



PROMULGATE STRONG LEGAL FRAMEWORK FOR CHILD PROTECTION AGAINST OFFENCES OF TORTURING, ABUSING, OR KILLING

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Abstract

The killing and torturing innocent children even infants can be traced from ancient times of Moses. The burial of alive innocent girl babies under ten happened frequency at early times of pronouncement of Prophet-hood by Muhammad peace be upon him. Presently, enormous and massive incidents of torturing, abusing and killing are occurring and being reported in all subcontinents. Recently a father killed two years son by hanging, because he was asking for food. These offences are increasing particularly with primary and middle level school boys and girls. A boy of 10 years was raped several times in a religious school by the teacher and his accomplices. Who will care for children the Law or parents or Law enforcement Agencies? The sequence in such offences is first abduction then physical torture, molesting and abuse of children and finally killing. The dead body is mutilated and thrown to public places to terrify people. The 'modus operandi' of offenders vary from offence to offence. About three decades back a serial killer in Pakistan abducted and killed (confirmed) 100 innocent children. The case study of this offence is presented in this research paper. The need of the day is to promulgate strong legal framework for child protection against offences of torturing, abusing, or killing. Merely, the legislation cannot alone overcome such offences in the society. The infliction of death penalty publically for some offences in Saudi Arabia, Korea and other countries has a deterrent impact on the society. The death penalty as well as public hanging, unfortunately is banned in most of the countries. A large number of cases of torturing, abusing and molesting children admitted in religious school hostels are reported but neither action is taken by Law enforcement agencies nor highlighted in press and media. The need of strong promulgation of law is also required to deal with gangs involved in children trafficking and selling human body parts obtained after killing them. The effects of child abuse are extremely harmful for the society, in whatever form it may be physical, sexual or emotional. It must be dealt with strong legal framework.

Keywords: Forensic Evidence, Abduction, torturing, Killing of innocent children

1. Introduction

The poverty, unemployment, economic and cultural warfare is adversely effecting the humanitarian values and standards of morality and ethics. Some persons

of society are becoming angry, annoyed, revengeful, offensive, furious and reactive to take vengeance, retribution and revenge from innocent humans, especially children. We present another case study of a teacher and his accomplice of a religious school, who committed rape very many times with a boy of

10 years; the boy was shedding blood tears after the incident. There are several incidents occurring in the present day society regarding the offences of abusing, assaulting molesting, torturing, physically or killing the innocent children and where offenders inflict high degree of torture.

The Prophet of Islam (May Allah's Peace be upon him) always extended mercy and blessing for all, particularly girls. He abolished the tradition of burying alive, the young girls by Arabs and prohibited to beat harshly the children. According to the norms of ethics and morality, which demands not to be hard and harsh with children?

It is emphasized in [1] that apart from forensic Evidence, the weapons used for inflicting torture by the offenders and electronic devices, Videos, computer and Camera must be taken into custody, by the investigation officer. One of the motives of the criminals is to sell the pornographic pictures and video to other criminals for black mailing etc. The mobile phones are more frequently used by them. One of the best forensic evidence is that recovered from audio, videos, images and relevant files from a mobile phone.

2.0: Killing (Shaheeds:134) innocent School Children

Some criminal are committing acts of terrorism against innocent children and people. The killing of innocent children and teachers of Army Public School in Pakistan remains unforgettable, painful and throbbing act of terrorism. The number of Shaheeds (deaths) was 150 out of which 134 were our beloved innocent School children. All the seven terrorists were foreigners having nationality of Afghanistan, Chechnya and Arab. In the case study, we highlight a criminal who killed 100 innocent children.

3.0 Case Studies and Reviews

In order to facilitate our assertion, we present some case studies to explore why strict laws are need of the day. The Capital punishment is defined in [2], but is seldom exercised. There has been demand of Capital Punishment, the death penalty in cases of heinous, terrible, dreadful,

scandalous and wicked offences committed against innocent children.

Case Study 1:

Javed Iqbal abducted, physically tortured, abused and killed 100 innocent Children

During the process of research work for this paper, all the three authors felt too aggrieved for parents of poor 100 children killed by a person Javed Iqbal [3] to [8]; during 1998-99 after abduction, inflicting physical torture, sex abuse and then strangling, throttling, asphyxiating to death. After killing his victim, the serial killer used to dip the dead body in a drum of concentrated powerful acid to dissolve dead bodies, to conceal the evidence. According to [3]: (BBC Report) in 1999, a serial killer Javed Iqbal, in Pakistan, abducted children, kept them in his custody, tortured, abused, chained them, harassed, intimidated and finally killed.



Picture 1 : Killer of 100 children, Courtesy Dawn

According to [4], the serial killer had killed one hundred (100-confirmed) children one by one, employing similar 'modus operandi'. The ages of the victims were between 6 to 16 years. At the time of killing the children, they were chained and with help of long knife he used to cut their throat and cause and inflict injuries. According to [5], he confessed the guilt of abuse and murder of 100 children(confirmed). The hearing Judge of the court announced Judgment [7]: that he must be cut into 100 pieces in the presence of the parents of 100 children and then his pieces be dipped into acid. The decision of the court could not be implemented because he committed suicide. On the other hand the decision of court

was unpopular amongst legal forums and NGO's because of the following reasons:

- The death. Penalty can be implemented only by hanging,
- The mutilation, disfigurement, damage or defacement of human body is not permitted in law and Islamic provisions.

The death penalty could not be imposed on the criminal as he committed suicide in the jail. This case has been under hot discussion in world media specially BBC as discussed in [6] and [7]. The killer had sexually abused every child before killing as discussed in [8].

Case Study 2:

140 domestic workers-children tortured, raped or murdered

According to [9], in which it has been highlighted that one hundred forty known cases of child workers, who were tortured and killed due to domestic brutality and cruelty. The actual

statistics are extremely high due to non-reporting of cases. The governmental agencies must impose ban on domestic child labor. Mostly less than 15 year girls and boys are victims of abuse and inhumane torture. The village women send their girls as maids in cities on monthly labor basis or on advance payments and don't care afterwards. The state must do more legislation to save children for abuse and killing.

Case Study 3:

Minor Maid Tayyaba Tortured

According to [10], Tatyana aged 10, a minor and working as maid in the house of a working judge, where, she was constantly caused physical torture and inflicted serious injuries on the body and face by hot iron. The wife of the judge kept her under target to torture. Thanks to Allah Almighty, who enabled the superior judiciary to take 'Suo Moto' notice to rescue Tayyaba. The offenders the husband and wife were punished with imprisonment and fine.



Picture 2 : Images of Tayyaba after Torture. On right are the criminals. Courtesy [10]:

The children working in shops, automobile shops and house-servants, in agriculture sector are tortured physically and mentally, like slaves. No legislation for child protection has been effective so far.

Case Study 4:

Ten year boy Raped and tortured in KPK

Most of the religious “schools” admit orphans and have hostels, which are exclusively run on charity and donations. There have always been complaints from such religious “schools” about torturing, raping, molesting and also killing

innocent children. According to [11], a ten years boy was raped numerous times by the teacher of the religious “schools” as well as by his accomplices. The inhuman treatment and torture was also inflicted on his body with cruelty in Khyber Pakhtunkhwa. The images of the baby and accused teacher are shown in Picture 3.



Picture 3 : Ten-year-old cried blood tears because he was repeatedly subjected to rape

Several hundred children are raped every day by such people. The legal frame work and law enforcement agencies do not effectively handle this stigma.

Case study 5:

Killing a five year old boy by hanging in Mosque

According to [1], five years old innocent boy shown in Picture 3, was raped, abused and killed. The picture [3] is that of the boy Ashraf Javed, who was killed and hanged after sodomy inside the place of learning, the mosque.



Picture 4: Ashraf Javed

Case Study 6:

Four-year boy abducted and killed

According to [12], in December 2019, a four years boy, Umar Rathore, who was kidnapped by one the relatives of his father for ransom. Due to nonpayment of the money, hands, mouth and feet were tied with wide tape and the boy was locked up in cupboard for more than 2 days, where he died of suffocation. The suspects heavily intoxicated the boy. The criminal Hamza confessed the offence of killing, but the FIR was registered under Section 363-A PPC.



Picture 5: Umar Rathore when alive.

We know one little Zainab of city Kasur Pakistan (Picture), but there are millions of such little girls round the world, who have been abducted, tortured, raped and killed.



Picture 5 : (left) Murderer of Zainab who killed her after inflicting extensive torture. See details in [1]:

Case study 7:

Child beaten to death in Bangladesh

According to [13], a primary school student of grade 4, namely Samiul Alam Rajan, aged 13, used to sell vegetable. He was a son of poor driver. He was caught on suspicion of theft, tied up and beaten to death in Sylhet's Kumargaon.



Picture 6: Child beaten to death in Bangladesh [13]

Case study 8:

A teen aged School boy killed by teacher after torture

According to [14], a teen aged Hafiz Hunain Bilal, student of American Lycetuff School (Picture 8) was tortured to death by class teacher because he had not done his home work. He died because of continuous punishment by grabbing his hair, hard hitting on head and stomach in front of the class until he fell down, collapsed and then died. According to [15], public executions will not help control the torturing,

sexual abuse and killing to children. According to [16], Child Protection and Welfare Bureau was setup in Punjab to rehabilitate and protect the children from torture but the Bureau complains about lack of funds. They capture beggar children from roads and then due to pressure of influential persons release them.



Picture 7 : American Lycetuff School boy tortured and killed by class teacher [14]

The practices of cruelty abusing, torturing, and killing at s are very frequently occurring in schools and madrissas. The Teachers adopt different strategies for inflicting torture, described in detail in [1]. The well known are slapping on the face, beating harshly, kicking out of class, calling them in Principal office and, complaints with parents and calling them, locking up in solitude , humiliation, harsh physical punishment with stick, kneeling down (Picture 9), withdrawal of students privileges and imposing fine.



Picture : Left an innocent baby in lock up and on Right torture by kneeling down for longer time



Picture : Victims of the teacher [1]:

4.0 Enforcement of Strict Laws for Children Protection

The state of Pakistan has not been able to seriously restrain, curb, control, limit or curtail the occurrences of heinous offences and violence against innocent children in spite of the availability of various enactments/legal instruments in the field including amended PPC. Human Rights Organizations have been constantly expressing their concern. According to [18], a report regarding “Rights of the Child in Pakistan for implementation” was presented in the Convention. The report was prepared for the Committee on the Rights of the Child, 34th session – Geneva, September 2003. Our Legal frame work need to be overhauled, repaired and amended for the protection of children against cruelty, torture, inhuman and degrading treatments, particularly girls. Pakistan has ratified Convention on children Rights, but still we have to amend our laws to be synchronized and aligned with UNICEF and international enactments especially in following areas:

- Violence against and Exploitation of Children
- Eradication of child labor
- Improving life quality of children,
- Promotion of requisite skills,
- Implementation of “UNICEF End Violence Plan”

5. Strong enactments and Laws Promulgated in United Kingdom

The best possible and strong enactments and Laws have been promulgated in United Kingdom. The authors of this paper propose that for implementation of effective on child protection, we may follow up various enactments as guide lines to strengthen our Laws in Pakistan from [17] through [30]. We may follow the guideline principles and procedures for enforcement strong and strict legislation. Every nation in United Kingdom very seriously adheres to various enactments, policies, education and child Protection. The most salient approach in UK system for child protection is that the Education Department looks after the Education, Rights of Children and matters connected with child protection. All commitments, responsibilities and obligations are seriously fulfilled so that children may enjoy

their legal rights and protection in UK. The provisions of all laws are applied successfully wherever and whenever required, in investigation, prosecution process and defense in courts.

6. Role of Parents and use of Technology

The role of parents is also of immense importance. The children should not be allowed to have inappropriate relationships and older adult exploitation, often called to as the 'boyfriend' model. Parents must be vigilant and aware on the issues of "Trafficking", sometimes involves the 'buying and selling' of children by those involved in serious organized crime and Gang/group exploitation. The knowledge of child welfare is of pivotal importance.

There information Technology bases systems which may help parents to know the current/last location outside home at any time. The smart watches for kids use and include GPS tracker for the safety of child. It informs parents after prescribed interval of time. It consists of GPS tracker and GSM module which transmits the current location the child. It works like car tracker. There are other innovative devices available in market to monitor on line the safety and well being of the child and his few emotions while, being outside home such as sadness, happiness, disgust or anger. Nowadays, such device can issue alerts in emergency situations. The parents may also obtain regular feedback either on Social media accounts, Emails, WhatsApp or SMS.

In order to investigate the cases of harassment and intimidation for procuring forensic and legal evidence, the present authors reported in [1]: how to use effectively the Electronic Devices to Investigate Offences of Assaulting, Abusing, Molesting, Torturing or Killing the Innocent Children.

Further [1] discusses offences of intimidation and harassment of innocent children under 18 through internet and displaying their pornographic videos is serious cyber crime. The intent of such offences is motivation of offenders from films, animated cartoons, and filthy material which contaminate the thinking of offenders. The dark web is another source which

persuades offenders towards inflicting torture to children.

7. Why Child Abuse? Reasons

Following are a few reasons for child abuse and torture:

- Poverty,
- Delay in marriages of young males
- Unemployment,
- Absence of any deterrence force of Law or Police, which can prohibit offenders. Police is silent spectator.
- Absence of fear of God, which is a greatest source of deterrence and avoidance
- Projection of nude and pornographic material and video on social media, films
- Use of narcotics by anti-social elements. Criminal have psychiatric problems and disorders.
- Police and parents do not have time to safeguard children
- Parents are not vigilant about what is happening with children
- Step parents treat children very harshly and don't care for their education.
- There is nobody who can save children from parent's cruelty, bad behaviour, abuse and torture.
- Unfortunately, some religious Schools and madrasa and particularly the hostels attached with them are torture houses, where children are tortured, abused, raped, molested and killed. Recently, Police arrested a Qari of a madrisa, who was flogging and lashing innocent children under seven with a long rubber pipe for not remembering lesson. School sticks leave heavy wounds on the delicate body of innocent children.
- Recently a father hanged his years son as the boy as asking for food

8.0 Statistics at a Glance

More than 60-70% cases of child abuse particularly related to girls as victim are not reported in press or to Police. According to [31], a survey report 2016, based on media news 86 National local and regional Newspapers reveals that 4139 cases were reported in 2016 regarding child kidnapping, torture, sexual abuse and child marriage. One hundred cases of murder of innocent children. Apart from this, 2410 cases of girls and 1729 of boys were registered. The ages of victim boys and girls were in the range of 11 to 15. The number of abusers acquaintances were

1765 and strangers 798. This indicates that current legislation is not effective.

9.0 Existing Legal frameworks in Pakistan

The amendment in PPC about Child Abuse was made effective in 2016. The PPC section is 82 relevant in this case. In Pakistan apart from abusing the children, the elimination of children is another hot issue. The legal set up in Pakistan is not as effective. In view of cases committed by criminals in last 3 to 4 decades demand extensive changes and introduction of strong and most effective legal framework to deal with child abuse. In 2014, Child Protection System Bill was prepared to guarantee to prevent the children from the risks and ensure the welfare including health, development, welfare, training and education. The pro Khyber Pakhtunkhwa promulgated in 2010 “Child Protection and Welfare Act”.

The point for grave and serious consideration is that our legal setup must be adequately strong to fight with all difficult situations arising out of application of law. The offenses like child abduction, molestation, sodomy, rape and killing require solid evidence for the case presented in the court.

The major difficulties arise during fighting the cases in the court of law. The Police have two important components, the executive and police-prosecution branch. The executive investigates and presents the case for legal opinion to the district attorney, who then forwards and contests the case in the court of law as public prosecutor, where the state is a party in criminal cases. When naïve and weak evidence is prepared by inexperienced police executives and is sent up to district attorney for defense in court; the criminals can be set free due to legal loopholes, ambiguities and errors.

10. Recommendations

1. In view of the advocacy presented above, we recommend to promulgate strong legal framework for child protection against offences of torturing, abusing, or killing.
2. The legislation at national and provincial level must seriously

endeavor to achieve the target. The objective must be an effective mechanism to resolves all the issues by enforcing a comprehensive legal framework.

3. The protection of children must be our main concern, right of way and first priority
4. There must be National Child Protection Policy to safeguard them from abuse, neglect and violence, Child protection systems.
5. National Child Policy must be based on our commitment in “Rights of the Child in Pakistan for implementation”, which was presented in the Convention 34th session – Geneva, September 2003
6. The abuser groups and gangs must be apprehended, taken into custody, taken up for questioning, and then detained if required under law.
7. Let us save our children from internal and external evil forces.
8. Save them from attacks of cultural warfare and dangers of abuser groups, untrustworthy relatives and 'boy friends' having bad habits, particularly those involved in using narcotics and keeping knife or gun.
9. Parents, moulvis and teachers must avoid physical torture and punishment as harsh beating and punishing the children in Islam is prohibited.
10. The governmental agencies must impose ban on domestic child labor as well as in auto shops, agriculture sector and factories, under labor Laws.
11. Public executions will help control the torturing, sexual abuse and killing to children.
12. The media must educate masses and knowledge of child welfare which is of pivotal importance.

11. Conclusion:

This article focuses on the legislative perspective of promotion of child welfare and protection in Pakistan. The application of recommendations to the existing resources can improve the existing child welfare system in the country. It is also essential to simultaneously

work on the academic, clinical and research aspect of this important domain. We must without wasting any time, promulgate strong legal framework for child protection against offences of torturing, abusing, or killing innocent children. The criminals involved in such offences can be arrested using information from their mobiles and computer directly from these device or with the help of service providers as recommended by us in [1]. The locations of the moving criminals can also be found invoking roaming information stored on the mobile and service provider end. Mobile Messages can be recovered using existing technology for forensic evidence. Other data on the mobiles and computers of the criminals such as photographs, videos, SD cards and phone log can be easily tracked.

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References:

- [1]: Aftab Ahmad Malik, Mujtaba Asad, Waqar Azeem (2019), "Electronic Devices to Investigate Offences of Torturing, Abusing, Molesting, Assaulting or Killing the Innocent Children, LGU International Journal for Electronic Crime Investigation Vol. 3 Issue 2, April - June 2019
- [2]: "Capital punishment ", The British Encyclopedia.
- [3]: "Pakistan's Serial Killer' under interrogation," BBC. Friday 31 December 1999 news.bbc.co.uk › South Asia
- [4]: "Death for Pakistan serial killer," BBC Thursday 16 March 2000 news.bbc.co.uk › South Asia
- [5]: "Pakistan Penal Code Child Abuse Amendment 2016", www.lawsofpakistan.com/pakistan-penal-code-child-abuse...
- [6]: "Pakistan probes serial killer's death." BBC. Wednesday 10 October 2001. news.bbc.co.uk › South Asia
- [7]: McGraw, Seamus, "A Letter from a Killer", All about Javed Iqbal, Crime Library p. 4 at the Wayback Machine (archived 13 June 2003)
- [8]: "Serial killer Javed Iqbal who sexually abused and killed 100 children in Pakistan", (Archive), India TV, Updated 26 February 2014.
- [9]: "140 child domestic workers tortured, raped or murdered in a decade,"

<https://www.thenews.com.pk/print/601492-140-child-domestic-workers-tortured-raped-or-murdered-in-a-decade>
- [10]: Muhammad Imran (2018), "Tayyaba Torture case- Judge, wife awarded one year imprisonment and Rs 50,000 fine", <https://www.dawn.com/>
- [11]: "10-year-old raped 100 times – left with tears of blood", NEWS, 2019 <https://girls.pk/news/10-year-old-raped-100-times/>
- [12]: Shakeel Anjum (2019), "Minor boy kidnapped for ransom found dead", <https://www.thenews.com.pk/print/588408-minor-boy-kidnapped-for-ransom-found-dead>
- [13]: Manjur Ahmed, Sylhet (2015), "Child beaten to death in Bangladesh", 12 July, bdnews24.com
- [14]: Ramsha Naeem, "Justice for Husnain - Pakistanis demand justice for Lahore teenager allegedly tortured to death by teacher", Dawn.com 06 Sept 2019
- [15]: Enum Naseer (2020), "Having public executions or death penalty for child sexual abuse will adversely affect efforts to protect children", February 16, 2020, www.thenews.com.pk/tns/category/dialogue

- [16]: Ahsan Zia,” Protecting children”, Shehr February 23, 2020
www.thenews.com.pk › tns › 618044-protecting-children
- [17]: “An introduction to child protection legislation in the UK; Cruelty to Children must stop” (May 2012)”, NSPCC, England
- [18]: Stefano Berti, Severine Jacomy and Sylvain Vit “ Rights of the Child in Pakistan”, Report on the implementation of the Convention on the Rights of the Child by Pakistan, Report prepared for the Committee on the Rights of the Child, 34th session – Geneva, September 2003, <https://www.refworld.org/pdfid/46c190b40.pdf>
- [19]: Children and Young Persons Act 1933, <http://www.legislation.gov.uk/ukpga/Geo5/23-24/12>
- [20]: Children Act 1989, <http://www.legislation.gov.uk/ukpga/1989/41/contents>
- [21]: Sex Offenders Act 1997
<http://www.legislation.gov.uk/ukpga/1997/51/contents>
- [22]: Human Rights Act 1998
<http://www.legislation.gov.uk/ukpga/1998/42/contents>
- [23]: Adoption and Children Act 2002
<http://www.legislation.gov.uk/ukpga/2002/38/contents>
- [24]: Education Act 2002,
<http://www.legislation.gov.uk/ukpga/2002/32/contents>
- [25]: Sexual Offences Act 2003,
<http://www.legislation.gov.uk/ukpga/2003/42/contents>
- [26]: Female Genital Mutilation Act 2003,
<http://www.legislation.gov.uk/ukpga/2003/31/contents>
- [27]: Domestic Violence, Crime and Victims Act 2004,
<http://www.legislation.hmso.gov.uk/acts/acts2004/20040028.htm>
- [28]: Children Act 2004 ,
<http://www.legislation.gov.uk/ukpga/2004/31/contents>
- [29]: Safeguarding Vulnerable Groups Act 2006 ,
<http://www.legislation.gov.uk/ukpga/2006/47/contents>
- [30]: Children and Adoption Act 2006,
<http://www.legislation.gov.uk/ukpga/2006/20>
- [31]: Sana Younus Aga Khan, Aisha S Chachar, Ayesha Mian, “Child protection in Pakistan- Legislation & implementation” Journal of Neurological Sciences (PJNS) Volume 13 | Issue 2 Article #12 6-2018