

## **A Critical Analysis of Pakistan's Legislative Measures Against Sexual Abuse of Children in the Light of International Human Rights Law**

**Adnan Nisar**

LLM Scholar, Department of Law, Abdul Wali Khan University Mardan  
[adnannisar9@gmail.com](mailto:adnannisar9@gmail.com)

**Hidayat ur Rehman**

Assistant Professor, Department of Law, Abdul Wali Khan University Mardan

**Dr. Muhammad Jan**

Assistant Professor, Department of Law, Islamia College University, Peshawar

**Muhammad Aqeel**

Assistant Professor, Department of Law, Abdul Wali Khan University Mardan

---

### **Abstract**

*Child abuse is a serious infringement of human rights law in both developed and developing countries. Developing countries are facing more issues related to child sexual abuse. Pakistan has signed United Nation Convention on Rights of Children and is under obligations to safeguard children from sexual abuses. Pakistan has established "National Commission for Child Welfare and Development" (NCCWD) for the protection of child rights. Pakistan is a federal state and the 18<sup>th</sup> constitutional amendments has given power to all the provinces and they make their own laws and implement them. There are many cases found in Pakistan of child sexual abuses. Unfortunately, there are legal lacunas which are responsible for child sexual abuse in Pakistan. This research finds out the loops in law and also recommended amendments to ensure safety of child from sexual abuses. The analytical, comparative and descriptive research methods are used to conduct this research.*

**Keywords:** *Child Sexual Abuse, UNCRC, Child Protection Laws in Pakistan.*

---

### **1. Introduction**

The increase in sexual abuses to children in Pakistan has drawn attention towards the issues of lack of the proper legislation and implementation with regard to such offenses. As per different reports the ratio of the crime of CSA has increased in recent past. The most prevalent forms of child sexual abuses CSA are molestation, sodomy, rape, sexual abuse without penetration and abduction for sexual abuse which sometimes results in murder of the child.

Rape with a child invariably instigates sentiments of apprehension and instability within the community. Consequently, the transgression falls within the purview of the Anti-Terrorism Act of 1997. This notion was underscored in the legal proceedings of the case titled "State versus Abdul Malik," presided upon by the Lahore High Court. Within this context, it was unequivocally stated that the violation involving the sexual assault of a minor constitutes a gravely severe manifestation of child

abuse. Further emphasis was placed on Section 7 of the Hudood Ordinance of 1979, which stipulates the prescribed sanctions for the criminal offense of non-consensual sexual intercourse (*zina-bil-jabr*)". (State v Abdul Malik, 2000) The perpetration of sexual assault upon a juvenile invariably instigates sentiments of apprehension and instability within the community. Consequently, the transgression falls within the purview of the Anti-Terrorism Act of 1997. This notion was underscored in the legal proceedings of the case titled "State versus Abdul Malik," presided upon by the Lahore High Court. Within this context, it was unequivocally stated that the violation involving the sexual assault of a minor constitutes a gravely severe manifestation of child abuse. Further emphasis was placed on Section 7 of The Hudood Ordinance, 1979, which stipulates the prescribed sanctions for the criminal offense of non-consensual sexual intercourse (*zina-bil-jabr*). In circumstances of child rape and homicide, conventionally, the task of securing convictions of the accused under the purview of the Anti-Terrorism Act (ATA) of 1997 is fraught with challenges. (Editorial, 2018).

Pakistan is the signatory state of UNCRC. Pakistan is a federal state divided into four provinces. These provinces have different legislation related to protection of child. The pace at which child protection legislation is enacted varies by jurisdiction. So far Pakistan has legislated quite a few enactments on the rights of child and their protection. There are various legislations on federal and provincial levels on the sexual abuse of children in Pakistan. Moreover, many international agreements have been signed or ratified by Pakistan which promises children legal protections. Because it influences country policy suggestions on child's problems, The UNCRC is the main treaty for children's safety and it has been signed by Pakistan. Art.38 "children in law" and Art. 40 are all concerns that relate to a child's right. The concept of child protection used in this article is found in Art.19 UNCRC concerns regarding economic oppression, drugs, abduction/kidnapping, CSA and other forms of exploitation are among the scenarios that raise questions related to child. Protecting child during war/armed conflict is also a concern (Articles 40). The Criminal Law (Amendment Offences Relating to Rape) Act of 2016 introduced several significant provisions concerning the roles of investigation officers, prosecutors, and courts. The Act strictly prohibits the disclosure of the identity of a rape victim, as well as victims of offenses covered under sections 354A, 376, 376A, 377, or 377B of the Pakistan Penal Code (PPC). An individual accused of rape, unnatural offenses, or sexual abuse under relevant sections of the PPC may be compelled to undergo a medical examination by a registered medical practitioner employed in a Government-run hospital. In the case of a female victim, a female registered medical practitioner is required for the examination. The Court is required to conclude the trial of rape-related offenses within three months, and appeals should be decided within six months, as per the provisions of the Criminal Procedure Code (Cr.P.C). This study specifically analyses the child protection laws of Pakistan in relation to child sexual abuse and comparative analysis is conducted with UNCRC.

## **2. Establishment Child Protection Commission of Pakistan**

The "National Commission for Child Welfare and Development (NCCWD)" works under the "Ministry of Health and Social Welfare" as a consultative body to the Government of Pakistan on issues relating to children. The MSWSE devolved, and the NCCWD was moved to "the Capital Administration & Development Division" to operate at the federal level. It was subsequently transferred at December 2, 2011 under the "Ministry of Human Rights" and now works under the supervision that ministry. The main function of this commission is to work and facilitate the government in implementation of UN Convention on the Rights of Child besides other international treaties and has to submit annual report to the UN commission to show the condition of child right protection and situation of implementation of laws.(National Commission on Right of Child ). The purpose of NCCWD is to work for the betterment of child's rights, to treat them specifically and honors

their rights, to protect their interest and safeguard them from aggression and cruelty and ill-treatment.

### **3. Child's Rights in the Constitution of Pakistan:**

The constitution of Pakistan does not have any specific provision regarding child sexual abuse, it however provides fundamental rights which are almost according to the spirit of UNCRC. In its Art. 25(1), provides “the right of equality” and Art. 25(A) relates to “the right of education”, Art 11(3) on “prohibition of child labour”. However, constitution of Pakistan do not specifically contain provision which provide protection to child from sexual abuse like the Article 37(a) of UN Convention specifically relate to the child's right which prohibits torture, cruelty and other inhumane treatments to children. These legislations of Pakistan do not adequately protect citizens against abuse as well as other cruel treatment. There have been numerous instances of mistreatment reported in Pakistan, and this lack of proper legislation non implementation are the main factors in increase of the CSA cases. Children frequently suffer from these abuses. Despite all, it will take time and commitment to completely realize children's rights.(Zafar, 2018).According to the Supreme Court's ruling on women and children, “Articles 25 and 26 of the constitution's special protection for women and children are intended to provide them with additional benefits in several areas”. (NLR 2005 Ciminal Lah. 260). SC has provided that “equal protection as provided by the constitution should not be denied”. (Supreme Court Monthly Review, 2007 SCMR page 410 ). In another verdict the SC has held that Article 9 guarantees protection of lives of citizens and state has the duty to ensure it. (2014 SCMR 287). Article 14 “guarantees to protect the dignity and the privacy of man”. Article 35 provides protection of family, marriage, mother and child. State is also obliged under principles of policy as embodied in the constitution. (1998 MLD 1821-1972). “Social justice is an objective embodied in the Preamble of the Constitution and under Article 2-A, i.e. Objectives Resolution”. (2012 PLC (CS) 1048) The state is duty bound under article 35 to safeguard the fundamental rights. (PLJ 1999 Kar. 124) Regarding sheltering the destitute children the Honourable Lahore held that federal and provincial governments are under obligation to protect orphans and destitute children. (PLD 2002 Lah.383)The constitution provides constitutional guarantee of life, education, health, food and medical facility to every child born in the country irrespective of whether the child is owned by parents or not.(PLD 2012 Lah.389) The constitution grants ample powers under Article 184(3) to SC and under Article 199 high courts for enforcement of the fundamental rights. (PLD 1988 SC 416, 2004 YLR 2471).

### **4. Initiative Taken by Child Protection Commission of Pakistan**

The basic aim of NCCWD is to suggest reforms in laws to ensure the protection of children rights so, to the fulfillment of this aim the NCCWD has suggested number of legal reforms some of which are adopted in “constitution of Pakistan” and the “Pakistan Penal Code (PPC)” but still there are some legal gaps which needs to be fulfilled. As the WHO defined children which is less than 18 years. However, there is non-uniformity in Pakistan laws specifically related to the age of child. This non-uniformity to define child is found in Constitution of Pakistan and PPC. According to section 83 of PPC the age of child is 12 years and 16 under Art. 25 of the constitution. This shows lack of uniformity in inter-department which is result of posing problems for organizations including NCCWD for the implementation of protection. Moreover, the constitution of Pakistan is still silent to insert the provision against sexual abuse.

The “National Plan of Action” for Child Welfare was design to encompass matters encompassing child sexual exploitation, trafficking, indecency, maltreatment, in addition to concerns related to healthcare, shelter, destitution, juvenile employment, education, and juvenile fatality. A legislative proposition introduced in the year 2006 laid out the foundation for an organizational structure intended

to proactively counteract child abuse, provide safeguards to shield children from its impact, and facilitate the recovery of those minors who have suffered harm. The “Punjab Destitute & Neglected Children Act of 2007” established the “Child Protection Courts (CPC)” provision. The provision stipulates that the government, when deemed necessary, possesses the authority to proclaim the formation of one or multiple such courts as delineated within this statute. Notwithstanding the aforementioned measures, the present status quo remains unaltered. The challenge of translating legal provisions into tangible implementation is exemplified by recent notable incidents that have garnered significant attention in the media. The majority of CSA injunctions are based on fundamental rules against sexual abuse of adults or laws against the exploitation of children.

## 5. Legal Analysis

Pakistan has ratified the UNCRC 1989 and is bound by its provisions. The 18th constitutional amendment has empowered the provinces to address the issue of children and make laws for their own jurisdictions; Sindh, Khyber-Pakhtunkhwa (KP), Balochistan and Punjab have taken legislative steps in their provincial territories. While the Constitution of the Islamic Republic of Pakistan, 1973 does not contain a dedicated article on child rights within the chapter on fundamental rights, it offers protective provisions. For instance, Article 11 prohibits various forms of slavery, forced labor, human trafficking, employment of children below the age of 14, and working of children in hazardous conditions. Article 25 asserts the right to equal protection under the law for all citizens and allows the State to make special provisions for the protection of women and children. Article 25(1) emphasizes equality before the law, while Article 25(3) permits special provisions for the protection of women and children. Article 25-A mandates the State to provide free and compulsory education for children aged five to sixteen, setting a minimum employment age of 16. Article 35 obligates the State to protect the family and the child. Being a federal state, legislations have been made on both federal and provincial levels. It has legislation for the protection of children. As discussed, the Constitution of Pakistan provides protection to all its citizens including children as provided in the Fundamental rights. These rights under the constitution are in conformity with UNCRC. The Constitution of the Islamic Republic of Pakistan, in Chapter 2 - Principles of Policy, Article 37 (g), clearly prohibits prostitution. It says, “The State shall prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation and display of obscene literature and advertisements.” The legislative measures taken by Pakistan to curb the sexual abuse of children are also made in accordance with the provisions provided under UNCRC. Section 292A addresses the exposure to seduction, criminalizing the seduction of a child with the intent to involve them in sexual activities or expose them to sexually explicit materials, punishable by imprisonment or a fine. Section 292B pertains to child pornography, penalizing the creation, possession, or distribution of obscene or sexually explicit depictions involving minors, including digital or computer-generated images. Section 292C prescribes the punishment for child pornography, with imprisonment terms ranging from fourteen to twenty years and substantial fines. Section 354 relates to assault or criminal force against a woman with intent to outrage her modesty, safeguarding women against indecent assault. Section 354A addresses stripping a woman of her clothes and exposing her to the public view, punishable by death or life imprisonment. Section 365B pertains to kidnapping, abducting, or inducing a woman for forced marriage or illicit intercourse, with imprisonment for life. Section 366A deals with the procurement of a minor girl, imposing imprisonment up to ten years. Section 366B addresses the importation of a girl from a foreign country for forced or seduced illicit intercourse, punishable with imprisonment up to ten years. Section 377 criminalizes unnatural offenses, imposing life imprisonment or a fine for carnal intercourse against the order of nature. Section 377A defines child sexual abuse, encompassing various indecent acts involving

minors. Section 377B prescribes the punishment for sexual abuse, imposing imprisonment terms from fourteen to twenty years and a substantial fine. Section 498B prohibits forced marriage, penalizing those who compel a woman to marry with imprisonment and fines, with stricter penalties for female children or non-Muslim women. Section 375 of the PPC defines rape, covering both adult women and minor girls. Rape involves sexual intercourse under various circumstances, including consent obtained through fear, deception, or involvement of minors under sixteen years of age. Section 376 prescribes punishment for rape, including death, life imprisonment, or substantial fines. The amended provisions allow for death or life imprisonment for those causing physical harm during the commission of such offenses. Section 376(1A) extends penalties to various forms of harm caused during rape. Section 376(2) addresses group rape, with each participant subject to penalties. Section 376(3) imposes stringent penalties for raping minors or individuals with mental or physical disabilities. Section 376(4) addresses rape by public servants and imposes life imprisonment and fines.

The Khyber Pakhtunkhwa Child Protection and Welfare Act 2010(The Child Protection and Welfare Commission). Sindh Children Act of 1955," Child Protection Authority 2011. The Punjab Destitute and Neglected Children Act (PDNC Act, 2004). Child Protection and Welfare Bureau (CPWB). The Balochistan Child Protection Act, 2016. Child protection commission. The Child Protection Act (ICT) 2018. The child protection advisory board. The "Zainab Alert, Response and Recovery Act, 2020". The Pakistan Penal Code provides provisions under sections 292A, 292B & 292C. section 327 A, 369A 377A and 377B, there are provisions against rape under the Offence of Zina, Hudood Ordinance. The Prevention of Electronic Crimes Act 2016. The Provincial Suppression of Prostitution Ordinance, 1961. In 1929, the Child Marriages Restraint Act of 1929 was introduced. According to this law, the minimum age for marriage is 18 years for males and 16 years for females. Anyone above the age of 18 who enters into a marriage with a child, anyone who conducts such a marriage, or a parent or guardian who fails to prevent it can be subject to imprisonment. Punjab has made certain amendments to this law for its proper implementation, while in the rest of Pakistan, the original version of the law is still applicable. The Provincial Suppression of Prostitution Ordinance, 1961 makes the prostitution illegal and punishable.

### **5.1.The Khyber Pakhtunkhwa Child Protection and Welfare Act 2010:**

The Province of Khyber Pakhtunkhwa passed the 2010 "The Khyber Pakhtunkhwa Child Protection and Welfare Act" (KPCPW Act 2010). It addresses the child rights such as welfare, education, rehabilitation and re-integration of child at-risk. The "Child Protection and Welfare Commission," is established and the act provides for the appointment power and function of the commission and its officers i.e. "Chief Child Protection Officer," the establishment of a committee, and provisions for the creation of an annual report that contains information about the commission's progress as well as information about recognition of Child Protection Institutions, child protection and welfare, child In order to provide child protection while also delivering social welfare services and realizing child rights, the commission is involved in a process to ensure the protection of rights of child in the province. They consequently have access to a broad range of activities that frequently overlap with the goals of other governmental organizations and public services, particularly social protection. For the child protection units to operate effectively and sustainably, their mandates to concentrate on acts of violence, abuse, exploitation, and willful neglect that are covered by Art.19 CRC. The Commission may establish committees as it sees fit, delegate tasks associated with those powers and responsibilities, or transfer any of its powers and responsibilities in order to give effect to the law, and to develop collaborations in this regard. It shall be the responsibility of the child protection committee. It is not specified in the

(KPCPW Act 2010) how the committees are to be used. Pakistan has also agreed to abide International law on the subject i.e. UNCRC. Even though this Act is silent on child trafficking, sale child prostitution, the latter of which is particularly important in KP due to the widespread practice among wealthy men to keep young boys for pleasure. (Wijngaaden & Rani, 2011). Surprisingly, local organization rarely report the cases of CSA. The absence of a tribunal for child welfare is another problem with the statute. In accordance with the Peshawar High Court, the authorities may declare a number of courts under section 15 of the Act rather than establishing a separate court specifically for that purpose. The high court may also grant a session judge or additional session judges judicial authority over a certain area. The best interests of justice and children in need of protection, who by their very nature require immediate care, would not be served by adding new tasks to conventional courts, which are already overburdened. As per the United Nations Convention on the Rights of the Child (UNCRC), a child is defined as an individual below the age of eighteen years. Illustrative instances encompass legislative enactments such as "The Employment of Children Act, 1991," wherein a child is characterized as an individual below the age of fourteen, "The Shops and Establishments Ordinance, 1969," which designates a child as an individual below the age of twelve, and "The Factories Act, 1934," which designates a child as an individual below the age of fifteen. In context, it is conceivable that the child protection framework operative in Khyber Pakhtunkhwa (KP) may encounter limitations in providing safeguard to a minor girl who is wedded to an abusive spouse and/or subjected to maltreatment by her in-laws. This arises due to the fact that the legal age for marriage as stipulated by "The Child Marriage Restraint Act, 1929" stands at sixteen years for females. The current prevalence of underage marriages within the province raises legitimate concerns regarding the practical applicability and efficacy of the legal provisions intended for the protection of minors.

## **5.2. Child Rights Protection in Sindh:**

Up until recently, the provincial law governing the provision of child protection in Sindh province was the "Sindh Children Act of 1955," one of the country's first laws dealing to children's rights. It authorizes the creation of juvenile courts to deal with situations involving children who have been abused and are in difficulty with the law; at the moment, these courts are not actively working. The "Sindh Child Protection Authority Act 2011" (SCPA Act 2011) provides for the establishment of "the Sindh Child Protection Authority". Their ability to operate effectively and the caliber of the services they provide are impacted by this. Furthermore, the Act says nothing about what to do with a child who has been identified as being weak and in need of help. For helping, identifying child at risk and for their rehabilitation no process or measures are mentioned. Sindh has adopted SOPs for CPUs, following them seems to be practically impossible because the Act neither requires the line departments to deal with these units. These compromises, which can vary from restitution payments to forced (child) marriages, are the result various other factors such as poverty, illiteracy, the power of criminals relative to that of child protection systems. (Sahil, 2015). Since the Act does not allow them the necessary instruments to do so, which causes the patterns of abuse to continue. In Sindh, there are numerous Child Protection Committees that function to varying levels. Despite the guidelines for forming the committees, the same capability and transparency problems that have been seen in other places are faced in Sindh province as well. The Sindhi government passed the "Child Protection Authority Amendment Bill 2021" while the current study was being conducted. The report was delivered by Sindh's Minister for Parliamentary Affairs, Mukesh Kumar Chawla, who stated that the law's current provisions do not address any preventative or remedial actions various offences against children. It fails to prevent the threat posed by kidnapping, trafficking, rape, or murder. As a result, a new adjustment to it is being made in compliance with the fundamental rights guaranteed by Pakistan's

constitution as well as other laws on the subject.(Nation, 2021)

In 2014, the Sindh Assembly enacted the Sindh Child Marriages Restraint Act of 2013 to address child marriages in the province. This law classifies child marriage as a serious offense that can lead to legal action, and it cannot be easily resolved or forgiven. The primary aim of this law is to safeguard the rights of children, aligning with Pakistan's commitment under the United Nations Convention on the Rights of the Child (UNCRC). Although it represents a commendable effort, it does not address the rehabilitation and support systems for those who have already been affected by this issue.

### **5.3.Child Protection Authority Amendment Act 2021**

The prominent provisions of the revised legislation state that all reports to be furnished by the child protection officer and shall be held in strict privacy. Notwithstanding this confidentiality, the core contents of such a report shall be accessible to the child in question, their parent, lawful guardian, or any designated caregiver. The law further provides that names and identities to be kept concealed and not to be published or shared in any newspaper or other source. Any child in need of special protection who is reported as missing or abducted and reported to authority FIR to be filed. The law will be used to prosecute those who fail to report.(Tunio, 2021)

### **5.4.Child Rights Protection in Punjab:**

The Punjab Destitute and Neglected Children Act (PDNC Act, 2004), subsequently amended in 2007, marked Pakistan's initial legislation that specifically addressed child protection. According to the PDNC Act of 2004, the main object of this Act is rescuing, protecting and rehabilitating destitute and neglected children and their care and protection is the main object of this Act. Child Protection and Welfare Bureau (CPWB) have to perform these duties. The CPWB is also entrusted with registering and supervising child protection institutes. The Act establishes a fund dedicated to children's welfare. Similar issues concerning the Fund arose, as evidenced in the KP case. Furthermore, the Act provides for Child Protection Courts dedicated. At present, there is only one CP court which is located in Lahore. The Act specifically addresses offenses against children, encompassing abduction, abuse, exploitation of children as beggars, administering intoxicating substances to them, and enticing them. The Act provides guidelines for transporting children between institutions or releasing them from custody. (McMillan, 2013). Training and orientation sessions conducted by the CPWB have involved the police. However, the question arises whether a crime prevention and control department should handle child protection or provide support to a dedicated child protection agency, given the Punjab police's law enforcement-centric approach (Jabeen, 2013).

The CPWB ensures compliance with legal requirements for all its child-related activities by bringing the cases to the court. It cooperate with the court and facilitate the process of litigations etc. However, it appears that the CPWB's efforts predominantly revolve around addressing the visible manifestations of poverty, such as street and beggar children in public spaces, thereby transforming child protection into extreme situation of law and order (McMillan, 2013). This approach also reflects an underlying punitive policy that views street-involved children as delinquents or perpetrators of anti-social behavior (Boyden, 1997).

Child Protection Officers of the Bureau engage in "rescue operations" to remove such children from the streets, present them in the CP Court. Due to parental reluctance or staff perception that families, particularly from disadvantaged backgrounds, are incapable of caring for the children. Despite substantial global evidence advocating for institutionalization as a last resort, this practice persists

(MacLean, 2003).

While the CPWB is mandated to rehabilitate and reintegrate children into families and communities, evaluating its effectiveness requires examining the proportion of children had received their services. (CPWB, 2008; 2014) The Act's prohibitions have been expanded by the 2007 amendments to cover a wider range of actions that, as was already indicated, are crimes against minors. The fact that this solely discusses the nature of such offenses and possible sanctions for offenders rather than the opportunity for action in the case of such offenses should be made clear. at conclusion, the Act's limited application still only covers kids who are assumed to be poor and destitute; it does not, for instance, cover kids who experience abuse and sexual assault at home or at school. There are reports that child protection committees have been established in a number of districts, but nothing is known about their effectiveness or goals. The 2015 Kasur child abuse case, among other things, provides evidence that there is a glaring lack of community understanding of child abuse and protection issues. In fact, the local preventive system had flaws and a JIT was formed in the wake of Kasur case. (Tribune, 2016). While the CPBW has lack of coordination to the communities, it only conduct meetings with the health and education department which narrow down the functions and responsibility of the CPWB. (McMillan, 2013). The Act requires further revision in order to better adhere to the UNCRC and other internationally recognized child protection standards.

### **5.5.Child Right's Protection Baluchistan**

The Child Protection Act, 2016 is the provincial legislation on the rights of child in the province of Baluchistan. It offers protection for children against abuse, violence, damage, neglect, injury, maltreatment and exploitations. It assist families in protecting their children and provides for the maintenance, safety, schooling, orientation, rehabilitation, and reintegration of children. This implies that they now have additional duties for kid protection on top of their regular tasks. These officers, who have a variety of social science degrees, "might or might not have any training in social work or case management to perform duties of child protection. The efficiency and effectiveness of the proposed system are not significantly aided by this, according to experience from around the world, especially when you consider the variety of child protection services. It provides for a court as a child protection court for the prevention and elimination of CSA. The legislative enactment seemingly overlooks the functionality of traditional judicial bodies, such as the Jirga, and the implications of harmful customs. It becomes imperative to incorporate these customary leadership figures into child protection statutes, given their roles in tribal courts or 'jirgas', which often adjudicate matters pertaining to honor killings and child marriages as mechanisms for dispute resolution. This sentiment is corroborated by the legislative members of the province (Telegraph, September 1, 2008). The Senator's remark underscores the difficulties that child protection legislation is facing in several jurisdictions across similar to those discussed with regards to Sindh province.

### **5.6.The Child Protection Act (ICT) 2018**

The Act is for the capital territory of Islamabad. It provides that the act of inducement, coercion, engaging child for sexual purposes as well as "pornography, prostitution and trafficking" are "Sexual Abuse and Exploitation". Provisions on "Best interest of child" and "child need of care" have also been enumerated in the Act. A Child Protection and Advisory Board has been established under the act.(Senate, 2018).

### **5.7."Zainab Alert, Response and Recovery Act, 2020":**

The act is passed in 2020 after the unfortunate incident of CSA and consequently murder of a seven



years old girl Zainab in Kasur. According to the act, child is a person who has not come up to the age of Eighteen years. Rape is defined as forcible of non-forcible sexual conduct. However, sexual conduct is not defined under the Act. A Recovery Agency is set up for the recovery of missing or abducted/kidnapped children. ZARRA alert system is established and a hotline number is provided for reporting such cases. The Act provides punishments from Ten years as minimum to life imprisonment. The act also obliges police to register the case and to make investigation recover the child in case of their failure to do so the Act prescribes punishment for the police officers concerned.

#### **5.8.The Offence of Zina (Enforcement of Hudood) Ordinance, 1979.**

The ordinance is related to *Zina*, “adultery” and *zina bil jabar* “Rape”. This is a special law on sexual offences which is intended to be according to the Sharia Law. The Ordinance in its sections 12, 13 and 14, “kidnapping of any person or buying or selling any person for prostitution is a punishable offence. Hudd is a punishment ordained by Quran and Sunnah. Where the offence does not fall within the scope of this ordinance then Tazir punishment will be given under PPC. (Ordinance, 1979).

#### **5.9.“The Prevention of Electronic Crimes Act 2016”**

The “Electronic Crimes Act “was passed in 2016 to regulate Cybercrimes. Section 21 of PECA covers photographs or video etc. of a person, including minor, which may be sexually explicit, or to intimidate sexually any person. The Act discourages online sex crimes especially Child pornography. Acts of producing, distributing or transmitting material which is sexually explicit”. (PECA, 2016). Section 19A deals with child pornography, penalizing the production, distribution, possession, or procurement of explicit material involving minors, with imprisonment or fines, and the authority's power to remove or block such material upon request. This section provides distinctions from the Pakistan Penal Code in the intention and responsibility for keeping child pornographic material and empowers the Federal Investigation Agency to take action upon request.

### **6. Conclusion**

For the protection of children Pakistan does have the legislation and the provisions are according to the UNCRC. As discussed the offence of child sexual abuse is clearly defined and penalties are also mentioned. But the problem lies in the implementation of the laws. The protection of children's rights in Pakistan is a critical issue in view of the aforementioned conclusions and discussion. Child sexual assault in Pakistan is still generally ignored and unpunished because of antiquated customs, "limited application of law, and significant feudalism and tribalism. Pakistan is still a long way from becoming a child rights protection country, as seen by the rising number of instances of child sexual assault that have been reported. Unfortunately, due to a deficiency in awareness and training regarding child protection matters, the majority of cases often remain unregistered under these local laws initially. Furthermore, the practicality of this law is compromised. Despite its enactment in 2004 and subsequent amendments in 2007 and 2017, no regulations, rules, or Standard Operating Procedures have been formulated to facilitate its implementation. There is need to adopt a full explanation related to child abuse and all its categories to overcome this violation of child rights and to ensure proper protection. To handle particular types of cases, there is need of specialized courts and tribunals like anti-terrorism courts, banking courts, labour courts, etc. Despite a provision in the legislation, Pakistan does not establish separate and exclusive courts for minors. In Lahore, just one children's court that was formed under “PDNC Act, 2004” is now in existence. More than the government, several NGO's are involved in putting child rights protection into place. Therefore, the government must actively take part in the realization of child rights. Child pornography and prostitution to be discouraged in extreme way

possible. Strict legislations and implementations are needed to curb child pornography. For enforcement and implementation of children's rights, both federal and provincial governments must coordinate with each other for a uniform legislation. Along with creating a dedicated law enforcement agency and child protection units on sexual crimes against children, it should establish a required reporting system for commercial sexual exploitation of children (CSEC) cases.

## References

1998 MLD 1821-1972 (Supreme Court).

2004 YLR 2471.

2012 PLC (CS) 1048.

2014 SCMR 287.

Ali, S. M. (2018). Pattern of Child Abuse in a district of Southern Punjab. Sexual abuse, . *Journal of Sheikh Zayed Medical College* , 13-3.

Ali, S. M. (2018). Pattern of Child Abuse in a district of Southern Punjab. Sexual abuse, . *Journal of Sheikh Zayed Medical College* , 14.

Committee on the Right of the Child, Consideration of reports submitted by states parties under article 44 of the convention. Pakistan, 19 March 2009. from: <http://www2.ohchr.org/english/bodies/crc/crcs52.htm>

DAWN (2018, January 4). *Murder of Zainab Ansari*. Retrieved June 9, 2018, from

Dawn, T. (2018, August 9). Medico-legal report confirms Mardan's 5-year-old girl was raped before murder. *Medico-legal report confirms Mardan's 5-year-old girl was raped before murder* . Mardan, KP, Pakistan:

ECPAT International, Pakistan Progress Card, from: [http://www.ecpat.net/TBS/HTML/MakeHistory\\_country.html](http://www.ecpat.net/TBS/HTML/MakeHistory_country.html)

Editorial, P. (2018). Law and Violence against Children in Pakistan, *Pakistan Journal of Criminology* , i,ii.

Federal Investigation Agency, "National Response Centre for Cyber Crimes (NR3C)".from: [http://www.fia.gov.pk/prj\\_nr3c.htm](http://www.fia.gov.pk/prj_nr3c.htm)

Government of Pakistan, Ministry of Social Welfare and Special Education, Pakistan's National Report Child Sexual Abuse and Exploitation 2008, Islamabad: MSWSE, 2008.

Government of Pakistan, Ministry of Social Welfare and Special Education, Pakistan's National Report Child Sexual Abuse and Exploitation 2008, Islamabad: MSWSE, 2008. 20 ECPAT International, Pakistan Progress Card, July 2010. from: [http://www.ecpat.net/TBS/HTML/MakeHistory\\_country.html](http://www.ecpat.net/TBS/HTML/MakeHistory_country.html)

Government of Pakistan, Prevention and Control of Human Trafficking Ordinance, 2002, from: <http://www.fia.gov.pk/pchto2002.htm>

Hyder A.A, F. A. (2007). Violence against Children: A Challenge for Public Health in Pakistan. *Journal of Health, Population and Nutrition* .

Hyder A.A, F. A. (2007). Violence against Children: A Challenge for Public Health in Pakistan. *Journal of Health, Population and Nutrition*

Mangat, R. (2018, January 22). Child abuse talk still a taboo in Pakistan. *Child abuse talk still a taboo in Pakistan* . Pakistan: The News.

Ministry of Foreign Affairs, [www.mofa.gov.pk](http://www.mofa.gov.pk), accessed 10 July, 2018

Ministry of Social Welfare and Special Education from: <http://www.moswse.gov.pk/>  
National Commission for Child Welfare and Development (NCCWD), National Plan of Action for Children, 2005 (approved in 2006). from: <http://www.nccwd.gov.pk/npa/npa.pdf>

PLD 1988 SC 416,

PLD 2002 Lah.383.

PLD 2012 Lah.389.

PLJ 1999 Kar. 124.

PLJ 2005 Lah.1.

Rana, A. A. (2022a). The right of custody of minor: A comparative study of *shari'ah* and Pakistani legal system. *International Journal of Human Rights and Constitutional Studies*, 9(4), 350–368. <https://doi.org/10.1504/ijhracs.2022.126182>

Rana, A. A. (2022c). The rights of the juvenile in Pakistan. *International Journal of Human Rights and Constitutional Studies*, 9(3), 246–256. <https://doi.org/10.1504/ijhracs.2022.123687>

Secretary, Department of Health and Community Services v JWB , 175 CLR 218 (Civil Court 1992).

SPARC, The State of Pakistan's Children 2009, SPARC, Islamabad, 2009.  
State v Abdul Malik, PLD 2000 Lah 449, (Lahore High Court 2000)

UDHR. (1948). *Universal Declaration of Human Rights*. Retrieved 2018, from United Nations: <http://www.un.org/en/universal-declaration-human-rights/>

UNCRC. (n.d.). *United Nations Convention on the Right of Child*. Retrieved from [www.unicef.org:https://www.unicef.org.uk](http://www.unicef.org:https://www.unicef.org.uk)

UNICEF. (2015). *The state of children in Pakistan*. Retrieved August 2018, from <http://www.mohtasib.gov.pk>: