Nowshera. Report, December 28, 2018, [www.dawn.com/news/1454110](http://www.dawn.com/news/1454110). Last accessed on 28-12-2018.

Smith, Jessica. Evidence issues in criminal cases involving child victims and child witnesses. University of North Carolina: *Administration of Justice Bulletin* (2008).

Smith, M. and Segal J. *Child Abuse and Neglect*. Department of Psychology: Nnamdi Azijiwe University, Awka, 2012.

Sobsey, D. and Doe Tanis. Patterns of sexual abuse and assault. Washington: *Sexuality and Disability*, Vol. 42 (1991). 243-259.

Solotaroff, Jennifer, L. and Pande Rohani Prabha. Violence against women and girls: Lessons from South Asia. New York: *World Bank Publications*, (2014).

Soomro, Shamim, Zareen Abbasi, and Lolani, Farah. An In depth Insight into Child Abuse and its Impact on Personality of Victims. Jamshoro (Sindh): *International Research Journal of Arts & Humanities (IRJAH)*, (2012).

Spokas, Megan, Wenzel, Amy and A. Shannpon Wiltsey Striman. Suicide Risk Factors and Mediators between Childhood Sexual Abuse and Suicide Ideation among Male and Female Suicide Attempters. New York; London: Plenum Press: *Journal Of Traumatic Stress*, Vol. 22 No. 5 (2009). 467-470.

Stafford, Charles, F. *The child as witness*. Washington: Washington Law, Review, 1962:

37:303-324.

Steele, B. F. and Pollock, C. A Psychiatric Study Of Parents Who Abuse Infants And Small Children. Chicago: *University of Chicago Press*, (1968).

Stewart L.T. Golding, J. M. R. P. Sanchaz, and Yozwiak, J. The impact of DNA evidence in a child sexual assault trial. Thousand Oaks, CA: *Sage Publications, Inc: Child Maltreatment, Journal of the American Professional Society on the Abuse of Children*, vol. 5, No. 4 (2000). 373–383.

Stewart, David, P. Ratification of the Convention on the Rights of the Child. (1998).

<https://www.law.du.edu/documents/sutton-colloquium/materials/2013/Stewart-David-Ratification-of-the-Convention-on-the-Rights-of-the-Child.pdf>

Stroebe, Sandra, S. Shih-Ya Kuo, and Kommor Martin, J. Father–Daughter Incest: Data from an Anonymous Computerized Survey. New York, N.Y.: Plenum Press, 1995: *Child Abuse: A journal of research and treatment*, Vol. 21 No. 2 (2012). 176–199.

Sulaiman Kamal-Deen Olawale. “An Analytical Approach to the Preventing the menace of Child Abuse in Islamic point of View”. Sri Lanka: *Sri Lankan Journal of Arabic and Islamic Studies*, Vol. 1 (2018).

Sullivan Joe, Beech Anthony R. Theresa A. Gannon and Craig Leam A. Comparing Intra-Familial and Extra-Familial Child Sexual Abusers With Professionals Who Have Sexually Abused Children With Whom They Work. London, England: *Sage Publication*, Vol. 55 Issue No. 1 (2011).

Sullivan, Kavin, Johnson Peter, Rowlands Diane, and Allen Heather. New developments and challenges in the use of the UK DNA database: addressing the issue of contaminated consumables. Lausanne, Elsevier Sequoia: *Forensic Science International*, Vol. 2 Issue No. 146 (2004).

- T. Spratt, and Devaney J. Identifying families with multiple problems: Perspectives of practitioners and managers in three nations. Oxford University Press: *British Journal of Social Work*, Vol. 39 Issue No. 3 (2009) 418-434.
- Tahir, Muhammad. Tafsir al-Tahrir wa-Tanwir. Tunis: *Dar Ihya' Al Turath, Dar Sahnun*, Vol. 1 (2000).
- Teicher, Martin H. Scars that Won't Heal. The Neurobiology of Child Abuse. New York, NY: *Scientific American: Scientific American*, (2002). 286(3), 54-61.
- Thomas David, Hughes Candy, Amy Madigan and Christine Leicht. Emerging Practices, in the Prevention of Child Abuse and Neglect. New York: *Office on Child Abuse and Neglect*, (2002).
- Timothy P. Dunne, and Power Anne. Sexual abuse and mental handicap: preliminary findings of a community based study. Sage Publications: *Mental Handicap Research*, Vol. 3 (1990). 111-125.
- Todd Julia A. The Hague Convention on the Civil Aspects of International Child Abduction. Indiana: *Indiana Journal of Global Legal Studies*, Volume 2, Issue 2, (1995).
- Tong L. and Oates R. K. Long Term Effects of Child Sexual Abuse. London: *W. B. Saunders*, (1990).
- Treadwell Selly. Bearepaire James, Robert J. Mitchell and Holding Nicole L. Beware of the possibility of fingerprinting techniques transferring DNA. Callaghan and Co.: *Journal of Forensic Sciences*, Vol. 50 Issuer No. 6 (2005) 1417-1422.
- Tufail, Muhammad. Child protection in Pakistan. *International Journal of Child Health Human Development*, Vol. 2 No. 11 (2008) 225-238.
- Valente Sharone. Sexual Abuse of Boys. *Journal of Child and Adolescent Psychiatric Nursing*, Vol. 18 No. 1 (2005) 10-16.

- Van Daele Jasmien. Engineering Social Peace: Networks, Ideas, and the foundling of International Labor Organization. Cambridge University Press: *International Review of Social History*, Vol. 50 No. 3 (2005).
- Walsh Bill. Interviewing versus interrogation in American, Prosecutors Research Institute, Conference Proceedings, Savannah, USA, 1998.
- Waltz Susan. Universal Rights Group, Syria calls for greater UN intervention in domestic human rights situations. Geneva, 2014. <https://www.universal-rights.org/tag/susan-waltz/>
- Ward Baker, L. How shall a thing be coded? Implications of the use of alternative procedures for scoring children's verbal reports. New York: *Journal of Traumatic Stress*, (1995): 581-605.
- Webster Raymond. Symptoms and Long-Term Outcomes for Children Who have been Sexually Assaulted. Wiley: *Psychology in the Schools*, Vol. 38 No. 6 (2001). 533-547.
- Whitcomb D. and Shapiro. When the victim is a child: issues for judges and prosecutors. US Department of Justice, National Institute of Justice: The Child Witness, A Training Manual by UNICEF, 2016-2017.
- Willott G.M. Allard J.E. Spermatozoa, their persistence after sexual intercourse. Elsevier B.V. New York: *Forensic Science International*, Vol. 19 No. 2 (1982). 135-154.
- Worrell Moricca Lorraine. "The Discursive Construction of child sexual abuse". Milton Keynes: *The Open University*, (1999).
- Worrell, Marcia Lorraine. The Discursive Construction of Child Sexual Abuse. The Open University: *School of Health and Social Welfare*, Vol. 1 & II (1999).
- Young Karen J. Gerry Jones, Toss Worthington, Pippa Simpson and Patrick H. Casey. Forensic laboratory evidence in sexually abused Children and adolescents.

Chicago, IL: American Medical Association: *Pediatrics Adolescent Medicine*, (2006) 585-588.

Young Michael, Denny G. and Raffy L. Luquis. Correlates of Sexual Satisfaction in Marriage. Toronto: *The Canadian Journal of Human Sexuality*, Vol. 7 Issue 2 (1998). 115-127.

Zajac Rachel, Sarah O'Neil, and Harlene Hayne. 'Disorder in the courtroom? Child witnesses under cross examination'. *Elsevier: Developmental Review*, (2012). 181-204.

Zununegui, M.V. Morales J.M. and Marti'nez V. Child Abuse: Socio economic Factors and Health Status. *Anales Espanoles de pediatria*, (1997).

### **Books**

Walker, Anne G. and Julie Kinneston. *Handbook on questioning children: A linguistic perspective*. Washington, D.C: American Bar Association Center on Children and the Law, 1994. ISBN: 9781627222037

Vander, Mey Brenda J. and Ronald L. *Incest as Child abuse*. New York: Praeger, 1986 xxi, 208 p. 25. ISBN: 027592114X

Sanderson, Christiane. *Counseling Adult Survivors of Child Sexual Abuse*. 3<sup>rd</sup> edition. London: Jessica Kingsley Publishers, 2006. ISBN-10: 1843103354.

Schacter, D. L. *Searching for memory: The brain, the mind, and the past*. New York: Basic Books, 1996. ISBN-10 : 9780465075522.

Schwartz, Gomes, Beverly and Cardarelli Albert, P. *Child sexual abuse: The Initial Effects*. Sage Publications, Incorporation: Thousand Oaks, US, 1990. ISBN-13: 978-0803936119.

Sholtis, Lillian, Brunner, and Smith, Doris, Suddarth. *The Lippincott Manual of Nursing Practice*. Philadelphia: J.B Lippincott Company, 1974. ISBN: 9781496379948.

- Reynaert, Didier, Ellen Desmet, Sara Lembrechts and Wouter Vandenhole. *Routledge international Handbook of Children's Rights Studies. Introduction: A critical approach to children's rights*. Belgian Science Office, 2015. ISBN 9781138084490.
- Pillay, V. V. *Textbook of Forensic Medicine and Toxicology*. Hyderabad: Paras Medical Publisher, India, 2007. ISBN 978-93-5025-965-8.
- Sieghart, Paul. *The International Law of Human Rights*. London: Oxford University Press, 1983, P. 25. ISBN: 9780198760979.
- O' Donohue, William, Geer James, H. *The Sexual Abuse of Children: Theory and Research*. London: Lawrence Erlbaum, 1992. ISBN: 9780805803396.
- Aeysha, Mona. "*Female Child Abuse in Pakistan*". Indecently published, 2017. ISBN-10: 1549966413. <https://www.amazon.com/Female-Child-Abuse-Pakistan-Aeysha/dp/1549966413>. Last accessed on 21-11-2019.
- Al-Salih, Muhammad b Ahmad. *Al-Tifl fi Al-Shari'ah Al-Islamiyah*. Riyadh: Matab'i al-furzdaq, 1982.
- Al-Tahawi Abu Jafar, *Ma'ani al-Athar*. Beirut: Tasweer, 4<sup>th</sup> Edition, volume, 3, p. 221.
- Bertrand G. Ramcharan. *Human Rights: Thirty Years After the Universal Declaration: Commemorative Volume on the Occasion of the Thirtieth Anniversary of the Universal Declaration of Human Rights*, 1979<sup>th</sup> Edition, New York: Springer, 1979, p.37. ISBN 90-247-2145-8.
- Besharov, Douglas J. "*Recognizing Child Abuse: A Guide for the Concerned*", 1<sup>st</sup> Edition, Washington: Free Press, 1990. ISBN-10: 002903082X.
- Young-Bruehl, Elisabeth. *Childish, Confronting Prejudice against Children*, 1<sup>st</sup> edition, New Haven: Yale University Press, 2012, p.288. ISBN 978-0-300-17311-6.
- Bukhari. *Hadith* No. 5651 and Muslim, *Hadith* No. 2318.

- Dam, Carla Van. *"Identifying Child Molesters: Preventing Child Sexual Abuse by Recognizing the Patterns of the Offenders"*, 1st Edition, Oxfordshire, UK: Routedledge, 2001. ISBN-13: 978-0789007421.
- Elliott, Michele. *"Female Sexual Abuse of Children: The Ultimate Taboo"*. Himachal Pradesh: Villey, 1993. ISBN-13: 978-0582214972.
- Eva, M.C. Jonzon. *Child Sexual Abuse, Disclosure, Social Support, and Subjective Health in Adulthood*, Stockholm, Stockholm Press, 2006. ISBN: 91-7140-777-4.
- Evin , M. Daly. *"Child Abuse: What You Need to Know"*, Illustrated Edition, Toronto, Ontario, Parker Publishing, 2014. ISBN-10: 0989500209.
- Fayyazuddin, S Jillani, and Jillani. *The State of Pakistan's Children*, 1<sup>st</sup> edition, Mumbai: Ashish, 1998. ISBN 10: 817024983X.
- Edmonson-Nelson, Gloria. *"Recognizing Child Abuse and Domestic Violence"*, 1<sup>st</sup> edition, San Francisco: Glo's Prose Publishers, 2001. ISBN-10: 0966823230.
- Haimson, Leopold H and Sapelli, Guilio. *Social Conflict and the First World War: An International Perspective*, 1<sup>st</sup> Edition, Milano: Fondazione Giangiacomo Feltrinelli, 1992. ISBN 3933954.
- Khan Muhammad Nasir. *"Causes of Child Abuse Among Secondary School Students in Pakistan"*, 1<sup>st</sup> edition. Chisinau: LAP: Lambert Academic Publishing. 2014. ISBN-10: 3659645109.
- Lanning Kenneth V. *Child Molesters: A Behavioral Analysis for Law Enforcement Officers Investigating Cases of Child Sexual Exploitation*. 3<sup>rd</sup> edition. Virginia: National Center for Missing and Exploited Children, 1992. ASIN: B0006RSDTW.
- Leib Linda Hajjar. *Human Rights and the Environment*. 3<sup>rd</sup> Edition. Leiden: Boston, Martinus Nijhoff Publishers, 2011. ISBN: 9004188649.

- Louis Sohn B. *"The human rights law of the charter"*. 2<sup>nd</sup> Edition. Texas: International Law Journal, 1977. ISSN 0163-7479.
- Mathews Ben. *Mandatory Reporting Laws and Identification of Child Abuse and Neglect: Consideration of Differential Maltreatment Types, and a Cross-Jurisdictional Analysis of Child Sexual Abuse Reports*. Brisbane: Australian Centre for Health Law Research, Queensland University of Technology, 2014.
- McCoy Monica L, and Keen. *Child Abuse and Neglect*. 2<sup>nd</sup> Edition. New York: Psychology Press, 2003. pp. 3–22. ISBN 978-1-84872-529-4.
- Muhammad bin, al-Hasan al-Shaybani (d.189/804)
- Muhammad b, Mahmood b. Husain Astroshni, Jami Ahkam Al-Sighar, ed., Abi Mus'ab Al-Badri and Mahmood 'Abdur Rahman, 2 volumes.
- Muslim, *Sahih Muslim*. kitab al-Fada'il. Vol. 4, p. 1808, *Hadith* No. 2317.
- Nancy Boyd Webb and James W. Drisko. *"Social Work Practice with Children (Clinical Practice with Children, Adolescent, and Families)"*. 3rd Edition. New York: Guilford Press, 2012. ISBN-13: 978-1609186432.
- Nisrine Abiad. *Sharia, Muslim states and international human rights treaty obligations: a comparative study*. 1<sup>st</sup> Edition. UK: British Institute of International Comparative Law, 2008. ISBN 978-1-905221-41-7.
- Noor Muhammad, 'Abdul Hafeez Sweed, and Manhaj. *Al-Tarbiyah Al-Nabawiyah Lil Tifl*. Makkah: Dar al-Tiybah, 3<sup>rd</sup> edition. 2000.
- Rahman Jamal Abdur. *Atfal 'l-Muslimeen: Kayfa Rabahum Al-Nabiul Ameen? (Muslim Children: How were they raised by the Prophet (PBUH)?)*. 7th edition. MakkaH: Dar Tyrbah alkhadra, 2004. P. 2004-209.
- Rosemarie Skine. *Abuses an Encyclopedia of Causes Consequences And Treatments*. 1<sup>st</sup> Edition. Westport, Connecticut: Greenwood, 2015. ISBN: 978-1-61069-5145. p.

Shah Nafisa. “*Honor and Violence: Gender, Power and Law in Southern Pakistan*”. 1st Edition. Oxford, new York: Berghahn Book, 2016. ISBN-13: 978-1785333651.

Tirmizi. *Sunan, Kitab Al-Birr Wa Al-Silat*, Hadith No. 1919, vol. 4, p. 321.

Tower Cynthia Crosson. “*Understanding Child Abuse and Neglect*”. 9th Edition. New York: Pearson, 2014. ISBN-13: 978-0205399697.

Ulwan, Abdullah Nasih. *Tarbiyatul Awwal fil Islam*, Cairo, Egypt: Darussalam, 1992. Vol. II, p. 499-599.

Willow Carolyne. “*Children’s right to be Heard and Effective Child Protection*”. Bangkok, Thailand: Save the Children Sweden, 2010. ISBN: 978-616-90503-0-8.

Wolfe David A. “*Preventing Physical and Emotional Abuse of Children*”, 1st Edition. New York: Guilford Press, 1991. ISBN-13: 978-0898622195.

Yousaf Kamal, *Child Labor: Child Labor Survey*. National Portfolio. Pakistan Bureau of Statistics, 2000.

### **Case Laws**

*A. G Sindh Karachi vs. Farhan Hussain* PLD 1995 Karachi High Court 1.

*Abdul Aziz vs. Punhal*, MLD 2017 Karachi High Court 1321.

*Abdul Baqi vs. Dawood*, PCr.LJ 2020 Federal Shariat Court 368.

*Abdul Haleem vs. Amin Khan*, SCMR 1989 Supreme Court 418.

*Abdul Haq vs. State*, PCr.LJ 2018 Peshawar High Court 12.

*Abdul Karim vs. State*, PCr.LJ 2016 Peshawar High Court 513.

*Abdul Majeed vs. State*, PCr.LJ 2002 Lahore High Court 41.

*Abdul Rauf vs. Ali Muhammad*, PCr.LJ 1989 Lahore High Court, Lahore 1220.

*Abdul Sattar vs. State*, PCr.LJ 2010 Karachi High Court 1690.

*Abdul Wahab vs. State*, PCr.LJ 2017 Quetta High Court 568.

*Ahsan Banghash vs. State*, PCr.LJ 2017 Karachi High Court 509.

*Aijaz Hussain vs. State*, MLD 2018 Karachi High Court 1164.

*Aksoy v. Turkey* (1997) 23 EHRR 553.

*Alam Khan vs. State*, YLR 2013 Peshawar High Court 714.

*Alam Noor vs. State*, MLD 2004 Peshawar High Court 1148.

*Al-Ameer vs. State*, PCr.LJ 2011 Federal Shariat Court 583.

*Allah Bux vs. State*, MLD 2002 Karachi High Court 61.

*Allah Ditta vs. State*, PCr.LJ 2017 Lahore High Court, Lahore 789.

*Allah Diwaya vs. State*, PCr.LJ 1975 Lahore High Court, Lahore 1319.

*Amajd Ali vs. State*, PCr.LJN 2022 Quetta High Court 17.

*Amir Khan vs. State*, PLD 1985 Lahore High Court 18.

*Amjad Ali vs. State*, PCr.LJ 2011 Lahore High Court, Lahore 950.

*Amjad Hussain vs. State*, PCr.LJ 2011 Federal Shariat Court 1534.

*Amjad Javed vs. State*, SCMR 2002 Supreme Court 1247.

*Aqib vs. State*, MLD 2108 Gilgit-Baltistan Chief Court 1023.

*Arif Hussain vs. State*, YLRN 2018 Gilgit-Baltistan Chief Court 259.

*Asgahr Ali vs. State*, YLR 2008 Lahore High Court, Lahore 1986.

*Ashiq Ali vs. State*, PCr.LJ 2018 Lahore High Court, Lahore 1084.

*Asif vs. State*, SCMR 2006 Supreme Court 476.

*Atlas Khan vs. State*, PCr.LJ 2014 Federal Shariat Court 1280.

*Ayub vs. Munsif*, PCr.LJ 2015 Peshawar High Court 369.

*Azhar Aziz vs. State*, PCr.LJ 1996 Supreme Court of Azad Kashmir 1522.

*Aziz Ullah vs. State*, PCr.LJ 2017 Quetta High Court 1623.

*Bakhat Munir vs. State*, PCr.LJ 2014 Peshawar High Court 1472.

*Bashir Ahmad vs. Fida Hussain*, SCMR 2010 Shariat Appellate Jurisdiction 495.

*Bilawal vs. State*, YLR 2021 Karachi High Court 260.

*Ch. Zulifqar Ali vs. State*, PCr.LJ 2002 Lahore High Court 1231.

*Chahal vs. United Kingdom* (1997) 23 EHRR 413.

*Charalambous v. Charalambous*, 627 F.3d 462.

Complaint No. 114/2015 submitted by EUROCEF, 2015.

Complaint No. 119/2015 submitted by FERV 2015.

*Derbyshire County Council v. Times Newspapers Ltd.*, 1992 Q.B. 770, 827

*Ejaz Hussain vs. State*, MLD, 2018 Sindh High Court 1164.

*Farman Hussain vs. State*, PLD 1995 Supreme Court 1

*Farooq Hussain vs. State*, MLD 2003 Federal Shariat Court 1516.

*Fayyaz vs. State*, PCr.LJN 2017 Karachi High Court 199.

*Fayyaz vs. State*, SCMR 2006 Supreme Court 1042.

*Foster v. Neilson*, 27 U.S. (2 Pet.) 253, 314 (1829).

*Ghulam Farid vs. State*, PCr.LJ 2014 Lahore High Court 1803.

*Ghulam Shbbir vs. State*, PCr.LJ 2008 Federal Shariat Court 1131.

*Gulzar Ahmad vs. State*, SCMR 2002 Supreme Court 596.

*Gulzar Shah vs. State*, MLD 2021 Karachi High Court 169.

*Habib Ullah vs. State*, PCr.LJ 2007 Shariat Court, Azad Kashmir 1851.

*Hafeez alias Hafeeza vs. State*, PLD 2006 Supreme Court 279.

*Hamid Khan vs. State*, SCMR 1981 Supreme Court 448.

*Hamid Nadeem vs. State*, SCMR 2011 Supreme Court 1233.

*Hamid Ullah vs. State*, PLD 2018 Quetta High Court 71.

*Hashim Qasim vs. State*, SCMR 2017 Supreme Court 986.

*Hashim vs. State*, PCr.LJ 2020 Peshawar High Court 895.

*Hazoor Bakhs* vs. State, PLD 1985 Supreme Court 233.

*Hazrat Bilal* vs. State, PCr.LJ 2013 Peshawar High Court 800.

*Hidayat Ullah* vs. State, YLR 2000 Federal Shariat Court 2330.

Human Rights Cell No. 12912-P/2009 (Acid throwing)

Human Rights Cell No. 2760/2006 and Human Rights Cell No. 1061/2007.

Human Rights Cell No. 8752/2006; Human Rights Cell No. 5446/2006.

Human Rights Cell No. 965/2005, Constitutional Petition No. 05/2007, Constitutional Petition No. 29/2007, Constitutional Petition No. 37/2007, Constitutional Petition No. 55/2007, Human Rights Cell No. 2724/2007, Human Rights Cell No. 7679-G-/2007 and C.M.A. No. 4420/2009.

*Ibrahim* vs. State, YLR 2013 YLR Peshawar High Court Note p. 436.

*Imran alias Dully* vs. State, SCMR 2015 Supreme Court 155.

*Imtiaz Ahmad* vs. State, MLD 1996 Federal Shariat Court 457.

*Inayat Masih* vs. State, PCr.LJ 2009 Federal Shariat Court 69.

*Ishtiaq alias Sahqu* vs. State, PCr.LJ 2006 Federal Shariat Court 790.

*Ishtiaq Masih* vs. State, PCr.LJ 2015 Lahore High Court, Lahore 797.

*Israr Ali* vs. state, SCMR 2007 Supreme Court 525.

*Istikhar vs. Shahbaz*, YLR 2013 S. Court of Azad Jammu and Kashmir 747.

*Jahan Zeb* vs. State, YLR 2012 Federal Shariat Court 752.

*Jam Athar Kamal* vs. State, PCr.LJN 2019 Karachi High Court 68.

*Jamil Ahmad* vs. State, MLD 2003 Lahore High Court 1420.

*Javed Iqbal* vs. State, SCMR 2008 Supreme Court 1380.

*Jehangir* vs. State, PCr.LJ 2011 Federal Shariat Court 960.

*Jehanzeb* vs. State, PCr.LJ 1999 Peshawar High Court 46.

*Jibran* vs. State, MLD 2016 Peshawar High Court 1479.

*Juma vs. State*, YLR 2019 Karachi High Court 628.

*Karim Bux vs. State*, PCr.LJ 1985 Federal Shariat Court 2613.

*Kazim Hussain vs. State*, PCr.LJ 2008 Federal Shariat Court 971.

*Khadim Hussain vs. State*, PCr.LJ 2011 Federal Shariat Court 1443.

*Khalid vs. State*, PCr.LJ 1984 Lahore High Court, Lahore 3060.

*Koowarta vs. Bjelke-Petersen*, 153 C.L.R. (1982).

*Majid Hanif vs. State*, YLD 2004 Supreme Court of Azad Kashmir 2283.

*Malik Aqeel Ahmad vs. State*, MLD 2016 Karachi High Court 129.

*Maqbool Ahmad vs. State*, MLD 1993 Federal Shariat Court 2265.

*Maqsood Ahmad vs. State*, PCr.LJ 2000 Karachi High Court 313.

*Maqsood Khan vs. State*, SCMR 1982 Supreme Court 757.

*Matloob Hussain vs. State*, YLD 1999 Supreme Court of Azad Kashmir 2283.

*Mazhar vs. State*, YLR 2012 Federal Shariat Court 652.

*Mehboob Iqbal vs. State*, SCMR 1996 SCMR, Supreme Court 1910.

*Mehmood Azam vs. State*, YLR 2018 Islamabad High Court 621.

Mofokeng vs. S (A170/2013) [2015]

*Mudasar Ali vs. State*, MLD 2011 Lahore High Court 873.

*Muhammad Ajmal vs. State*, SCMR 1997 Supreme Court 1595.

*Muhammad Akbar vs. State*, PCr.LJ 2018 Quetta High Court 778.

*Muhammad Akram vs. State*, MLD 1995 MLD Federal Shariat Court 950.

*Muhammad Amir vs. State*, YLR 2018 Lahore High Court 2592.

*Muhammad Arshad vs. State*, PCr.LJ 2008 Federal Shariat Court 1019.

*Muhammad Arshad vs. State*, PCr.LJ 2018 Peshawar High Court 1513.

*Muhammad Asad vs. State*, PCr.LJ 2019 Lahore High Court, Lahore 1251.

*Muhammad Ashraf vs. State*, PCr.LJ 2006 Federal Shariat Court 132.

*Muhammad Ashraf* vs. State, SCMR 2016 Supreme Court 1617.

*Muhammad Asif* vs. State, MLD 2018 Lahore High Court 684.

*Muhammad Aslam* vs. State, MLD 2006 Lahore High Court, Lahore 624.

*Muhammad Aslam* vs. State, PCr.LJ 2012 Federal Shariat Court 530.

*Muhammad Ayoub* vs. State, PCr.LJ 2021 Lahore High Court, Lahore 821.

*Muhammad Azam Shah* vs. State, PCr.LJ 2008 Federal Shariat Court 250.

*Muhammad Faisal* vs. State, YLR 2003 Federal Shariat Court 2759.

*Muhammad Habib* vs. State, YLR 2002 Lahore High Court, Lahore 3855.

*Muhammad Haroon* vs. State, SCMR 1988 Supreme Court 1063.

*Muhammad Iftikhar* vs. State, YLR 2013 Lahore High Court, Lahore 2817.

*Muhammad Ijaz* vs. *Sher Shah*, MLD 1997 Peshawar High Court 969.

*Muhammad Imran* vs. State, YLR 2014 Federal Shariat Court 459.

*Muhammad Imran* vs. State, YLR 2021 Lahore High Court, Lahore 71.

*Muhammad Irfan* vs. State, PCr.LJ 2018 Lahore High Court 1319.

*Muhammad Irshad* vs. State, SCMR 1999 Supreme Court 596.

*Muhammad Ismail* vs. State, SCMR 1995 Supreme Court 1615.

*Muhammad Jamil* vs. State, YLR 2017 Lahore High Court, Lahore 4.

*Muhammad Javed* vs. State, SCMR 2019 Supreme Court 1920..

*Muhammad Junaid* vs. State, PCr.LJ 2002 Lahore High Court 1575.

*Muhammad Khan* vs. State, PCr.LJ 2020 Karachi High Court 10.

*Muhammad Mushtaq* vs. State, MLD 2020 Lahore High Court 588.

*Muhammad Nadeem* vs. State, YLR 2003 Lahore High Court, Lahore 3244.

*Muhammad Nauman Hanif* vs. State, SCMR 2016 Supreme Court 1399.

*Muhammad Nawaz* vs. State, SCMR 2016 Supreme Court 267.

*Muhammad Qadeer* vs. State, YLR 2007 Lahore High Court 525.

*Muhammad Rafiq* vs. State, YLR 2015 Quetta High Court 1156.

*Muhammad Rafique* vs. State, PCr.LJ 2021 Lahore High Court, Lahore 553.

*Muhammad Raheem* vs. State, YLR 2010 Peshawar High Court 2400.

*Muhammad Sabir* vs. State, PCr.LJ 2005 Federal Shariat Court 158.

*Muhammad Sadiq* vs. State, PCr.LJ 2010 Lahore High Court 444.

*Muhammad Saeed* vs. State, MLD 2001 Lahore High Court 477.

*Muhammad Sarwar* vs. State, PCr.LJ 2005 Federal Shariat Court 1091.

*Muhammad Shahid* vs. State, PLD 2010 Federal Shariat Court 215.

*Muhammad Shakil* vs. State, YLR 2008 Lahore High Court 2102.

*Muhammad Siddique* vs. State, PCr.LJ 2018 Quetta High Court 1538.

*Muhammad Siddique* vs. State, SCMR 2019 Supreme Court 1048.

*Muhammad Tanveer* vs. State, YLR 2021 Lahore High Court 1736.

*Muhammad Yaqub* vs. State, PCr.LJ 1993 Federal Shariat Court 1852.

*Muhammad Younus* vs. Abdul Ghaffar, MLD 1997 Karachi High Court 1622.

*Muhammasd Bilal* vs. State, PCr.LJ 2011 Federal Shariat Court 1062.

*Mumtaz Ahmad* vs. State, YLR 2012 Federal Shariat Court 2529.

*Murtaza* vs. State, PCRLJ 1996 Peshawar High Court 358.

*Mushtaq Ahmad* vs. State, SCMR 2007 Supreme Court 473.

*Mushtaq Ahmad* vs. State, YLR 2020 Federal Shariat Court 754.

*Mutahir Shah* vs. State, SCMR 1982 Supreme Court 114.

*Muzaffar* vs. State, YLR 2019 Gilgit-Baltistan Chief Court 719.

*Muzammal* vs. State, PCr.LJ 2008 Lahore High Court 1521.

*Nadeem Ahmad* vs. State, YLR 1999 Karachi High Court 2513.

*Nadeem* vs. State, PCr.LJ 2005 Federal Shariat Court 1010.

*Naeem-Ud-Din* vs. State, PCr.LJ 2004 Federal Shariat Court 1598.

*Nazar Hussain vs. State*, PCr.LJ 1993 Federal Shariat Court 2076.

*Nazir Hussain vs. State*, PLD 1984 Lahore High Court 509.

*Nigah Shah vs. State*, PCr.LJ 1988 Federal Shariat Court 1925.

*Noor Muhammad vs. State*, YLR 2000 Karachi High Court 26.

*Noor Shah Gul vs. Asim Ullah*, PLD 2015 Peshawar High Court 1.

*Osama versus Denmark*, (Application No. 38058/09) ECHR 044(2011) 2011.

*Parvaiz vs. State*, PCr.LJ 2014 Lahore High Court 599.

*Perrin vs. United Kingdom* No. 5446/03 2005.

*Qadeer Hussain vs. State*, PCr.LJ 1993 Supreme Court Azad Kashmir 2158.

*Qadeer Hussain vs. State*, PCr.LJ 1994 Azad Jammu and Kashmir 188.

*Quyyum Ullah vs. State*, YLRN 2016 Peshawar High Court 178.

*Raees vs. State*, PCr.LJ 1993 Federal Shariat Court 585.

*Rashid Minhas vs. Fayyaz*, PCr.LJ 2012 Federal Shariat Court 816.

*Razzaq vs. State*, PCr.LJ 1991 Lahore High Court 942.

*Rehmat Ullah vs. Jan Alam*, YLR 2015 Peshawar High Court 249.

*Rifat Bibi vs. Abid Shah*, PCr.LJ 2022 Quetta High Court 52.

S.M.C. No. 3/2003, S.M.C. No. 11/2005.

*Sabir vs. State*, YLR 2017 Quetta High Court 1270.

*Sabz Ali Khan vs. State*, PCr.LJ 2015 Peshawar High Court 369.

*Safdar Ali vs. State*, YLR 2004 Lahore High Court 49.

*Sain vs. State*, SCMR 2007 Supreme Court 698.

*Saipan vs. United States Department of the Interior*, 1974.

*Saleem Khan vs. State*, PCr.LJ 2001 Federal Shariat Court 503.

*Saleem Ullah Khan vs. State*, MLD 2000 Peshawar High Court 1290.

*Salman Akram Raja vs. Govt. of Punjab*, SCMR 2013 Supreme Court 203.

*Sanwal vs. State*, YLR 2022 Lahore High Court, Note 1.

*Sarfraz Ahamd vs. State*, SCMR 2016 Supreme Court 1635.

*Shahid vs. State*, MLD 2014 Lahore High Court 190.

*Shahzad Masih vs. State*, YLR 2016 Karachi High Court 1922.

*Shamoon Masih vs. State*, PCr.LJ 2001 Karachi High Court 57.

*Shannon vs. Latvia*, No. 32214/03, 2009

*Shaukat Ali vs. State*, PCr.LJ 2018 Balochistan High Court 1275.

*Sher Muhammad vs. State*, PCr.LJ 1999 Peshawar High Court 83.

*Sheraz Tufail vs. State*, SCMR 2007 Supreme Court 518.

*Shoaib Ahmad vs. State*, PCr.LJ 2019 Gilgit-Baltistan Chief Court 57.

*Sibtain vs. State*, MLD 2002 Lahore High Court 1008.

*Soering vs. United Kingdom* (1989) 11 EHRR 439.

*Sosa vs. Alvarez-Machain*, 542 U.S. 692, 734 (2004)

*State vs. Abdul Rahim*, PCr.LJ 1984 Karachi High Court 41.

*State vs. Ameer Alam*, YLRN 2018 Lahore High Court 64.

*State vs. Ishfaq Ahmad*, PCr.LJ 1985 Lahore High Court 2846.

*State vs. Muhammad Boota*, YLR 2014 Lahore High Court 306.

*State vs. Muhammad Iqbal*, PCr.LJ 1984 Peshawar High Court 257.

*State vs. Muhammad Ramzan*, PCr.LJ 1992 Peshawar High Court 423.

*State vs. Zaheer-ud-Din*, MLD 2018 Gilgit-Baltistan Chief Court 314.

*Subedar Major vs. Abid*, PCr.LJ 2018 Supreme Court Azad Kashmir 270.

*Suleman vs. State*, YLR 2008 Lahore High Court 2722.

*Sultan vs. State*, PLD 1965 (West Pakistan) Karachi High Court 615.

*Syed Afasr Shah vs. State*, MLD 1998 Federal Shariat Court 1137.

*Syed Riyasat vs. Malik Aqeel*, YLR 2010 Karachi High Court 114.

*Tauqeer Abbas vs. State*, PCr.LJ 2017 Lahore High Court 484.

*Tauqir Alam vs. State*, MLD 1985 Karachi High Court 604.

*Treptow vs. Romania* No. 30358/03, 2008.

*Ulfat Hussain vs. State*, SCMR 2010 Supreme Court 247.

*Umair vs. State*, MLD 2021 Peshawar High Court 527.

*Wajid Hussain vs. State*, YLR 1999 Peshawar High Court 1602.

*Waseem Ahmad vs. State*, PCr.LJ 2016 Karachi High Court 13.

*Wazir Muhammad vs. State*, YLR 2018 Federal Shariat Court 1071.

*Yasir vs. State*, MLD 2018 Quetta High Court 1014.

*Yousaf Khan vs. State*, YLR 2013 Karachi High Court 1168.

*Zafar Abbas vs. State*, SCMR 2010 Supreme Court 939.

*Zainab Murder case (state vs. Imran)* FIR No. 08/2018, Police station A-division, Kasur.

*Zakriya vs. State*, SCMR 2006 Supreme Court 439.

*Zeebo vs. State*, GBLR 2015 Supreme Appellate Court 289.

*Zohra Bibi vs. State*, PCr.LJ 2013 Federal Shariat Court 772.

*Zulifqar vs. State*, PCr.LJ 1977 Lahore High Court, Lahore, 364.

### **Documents and Reports**

Aaghosh Rada, 682-Kamran Block, Allama Iqbal Town, Lahore, Pakistan. Tel: 042-35411426.

AGHS Legal aid-Child Rights Unit, 131-E/1, Gulberg-III, Lahore Pakistan, Tel: 92-42-35763234.

Alliance for the Rights of the Child (ARC), F-178/3, Block 5, Kehkashan, Clifton, Karachi, Pakistan, Tel: 092-21-5867300.

Australia Government, Department of Foreign Affairs and Trade, *Draft Country*

*Information Report Pakistan, 2019.*

<https://www.dfat.gov.au/sites/default/files/country-information-report-pakistan.pdf>

BBC Report of Pakistan, *Child abuse in Pakistan*, 2018, in National Assembly of Pakistan.

CCF-Child Care Foundation of Pakistan, A-6-A-E, 105, New Super Town, Defence Main Boulevard, Lahore, tel: 042-3661031.

CHAEF-Children's Health and Education Fund, SF-2, Plot 17-C, 2nd Zamzama Commercial Lane, Phase-5 D.H.A, Karachi, ph. 0092-300-8202828.

Child Protective Services Policy, West Virginia Department of Health and Human Resources Bureau for Child Welfare Information Gateway, "Infant Safe Haven Laws", *U.S. Department of Health and Human Services, Children's Bureau*. 2013.

Child Welfare Information Gateway, Protecting Children, Strengthening Families. *Recognizing Child Abuse and Neglect: Signs and Symptoms*, (2007).

Child Welfare Information Gateway. 2013. "*Infant Safe Haven Laws*," U.S. Department of Health and Human Services, Children's Bureau.

Children First (Health & Children, 1999), *Sexualized Children: Assessment And Treatment Of Sexualized Children And Children Who Molest*. Rockville, MD: Launch Press.

Children First, address House No. 79, street No. 92, Sector 1-8/4, Islamabad, Pakistan. Ph. No. 092-51-4861484.

Children's rights,": "*Children's Rights and Business Principles*," UNICEF, United Nations Global Compact, *Save the Children*.

County Reasonable Efforts Model Court Project, *Steps for Preserving Families, Guidelines for Practice*, (1989) Final Report.

Dailytimes.com.pk. Website. Pro-People Agenda. Dr. Ikramul Haq. March 3, 2019.

Defining Child Abuse and Neglect [www.childwelfare.gov/can/defining/](http://www.childwelfare.gov/can/defining/). Last accessed on 21-10-2019.

Department of Laws, *Sexual Offences against Children in India: On the Higher Side*, (2016), Nirmala Devi. International Journal of Recent Scientific Research.

Elisa Pérez Vera, *Explanatory Report: Hague Conference on Private International Law*, in 3 Acts and Documents of the Fourteenth Session.

Explanatory Report, *European Convention of the Exercise of Children's Rights*, (2000).

Federal Ombudsman, *Report on the Kasur Tragedy & Redressal of Systematic Issues, Mapping Issues & Respond to Sexual Violence against Children*, (2018).

Global Trends in Child Labor, 2000-2004, *International Program on the Elimination of Child Labor (IPEC) and Statistical Information and Monitoring Program on Child Labor (SIMPOC)* (Geneva, International Labor Office, 2006).

GRETA (Group of Experts on Action against Trafficking in Human Beings), *4th General Report*, (2013).

Hassan, and Abbas. *Stabilizing Pakistan through Police Reform*, Asia Society, Report by the Independent Commission on Pakistan Police Reform, P. 89.

HM Government, *Working Together to Safeguard Children*, (2018), A Guide to inter-agency working to safeguard and promote the welfare of children.

Human Rights Committee, General Comment 24 (52), *General comment on issues relating to reservations made upon ratification*. U.N. Doc. CCPR/C/21/Rev.1/Add.6 (1994).

Human Rights Committee, General Comment 6, *CRC General Comment No. 6, Article 6 (Right to life)*, (1982) High Commissioner For Human Rights.

Initiator Human Development Foundation (IHDF), Suite No. 5 & 6, 2nd Floor, Block C-

3, Taj Camples, M.A Jinnah Road, Karachi, Pakistan. Tel: 0346-2669911.

International Centre for Mission & Exploited Children, *Child Protection Model Law, Best Practices: Protection of Children from Neglect, Abuse, Maltreatment, and Exploitation*, Johns Hopkins University, January 2013.

Judicial Seminars on International Child Protection, *United Kingdom-Pakistan Judicial Conference on Child and Family Law, London, 2003*.

Make a Wish Foundation, 208-A Clifton Center, Block5, Clifton, Karachi, Pakistan. Tel: 92-21-35863016.

Ministry of Finance, *Pakistan Economic Survey, (2014-15)*, Government of Pakistan.

Ministry of Justice, *Achieving Best Evidence in Criminal Proceedings Guidance on interviewing victims and witnesses, and guidance on using special measures*, (2011).

Ministry of Social Welfare and Special Education, *National Plan of Action for Children*, 2005.

National Clearinghouse on Child Abuse and Neglect. *What is Child Abuse and Neglect?* Washington, (2004) DC: US Department of Health and Human Services.

National Commission for Children, *Report on Kasur Tragedy and Redressal of System Issues, Mapping of issues and response to sexual violence against children*, (2018).

National Commission for Human Rights, Govt. of Pakistan, *The Kasur Incident of Child Abuse: A Fact Finding Report, Analyzing state of child protection in Pakistan*, 2015.

National Commission of Inquiry into the Prevention of Child Abuse. *Childhood matters: the report of the National Commission of Inquiry into the Prevention of Child Abuse*, (1996), London, Her Majesty's Stationery Office.

- National Research Council. *Understanding child abuse and neglect*, (1993) Washington, DC, National Academy of Sciences Press.
- NSPCC, *Child abuse and neglect*, [www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/](http://www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/) . Last accessed on 9th November, 2018.
- Police Reforms, *Way Forward, Complaint Redressal Mechanism and other Operational Matters*, (2019).
- Profiting from Abuse, *Report into Children In Commercial Sexual Exploitation* (New York, UNICEF, 2001), p. 20.
- Regional Overview of food security and nutrition, (Asia and the Pacific), *Accelerating Progress towards the SDGs*, (2019) UNICEF, World Food Program and World Health Organization.
- Sahil, *Cruel Numbers 2011*, (Islamabad: Sahil, 2011).
- Save the Child, *Implementing Child Rights in Pakistan: Alternative Report for UN CRC*, (2015).
- Save the Children & UNICEF, *Disciplining the child practice & impacts*, (2005) NWFP: School & Literacy Department
- Save the Children Sweden ‘*Some common questions and answers about child pornography on the Internet*, (2012-2019) Save the Children Sweden.
- Save the Children, Sweden, *Camel Jockeys of Rahimyar Khan: Findings of a Participatory Research on the Life and Situation of Child Camel Jockeys*, Sweden, 2005.
- Sexual and gender-based violence program in Guinea. Geneva, *Office of the United Nations High Commissioner for Refugees*, 2001, p. 9.
- Society for the Protection of the Rights of the Child, *The state of Pakistan's children* (2002) Karachi: Oxford University Press, 2004.

- South Australia, Dept. of Education and Children's services. *Responding to problems sexual behavior in children and young people, Guidelines for staff in education and care settings*. ISBN: 9780980547221.
- Tabeer, *Consolidating Democracy in Pakistan, Comparative Analysis of Local Government Laws in Pakistan*, (2019).
- Tahirih Justice Center, *Falling through the cracks: How laws allow child marriage to happen in today's America*, 2017. <https://www.tahirih.org/pubs/falling-through-the-cracks-how-laws-allow-child-marriage-to-happen-in-todays-america/> Last accessed on 21-09-2019.
- The Commission on Peace Officer Standard and Training, State of California, *Guidelines for the Investigation of Child Physical Abuse and Neglect, Child Sexual Abuse and Exploitation*.
- The Conference on Private international law, general information/introduction. <https://www.jus.uio.no/sisu>. Last accessed on 12-05-2019
- The Economist, A report from the Economist Intelligence Unit, *Out of the Shadow: Shining Light on the Response to Child Sexual Abuse and Exploitation*, (2019) A 40-country benchmarking index.
- The Kasur Incident of Child Abuse, *Fact finding report by National Commission for Human Rights*, (2019) Government of Pakistan.
- Training of Trainers Workshop on Gender (by International Association of Women Judges, from 02-10-2017 to 06-10-2017. <http://www.pja.gov.pk/node/799>. Last accessed on 19-10-2019.
- U.S Department of Justice, National Institute of Justice, *When the Rapist is Someone You Know*, Illinois Criminal Justice Information Authority. P.4.
- UNDP, *Child Adoption, Trends and Policies Report*, (2009), Department of Economic

and Social Affairs.

UNICEF '*Child Protection: Child Sexual Exploitation, Nature of the Problem*' (2019).

UNICEF by Andres B. Johnson and Carol Bellamy, *Child Protection, A Handbook for Parliamentarians*, 2004

UNICEF, *The State of Children in Pakistan*, 2015, p, 9.

UNICEF, UNODC, *Justice in Matters involving Child Victims and Witnesses of Crime, Model Law and Related Commentary*, New York, 2009. p. 49.

UNICEF. Theory of Change, Preventing and Responding to Violence against Children and Adolescents, 2017, New York.

United Nations, "*Second Periodic reports of States parties due in 1998*, Rwanda (CRC/C/70/Add22).

Voice of Children, office address at 6-, Block-D-12, G-8 Markaz, Islamabad, Pakistan, ph. 051-2854838.

WHO, Geneva. Geneva, World Health Organization, *Report of the Consultation on Child Abuse Prevention*, 1999.

World Health Organization, *Hidden in Plain Sight, A statistical Analysis of violence against children*, United Nations Children's Fund, (2003) (UNICEF), ISBN: 978-92-806-4767-9.

World report on violence and health, *Child Abuse And Neglect By Parents And Other Caregivers*, (2002) p. 5.

## **Statutes**

Balochistan Child Protection Act, 2016

Balochistan Local Government Act, 2010.

Child protection for Australian Aid Projects Procedure (MPF1266).

Children (Northern Ireland) Order, 1995.

Children and Community Services (Child Care) Regulations, 2006. (Australia)

Children and Community Services Regulations and Children, 2006. (Australia)

Children and Young People's Strategy 2017-2027.

Children Services Co-operation Act (Northern Ireland), 2015.

Community Services (Outside School Hours Care) Regulations, 2006. (Australia)

Constitution of Islamic Republic of Pakistan, 1973.

Criminal Law Act (Northern Ireland), 1967.

Criminal law second amendment Act, 2016.

Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983.

Family Court of Western Australia, 1997.

Gilgit Baltistan Local Government Act, 2014.

Islamabad Capital Territory Child Protection Act, 2018.

Khyber Pakhtunkhwa Child Protection Act, 2010

Pakistan Bait-ul-Mal Act, 1991 (Act No. I of 1002)

Pakistan Penal Code, 1860.

Police Rules, 1934.

Punjab Youth Offenders Ordinance, 1993.

Qanun-e-Shahadat Order, 1984.

Safeguarding Board Act (Northern Ireland), 2011.

The Balochistan Criminal Prosecution service Act, 2003.

The Child Prevention and Treatment Act, 40 years of safeguarding America's Children.

The Code of Criminal Procedure, 1898.

The Juvenile Justice System Act, 2018

The Khyber Pakhtunkhwa Criminal Prosecution service Act, 2005.

The Khyber Pakhtunkhwa Local Government (Amendment) Act, 2019

The Khyber Pakhtunkhwa Local Government Act 2013

The Punjab Criminal Prosecution service (Constitution, Functions and Powers) Act, 2006.

The Punjab Destitute and Neglected Children Act 2004 (Amended In 2017)

The Punjab Local Government Act, 2019.

The Sindh Child Protection Authority Act, 2011

The Sindh Criminal Prosecution service (Constitution, Functions and Powers) Act, 2009.

### **Webliography**

<http://dx.doi.org/10.1017/S0033291700028154>. Last accessed on 13-06-2019

<http://www.childhelp.org/child-abuse/>. Last accessed on 09-02- 2018.

<http://www.pja.gov.pk/search/node/gender>, <http://www.pja.gov.pk/node/869>. From 02-03-2018 to 04-03-2018. Last accessed on 19-10-2019.

<http://www2.ohchr.org/english/bodies/crc/workingmethods.htm>. Last accessed on 20-10-2019.

<https://data.consilium.europa.eu/doc/document/ST-12862-2019-INIT/en/pdf>. Last accessed on 01-11-2019.

[https://ethos-europe.eu/sites/default/files//docs/d6.3\\_website\\_report\\_complete.pdf](https://ethos-europe.eu/sites/default/files//docs/d6.3_website_report_complete.pdf). Last accessed on 14-08-2019.

<https://www.betterhealth.vic.gov.au/health/healthyliving/child-abuse-reporting-procedures>. (Last accessed on 13-09-2019).

<https://www.helpguide.org/articles/abuse/child-abuse-and-neglect.htm>. Last accessed on 16-01-2019.

<https://www.humanium.org/en/geneva-declaration/>. Last accessed on 11-08-2019.

[https://www.monash.edu/\\_\\_data/assets/pdf\\_file/0019/232525/clough.pdf](https://www.monash.edu/__data/assets/pdf_file/0019/232525/clough.pdf). (Last accessed

on 13-03-2019)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4637504/>. Last accessed on 15-01-2020.

<https://www.ohchr.org/Documents/ProfessionalInterest/ageconvention.pdf>. Last accessed on 24-10-2019.

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. Last accessed on 12-08-2019.

<https://www.pbc2019.org/protection-of-minors/child-abuse-on-the-global-level>. Last accessed on 12-03-2019.

[https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11\\_EN.pdf](https://www.un.org/esa/socdev/unpfii/documents/CRC.GC.C.11_EN.pdf). Last accessed on 23-10-2019.

<https://www.unfpa.org/events/international-conference-human-rights>. Last accessed on 12-08-2019.

<https://www.unhcr.org/ibelong/wp-content/uploads/UNHCR-CRC-02-UNHCR-UNICEF.pdf>. Last accessed on 23-10-2019.

<https://www.unicef.org/child-rights-convention/history-child-rights>. Last accessed on 11th January, 2019.

<https://www.unicef.org/child-rights-convention/what-is-the-convention>. Last accessed on 12-01-2019.

[https://www.unicef.org/ecuador/Implementation\\_Handbook\\_for\\_the\\_Convention\\_on\\_the\\_Rights\\_of\\_the\\_Child.pdf](https://www.unicef.org/ecuador/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf). Last accessed on 24-10-2019.

[https://www.unicef.org/protection/files/Evidence\\_Review\\_SEA\\_\(Radford\\_et\\_al\).pdf](https://www.unicef.org/protection/files/Evidence_Review_SEA_(Radford_et_al).pdf). Last accessed on 24-07-2019.

[https://www.unicef-irc.org/publications/pdf/law\\_reform\\_crc\\_imp.pdf](https://www.unicef-irc.org/publications/pdf/law_reform_crc_imp.pdf). Last consulted on 24-10-2019

[www.ojp.usdoj.gov](http://www.ojp.usdoj.gov). Last accessed on 23-10-2019.