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THE LEGAL FRAMEWORK FOR CHILD PROTECTION IN PAKISTAN

Fraz Ashraf Khan

Asst. Professor, Department of Law, University of the Punjab, Jhelum Campus

frazashraf@pujc.edu.pk

Arslan Raza

Visiting Faculty, Department of Law, University of the Punjab, Jhelum Campus

ABSTRACT

Child protection is a significant issue in Pakistan, as children are susceptible to many sorts of abuse, exploitation, and neglect. This article rigorously analyzes the legal framework for child protection in Pakistan, commencing with pertinent constitutional provisions and encompassing significant statutes including the Juvenile Justice System Act, 2018, the National Commission on the Rights of the Child Act, 2017, and the Zainab Alert, Response and Recovery Act, 2020. The article examines the influence of international obligations, specifically the UNCRC and ILO conventions, on domestic legislation. It assesses the formation of child protection institutions and the efficacy of implementation mechanisms at federal and provincial levels, while acknowledging the complexities arising from the devolution of powers following the 18th Amendment. Notwithstanding legislative advancements, considerable deficiencies remain in enforcement, public awareness, and stakeholder collaboration. The report highlights socio-cultural obstacles, disjointed legislation, and insufficient data gathering as persistent issues. The article finishes with suggestions to enhance institutional capacity, align legal frameworks, refine data systems, and elevate public awareness. In conclusion, although Pakistan's legal framework for child protection has progressed, significant efforts are necessary to guarantee efficient execution and the complete realization of children's rights.

Keywords: Legal Framework, Child Protection, Public Awareness, Domestic Legislation, Child Acts

Introduction and Background

Child protection is a significant issue in Pakistan, as children represent approximately 35% of the population (UNICEF, 2022). Notwithstanding considerable progress in legislation and policy, Pakistani children persistently encounter numerous vulnerabilities, including violence, exploitation, neglect, and abuse. Poverty, social norms, and restricted access to education, healthcare, and judicial systems exacerbate these challenges. The interaction of these elements fosters an environment in which children face hazards and are deprived of the resources and support essential for their safety and overall welfare (Ali & Khan, 2020). Historically, child protection in Pakistan has been contextualized within overarching social welfare measures rather than recognized as a separate legal and human rights concern. This has led to disjointed strategies, wherein child welfare is frequently overshadowed by other goals, such as poverty reduction or family law. Recent years have seen an increasing acknowledgment of the necessity for a comprehensive and specialized legal framework to tackle the distinct issues encountered by children. This transition has been shaped by grassroots advocacy and international commitments (Bhutta, 2021). An essential component of child protection is the establishment and implementation of legislation that shields children from harm and offers avenues for remedy when their rights are infringed. The legal framework for child protection in Pakistan includes constitutional provisions, statutory laws,

and policy guidelines established at both federal and provincial levels. The decentralization of authority after the 18th Constitutional Amendment has exacerbated the situation, requiring enhanced collaboration across various levels of government (Jabeen, 2021).

Notwithstanding these endeavors, the execution of child protection legislation in Pakistan continues to encounter significant obstacles. These encompass restricted institutional capability, insufficient awareness among stakeholders, and deeply rooted socio-cultural obstacles. Consequently, it is essential to analyze both the substance of pertinent legislation and its practical implementation within the wider context of its operation. This essay aims to deliver a thorough examination of the legal system for child protection in Pakistan, highlighting strengths, deficiencies, and prospects for improvement.

Research Methodology

This study employs a qualitative, doctrinal methodology, concentrating on the systematic assessment and analysis of Pakistan's legal and policy framework pertaining to child protection. The research is based on an extensive analysis of primary legal documents, encompassing the Constitution of Pakistan, significant federal and provincial legislation such as the Juvenile Justice System Act, 2018, the National Commission on the Rights of the Child Act, 2017, and the Zainab Alert, Response and Recovery Act, 2020, alongside international agreements including the UNCRC and pertinent ILO treaties. These legal documents were obtained from official government websites, legal databases, and international organizational portals. This research contextualizes and interprets these laws by utilizing secondary sources, including peer-reviewed journal articles, reports from organizations such as UNICEF, Human Rights Watch, and Save the Children, as well as reputable NGO publications, thereby ensuring a comprehensive analysis rooted in statutory language and current scholarly discourse. The analytical procedure encompassed content analysis and thematic categorization to discern strengths, deficiencies, and issues within the legal framework. A comparative analysis was conducted to evaluate Pakistan's adherence to its international obligations and to identify areas need law harmonization and reform. The study relies on documentary research and policy evaluation; nevertheless, it is limited by the lack of empirical data, such as interviews or field observations, which may hinder understanding of the practical application of these regulations. Nonetheless, the methodology offers a solid basis for rigorously assessing the development, efficacy, and deficiencies of child protection legislation in Pakistan.

Pakistan's International Commitments

Pakistan's dedication to child protection is supported by its ratification of some significant international accords. The paramount document is the United Nations Convention on the Rights of the Child (UNCRC), approved by Pakistan in 1990. The UNCRC is an extensive convention delineating the civil, political, economic, social, health, and cultural rights of children. By ratifying the UNCRC, Pakistan has committed to guaranteeing that all children access their rights without discrimination and that their best interests are a paramount consideration in all activities affecting them (UNICEF, 2022). Besides the UNCRC, Pakistan has ratified several International Labour Organization (ILO) protocols concerning child labor. These encompass ILO Convention No. 138 on the Minimum Age for Admission to Employment and ILO Convention No. 182 pertaining to the Worst Forms of Child Labour. These treaties mandate Pakistan to establish a minimum legal age for employment and to implement prompt and effective measures to eradicate hazardous and exploitative types of child labor (ILO, 2020). The synchronization of domestic laws with these worldwide standards is a continuous endeavor, hindered by social and economic conditions.

Pakistan has ratified the Optional Protocols to the UNCRC concerning the participation of children in armed conflict, as well as the trafficking of children, child prostitution, and child pornography. These protocols reinforce the child protection framework by requiring improved legal and administrative procedures to prevent and treat particular forms of exploitation and abuse (United Nations, 2021). Adherence to these instruments necessitates both legislative measures and efficient enforcement and inter-agency collaboration. Notwithstanding these agreements, Pakistan's execution of international child protection standards has encountered criticism. Reports from foreign and local NGOs highlight deficiencies in both the letter and spirit of compliance, noting inadequate law enforcement, limited resources, and a lack of awareness among the general population and government officials (Human Rights Watch, 2022). Consequently, although Pakistan's acceptance of these treaties is praiseworthy, the conversion of international responsibilities into effective domestic action poses a substantial barrier.

Constitutional Provisions

The 1973 Constitution of the Islamic Republic of Pakistan contains numerous fundamental articles pertaining to child safety. Article 9 ensures the right to life and liberty, which constitutes the foundation of all human rights, particularly those pertaining to children. Article 11 explicitly forbids slavery, coerced labor, and the employment of minors under perilous conditions. These constitutional provisions are designed to enable the state to implement specific actions to avert the exploitation of children and enhance their welfare (Government of Pakistan, 1973).

Article 25(3) of the Constitution permits affirmative action for women and children, empowering the state to formulate laws and programs aimed at safeguarding these at-risk populations. Article 35 mandates the state to safeguard marriage, family, mother, and child, underscoring the traditional significance of family as the principal unit of care and protection for children. Article 37(e) stipulates that children shall not be engaged in occupations inappropriate for their age or gender, hence reinforcing the state's obligation to protect children from economic exploitation (Government of Pakistan, 1973). Although these rules establish a robust framework, their actual efficacy has been constrained by challenges associated with implementation and enforcement. Constitutional safeguards are contingent upon the efficacy of the laws and institutions designed to implement them. In practice, inadequate regulatory frameworks, insufficient resources, and little knowledge have hindered the translation of constitutional rights into effective protections for children (Jabeen, 2021). Furthermore, the federal framework of Pakistan, especially post-18th Amendment, has led to the delegation of numerous child care matters to the provinces. This has generated both opportunities and challenges, as provinces now possess increased autonomy to formulate child protection laws and programs tailored to their specific settings. Nonetheless, it has resulted in fragmentation and discrepancies in the application of constitutional guarantees nationwide, requiring enhanced coordination and harmonization between federal and provincial administrations (Bhutta, 2021).

Key Statutes on Child Protection

The legal structure for child protection in Pakistan is based on numerous essential statutes, established at both federal and provincial levels. The young Justice System Act, 2018, is a pivotal advancement, establishing a comprehensive framework for the treatment and rehabilitation of young offenders. This legislation establishes juvenile courts, forbids the death sentence for juveniles, and prioritizes rehabilitation over punitive measures, in accordance with worldwide best practices (Government of Pakistan, 2018; UNICEF, 2022).

The National Commission on the Rights of the Child Act, 2017, signifies a key achievement by instituting the National Commission on the Rights of the Child (NCRC). The NCRC is tasked with overseeing, evaluating, and advocating for child rights in Pakistan, as well as offering policy recommendations to the government. This statutory entity is essential in connecting policy with practice, promoting legal change, and ensuring state entities are held accountable for infringements of child rights (Government of Pakistan, 2017). The Zainab Alert, Response and Recovery Act, 2020, was enacted in response to the urgent necessity for swift action on child abduction and abuse, following numerous high-profile examples of child sexual exploitation. The Act instituted a child alert system akin to the AMBER Alert in the United States and established a national database for missing and recovered children. This legislation aims to enhance collaboration among law enforcement authorities, accelerate investigations, and guarantee the prompt recovery of abducted children (Government of Pakistan, 2020). Additional significant statutes encompass the Employment of Children Act, 1991, which limits child labor in perilous occupations, and the Prevention of Trafficking in Persons Act, 2018, which prohibits all types of human trafficking, including those of children. Provincial legislation, exemplified by the Punjab Destitute and Neglected Children Act of 2004, facilitates the rescue, treatment, and rehabilitation of children requiring protection. Although these laws combined signify a substantial improvement in the legal framework for child protection, issues concerning enforcement, resource distribution, and cooperation between federal and provincial agencies remain (Ali & Khan, 2020).

Execution Strategies

The successful execution of child protection laws necessitates robust institutional frameworks, sufficient resources, and qualified staff. In Pakistan, specific entities called Child Protection Bureaus have been created in regions such as Punjab and Sindh to offer refuge, rehabilitation, and legal assistance to at-risk children. These bureaus are crucial in the rescue and rehabilitation of street children, abuse victims, and those in legal conflict (Child Protection & Welfare Bureau Punjab, 2020). Provincial governments have developed child protection policies and action plans consistent with their statutory frameworks. The Punjab Child Protection Policy delineates protocols for the prevention, intervention, and rehabilitation of at-risk children. Child protection units at the district level underpin these policies, acting as central hubs for service coordination and the reporting of child abuse incidents (Punjab Government, 2021).

The National Commission on the Rights of the Child (NCRC) and the National Child Protection Center are tasked with supervising and coordinating child protection efforts at the national level. These entities oversee the enforcement of legislation, promote inter-agency cooperation, and participate in lobbying and capacity-building initiatives. Nonetheless, its efficacy is frequently obstructed by constrained financial and human resources, bureaucratic obstacles, and insufficient political will (Human Rights Watch, 2022).

Notwithstanding the presence of these mechanisms, considerable obstacles persist. A deficiency in defined protocols for the identification, referral, and assistance of child victims results in variations in service provision. Furthermore, deficiencies in data collection and monitoring impede evidence-based policymaking and the assessment of program efficacy. Enhancing institutional capacity, refining coordination, and allocating resources for human and financial development are crucial for closing these gaps and ensuring that child protection legislation result in significant real-world impact (Ali & Khan, 2020).

Gaps and Challenges

Notwithstanding considerable advancements in legislation and policy, severe deficiencies persist in Pakistan's child protection framework. A significant concern is the inadequate enforcement of child protection legislation. Law enforcement authorities, the judiciary, and social welfare departments frequently lack the necessary training, resources, and awareness to adequately address situations of child abuse and exploitation. This results in underreporting, insufficient investigations, and diminished conviction rates for incidents involving children (Human Rights Watch, 2022). A significant concern is the insufficient public awareness of child rights and protection procedures. A significant number of parents, caregivers, and community members lack awareness of the laws and programs designed to safeguard children. Cultural taboos, stigma, and fear of retaliation significantly inhibit the reporting of abuse, particularly in cases of sexual violence and trafficking. This culture of silence sustains cycles of abuse and obstructs the enactment of protective legislation (Bhutta, 2021).

The delegation of authority to the provinces subsequent to the 18th Amendment has led to the emergence of overlapping and occasionally contradictory federal and provincial legislation. This legislative fragmentation engenders confusion for law enforcement, service providers, and the judiciary, so undermining the cohesion and efficacy of the child protection system. Initiatives to synchronize laws and policies throughout provinces have progressed slowly and unevenly (Jabeen, 2021). The absence of dependable statistics on child abuse, exploitation, and neglect hinders evidence-based decision-making. In the absence of precise and thorough information, policymakers and practitioners cannot gauge the magnitude of the issue, distribute resources efficiently, or assess the efficacy of initiatives. Socio-cultural obstacles, like patriarchal norms and gender discrimination, exacerbate the challenges in safeguarding children, especially females and those from underprivileged groups (Ali & Khan, 2020).

Recommendations

To rectify the aforementioned gaps and issues, numerous proposals may be proposed. Firstly, it is essential to enhance the capabilities of institutions engaged in child protection, encompassing law enforcement agencies, the judiciary, and social welfare departments. This can be accomplished via focused training initiatives, enhanced budgetary provisions, and the establishment of explicit protocols for managing child protection cases (UNICEF, 2022).

Secondly, initiatives must be undertaken to align federal and provincial legislation and policy concerning child protection. This necessitates enhanced cooperation among all levels of government, the formation of inter-provincial working groups, and the implementation of established protocols for the identification, referral, and assistance of child victims. Harmonization will guarantee that all children, irrespective of their residence, have equal legal protection (Jabeen, 2021).

Public awareness initiatives are crucial for fostering a culture of child safety. The government, civic society, and media must cooperate to inform communities on child rights, reporting procedures, and accessible services. Such programs must be culturally attuned and tailored to engage marginalized and difficult-to-access people. Involving religious and community leaders can aid in confronting detrimental norms and practices that lead to child abuse and exploitation (Bhutta, 2021). There is an urgent necessity to enhance data gathering and monitoring systems. Creating a consolidated database on child abuse, exploitation, and neglect will allow policymakers to monitor trends, distribute resources efficiently, and assess the effectiveness of remedies. International partnership and technical help can facilitate

these initiatives, ensuring that Pakistan's child protection framework conforms to global best practices and standards (ILO, 2020).

Conclusion

The legal system for child protection in Pakistan has dramatically evolved in recent decades, marked by the enactment of progressive legislation and the formation of specialized agencies. Nonetheless, significant obstacles remain in converting these legislative advancements into concrete safeguards for children. Inadequate enforcement, insufficient awareness, legislative disunity, and socio-cultural obstacles together diminish the efficacy of child protection initiatives. Confronting these difficulties necessitates a comprehensive strategy, encompassing legal change, institutional enhancement, public education, and enhanced data gathering. The government's dedication to international agreements, including the UNCRC and ILO treaties, establishes a significant basis for ongoing advancement. Nonetheless, genuine transformation will hinge on the political resolve to prioritize child protection, devote sufficient resources, and promote intersectoral and intergovernmental collaboration. By capitalizing on recent accomplishments and rectifying existing deficiencies, Pakistan can advance towards fulfilling the rights and welfare of all its children.

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