



Child Kidnapping and Abuse by Gang-criminals and the Legitimate Custody of Minor to Parents After Rescue and use of Geofencing to Arrest the Absconding Criminals

Prof Dr Aftab Ahmad Malik¹, Dr Waqar Azeem², and Dr Mujtaba Asad³

¹ Ph.D (University of Kent, England); M.Phil; MSc; LL.B.

Professor, Department of Criminology and Forensic Sciences,
Lahore Garrison University, Lahore

² South Eastern Regional College, Downpatrick, Ireland UK

³ Ph.D (Shanghai Jiao Tong University, China)

corresponding author: dr_aftab_malik@yahoo.com

Abstract:

This paper mainly focuses on the custody of a minor child, abducted and abused by the criminals from the place of parental residence. The cases regarding the kidnapping of minor young girls and teen aged women are increasing rapidly. The modus operandi of criminals vary from case to case. In some cases criminals torture the abducted minor, do rape and kill them; while in some other cases to escape from law enforcement agencies, they arrange “forced-illegal-fake” marriages under threat to life. In most of the offences an organized rich Gang of criminals is tangled and involved. The Gang members are given different responsibilities to perform and commit the crime by the leader of Gang. They have also the backing of most effective personalities, who safeguard them in existing system and such personalities remain effective and hidden. Therefore, the victim and the family do not get justice from any corner. The Gang and the “effective personality” invest huge amount of money “red light areas” or sale of limbs like kidney, heart or liver etc inland or abroad. However, the abductee undergoes a lot of torture and gang rape. Secondly, the authors focus and stress upon the need of strong legislation so that the criminals are punished, when their guilt is proved and also not bailed out in nonbailable offences. Thirdly and most importantly, the abductee must be handed over to the parents after recovery from the criminal Gang. This paper presents a case study of an abducted school-baby, who has not been handed over to the parents for the last six months. The faults of the legal system in Pakistan requires to be over viewed, revamped and overhauled. The antagonistic behavior of Police and investigating officers is also required to be modified, which adversely affects the merits of the case in courts of law.

Key words: Abduction, Kidnapping, custody of a minor abductee, rape, geofencing

1. Introduction

An exponential rise in the occurrence of crimes against teen aged girls and minor females have been observed during last few months. The criminals operate in the form of either an organized Gang or single handedly. While they operate as a Gang, they divide the offence into smaller categories of offences and nominate the members of the Gang different tasks to achieve their common objectives. The tasks are divided by chief of the Gang according to their competence and modus operandi to commit crime and archive their ulterior motive. For example, in the kidnapping and abduction cases, someone motivates the victim and after persuasion join hand with the other group to physically kidnap and transport to another destination. All or some members of the Gang commit rape and finally (perhaps) execute the killing or demand ransom from parents. At each stage all participants contributing in crime are fully safe by outside officials and unofficial protectors. Their links with some police officer and other effective personalities are very productive to safeguard them at all stages. Following terminologies are prevalent for the “criminal Gang “ such as syndicate, mafia or crime mob. They have an organized network like terrorists and behave like “sub-culture communal” sometimes called Gangland or underworld due to their hidden activities and operations. They possess most modern tools and equipment to achieve their objectives such as transport, wireless systems and “Information Technology Systems”. Regarding the topic of this research, according to [1], mostly they commit heinous and terrible offences such as kidnapping for ransom, sexual violence, Gang-rape, abuse, inflicting physical

torture to teenaged women and innocent girls.

2. Need for Strong Laws for Cases of Kidnapping

It is observed in all most all cases of abduction and kidnapping that the abductee undergoes tremendous amount of torture and sometimes gang rape. The authors focus and worry for the need of strong legislation so that the criminals are punished in accordance with nature of offence committed, when their guilt is proved and also not bailed out in nonbailable offences. Secondly, abduction is complete when the minor is transferred from the guardian's custody to that of a third party who is not entitled to it. Thirdly, according to the law, kidnapping is the crime of snatching, imprisoning, inveigling, or taking someone away by force or deceit, frequently for ransom money or in continuance of other crime. In [4] it is defined that child abduction is the illegal exclusion, retention, detention, or concealment of a kid or infant. A person is said to have been abducted if the person had been taken away using coercion, trickery, or overt force or violence. The loopholes, legal-gaps, ambiguities most of the time make case of prosecution weak in the court of law. Therefore, it is necessary to alter the most recent legal framework documents as described in [2]. Additionally, [3] strongly advises the calibration of forensic evidence, including its acquisition, conservation, and exhibition in court, adopting methodologies of FBI (Federal Bureau of Investigation). As a result, it is important to make the changes specified in [2] to the most recent legal instruments.

3. Criminology and Gang-led Organized crimes

The disciplines of Jurisprudence, Sociology of Law and Criminology are closely related with one another. The Jurisprudence deals with theory and development of Law on the basis of “what is right”, “what is wrong” and infringement of duties and rights, other areas discuss social norms, behaviors and justice system. The defects in one system directly affects the other adversely, for example corruption and bribe kill the essence of good governance and hence the ineffectiveness of these systems.

It is a well-known fact that the organized crimes occur and syndicates of criminals are operational in the countries performing various gang activities, which the naïve administration don't effectively combat with them. Because organized crime advances due to the negligence of governments. Due to some incompetent employees/officers in the institutions and corruption, and the features of unsuccessful states, which are root cause of organized crime.

4. Case Study of a Kidnapped Minor Girl by Criminal-Gang

In this section, a case study is presented wherein several offences have been committed jointly by the 34-member criminal-gang having different modus operandi and role. These include offence under PPC sections 361, 362, 364, 364-A, 365, 365-B, 366-A 368 and 375 regarding kidnapping, abduction and rape. The members of Gang are very powerful, therefore for the last six months, they have upper hand and escaping from any punishment or detention. All criminals are on bail even for nonbailable offences. They are investing heavy amount of money on facing the trial by hiring several teams of lawyers and travel between province of Punjab and Sindh. In fact, a minor

girl, student of class 6 of an English medium School was abducted from her residence in Karachi by five members of the gang including one woman. She was smuggled after intoxication and drugs to Lahore, Punjab Province and later on, the gang kept on transporting the baby-girl to various cities including KPK, according to social media and court reporting. In this case the then Inspector of Police (IG) Sindh Province was ordered by the honorable court for recovery of minor-baby; due to noncompliance he was suspended or replaced from his position. The new Inspector General of Police had taken effective measure for the recovery of the minor-baby and successfully recovered her by Police. During the large time wasted in recovery of the child, the Gang managed to arrange a fake-paper-marriage of the minor under the age of marriage. However, the Police arrested the “Fake Maulvi member of gang” and a witness to the “Fake-paper-marriage”. Both the “fake-Maulvi” and witness denied their guilt in the court. They were bailed out along with two central criminals. The central criminals are real brothers and their mother “Noor” also accompanied them for smuggling the baby from Karachi to Punjab University Lahore, where the baby remained for three months under the “illegal custody” of Noor and the central criminals Zaheer and Shabbir. The minor baby was subjected to high degree of torture and intoxication as alleged in the court record. In spite of the arrest warrants, the woman “Noor” was never arrested apparently due to effectiveness of the gang and favorable system network. Police must use Geofencing technique to arrest Noor as her places in various cities are very well known to Police of Sindh and Lahore, where she often visits interchangeably.

5. Arrest of Criminals Using Geofencing Technology

It is important to introduce the Geofencing Technology and its applications, which is being widely used in Business. We propose its usage in crime world, for the localization of absconding criminals. This Technology has already been used in the detection of criminals who had murdered a famous and respected religious personality and member of parliament Maulana Sami-ul-Haqq. Also some other, criminals have been detected and arrested due to use of this Technology. According to [14], several applications in daily life, particularly in business can be effectively handled using Geofencing. The most useful aspect of Geofencing in the area of crime is that whosoever went near to marked location i.e.

crime-scene can be easily detected. According to [16], the Punjab Police is setting up and updating the present facilities to effectively utilize this technology in criminal detection and hence arrest. Police is also considering to strengthen Forensic systems regarding finger prints, detection of criminal using DNA, (CRD) Call Record Data storage and retrieval, geofencing, geo-mapping and the use of most relevant and applicable software. It is easy to understand the Geofencing Technology; as a software it creates a Virtual **Geo-boundary** everywhere round a real-location or object. The boundary can be expressed as map similar to google map. The working of the Geofencing depends upon area-based service. While working with geofencing, the following technologies shown in Table 1, which are used subject to requirements/applications:

Table 1: Technologies which can be interfaced with geofencing

Sr#	Tech-name	Uses
1.	<u>RFID</u>	Radio-frequency Identification works with electromagnetic field, which which can track the tags attached to it using a small radio transmitter and a receiver.
2.	<u>CRD</u>	Call Record Data is extremely useful for detection of criminals and can be use in conjunction with RFID for given GPS
3.	<u>GPS</u>	The Global Positioning System (GPS) is a U.S.-owned utility that provides users with positioning, navigation, and timing (PNT) services. This system consists of three segments: the space segment, the control segment, and the user segmen
4.	<u>WiFi</u>	cellular data to trigger a pre-programmed action when a mobile device or RFID tag enters or exits a virtual boundary set up around a geographical location, known as a <u>geofence</u> .

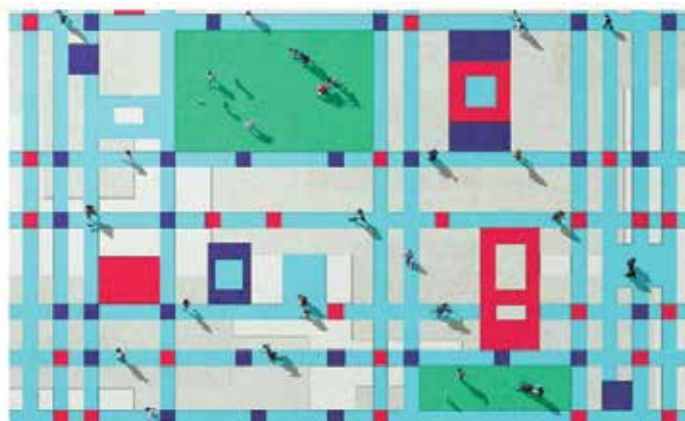


Figure 1: ‘Geofence’ Finds Anyone Who Went Near a Crime Scene. Curtesy Reference [15]

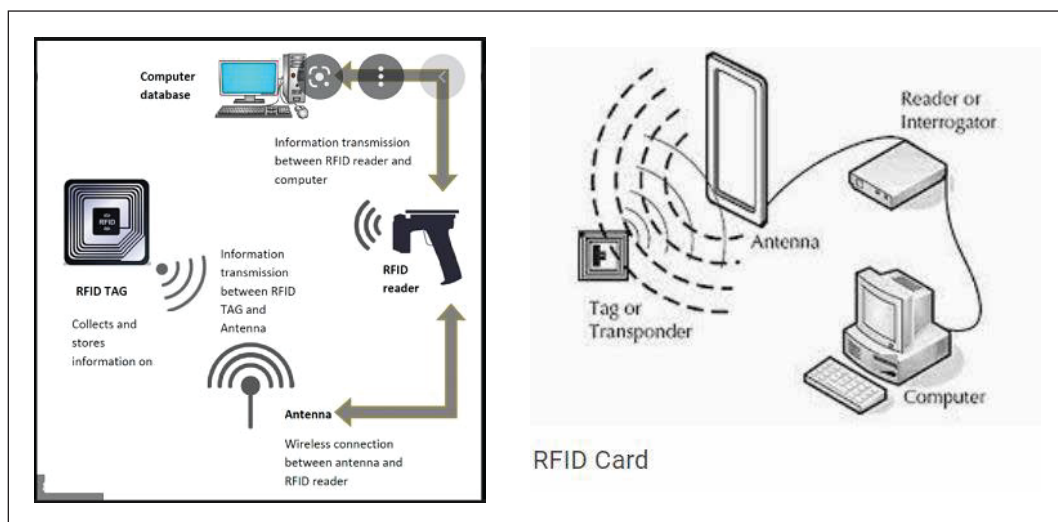


Figure 2: RFID and RIF Card . Reference Research Gate.net

6. Custody of a Minor Abductee and Legal Position

The practice in family courts is clear regarding the custody of a minor, when the dispute is between the parents as a result of separation or divorce. There are several decisions of the High Courts and Supreme Court in this regard, which are referred to by the lawyers. The courts then decide the matter regarding the custody, keeping in view the psychology and wellbeing of the minor.

In the case presented in section 4 of this paper, the most unfortunate situation has arisen particularly on the issue of the custody of the minor-baby. Since last six months, the custody of the minor-baby could not be handed over to the parents. She has been kept in a child protection home in Karachi. The gang being very effectively managed this aspect through the system to avert the custody to parents. Recently, the court of jurisdiction, decided to allow the parents to meet the minor-baby twice a month in the Child protection House. Two real

sisters aged 6 years and 2 years were also not allowed to meet the abductee, the minor-baby. Most importantly, the welfare of this child is being ignored totally, in particular the **studies and welfare**. She is not being provided the food she used to take at home. At the time of meeting with parents, there are two persons present, one lady doctor and other, a judge appointed by the court. The courts normally while deciding the custody, take into account the issues, such as age of the minor, the relationship of the child & parents and the welfare of the child. In case of the custody of the minor-baby discussed in section 4 of the case study, both mother and father are aggrieved. In such cases normally the court must hand over the custody to parents soon after the minor is rescued and recovered from the criminals. But for the last six months the issue is pending and minor baby is residing in the "Child Protection Home" at Karachi. The welfare of the minor and her schooling is at stake. She has lost one academic year of her education. The major reason for delays in this

case has been allegedly the adverse behavior of the four investigating officer which were changed during the investigation and allegedly protecting the criminal.

The Constitution of Pakistan guarantees the fundamental rights of all citizens, therefore, it is the duty of the courts to protect the fundamental rights. According to the well-known legal concept *sui juris*, the persons who have reached the age of majority can exercise right to the contract of marriage. In case of minor-baby discussed in our case study, she was declared a minor of age near 14 years, by a high powered Medical Board consisting of 12 senior members from medical profession. The was Board was constituted by competent court having jurisdiction. Therefore, her fake-paper-marriage is invalid and the central criminal Zaheer is legally debarred from taking the plea of marriage with this minor child. Hence the custody of the abductee needs to be handed over to her parents, the natural guardians by the honorable court. The family of gangsters kept the minor-baby under their illegal custody for more than three months and it is alleged that they were involved in rape. The gangster claimed the minor-baby to be his wife on the basis of "fake-paper-marriage". The parents of the abductee Dua Zahra are requesting for acquiring the custody of their daughter.

7. Cancellation of Bail of Central Criminals

In order to meet the justice in Dua Zahra case, it is important to cancel the bails of central criminals and they be arrested and the case be decided on merits. The criminals be punished on the offences to be proven by prosecution for

offences under PPC sections 361, 362, 364, 364-A, 365, 365-B, 366-A 368 and 375 regarding kidnapping, abduction, forged marriage, illegal custody of minor, transporting and smuggling the minor for illicit reasons and rape. The minor baby be handed over to the parent without any further delay to save her academic year of school and ensure other matters related welfare of the child; to enable the parents to restore her in life as normal child in the society.

Further, the parents after attaining the custody of the baby must take adequately strict security measures to save her from the Gangster attacks, during her stay at home and school. The ordinary security in this case may be insufficient. The central criminal of the gang has already threatened the parents, it is alleged in court proceedings, to kidnap and abduct two little sisters of Dua Zahra aged 6 and 2 years.

8. Recommendations

- a. According to [12], the marriage of a minor without the approval of Wali is not be recognized by the courts.
- b. Enhanced punishments for abduction of minor females be prescribed.
- c. Most recent and modern technologies such as geo-fencing, according to [14], [15], and [16] must be used to localize and arrest the criminals by law enforcement agencies.
- d. During the pendency of such case as that of Dua Zahra, the honorable courts may restrict the gangsters to judicial custody till final verdict of the case is announced.
- e. The abducted baby has not been handed

over to the parents for the last six months. The faults of the legal system in Pakistan requires to be over viewed, revamped and overhauled.

9. Acknowledgement

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