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TOPIC:

Children Right – Do the Conventional Law and Islamic Law have the same Approach? (CRC1989 versus Islamic Law)

AUTHORS:

1. Dr. Usman Rafiq, Teaching/Research Associate (Sharī'ah), Faculty of Sharī'ah & Law, International Islamic University, Islamabad, Pakistan.
Email: mrusman82@gmail.com
2. Dr. Lutfullah, Associate Professor (Law and Sharī'ah), Department of Law & Sharī'ah, University of Swat, KP, Pakistan.
Email: lutsaqib@gmail.com

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Children Right – Do the Conventional Law and Islamic Law have the same Approach? (CRC1989 versus Islamic Law)

¹ Usman Rafiq, ²Lutfullah

Abstract:

Children are, of course, always given importance by the civilized societies. Such societies cannot get the due development if their children are not enjoying a good environment in terms of rights and privileges. Following this, various steps are taken by such societies to bring an ideal environment for children. Among such steps, CRC (Convention on the Right of the Child, 1989) is the recent one; globally and legally recognized. Such convention gives various rights to child; including, not exhaustively, the right to freedom, right to indiscriminate, right to adaptation, right to survival and etc. However, all these rights are not properly awarded in the last few decades by the member states – for one reason or another reason. Islamic Law, on the other hand, provides, too, a comprehensive legal mechanism for ensuring children rights. These rights are entirely natural in nature and, owing to this fact, very practicable in nature. The present work, in broad sense, compares both Islamic and conventional law in terms of their approaches. Finding shows, with solid evidence, that Islamic law's approach towards children rights is very much comprehensive and realistic in nature. Content analysis technique, a kind of qualitative research, has been followed, herein, for the investigation of the issue.

Keywords: Children, Rights, Islamic Law, *Shari'ah*, Conventional Law, CRC

Introduction:

Children are, of course, human beings like adults and, therefore, have rights and responsibilities like– though different from adults in many respects.¹ Being a child, however, he does not have the required awareness about his rights and duties. Having a chance, many of the adults annihilate their rights by one way or another.² However, it is very obvious that future of a society is based on how the children are being nurtured therein – obviously in terms of their rights.³ Only good treated children, as a matter of fact, become stars of the society by serving it through different modes.

Time and again, the international societies all over the world provide a verity of laws and regulations; providing and to protecting children right.⁴ These rules and regulations in fact show that how a society looks towards the issue of children rights. However, the better legal framework, indeed, helps in providing and protecting children rights in time and in due course. Among such international efforts, CRC is the most important one. Such legal document provides a variety of rights to children; including, not exhaustively, the right to freedom, right to indiscriminate, right to adaptation, right to survival and etc.⁵ However, all these rights are not properly awarded in the last few decades by the member states for one reason or another reason.⁶ This failure, obviously, badly effects the ideal environment; necessary for the children proper physical growth and mental

development.⁷

Islamic Law, on the other hand, offers an effective legal frameworks and mechanism for the provision and protection children rights. Such legal spectrum, being a natural one, is very much realistic and comprehensive in nature in terms of its approach to such rights.⁸ Such rights, primarily, do not change from subject to subject and place to place. In other words, such rights are given to all children without any sort of discrimination on the basis of colour, creed, religion, sex and etc.⁹ However, such rights are, too, not provided by the Muslim states to their minor citizen – most probably because of their subjugation to other non-Muslim states both in terms of their policies and laws.

The present research endeavor comparatively and critically analyzes the approach of both CRC and Islamic law to children rights. Both legal systems, of course, have some similar approaches to such rights both at jurisprudential and practical levels.¹⁰ However, they also have different approaches in this regard too.¹¹ Here, at this point, the purpose of the present work comes to the spot i.e., to point out such similarities and differences. In addition, this research endeavor searches out those reasons which are responsible for the failure states to provide such rights at ground level.

Like other research endeavor, there are some inbuilt limitations of the present work. For instance, it discusses only United Nations Convention on the Rights of the Child 1989, avoiding any other available international legislation on the same issue. Secondly, it focuses on general causes, responsible for the failure of states to award such rights at ground level. Thirdly, Pakistani law is, primarily, based on the jurisprudential approach of the Hanafī school of thought. Following this, such school is followed while critically analyzing the Pakistani laws related to children. It does not, however, means that other schools are not followed. They are resorted in the process of investigation whenever deemed fit and necessary.

Maqāṣid al-Sharī'ah al-Islāmiyyah (Purposes of Sharī'ah) and Children's Rights:

The purpose of *sharī'ah* (Islamic Law), primarily, to protect human's life, their property their life and to avoid any kind damage from them. To be short, the interest of the people in *sharī'ah* is based on benefit in this world and in the hereafter. It is noteworthy that these interests have been deducted from Qur'ān and *Sunnah* – directly or indirectly. These interests are divided, broadly, into three kinds i.e., *al-ḍrūriyyāt*¹², *al-ḥājjiyyāt*¹³ and *al-taḥsiniyyāt*¹⁴. *Al-ḍrūriyyāt* consists of *hifz al-dīn* (protection of religion), *hifz al-naḥs* (protection of life), *hifz al-nasl* (protection of progeny), *hifz al-'aql* (protection of intellect) and *hifz al-māl* (protection of property).¹⁵

All these purposes are linked with children rights by one way or another protecting their rights very effectively. Following this fact, the rules of Islamic law regarding prohibition of miscarriage, killing of children, domestic violence, child physical abuse, economical exploitation, sexual exploitation, child trafficking, child labour, drugs and etc. are declared as heinous crimes by *Sharī'ah*.¹⁶ On the other hand, sustenance for the mother and her unborn child, guardianship for the child, his basic needs, education and health, equality rights, rights in inheritance, safeness of child's

emotion, exceptional treatment in crime and punishments and etc. are guaranteed by the ambit of Islamic law. Having said that, it can be easily said that protection is given to children rights both at theoretical and practical levels.

Theory of Rights in Islamic Law vs Children Rights – A Realistic Approach:

The rights are, broadly, divided into two basic parts i.e. *ḥuqūq Allah* (rights of Allah almighty) and *ḥuqūq al-‘ibād* (human rights). *Ḥaq Allah* includes *ibādāt* (worships), structured for the purpose to keep an individual closed and obedient to Allah (SWT). Such rights also include implementation of *ḥūdūd*¹⁷; as its implementation gives peace to the society. Moreover, such rights, too, care of public facilities e.g. *masājid*, rivers, parks and etc.¹⁸ *Ḥaq al-‘abd*, on the other hand, deals with the rights of individuals with one another. This right includes, broadly, common rights i.e. rights for health, right to education, right to enjoyment from the public facilities and etc. It also takes into account personal rights i.e. rights of ownership, right of the seller to the price and etc.

Being weak to protect their own rights, the above rights are bestowed on children by Islamic Law. Owing to this fact, the classical Muslim jurists have profoundly discussed the concept *ḥaq al-‘abd* and Ahliyyah al-Wujūb (capacity to acquisition of rights). Children rights start, herein, when they are in the womb of their mothers. However, at this stage they do not have any sort of duty as their capacity is incomplete. An adult person, on the other hand, from has complete capacity from the moment of his birth till his death. An extra ordinary relaxation has been given to children, herein, by Islamic law – as they are having full rights while having no duties at all. The legal philosophy i.e., where there is right there is duty, has no application at this stage.¹⁹

Conventional law, on the other hand, has three categories of rights i.e., natural, moral and legal. Natural are those rights which are accepted by the natural justice. Mind is applied, at this level, to know what is lawful and fair. Moral rights, on the other hand, are those which have been accepted by the ethics and the society. The legal, contrary to this, are those which are formed by the law or contract.²⁰ All these rights are awarded to a child and their protection has been made, too, thorough strong legislative mechanism.

Convention on the Rights of the Child 1989²¹ - A Critical Analysis:

Many documents at international level, concerning child rights, are introduced in the last few decades; such laws become a base for the introduction and adoption of United Nation’s CRC. These international documents include, primarily, the *Declaration of the Rights of the Child 1924* (revised in 1948 and adopted by the then League of Nations General assembly²²), *Declaration of the Rights of the Child*²³ in 1959 etc. Such legal documents contain children rights through a detailed and comprehensive way. Unlike other documents, CRC is a child-specific and internationally binding one on all associated nations. It has been enforced, as a matter of fact, quicker than any international treaty.²⁴ Like other conventions, it gets its binding nature by two ways. The first one is the accession where the state party, after following the national legislation requirements, submits an instrument of accession with the Secretary General of the

United Nations. Another is ratification where a state party signs the convention; showing its willingness to examine the convention without having any legal effect. But after following the proper national legislative requirements, it submits an instrument of ratification, later on, with the General Secretary of the United Nations.²⁵

CRC was adopted by the General Assembly, United Nations in its session No. 44, Resolution No. 25, and remain opened for signature on November 20, 1989. After twenty member states' ratification, it came into force on September 2, 1990. It was considered to be the fastest ratified internationally treaty; owing to the fact that almost 196 had ratified it then. The United States, amazingly, had not ratified it yet.²⁶

CRC has three optional protocols adopted by the General Assembly on May 25, 2000. One of them is on the involvement of children in armed conflict that has come into force on February 12, 2002.²⁷ Another is related to the sale of children, child prostitution and child pornography. It has come into force on January 18, 2002.²⁸ The third optional Protocol to CRC is related to Communications Procedure. It has been adopted by the General Assembly since December, 19, 2011.²⁹

The countries which have ratified CRC are bound to apply it. A committee has been formed called as *Committee on the Rights of the Child*; having a duty to examine the implementation of the convention by the state's parties.³⁰ Furthermore, such convention is the only convention that has given power to non-government organizations to examine its implementation.³¹ The Committee contains body of members from different member countries. The states parties have to submit first report after two years of enforcement of CRC; then after every five years talking about the enforcement of CRC and children situation in their respective countries. The Committee reviews such reports and issue directives, at the same time, for further improvements in children rights. Moreover, the Committee recommends to the concerned governments and to the General Assembly about the initiatives necessary for the fulfillment of CRC's objectives. Lastly, the Committee submits its report to another Committee of the UN General Assembly. Such Committee, then, hears the Committee's Chair and the general Assembly to adopt a proper resolution regarding children rights.³²

CRC views child as a unique person who is capable of getting rights but needs, at the same time, protection in this regard. Owing to this fact no discrimination on the basis of sex, color or religion is not acceptable as for as the children rights are concerned.³³

Moreover, children should be equally treated by the legislature while establishing any law. While saving the best interest of children, the court of law and non-government organization are supposed to follow the same principle.³⁴ Furthermore, the children, as per these golden principles, have full rights of survival and the growth in shape of emotions, mental, physical, and social.³⁵ Children should be considered able to form their own opinion in matter affecting them and therefore, their opinions should have weight in judicial and administrative decisions.³⁶

CRC and Islamic Law – Comparative Approach:

While having the above points in mind, the approach of conventional law and *Shari'ah*

can be comparatively presented as follow.

The legal adoption; whereby the lineage is attached to the adopted person, is prohibited in Islamic Law. In other words, adoption is totally annihilated in the Islamic family Law. The reason behind the prohibition is the preservation of *nasl*; the family and the lineage.³⁷

It also affects the principles provided by *Sharī'ah* about the custody, guardianship, inheritance, maintenance obligation and many other issues. For the poor and abandoned children, Islam provides *kafālah* as solution. This concept has many positive aspects. For instance, its strengths Muslim community and on the same way, it does not annihilate family system of Islam. The follow verses Holy Qur'ān and ḥadīth of the Prophet (SAW) can be cited for the support of such approach. Allah Exalted says:

"وَمَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ذَلِكُمْ قَوْلُكُمْ بِأَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي السَّبِيلَ * ادْعُوهُمْ لِآبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ فَإِنْ لَمْ تَعْلَمُوا آبَاءَهُمْ فَاِخْوَانُكُمْ فِي الدِّينِ وَمَوَالِيكُمْ" ³⁸.

"...nor has He made your adopted sons your sons. such is (only) your (manner of) speech by your mouths. but Allah tells (you) the truth, and He shows the (right) way. * call them by (the names of) their fathers: that is juster In the sight of Allah. but if ye know not their father's (names, call them) your brothers In Faith, or your maulas."³⁹

A ḥadīth of the Prophet (SAW) conveys the same message:

"كَافِلُ الْيَتِيمِ لَهُ أَوْلِيَّتُهُ أَنَا وَهُوَ كَمَا تَبَيَّنَ فِي الْحَدِيثِ « وَأَشَارَ مَالِكٌ بِالسَّبَابَةِ وَالْوَسْطَى " ⁴⁰.

"He, who takes care of an orphan, whether he is his relative or a stranger, will be in Jannah with me like these two". The narrator, Malik bin Anas raised his forefinger and middle finger for illustration. "⁴¹

The CRC, contrary to this, allows adoption.⁴² By allowing adoption, CRC opens, of course, the door for exploitation and abuses of children. Surprisingly, after opening the door of adoption, it demands from the state parties that it should not result into any financial gain by exploiting the children.⁴³ CRC may rightly hold responsible for intervening into the natural family structure.

The issue of maintenance responsibility is profoundly dealt by Islamic law; making the father, at first instance, responsible to maintain his children.⁴⁴ He is responsible to preserve their person, as well as, their family as lineage of children is attached to him.⁴⁵ Additionally, the father's responsibility remains intact till the male child attains puberty while the female child gets married. The father responsibility, however, comes to an end when the child is wealthy.⁴⁶ Furthermore, the maintenance responsibility may be shifted towards the nearest relatives if the father cannot maintain his children due to any reason. The responsibility comes on the state if the relatives are poor or not found at all- for one reason or another.⁴⁷ The mother cannot be held responsible as her basic responsibility is to take care of house hold / internal matters.⁴⁸ All these rules, mentioned in the previous lines, are derived from the Holy Qur'ān and ḥadīth:

Allah says: "... وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ..." ⁴⁹.

“...but He shall bear the cost of their food and clothing on equitable terms...”⁵⁰

A *hadīth* reflects the same approach:

"كُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ، وَالْأُمَيْرُ رَاعٍ، وَالرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ، وَالْمَرْأَةُ رَاعِيَةٌ عَلَى بَيْتِ رَوْحِهَا وَوَلَدِهِ، فَكُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ".⁵¹

"All of you are guardians and are responsible for your wards. The ruler is a guardian and the man is a guardian of his family; the lady is a guardian and is responsible for her husband's house and his offspring; and so all of you are guardians and are responsible for your wards."⁵²

According to CRC, on the other hand, the responsibility of maintenance of children lays on parents; including both father and mother. In case of their inability, however, the state resumes the responsibility.⁵³ It seems that the family, according to CRC, consists of parents and their children; and owing to this fact the state resumes the responsibility after the inability of the parents. The relatives are, herein, ignored at all for upholding such responsibility. Moreover, this responsibility remains intact till the age of eighteen.⁵⁴ Such discussion clearly indicates that the approach of Islamic law is more comprehensive in nature; covering the issue from all required angles.

The matter of marriage is very important in nature for a healthy society... It is strange that CRC, being a main convention about children, does not deal with it under any stretch of explanation. Such convention neither fixes any age for a child marriage nor fixes any punishment for those individuals who are arranging marriage ceremony. According to the CRC, a child remains as child till the age of eighteen;⁵⁵ therefore, marriage till eighteen years of age has no legal effect. There are other international conventions that deal such issue e.g., CEDAW.⁵⁶ As per this document a child marriage has no legal effect at all.

Contract of marriage, in Islamic law, is a proper contract even if it is concluded by a child.⁵⁷ Once a contract has been made, as per such legal spectrum, by parent/guardian, it is considered as a valid contract. However, the conjugal rights begin after attaining puberty and ability of the spouse.⁵⁸ The classical Muslim jurists have offered minute details in connection to a child marriage. Firstly, for instance, in case of a child marriage, the parents/guardian of person is responsible for its arrangements. He has to see the best interest of his child.⁵⁹ Secondly, it depends on child situation, too. In some cases, for instance, he is able to manage his family life at the moment of his puberty and in some cases it is vice versa. Because of this reason and many others fixing the age of eighteen years for marriage is not reasonable approach in the view of Islamic law- as the age of puberty varies from to person and place to place... Islamic law, herein, provides right of marriage for a child when he has the required capacity. Such permission is given for the purpose of preservation of *nafs* (person) and preservation of *nasl* (family). On the same way a child (who has the required capacities) may engages him in immoral activities The Muslim jurists support their view while citing a *hadīth* that flows as:

عَنْ عَائِشَةَ. قَالَتْ: "تَرَوُجَنِي النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَنَا بِنْتُ سِتِّ سِنِينَ، وَبَنِي بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ".⁶⁰

"Allah's Apostle (ﷺ) married me when I was six years old, and I was admitted to his house when I was nine years old."⁶¹

As per Islamic law a child cannot be held liable for the capital punishment – under any stretch of explanation.⁶² The legal reason behind this is that a child has no capacity of execution. In case of killing a person, he cannot be subjected to *qisas*⁶³ Even he cannot be subjected to a substitute punishment as *diyah*.

However, the issue of *huqūq al-‘bād* may be treated differently. CRC, on the other hand, imposes the age of eighteen years, primarily, for capital punishment.⁶⁴ Seemingly, this age is not appropriate as an individual may be more enough to understand the effect of his action.

CRC provides the right of indiscrimination to a child. It means that no discrimination is allowed on the basis of colour, sex, religion, language etc.⁶⁵ Islamic law offers, on the same way, such right since line. The Holy *Qur‘ān* says in this regard:

"يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ".⁶⁶

"O mankind! we created you from a single (pair) of a male and a female, and made you into nations and Tribes, that ye may know Each other (Not that ye may despise (each other). Verily the Most honoured of you In the sight of Allah is (He who is) the Most righteous of you. and Allah has full knowledge and is well acquainted (with all things)."⁶⁷

The prophet Muhammad (SAW) is reported to have said

"...أيها الناس! إني ربكم واحد وإني أباكم واحد. كلكم لآدم؛ وآدم من تراب. أكرمكم عند الله أتقاكم. وليس لعربي على

عجمي فضل إلا بالتقوى...".⁶⁸

"O people! Your Lord is one, and your father is one. All of you belong to Adam; and Adam is from soil. The honourer of you with Allah is the most pious among you, and there is no credit for an Arab over a Non-Arab without piousness".

CRC Supports right of survival for every child. This is an inherent right to life.⁶⁹ CRC provides this right to children during his life⁷⁰ – not when he is in his mother womb. Islamic law, contrary to this, provides such right to a child even before his birth; from the moment of conception.⁷¹ While giving this right to a child, the Holy *Qur‘ān* states:

"وَإِذَا بُشِّرَ أَحَدُهُمْ بِالْأُنْثَىٰ ظَلَّ وَجْهُهُ مُسْوَدًّا وَهُوَ كَظِيمٌ * يَتَوَارَىٰ مِنَ الْقَوْمِ مِنْ سُوءِ مَا بُشِّرَ بِهِ أَيُمْسِكُهُ عَلَىٰ هُونٍ أَمْ يَدُسُّهُ فِي التُّرَابِ أَلَا سَاءَ مَا يَحْكُمُونَ".⁷²

"When news is brought to one of them, of (the birth of) a female (child), His face darkens, and He is filled with inward grief! * With Shame does He hide Himself from His people, because of the bad news He has had! shall He retain it on (sufferance and) contempt, or bury it in the dust? Ah! what an evil (choice) They decide on?"⁷³

CRC grants to children freedom of expression, freedom of thought, freedom of association and right to privacy to a child.⁷⁴ Islamic law, on the same way, recognizes such right, however, with certain restrictions and limitation- as complete freedom may lead towards damage and harm. Moreover, it may affect any of the purposes of *Sharī'ah* e.g., *ḥifz al-'aql*, if a child using freedom of association for some illegal purpose. Moreover, an Islam law covers this freedom with morality. Owing to this fact, a child is not allowed to propagate the evil or to use abusive words for anyone. Likewise, freedom is considered only when it is not affecting dignity of others.⁷⁵

Conclusion and Recommendations:

The concept of Islamic law is that the order belongs to Allah Almighty only. Following this, rights are considered rights which are recognized by Allah Almighty – and this is the spirit of such legal system. The Muslim jurists, while following this philosophy, derive purposes of Islamic law from the text of Holy *Qur'ān* and *ahādīth* to understand commands of Allah Almighty.⁷⁶ However, the conventional law, contrary to this, is entirely based on human intellect - created through parliament or any other recognized source of law. That's why it is very easy to create, limit or abrogate any right at any time.⁷⁷ CRC, an international document dealing with children rights, is also created by human being and, therefore, subject to many flaws. In broad spectrum, such rights are having similarity with those bestowed by Islamic law – with some minute differences at various facets. Such rights are very comprehensive in nature, applicable to everyone and cannot be subjected to any change with the passage of time without any sort of discrimination. On the other hand, CRC seems to be adopted by some developed countries. Because the reason is that developing or third world countries are far away to apply rights grants by CRC – because of their weak justice system. While comparing Islamic law and CRC, it is notices that there are some meeting points between these two legal spectrums. These points include, not exhaustively, maintenance responsibility of a child, right to indiscrimination, freedom of expression, freedom of thought, freedom of association, right to survival and etc. The different points include the right to adaptation, the implementation of capital punishment, the right of marriage and etc. The Islamic law, comparatively to the conventional law, regarding rights of children is very much comprehensive and realistic in nature.

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¹⁰ For example, sexual abuse, economical exploitation, sale and trafficking of the children.

¹¹ For example, adoption, effect of marriage contract of the children, nature of responsibility on the parents.

¹² These are interests on which the lives of people and society depend.

¹³ These are things that people need to remove hardship and discomfort from their lives.

¹⁴ These are interests that enable the people to live according to high morals and righteous manners.

¹⁵ Ibrāhīm bin Mūsā al-Shāṭibī, *al-Muwāfaqāt*, vol. 2 (Dār ibn 'affān, 1997), p. 20; Muwaffaq al-Dīn ibn Qudāmah al-Maqdisī, *Raudah al-Nāzir wa Jannah al-Manāzir fī Uṣūl al-Fiqh 'lā Madhhab al-Imām Aḥmad bin Ḥanbal*, vol. 2 (Mu'assasah al-Rayyān, 2002), p. 208.

¹⁶ Following verse of the Holy Qur'ān suggest the same, "Surely, those who unjustly devour the property of the orphans do nothing but devour fire into their bellies, and soon they shall enter a blazing Hell", Al-Qur'ān 4: 10; the following Ḥadīth is also one of the evidences on the matter, "He, who does not have mercy for our young ones and respect for our old ones, is not from among us", Muhammad Bin 'Isā Al-Tirmidhī, *Sunan Al-Tirmidhī*, (Egypt: Sharikah Maktabah wa Maṭbāah Muṣṭafā al-Bābī al-Ḥalabī, 1975), vol. 4, p. 321. Ḥadīth No. 1919.

¹⁷ It is a punishment fixed by *sharī'ah*. So, if the crime is proved, then no option other than to implement the whole punishments as provided by *sharī'ah*.

¹⁸ Badr al-Dīn Al-Zarakshī, *al-Manthūr fī al-Qawā'id al-Fiqhiyyah*, vol. 2 (Kuwait: Wazārah al-Awqāf al-Kuwaitiyyah, 1985), p. 58; Muhammad al-Ṭāhir Ibn 'āshūr, *Maqāshid al-Sharī'ah al-Islāmiyyah*, vol. 2 (Qatar: Wazārah al-Awqāf wa al-Shu'ūn al-Islāmiyyah, 2004), p. 123.

¹⁹ 'Ayād Al-Salamī, *Uṣūl al-Fiqh al-Ladhī lā Yasa' al-Faqīh Jahlahu* (al-Riyāḍ: Dār al-Tadamuriyyah, 2005), 79. [Hereinafter referred to as *Uṣūl al-Fiqh al-Ladhī lā Yasa' al-Faqīh Jahlahu*].

²⁰ Avtar Singh, *Introduction to Jurisprudence* (India: Wadhwa & Company, 2006), p. 223.

²¹ The Convention has been adopted by the General Assembly of United Nations in its resolution 25, session 44 on November 1989. It has a Preamble, three parts and total of 54 sections. See for further details <https://www.ohchr.org/documents/professionalinterest/crc.pdf>, (Accessed 4th November, 2020).

²² See for further details ...www1.umn.edu/humanrts/instree/childrights.html. (Accessed on 8th August, 2009)

²³ It was adopted by United Nations General Assembly, through Resolution 1386, session 14 on November 20, 1959.

²⁴ Hanita Kosher, Asher Ben-Arieh and Yael Hendelsman, *The History of Children's Rights* (2016) ... See for further details

<https://www.researchgate.net/publication/315862642> The History of Children's Rights... (accessed 31st October, 2020).

²⁵ Seyed Ahmad Tabatabaei and Siamak Karamzadeh, “The Ratification and Status of the International Treaties in the Legal System of the Islamic Republic of Iran”, *Journal of Politics and Law*; Vol. 10, No. 5 (2017): 86-87.

²⁶ United Nations, treaty Collection, see

https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en (accessed on 1st November 2020); Lida Minasyan, “the United States Has Not Ratified the UN Convention on the Rights of the Child”, Atlas Corps, <https://atlas Corps.org/the-united-states-has-not-ratified-the-un-convention-on-the-rights-of-the-child/>. (accessed November 1, 2020)

²⁷ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, United Nations Human Rights,

<https://www.ohchr.org/en/professionalinterest/pages/opaccrc.aspx> (accessed November 1, 2020)

²⁸ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, United Nations Human Rights,

<https://www.ohchr.org/en/professionalinterest/pages/opscrc.aspx> (accessed November 1, 2020)

²⁹ “Optional Protocol to the Convention on the Rights of the Child on a communications procedure”, United Nations Human Rights, accessed November 1, 2020,

<https://www.ohchr.org/en/professionalinterest/pages/opicrc.aspx>

³⁰ CRC. Article 43.

³¹ Lisa Pilnik, “The United Nations Convention on the Rights of the Child and its Implementation in Japan and Sweden”, *Journal of International Law & Policy*, Vol. III (2006): 7-8.

³² David Weissbrodt, Joseph C. Hansen and Nathaniel H. Nesbitt, “The Role of the Committee on the Rights of the Child in Interpreting and Developing International Humanitarian Law”, *Harvard Human Rights journal*, Vol. 24 (2011); Luisa Blanchfield, “The United Nations Convention on the Rights of the Child”, *Congressional Research Service*, (2013): 3-4.

³³ CRC. Article 2.

³⁴ Ibid. Article 3.

³⁵ Ibid. Article 6.

³⁶ Ibid. Article 12.

³⁷ Ayesha Chaudhry, “Unlikely Motherhood in the Qur’ān: Oncofertility as Devotion”, National Institutes of Health Public Access,

...<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3086458/pdf/nihms283598.pdf>.

(Accessed November 1, 2020)

³⁸ Al-Qur’ān 33 / 4-5.

³⁹ ‘Abdullah Yusuf Ali, *The Holy Qur’ān with Arabic Text* (Islamabad: Dawah Academy, 2004), 1195. [hereinafter referred to as *The Holy Qur’ān with Arabic Text*].

⁴⁰ Muhammad bin al-Ḥajjāj Al-Naisābūrī, *al-Musnad al-Ṣaḥīḥ*, Kitāb al-Zuhd wa al-Raqā’iq, Bāb al-Iḥsān Ilā al-Armilāh, vol. 4 (Bairūt: Dār Iḥyā’ al-Turāth al-‘Arabī, N.D), p. 2287. Ḥadīth No. 42 (2983). [Hereinafter referred to as *Al-Musnad al-Ṣaḥīḥ*].

⁴¹ See for further details. <https://www.sunnah.com/riyadussaliheen/1/263>. (Accessed November 1, 2020)

⁴² CRC. Article 20(3).

⁴³ CRC. Article 21(d).

⁴⁴ Burhānuddīn Al-Murghīnānī, *Al-Hidāyah*, vol. 2 (Cairo: Dār al-Salām, 2000), p. 653.

⁴⁵ Wahbah Al-Zuhailī, *al-Fiqh al-Islāmī wa Adillatuh*, Vol. 7 (Dār al-Fikr, N.D), 732. [Hereinafter referred to as *Al-Fiqh al-Islāmī wa Adillatuh*].

⁴⁶ Muhammad bin Ismā’īl Al-Ṣan’ānī, *Subul al-Salām*, vol. 2 (Dār al-Ḥadīth, N.D), 325.

⁴⁷ *Al-Fiqh al-Islāmī wa Adillatuh*, Vol. 7, p. 741.

⁴⁸ Fārūq al- Shaikh Al-Rehmānī, Mas’ūliyyah al-Tarbiyah (Risālah ilā al-Ummahāt), Islamic Web, 2002... see for further details ... <https://www.islamweb.net/ar/article/> (accessed November 12, 2020).

⁵⁰ *The Holy Qur'ān with Arabic Text*, 105.

⁵¹ Muhammad bin Ismā'il Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Vol. 7 (Dār Ṭauq al-Najāh, 1422H), p. 31, Ḥadīth 5200.

⁵² <https://sunnah.com/bukhari/67>. (Accessed November 14, 2020)

⁵³ CRC. Article 27 (2-3).

⁵⁴ CRC. Article 27(4) read with Article 1.

⁵⁵ CRC. Article 1.

⁵⁶ Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly on 18th December 1979 and enforced on 3rd September 1981.

⁵⁷ Wazarah al-Awqāf wa al-Shu'ūn al-Islāmiyyah, *Al-Mawsū'ah al-Fiqhiyyah al-Kuwaitiyyah*, vol. 7 (Kuwait: Dār al-Salāsīl, 1427H), 15.

⁵⁸ *Al-Fiqh al-Islāmī wa Adillatuh*, Vol. 7, 60-61.

⁵⁹ Ibid.

⁶⁰ *Al-Musnad al-Ṣaḥīḥ*, Kitāb al-Nikāḥ, Bāb Tazwīj al-Abb al-Bikr al-Ṣaghīrah, vol. 2, p. 1039, Ḥadīth No. 70 (1422).

⁶¹ <https://sunnah.com/muslim/16>. (Accessed November 1, 2020)

⁶² 'Abd al-Qādir 'Audah, *al-Tashrī' al-Jinā'ī al-Islāmī Muqāraran bi al-Qānūn al-Waḍ'ī*, vol. 1 (Cairo: Dār al-Ḥadīth, 2009), 296; Dr. Ḥussain Aḥmad Ḥassān, *Uṣūl al-Fiqh* (Islamabad: University Book Shop, 2003), p. 116.

⁶³ The child cannot be punished completely but can be assigned a substitution penalty according to the situation.

⁶⁴ CRC. Article 37(a).

⁶⁵ CRC. Article 2.

⁶⁶ Al-Qur'ān 49/ 13.

⁶⁷ *The Holy Qur'ān with Arabic Text*, 1524.

⁶⁸ Muhammad Ḥamīdullāh Al-Hindī, *Majmū'ah al-Wathā'iq al-Siyāsiyyah li al-'ahd al-Nabawī al-Sharīf wa al-Khilāfah al-Rāshidah* (Bairūt: Dār al-Nafā'is, 1407H), 362.

⁶⁹ CRC. Article 6.

⁷⁰ Rhonda Copelon, Christina Zampas, Elizabeth Brusie & Jacqueline deVore, "Human Rights Begin at Birth: International Law and the Claim of Fetal Rights", *Reproductive Health Matters*, vol. 13, issue. 26 (2005), 120.

⁷¹ *Uṣūl al-Fiqh al-Ladhī lā Yasa' al-Faqīh Jahlahu*, 80.

⁷² *Al-Qur'ān* 16 / 58-59.

⁷³ *The Holy Qur'ān with Arabic Text*, 742-743.

⁷⁴ CRC. Articles 13, 14, 15, 16.

⁷⁵ Ali Muhammad Bhat, "Freedom of expression from Islamic perspective", *Journal of Media and Communication Studies*, vol. 6(5), (2014), 69.

⁷⁶ Dr. Abroo Aman Andrabi "Human rights in Islamic perspective", *International Journal of Humanities and Social Science Research*, Volume 2, Issue 5 (2016): 21.

⁷⁷ Ibid.