

Family and Juvenile Laws

By
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A. Family Laws

i- Introduction

Ordinarily the word 'Family' denotes inter-alia 'a group consisting of two parents and their children living together as a unit', 'or a group of people related by blood or marriage or the children of a person' or a 'couple or all the descendants of a common ancestor etc.'

Before the introduction of Family Laws Ordinance in 1961, Muslims of the Indian sub continent were governed by their personal law as laid down in the Quran & Sunnah, and interpreted by the Muslim scholars.

There was no codified law and rule with regard to registration of marriages or of divorce. The non registration of marriages caused great problems and legal battles in cases of more than one marriage of a person. Similarly oral divorce which was the practice of the day caused problems. The British Government in 1939 legislated Dissolution of Muslim Marriages Act 1939 to consolidate and clarify the provisions of Muslim Law relating to suits for dissolution of marriages under Muslim law.

In 1961, for the first time the Family Laws were codified and were issued in the form of "Family Laws Ordinance 1961" enforced on July 15, 1961, followed by the Family Courts Act 1964, which was enforced on July 18, 1964. This extended to the whole of Pakistan (except FATA) and was applicable to all Muslim citizens of Pakistan wherever they may be living. The intent of the law makers was that every suit pertaining to subjects specified in the schedule to which the jurisdiction of family courts extends, be instituted in such court or in such courts as may be prescribed or delegated such jurisdiction.

This law was to give effect to certain recommendations of the Commission of Marriage and Family Laws which was set up in early 1956 after agitation by a large segment of society particularly women who had reservations as regard to the treatment meted out to women in a male dominated society.

The then government constituted a Commission to consider various aspects of the demands of women and make recommendations in relation to the family system.

ii- Muslim Family Laws Ordinance 1961

The Muslim Family Laws Ordinance (MFLO) 1961 provided for an Arbitration Council, a Chairman, a Union Council and defined the word "ward". The law under Section 3 overrides all other laws relating to customs or usage of registration of Muslim marriages etc. It also provided that the provision of Arbitration Act 1940, Code of Civil Procedures 1908 or any law regulating the procedure of courts shall not be applicable to any Arbitration Council.

The MFLO provided the establishment of family courts and a schedule in relation to matters specified to be dealt with by the said courts, exclusively. These matters included dissolution of marriage, dowry, maintenance, restitution of conjugal rights, custody of children, guardianship and related issues.

According to **Section 1**, the law is applicable to the whole of Pakistan and applies to all Muslim citizens of Pakistan wherever they may be. **Section 2** deals with definition of different terms used in the Law. **Section 3** provides that the Ordinance shall override other Laws.

The MFLO 1961, for the first time, provided the right of inheritance to orphaned grand children (children of propositus son/daughter) from the properties left by their grandfathers.

Section 4 of the MFLO provides that in the event of death of any son or daughter of the propositus, before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall per stripes receive a share equivalent to the share of each such son or daughter, as the case may be, would have received if alive.

This section was subsequently challenged in the Shariat Court as being repugnant to the Quran and Sunnah and currently an appeal is pending in the Supreme Court of Pakistan.

Section 5 of the MFLO made registration of a marriage compulsory. The law provided for the appointment of Nikah Registrars also.

Section 6 provides restriction on polygamy and makes it mandatory, either to seek permission from the first wife or to refer the case to the Arbitration Council if any person intends to contract a second marriage during the subsistence of the first one. Failure to do so attracts penal action but does not affect for validity of the marriage.

Section 7 of the MFLO regulates the procedure as to the pronouncement of Talaq, its intimation to the chairman of the Union Council and to the wife and the proceedings before the Chairman and issuance of certificate etc. when the proceedings of reconciliation fail.

Section 8 deals with dissolution of marriage other than by Talaq (divorce) like in cases where the parties resolve to dissolve marriage by mutual agreement or where power of divorce is delegated by the husband to the wife and she chooses to exercise the same. It provides the same procedure of intimation of divorce as per Section 7 here in above.

Section 9 of the Ordinance enumerates the powers of the Chairman of the Arbitration Council to hear and decide the cases pertaining to the maintenance for the wife or wives as the case may be. A revision can be filed against the Order, but the decision can not be challenged in a Court of Law. The amount so decided to be paid by the husband and if not duly paid, the same can be recovered as arrears of land revenue.

Section 10 deals with the mode of payment of dower to the wife. In case the same is not specified in the Nikahnama or the marriage contract, the entire amount of dower shall be presumed to be payable on demand.

Section 11 discusses the powers to make rules by the government under the Ordinance which was drafted and enforced as Muslim Family Laws Rules 1961. (20.7.1961)

The Family Courts Act, enacted and enforced in 1964, was a corollary to the enforcement of the MFLO 1961 with the object to create special courts with the exclusive jurisdiction to deal with all family matters under the Family Laws Ordinance. Under the Act, the court has to regulate its own proceedings in accordance with the provisions and is authorized to proceed on the premise that every procedure is permissible unless a clear prohibition exists in the law.

As mentioned earlier, the applicability of the provisions of the CPC and Arbitration Act, generally speaking, were ousted and the court has been given power to use special procedure for the possible amicable settlement. As such, by introduction of this law not only was the jurisdiction changed but the method of trial and the powers of the court to grant better remedies were also introduced. However, the law is not applicable to FATA.

iii- Legal Aspects of MFLO 1961

The MFLO 1961 is not open to be challenged on the ground that it infringes the fundamental rights of the citizens to profess and practice their religion. However, it is not immune from Article 2-A except the protection provided under Article 8(3) (b) of the constitution. This means that any provision of the Ordinance can be challenged to the extent that comes in conflict with the provisions of Article 2-A, i.e. if repugnant to the injunctions of the Quran and Sunnah. Since Section 4 of the Ordinance was a deviation from the practiced Inheritance Law, it was challenged before the Federal Shariat Court and vires of the provisions were examined in the case of Allah Rakha v/s Federation (PLD 2000 FSC Page-1). After detailed discussion, the court gave its verdict in the following words:

“There is neither any ambiguity nor is any clarification needed as regards devolution of inheritance and persons to inherit as also about their share. In line with the inheritance prescribed by the Quran in the presence of sons, the children of the predeceased children have been excluded as heirs and this position has been aptly taken care of by the Sunnah of our Holy Prophet Mohammad (Peace be upon him) in the Ahadith in which the precise position of the grandchildren has been elucidated and that the grandchildren are to be considered as one’s children in the distribution of inheritance in case none of one’s own children are still alive and grandson has been excluded from inheritance simultaneously with the son of the propositus. This Hadith has been followed by all schools, including Fiqa-e-Jafria”.

However, the mandate was left to the legislature for amendments. The Council of Islamic Ideology (CII) also, after examining the provisions, recommended that the uncles and aunts of orphan grandchildren are duly bound to take care of their orphan nephews and nieces and provide for them. It was further recommended that in the case of non-performance of this duty by aunts and uncles, a legal obligation be cast upon them to abide by their duty.

After examining in detail it seems that the “Commission on Marriage and Family Laws of 1956” provided Section 4 on the basis of Ijtihad as the Quran repeatedly directs that the orphans must be looked after particularly Ayat 8 of Sura-e-Nisa which lays down that at the time of distribution of assets those next of kins and orphans and others, who are present, be also dealt with kindly.

Before the Commission, a question was raised which was whether there is any sanction in the Quran or any authoritative Hadith whereby the children of a predeceased son or daughter are excluded from inheriting property? No proper reply to this question is found. Although the CII has dealt with it but no satisfactory reply is there on the record.

iv- Lacunas in the Implementation of the Family Laws Ordinance and the Family Courts

Since the introduction of the Family Laws Ordinance and the establishment of the Family Courts, several lacunas and difficulties have been found in the implementation of the law and from time to time amendments have been made. The law provides the establishment of UCs, the powers of the said Councils and the powers of the Chairman of the Council as well as the Arbitration Council to be set up under the said law.

The term ‘Ward’ is defined as “a ward within a Union or Town as ordained in the aforesaid order”. The order here refers to the Basic Democracies Order (BDO) 1959 which stands repealed. During these 33 years, while the BDO 1959 which was prevalent at the relevant time stands repealed, various changes have come in the law like the

authority to deal with the cases under the Family Laws Ordinance and the title for the Chairman Arbitration Council has changed from time to time. This has caused confusion particularly for ordinary litigants.

Throughout this period the public, specially the women litigants, suffered due to delay in appointing competent authority to deal with such cases. Second, due to lack of knowledge about the competent authority to deal with the cases and third, lack of knowledge in regard to the location of these offices.

The new law that is the Local Government Order 2001 has failed to provide the definition of the term 'Ward' as well as person to be the chairman as per Family Laws Ordinance. As such, the law should provide clear provision giving alternate/substitute in case of change in the law e.g. Family Courts should be given powers to deal with this.

Sub Section 3 of Section 5 relates to reporting the registration of marriages not solemnized by a Nikah Registrar. No time limit is provided and as such violation can not be reported. There must be some time limit provided in the law itself for reporting solemnization of such marriages for registration. In case of violation only minor punishment is provided.

Islam insists and emphasizes on the consent of the girl at the time of marriage as such the law must provide that the consent of marriage should be free consent and not compelling or under forced circumstances.

In Section 7 no period for Talaq (divorce) has been prescribed within which a husband must inform the competent authority that he has given divorce to his wife. The words "as soon as may be" are vague and are not enough.

This has created problems particularly for women who are in most cases uneducated and not knowing that the divorce must be intimated and a certificate of divorce must be obtained to get married again and violation of the law makes her/him liable to punishment and can land them into trouble. The husband, who has to report in such cases purposely fail to report in intimating the competent authority and the wife in writing. And in many cases when they find women married again, they file an FIR under Hudood Law against such a couple.

The law must provide that the husband must intimate pronouncement of divorce to the competent authority within a limited period e.g. within a week from the date of pronouncement and violation must entail severe punishment than what is provided in law; or a wife should be entitled to give the notice of Talaq where a husband fails to do so.

The law/rule should also provide a time frame within which the Chairman must issue a certificate of divorce after expiry of 90 days of her Iddat period and failure of arbitration proceedings. Further in cases where Talaq has been expressly or otherwise revoked and there is no dispute as to it between the parties, it shall not be deemed to have become effective by any decision of the court.

Under **Section 9** it should be clarified that maintenance means and includes food, clothing, accommodation, medical care and other benefits according to the financial status of the family. Further maintenance of children should also include food, clothing, accommodation, medical care, educational expenses and other benefits according to the status of the family. Further, the maintenance of a divorced woman under **Section 7** must be entitled to support/maintenance from the husband till her remarriage or death and the maintenance of children till they reach the age of 18 or beyond that as the circumstances demand.

The revision of powers in respect of the Order of the Arbitration Council should lie with the Family Court.

Under **Section 10**, the law should further provide that if the dower amount is not specified in the Nikahnama or in the marriage contract, or it is stated in terms of any definition like Mehr-e-Misal, the amount must be determined by the Court.

v- Nikahnama

The Nikahnama means a contract which gives the details of the terms and conditions under which a marriage takes place and as such is a very important document. It can also be termed the Contract of Marriage.

The present form of Nikahnama contains 25 clauses. **Clause 2** mentions the names of the bridegroom, his father and addresses. **Clause 3** mentions the age of the bridegroom. **Clause 4** mentions the name of the bride, her father and her residential addresses. **Clause 5** seeks if the bride is a maiden, widow or divorcee. **Clause 6** mentions the age of the bride. These clauses clearly discriminate as while the particulars of the bride whether she is a maiden, widow or divorcee are questioned there is no such question in regard to the bridegroom.

The Nikahnama should have some additional clauses indicating if the bridegroom is already married, has never married or a widower or if marriage has been terminated through divorce in any form, the same should be specified. Further if there is any existing wife that should also be mentioned. In such a case, the particulars of the existing wife, her name and address should also be mentioned in the Nikahnama. Further in such cases if the bridegroom has taken permission from the first wife or the competent authority, a duly attested document to that effect should be produced. Further if there are any children from the previous marriage, detailed information in regard to the said children and as to in whose custody these children are and who is responsible to maintain them should be specified. The same particulars can be mentioned or asked about the wife also.

Clause 7 of the Nikahnama deals with the appointment of a Wakil by the bride and his name and address and **Clause 8** deals with the name of witnesses and their addresses. Similarly **Clause 9 and 10** deal with the appointment of the Wakil of the bridegroom, their witnesses and their details.

Of special concern in the Nikahnama is **Clause 18** which mentions whether the husband has delegated the right of divorce to his wife, and if so, under what conditions. Generally speaking, the Nikah Registrar even before handing over the blank forms to the concerned parties strikes off this clause. There is a general lack of awareness with regards to the importance of this clause particularly for the bride and her family. As such this clause must be amended and it should be mentioned whether the delegated right of divorce has been given by the husband to his wife under general conditions or under some specific conditions and in case this clause is struck off and there is nothing in writing, it should be presumed that the husband has delegated the power of divorce to his wife.

The amendments in the MFLO simultaneously require amendments in the West Pakistan Family Courts Act 1964 and in the rules also. The applicability of the Family Courts Act must be extended to the Tribal Areas also.

As said earlier, any reference to a family always includes children. It would be instructive to see the legal status of children in Pakistan and the different laws that are applicable to them.

B. Juvenile Laws

i- Introduction

Prior to the introduction of the Juvenile Justice System Ordinance 2000, several laws were prevalent in Pakistan that pertained to the rights and welfare of children. These included the Child Marriage Restraint Act, 1929, the Juvenile Smoking Ordinance 1959 and the Sindh Children Act 1955. There were also several conventions on the rights of children ratified by the Pakistan government.

Despite this, it was felt that children of the country did not have enough protection under the law. Considering the prevalent situation, the government introduced the Juvenile Justice System Ordinance 2000 to provide protection to children involved in criminal activities. This ordinance also covered issues of litigation, the treatment of children in jails, the manner in which their cases were handled by the courts and the rehabilitation of such children in society.

ii- Juvenile Justice System Ordinance 2000

The law has laid down that any person below the age of 18 years is treated as a child and would be entitled to benefits and privileges as a child under this Ordinance. It also provides that children will not be charged with and tried for an offence along with an adult and would have the right to legal assistance at the expense of the State.

The proceedings of the Juvenile Court would not be published in the media and when in ordinary courts, the children would be released on bail or placed under custody of a Probation Officer. The law further provides that no death punishment would be awarded to a child and that they would not be handcuffed or put in fetters or given any corporal punishment.

Section 2 of the Ordinance deals with the definition of the terms "Borstal institution", "Child", "Code", "Guardian", "Juvenile Court", "Offence" and "Probation Officer".

Section 3 deals with the legal assistance to be provided to the child victim and the legal practitioner so appointed by the State shall have at least 5 years standing at the Bar.

Section 4 deals with how Juvenile Courts would be set up by the provincial governments in consultation with the Chief Justice of the province. The powers of Juvenile Courts can be conferred on the Court of a Sessions or Judicial First Class Magistrate on such terms and conditions as the High Court may determine. The High Court has exclusive jurisdiction to try cases of children accused of commission of an offence.

Sub-section 4 of Section 4 confers retrospective operation of the law which means that at the time that law became effective, all cases pending before the trial court in which a child is accused of an offence shall stand transferred to the Juvenile court having jurisdiction and the juvenile court is not bound to recall or rehear any witness who has already given evidence.

Section 5 provides that no joint trial of a child and adult person shall be held. In cases where the child has been charged together with an adult, the court can take cognizance of the offence and shall direct separate trial of such a child by a juvenile court.

Section 6 lays down the procedure of the juvenile courts. Sub Section 2 makes it mandatory that on a day when the case of an accused child is fixed for evidence, the court shall not take up any other case on that day. Further, no outsider will be allowed in the court except members and officers of the juvenile court, parties of the case before the juvenile court and such other persons who are directly concerned with the proceedings including police officers, guardians of the child and any other person that the court may direct to be present.

Further, the court has the power, during the course of the trial of the case, to ask any person to withdraw from the court. The court has further powers to dispense with the attendance of the child if his presence is not necessary or if a court finds that the child is suffering from illness and needs physical or mental treatment. The court can also send the child to a hospital or a medical institution where treatment can be given to the child at the expense of the State.

Section 7 deals with the determination of the age wherein the Juvenile Court shall record findings after such an inquiry which shall include a medical report for determination of the age of the child.

The court has powers to determine the age of the accused child with the help of a birth certificate, a school leaving certificate or any other document issued by the government or in the absence of any such document, by a board of medical experts.

Although determination of the age of a child under Section 7 has been left to the judgment of the trial court, but in the event of an inquiry, the medical report has to be compulsorily obtained for such determination. This is very important as the court has to decide whether the offender at the time of committing the offence was a juvenile under the law or not. There are several cases pending in the courts on the very point that whether an offender was a juvenile at the time of committing the offence or not.

Section 8 provides that the proceedings of the Juvenile Court shall not be published in any newspaper, magazine or journal in any form which may disclose the name, address, school or any identification or particulars which can lead directly or indirectly to the identification of the child. No picture of the child can be published either.

Section 9 provides appointment of Probation Officer who shall assist the Juvenile Court by making a report on the child's character, and his educational, social and moral background. Such a report is to be treated as confidential. The court has the power, if it so thinks fit, to communicate the substance of the report to the child or his guardian and, if there is any dispute as to the contents or views given by the Probation Officer, the court may give such a child or guardian an opportunity of producing such evidence in support of their contention.

Section 10 deals with arrest and bail of a juvenile. Sub-Section 1 of this Section provides that if a child is arrested for commission of an offence, the Officer in-charge of the police station in which the child is detained shall, as soon as may be, inform the guardian of the child of such an arrest and give him the information about the date, time and the name of the juvenile court where the child will be produced. He will also inform the concerned Probation Officer to enable him to obtain necessary information about the child and other material circumstances which may be of assistance to the court for making its inquiries.

Sub-Section 2 of this Section provides that if a child is accused of a non-bailable offence and is arrested, he shall, without any delay and in no case later than twenty-four hours from such an arrest, be produced before the juvenile court.

Sub-Section 3 provides that the accused of a bailable offence shall, if already not released under section 496 of Cr.PC, be released by the Juvenile Court on bail, with or without surety. This will be done unless it appears that if the child is released he will be exposed to any danger including association with any criminal in which case the child shall be placed under the custody of a Probation Officer or a suitable person or institution dealing with the welfare of the children, provided a parent or guardian of the child is not available. Under any circumstances, the child shall not be kept in a police station or jail.

In cases where a child is not granted bail under Sub-Section 3, the Juvenile Court can direct the relevant officials to trace the guardian of such a child and after finding the guardian, it may immediately release the child on bail to that guardian.

Sub-Section 5 provides that if a child under the age of fifteen years is arrested or detained for an offence which is punishable with imprisonment of less than ten years, it shall be treated as if he was accused of commission of a bailable offence.

Under Sub-Section 6, no child under the age of 15 years can be arrested under any of the laws dealing with preventive detention or under the provisions of Chapter VIII (Prevention of Offences) of the Cr.PC.

Sub-Section 7 further provides that notwithstanding anything contained in the Cr.PC, and except if the Juvenile Court is of the opinion that the delay in the trial of the accused has been occasioned by an act or omission of the accused or any other person acting on his behalf or in exercise of any right or privilege under any law for the time being in force, a child who, for commission of an offence, has been detained, shall be released on bail:

- a. if, the accused of an offence punishable with death has been detained for such an offence for a continuous period exceeding one year and whose trial for such an offence has not concluded;
- b. if, the accused of any offence punishable for imprisonment for life has been detained for such an offence for a continuous period exceeding six months and whose trial for such an offence has not concluded; or
- c. who, being accused of any offence not punishable with death, or imprisonment for life, has been detained for such an offence for a continuous period exceeding four months and whose trial for such an offence has not concluded but the proviso to the section that where a child of the age of fifteen years or above is arrested, the Court may refuse to grant bail if there are reasonable grounds to believe that such child is involved in an offence which in its opinion is serious, heinous, gruesome, brutal, sensational in character or shocking to public morality or he is a previous convict of an offence punishable with death or imprisonment for life.

Section 11 deals with the release on probation. It provides that where the court on conclusion of an inquiry or trial finds that a child has committed an offence, then notwithstanding anything to the contrary contained in any law for the time being in force, the Juvenile Court may, if it thinks fit:

- a. direct the child offender to be released on probation for good conduct and place such a child under the care of a guardian or any suitable person executing a bond with or without surety as the court may require, for the good behavior and well-being of the child for any period not exceeding the period of imprisonment awarded to such child. Provided

that the child released on probation be produced before the Juvenile Court periodically on such dates and time as it may direct.

- b. make an order directing the child offender to be sent to a Borstal institution until he attains the age of eighteen years, or for the period of imprisonment, whichever is earlier.
- c. reduce the period of imprisonment or probation in the case where the court is satisfied that further imprisonment or probation shall be unnecessary.

Section 12 deals with Orders that shall not be passed with respect to a child. Notwithstanding anything to the contrary contained in any law for the time being in force no child shall be:

- a. awarded punishment of death, or ordered to labor during the time spent in any Borstal or such other institution; and
- b. handcuffed, put in fetters or given any corporal punishment at any time while in custody:

Provided that where there is reasonable apprehension of the escape of the child from custody, he may be handcuffed.

Section 13 provides for appeal.

Section 14 states that the law i.e. Juvenile Justice System Ordinance 2000 shall be in addition to, and not in derogation of, any other law for the time being in force.

Under **Section 15** Provincial Governments have been empowered to make rules for carrying out the purposes of this Ordinance.

Before the Juvenile Justice System was promulgated, the definition of the child was given differently under different laws prevalent in the country:

1. Under the Majority Act, 1875 Section 3, the benchmark age of major in persons domiciled in Pakistan is given at 18 years.
2. Under Succession Act, 1925, the age of a major is given at 21 years.
3. Under the Constitution and Election Laws the age of a major is 18 years.
4. Child Marriage Restraint Act, 1929 under definition 2(a) child is defined as male under 18 years and female under 16 years while 2(d) minor is defined as of either sex under 18 years.
5. The law of Juvenile Smoking Ordinance 1959 under Section 2(c) juvenile is defined as any person under the age of 16 years.
6. Under Sindh Children Act, 1955 a child is defined as below 16 years when the proceedings were initiated.
7. Under Hudood Laws, a boy at the age of 18 and a girl at the age of 16 or when they attained puberty, whichever is earlier, is defined as a major. As such, under this law a girl or a boy attaining puberty at the age of 12 or 15 becomes a major.

Since proviso to section 14 of the Law of Juvenile Justice System provides that the Ordinance shall be in addition and not in derogation of any other law, it creates confusion for the police as well as for the courts as to which age is to be reckoned with and made applicable to a child.

Take for example if an offender, who is under 16, is arrested under Hudood Laws but because the boy has attained puberty he is arrested under the said law the question will arise as to whether he will be governed under the Hudood Laws or under the Juvenile Justice System Ordinance as he is still a child or juvenile.

Further, according to newspaper and other reports on children, several children of the age of 15 or so are detained in jails under the laws of the Frontier Crime Regulation. Since the Juvenile law has not been extended to FATA, the children are suffering due to the non applicability of this law. These conflicts must be resolved to protect the rights of children which are of immense importance not only due to the International Conventions to which the government is committed but also because children are the future of Pakistan.

iii- Lacunas in the Implementation of the Juvenile Justice System Ordinance

Although the Juvenile Justice Law Ordinance was introduced in 2000 with all good intents and purposes by the government, proper implementation of the same is lacking.

The reasons for this can be:

1. There is a great need for creating awareness among the police force with regard to these children. They are to be treated humanly so that their attitude towards life does not change drastically.
2. The police officers are to be sensitized towards better behavior in general towards public.
3. In many provinces, parole officers have not been appointed which delays the release of children on parole. It should be done immediately.
4. The law should be made applicable to FATA as a large number of children are in jails under Frontier Crimes Regulations (FCRs).

Universal Children's Day is observed on November 21 all over the world. The Pakistan government has pledged and ratified the Convention on the Rights of the Child. Due to this ratification and other agreements that deal directly or indirectly with the state of children, steps to introduce national laws like the Juvenile Justice System Ordinance and Compulsory Primary Education Act (provincial) were taken. While measures taken by the government are welcome, by the passage of time it can be seen that the implementation of the legal provisions protecting children are not being carried out.

As a result, there is no visible improvement in the implementation of laws that concern children in Pakistan. Periodic reports from private and public sectors as well as from international organizations clearly indicate that the purpose of these laws have not been achieved in spirit and practice. Children continue to remain at the receiving end with reference to their rights. Their right to decent living and education is largely ignored as they are forced to do labor and contribute towards the family income.

There is no doubt that due to poverty, every member of the family in lower middle class families works but steps can be taken for introduction of informal education and better health facilities in the institutions where children are working so that even while they are working they can obtain education and live under better health conditions. Several instances have come to light through the media wherein children have been brutally beaten by school teachers and in many cases sodomized, but the culprit goes scot-free due to inefficient implementation of laws by law enforcement agencies.

Changes cannot be expected overnight as the issue of child exploitation is closely related to poverty. Political will on the part of the government is needed for mobilizing public opinion about the rights of the child and enacting procedural rules for implementation of laws, if the attitude of the law enforcing agencies and other relevant authorities is not changed.

While great stress is given on the unit known as 'family' by all sectors of the society including the religious and political parties, none of these agencies/parties raise their voice when children are mercilessly/brutally beaten, sodomized or murdered.

C. Recommendations

i- Recommendations in the Family Laws Ordinance

1. In **Section 4** of the Family Laws Ordinance, wherein an appeal is lying before the Shariat Appellate Bench of the Supreme Court, if the same is accepted, then amendment in the law will be needed to make it compulsory for every citizen to make a Will in regard to his assets specifically where the issue of propositus children exists to provide for such children which is allowed under the Islamic laws. In different Islamic countries, this mode has been adopted to overcome and solve problems with regard to children of a propositus son/daughter. Such a 'Will' will not be subjected to the limitations that exist under the inheritance law.
2. Amendment is needed in **Sub Section 1 of Section 7** of the law wherein it is provided that "any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of Talaq in any form whatsoever, give the Chairman notice in writing of his having done so, and shall supply a copy thereof to the wife". The word "as soon as may be" gives leverage to the husband to take as much time as is convenient to him to give the notice of Talaq to the Chairman. Case laws provide ample instances wherein the husband has failed to give notice of Talaq to the Chairman and to the wife thus making it difficult for the wife to go through the divorce proceedings or at times even the very knowledge of pronouncement of divorce is absent. To avoid this discrimination against women, a timeframe must be given within which the husband must give the notice of divorce to the competent authority as well as to the wife.
3. **Rule 4** of the Muslim Family Laws Rules must be amended to make it non-discriminatory. According to the Rule, if a non-Muslim is elected as the Chairman of Union Council the Council shall, as soon as may be, elect one of its Muslim member as Chairman for the purposes of the Ordinance in the manner prescribed for the election of a Chairman of a Union Council. This is a discriminatory clause against minorities. The Chairman/competent authority so notified has to interpret the law according to the rules and as such the question of the Chairman being a Muslim or non-Muslim is of no consequence.
4. **Sub-Section 3 of Section 5** of the Muslim Family Laws Ordinance must be amended to provide that a marriage not solemnized by the Nikah Registrar shall be reported by the person who has solemnized such a marriage within a specified time frame.
5. Under **Section 9** of the law the word 'maintenance' to wife as well as to children must be clarified and should be specific as mentioned in the main paper.
6. This law must be made applicable to FATA.

ii- Recommendations in the Juvenile Justice System Ordinance

1. The age of a child (minor) under all laws must be made uniform as 18 years. This law should be made overriding any other law as regard to the age of a child.
2. The definition of ward must be given.
3. Under **Sub Section 1 of Section 10**, time must be provided to the officer in-charge of the police station in which the child is detained to inform the guardian of the child of such an arrest. This is vague in the present law.
4. Timeframe must be given for the appointment of a Probation Officer in the law itself. As it has been seen that in many cities, towns, provinces etc. such Probation Officers have not been appointed which goes against the interest of Juvenile.

iii- Some Other Recommendations

1. Implementation of the above Laws and Rules made thereunder must be ensured.
2. Training sensitization of police officers must be undertaken.
3. Judiciary working at the district level must be trained and sensitized.
4. Jail Manual under different provinces must be streamlined to be in conformity with laws whether Family Laws, Hudood Laws, Juvenile Justice System and others
5. Section 89 of the Pakistan Penal Code which empowers parents, teachers and other guardians to use corporal punishment as a means to correct the behavior of the children must be amended.
6. Invoking Sections 323-325 of the Pakistan Penal Code must be ensured.
7. The government must take steps to combat violence against children and to root out the menace of child labor.
8. Effective steps must be taken to enforce compulsory primary education for all, particularly for girls. All those laws and practices which are against the provisions of international conventions on women and children must be repealed/amended.

List of Acronyms and Commonly Used Words throughout the Report

ADB	Asian Development Bank
AF	Aurat Foundation
AGP	Auditor General of Pakistan
AI	Amnesty International
AID	Associates In Development
AJDF	Access to Justice Development Fund
AJP	Access to Justice Program
APWA	All Pakistan Women Association
APPNA	Association of Pakistani Physicians of North America
ARP	Awareness Raising Program
ATC	Anti Terrorism Court
AWP	Area Water Partnership
AWBs	Area Water Boards
BDO	Basic Democracy Order
CBOs	Community Based Organizations
CCBs	Citizen Community Boards
CCWR	Citizens Campaign for Women Representation
CEC	Chief Election Commissioner
CESSD	Communication for Effective Social Services Delivery
CEDAW	Covention on the Elimination of All forms of Discrimination Against Women
CJ	Chief Justice
CIDA	Canadian International Development Agency
CPI	Community Physical Infrastructure
CPLC	Citizen Police Liaison Committe
CSOs	Civil Society Organizations
CWPs	Country Water Partnerships
DAS	Drainage Advisory Service
DC	District Council
DCOs	District Coordination Officers
DRCEP	Democratic Rights and Peoples Education Program
DSP	Decentralization Support Program
DSSP	Devolved Social Services Program
EDOs	Executive District Officers
EIROP	Essential Institutional Reforms Operationalization Program
ERWCP	Representation of Women Councilor Project
FATA	Federally Administered Tribal Area
FFA	Framework For Action
FIR	First Information Report
FOs	Farmer Organizations
FPCA	Federal Police Complaints Authority
GEP	Gender Equality Project
GES	Gender Equity Strategy
GoP	Government of Pakistan
GRAP	Gender Reform Action Plan
HC	High Court
HRMDC	Human Resource Management & Development Center
IDSP	Institute for Development Studies and Practices
ILO	International Labor Organization
IO	Investigating Officer
IRM	Institute for Rural Management
IRSA	Indus River System Authority

IWRM	Integrated Water Resources Management
Karo Kari	Honor Killing
LBs	Local Bodies
LBOD	Left Bank Outfall Drain
LG	Local Government
LGOs	Local Government Ordinances
LHC	Lahore High Court
LHRLA	Lawyers for Human Rights and Legal Aid
LMC	Lahore Municipal Corporation
MAO	Municipal Administration Ordinance
MCRCS	Madadgaar Child Rights Clubs
MFLO	Muslim Family Law Ordinance
MLO	Medico Legal Officer
MNA	Member of National Assembly
MoF	Ministry of Finance
MPA	Member of Provincial Assembly
MTDF	Medium Term Development Framework
NCS	National Conservation Strategy
NDP	National Drainage Program
NEQS	National Environmental Quality Standards
NGO	Non Governmental Organization
Nikahnama	Marriage Certificate
NPA	National Plan of Action
NRB	National Reconstruction Bureau
NRSP	National Rural Support Program
NWFP	North West Frontier Province
NWP	National Water Policy
OPF	Overseas Pakistanis Foundation
OPP	Orangi Pilot Project
PARD	Pakistan Academy for Rural Development
PILER	Pakistan Institute of Labor Education and Research
PILs	Public Interest Litigations
PPP	Pakistan Peoples Party
PPCA	Provincial Police Complaints Authority
PSC	Public Safety Commission
Purdah	Veil
PWLA	Pakistan Women Lawyers Association
RSP	Rural Support Program
RSPN	Rural Support Program Network
RWP	Regional Water Partnerships
SAP-PK	South Asia Partnership-Pakistan
SAARC	South Asian Association for Regional Cooperation
SDC	Swiss Development Corporation
SF	Sarsabz Foundation
SDPI	Sustainable Development Policy Institute
SDPW	Supporting Democratic Process for Women
Shalwars	Baggy Trousers locally worn by both Men and Women
SIDA	Sindh Irrigation and Drainage Authority
SPO	Strengthening Participatory Organization
SRSP	Sarhad Rural Support Program
TA/DA	Travel Allowance/Daily Allowance
Talaq	Divorce
TC	Tehsil Council
UCs	Union Councils
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund

UNIFEM	United Nations Development Fund for Women
Vakalatnamas	Authorization to Appear on behalf of the Client
WAGs	Women Action Groups
WAPDA	Water and Power Development Authority
WCAs	Water Course Associations
W3P	Women's Political Participation Project
WPSs	Women Police Stations
WWN	Women and Water Network
Zina	Adultery