



6-2018

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Recommended Citation

Younus, Sana; Chachar, Aisha S; and Mian, Ayesha (2018) "Child protection in Pakistan: Legislation & implementation," *Pakistan Journal of Neurological Sciences (PJNS)*: Vol. 13 : Iss. 2 , Article 12.

Available at: <https://ecommons.aku.edu/pjns/vol13/iss2/12>

CHILD PROTECTION IN PAKISTAN: LEGISLATION & IMPLEMENTATION

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Date of submission: October 11, 2017 **Date of revision:** December 28, 2017 **Date of acceptance:** January 12, 2018

Children are an integral part of any society. Their dependency on others for the fulfilment of their basic needs like food, shelter, education, safety and security makes them a vulnerable group. Society is judged on its ability to provide for the needs of the vulnerable. Provision of each of these needs is the responsibility of primary caregivers but requires assistance from multiple agencies working at the national level to ensure an effective delivery. Children's rights can be defined as "the rights, which are concerned both with the protection of the individual child and with the creation of the conditions in which all children can develop to their full potential." [1] The larger domains in which these rights are usurped are those related to education, health, neglect, abuse (physical, emotional, and sexual), corporal punishment, and child labour.

In 1979, National Commission for Child Welfare and Development (NCCWD) was established by the government of Pakistan. Having functioned under different governing bodies, it is now housed under the Ministry of Human Rights. The NCCWD has the responsibility of monitoring and evaluating that children are receiving their constitutional, legal and administrative rights. It also suggests amendments to the constitution and national laws and formulates national policies & legislations for child welfare, development and protection. NCCWD has recommended a number of modifications and revisions to existing laws and policies, some of which have been accepted as a part of the Constitution and Pakistan Penal Code (PPC) but implementation on the ground still leaves much to be desired.

According to WHO, a child is defined as "any human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier." [2] There is a difference in the definition of a child as stated in the Constitution of Pakistan and the PPC. This identifies a lack of inter-departmental consistency and therefore poses a challenge for NCCWD and other agencies. As a continuum from above, practical implementation of various legislations at the provincial level also becomes difficult. As an example, Constitution of Pakistan has mandated free education for all children from 5-16 years and prohibited child labor and child marriages. However, despite these mandates, and continued efforts from various state and non-state agencies, this goal is far from being achieved.

The next significant event in the life of Child welfare occurred in 1990 when government of Pakistan ratified the Convention on the Rights of the Child (CRC) [3], a legal instrument for child rights which sets standards in health care, education, security and legal services, civil and social services. Since then, discourse in the area of child rights has gained the momentum in the country.

National Plan of Action (NPA) [4] for Child Protection was put in place to address child sexual abuse, exploitation, child pornography and prostitution, health, shelter, poverty, child labour, education and child mortality. A child protection bill was drafted in 2006 to provide an institutional framework for prevention and protection of children from abuse, and for the rehabilitation of abused children. This bill too is pending approval. Section 22 of the Punjab Destitute & Neglected Children Act 2007 has established the provision of Child Protection Courts (CPC) which states that the Government may, by notification, establish one or more such courts under this Act when needed.

Despite the above mentioned initiatives the situation on the ground remains the same. Series of recent events highlighted by media also underscore the fact that implementation of legislative policies is a challenge.

Most of injunctions related to CSA are derived from the general child abuse principles or from policies focused on adult sexual abuse. Legally (CSA) is defined [1] as "the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society" A survey conducted in 2016 [5] from media reports

of 86 Newspapers (national, regional and Local) found a total of 4,139 reported cases including abduction, missing children and child marriage. 100 cases of murder preceded by child sexual abuse were also reported. CSA was reported for 2,410 girls and 1,729 boys. Vulnerable age group identified among both girls and boys was 11 to 15 years. Abusers were mainly acquaintances (1,765) followed by strangers (798) and in some cases (589) acquaintance was developed with a stranger.

Given the alarming number of CSA cases, the current legislative framework is not optimally materialized. In 2016, PPC was amended through Criminal Law Second Amendment Act 2015 to address the problem of child sexual abuse in the country. The changes included; increase in minimum age of criminal responsibility from 7 to 10 years and sections related to child pornography and exposure of children to seduction. Before these amendments, CSA cases were charged under the general PPC sections of rape and sodomy. This was the first of many steps required to ensure better implementation of legislation related to CSA.

Current status and way forward:

Pakistan is a densely populated country with approximately 53% of its population being children and adolescents. This large cohort is our responsibility and it is essential for us to safeguard these children and adolescents to promote their welfare and protect them from harm. There has been some progress in the recent years towards changing the laws related to this matter but drastic transformation is needed keeping in view the United Nations convention of child rights. There is a significant lack of awareness about these regulations among the general population which restricts them from seeking help in case of incidents. This calls for raising awareness related to child mental health issues. Increasing awareness alone might not yield desirable results without improving and adding resources to manage the condition. In addition to the changes required in the PPC and its provincial subsidiaries, it is time to work towards the implementation of juvenile judicial act 2017. Setting up 1) juvenile courts, 2) juvenile legal assistance, and 3) child care centres should be the next step in the right direction. Simultaneously it is essential to set up formal and streamlined child protection services which facilitate the reporting and confirming of crimes related to children. Providing safe places for temporary placement of children if needed in cases of crimes committed at home, ensures safety and support of children while the judicial process is in process. While that process is ongoing a long term disposition plan that ensures support, safety and security should be a priority action. This calls for support from various stakeholders of the society working in collaboration with the government to make the child protection a reality in Pakistan.

Conclusion:

This article focuses on the legislative perspective of promotion of child welfare and protection in Pakistan. 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. Given the dearth of literature on child & adolescent mental health in general, it is essential for experts in the field to focus on conducting research in this area. The importance of postgraduate training in this field cannot be emphasized enough. Capacity building of primary care physicians to identify and manage mild to moderate conditions affecting children and adolescents will facilitate bridging the treatment gap for this cohort. While taking such measures it is important to collaborate with all stakeholders like parents, teachers, other clinicians, public health representatives and government officials.

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Conflict of interest: Author declares no conflict of interest.

Funding disclosure: Nil

Author's contribution:

Sana Younus; concept, data collection, data analysis, manuscript writing, manuscript review

Aisha S Chachar; concept, data collection, data analysis, manuscript writing, manuscript review

Ayesha Mian; concept, data collection, data analysis, manuscript writing, manuscript review