
Viewing the invisibles: Panoramic Stratum of Children in Ancient civilizations, International law, and legal System of Pakistan

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*Children throughout history have been a confused and neglected segment of the society. If we look back at ancient and early times, irrespective of the existence of natural parental love and affection, the legal status of children has been like property, chattels and belongings. The idea that children have human rights, or they are rights-bearer is a recent notion, however historically they have been considered unimportant and not much relevant. They have been considered subordinate and inferior physically, mentally, and biologically as well by “the nature”. The *parens patriae* (parents’ property) approach have been prevailing through centuries and *pater familias* (family head) have been the *sui juris* i.e., master, the supreme commander and veteran by law, of life and death of all subordinates to him, and any other under his subordination had the status of *alieni juris* i.e., having no control even over his/her own life. Children literally have been chattels in all the ancient times, i.e., Greek, and Roman societies. Children were lucky to be recognized as object of protection in 1924 when Geneva Declaration on the Rights of Child was adopted, and milestone was achieved in 1989 when they were recognized as rights holders by the UN Convention on the rights of the Child. Pakistan too after ratification of UN Convention, adopted enabling legislation to effect Convention into the legal system of Pakistan.*

Keywords: Children, history, society, *parens patriae*, geneva declaration, rights of child, UN convention

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Introduction

The most valuable, politically powerless citizens, but the greatest assets of any nation are children. Today's children are not only the citizens of tomorrow, but they are, invariably citizens of today as well. Children are the active producers of culture in their own rights and are not simply the pale reflections of the adults. They possess their importance in themselves as they are the fate of the nation, they belong to. The human child is the most remarkable and conspicuous outcome of universe's evolution¹. Being the most vulnerable segment of the society and having much tenderness, the children have been always the first ones to be harmed and the last ones to be heard, anywhere in the world².

Children are the divine blessing and natural human demand and precious gift of nature. They are innocent, naïve and the purest form of human beings, at the same time they are the most vulnerable and dependent creature as well. Being potentially vulnerable members of our society, they deserve, surely the highest level of protection, care, and love. Unfortunately, they have been neglected, maltreated, misbehaved, and often treated unlike adults regarding rights and like adults regarding duties. They have been considered as the residuary part of the society, never as a class of rights holders, because legal and moral standards applied to them were not same as applied to the adults. For much of the history, children have not been a particular interest for intellectuals, academics, or policy makers³. The maltreatment and subjection of the children can be found throughout the recorded history.

Children as Human Chattels and Early Maltreatment

The concept of child and childhood in antiquity is conflicting, unclear, and intriguing, when seen as an integration of the codes of ancient civilizations, the Greco-Roman era, the Jewish traditions, and early Christianity⁴. Nature produces love and affection for off springs. Moreover, living according to nature is said to be the "*supreme good*"⁵. However along with this natural love and human instinct of parental affection, societal norms and values caused the children to be treated like animals and slaves.

Perhaps in many contemporary societies of the world, the institution of the family is no more ideal, but individualism and individual human rights are more important than anything else. With the changing status of institution of the family, the role of the father is changed dramatically. Man can be the strongest creature on earth, but he can be said to be the weakest as well. Pliny describes the weakness of new-born baby, and holds him as exhausted, frightened and troubled while coming to this world. The child at the very first moment of his birth starts his life weeping; perhaps this lasts for the whole life. According to him:

On the day of his birth, nature throws a naked human-being down on the naked earth to cry and wail; of all the other animals, one is so prone to cry, and to cry right from the start of its life. The Idea that a baby soon smiles is a poetic fiction; that happens on the 14th day at the earliest. After that first experience of daylight, children have all their limbs swaddled, a severer bondage than that of any domestic animal. One successfully born there he lies crying, with his hand and feet tied, the creature who is going to govern the rest, and because of the one fault of having born, he begins his life with punishment. What madness, that some should think they are born to nobility from such beginning⁶.

The concept that the ‘children have’ or ‘should have’ rights, is a notion of recent inception. However historically they were considered as socially unimportant and insignificant, therefore maltreated. The notion ‘Children’s rights’ has been a slogan, in search of definition⁷ for decades. Children did not have any kind of protection by the state. State’s interference into family matters was considered illegal. In Babylonian times the children have been used as security for debts and political hostages.⁸ Child sacrifices, sexual abuse of children, infanticide of especially illegitimate and female children was very common in the earlier ancient societies. The feeble, weak or other unwanted children were thought to be a burden on the family, so they were abandoned or disposed off into prostitution or slavery.⁹ Parents had absolute and unchallengeable powers and control over their offsprings’ lives and property. Children were considered as property, economic assets, and human chattels of the parents. Childhood was just a transition period of mental and physical immaturity, changing into duties of adulthood at a very tender age.¹⁰

Children in Ancient Times

Most children throughout human history have seen difficult surviving time. Being extremely vulnerable by nature, they were not safe even in their homes. However, what and howsoever they have been treated, they have formed the part of the society since the beginning and they can be seen in the historical records. For example, in the known history, the Code of Hammurabi¹¹ is the oldest document of written laws and it too had reference to bring up and deal with the delinquent children. The Code of Hammurabi contained 282 rules for the whole kingdom and the rule number 195 was specifically directed to children, who disobeyed their parents¹². In antiquity, children were considered “wild” in severe need of punishment to make them civilized. They needed education along with punishment to tame them to make them prepared for adults’ roles and responsibilities, i.e., war and politics for boys and marriage for girls. The child had the possibility to live if he was not monstrous, deformed, or had not any other abnormality, even then approved by the head of the family¹³.

Children in Greek Society

Aristotle, a Greek Philosopher after having seeing the treatment of children in the society said, «*from day comes night, and from the boy comes the man*¹⁴ » to realize the importance of child in society which should be protected from any kind of misfortune. However, regarding children and women, he was of the view that, they were not only subordinate by the social necessity but also as innately, and biologically inferior both in physical and mental capacities, so they have a subservient position by 'nature'¹⁵.

Talking about the status of children in Greek society, they were really marginalized, were exposed to violence from very early age¹⁶ and their status was not different from slaves. For example, the child in Greek society was called "*pais*" meaning thereby '*houseboy*' or '*adult's slave*'. The slave women and the children from such women had no guarantee of life that they would go from childhood to adulthood¹⁷. The children along with their slave parents were the property of their masters¹⁸. The children, women and slaves all were considered as the property and commodity of their masters¹⁹.

Irrespective of the treatment, the children in Greek society were considered important due to their military and political use, as in 4th Century BC, Dinarchus held that anyone who would not have a legitimate issue (child), could become neither a general in army nor an orator²⁰. In Hellenistic and Byzantine worlds due to the problems of poverty and economic catastrophes, children were not considered as blessing, so not welcome. Because the contraceptive methods were not reliable, so the Greek used the abortion and infanticide to get rid of unwanted children. Only the father had the power to make decisions of exposing the child or to authorize an abortion. The people used to abandon their children, and left them in places, where other people used to go, so that they could be taken by someone in need. The fate of these adopted children was in slavery and the girls mostly were engaged in brothels and prostitution. The child in Greek society did not belong to the father, but the elder of the family²¹. The illegitimate (*nothos*) children had an even worse fate, had neither any kind of protection, nor inheritance rights. The education was only for boys; however, the domestic weaving and spinning were taught to girls at home. This trend even continued till the 20th century of financing for only boys' education and seldom for their daughters by the Greek people²².

The society had a high rate of infant mortality and the children were not given names until months, as they were supposed to die soon. If the child was a bit abnormal or deformed, he was abandoned and was thrown off the mountains. Even a father had the right to abandon his newborn or bit older child without any reason²³. The girls even in normal circumstances were the major prey. Ritual killings²⁴, human²⁵ and child sacrifices were common in community²⁶. For example, in Greek mythology, King Agamemnon sacrificed his daughter Iphigenia in order to gain favourable weather for an invasion²⁷. In some regions, the most

beloved children were sacrificed in public, and/or buried alive before setting out against enemy²⁸ or other such adventures.

Sometimes, other peoples used to pick up these abandoned children and nurture them as slaves for the life. The girls were supposed to become major at the age of 12 or 13, when they were to get married. They were expected to give birth soon after their marriage, if they could not have a baby, it was thought as a curse on that child bride. Fathers used to accept and acknowledge his child to-be-born yet in a naming ceremony called, « *amphidromia* » and at any time, before this ceremony the child (fetus) could be killed with impunity²⁹. Contraception, infanticide, and abortion could be carried out easily. The exposed children could be sold as slaves. The illegitimate children were the most unwanted things and were not entitled to inheritance.³⁰

Children in Roman Society

The social status, fate and welcoming of a new child in Roman society depended upon many factors, such as gender of the child, parent's status and financial situation and the number of siblings as well³¹ and , although they were visible in Roman society, but were not valued and esteemed.

Roman law placed children under the authority of both government and parents, but in the ownership of their fathers³². The law pertaining to children has its roots in the principles of *Roman law* known as the *Parens Patriae* (parental authority). The oldest living male in a family had far-reaching powers over all his descendents and dependants, whatever age any one of them had. Among the Roman institutions, *pater potestas* (parental powers) was the fundamental institution. Aristotle holds that the father in Roman Society ruled his children as a king rules over his subjects³³.

Romans considered the child as weak and vulnerable³⁴. According to *Parens Patriae* approach the children were the property³⁵ of their fathers or guardians with absolute custodial powers³⁶. Even the death could not hinder the father to choose another male to serve as a custodian after his death³⁷. The existing eternal power was only for the interests of father (*pater familias*). Children were not considered as free human beings and those who were not free, would not have private rights³⁸. The children marriages were common and even the children at the age of 7 were betrothed³⁹.

The *pater familias*⁴⁰ had supreme command and sole power endowed by the law over those, who come under his authority or submission. He was the only *sui juris*⁴¹ over everything of everybody, everything centered to him. *Sui juris* having direct control over the lives of his children and all others had the status of *alieni juris*⁴². Roman fathers exercised the right on life or death of his children⁴³. He had authority to disown or declare any of his children as unwanted and illegitimate at any time. He had to decide the religion of the children and led religious

ceremonies. He had to decide the fate of his children, when, where and to whom to marry⁴⁴. Spouses had neither discretion to choose, nor authority to divorce, but *pater familias* had to arrange marriages, to give consent for marriage contract, and to dissolve whenever required⁴⁵. *Pater familias* had unassailable right to dissolve marriages of children, whenever he found that the marriage is objectionable or obnoxious⁴⁶.

Pater familias was a unique, extensive, and unrestricted Roman institution. The legal authority of *pater familias* established immediately at the birth of the legitimate child i.e., child born in wedlock (*iustum matrimonium*), however he had powers to accept or denounce the legitimacy of the child. Even after recognition by any gesture (*filium or filiam tollere*), he had the authority to refuse to raise-up the child and the child could be exposed or left away to be enslaved or die⁴⁷.

The absolute power (*Patria Potestas*) the Roman law vested in *Pater familias*, over the children, was also backed up, sanctioned, and endorsed by the government. Legal sources tell that the thrashing adult children, limitless coercion were legal and morally acceptable and were an integral part of the father's dominion. For an instance, the Emperor *Alexander Severus* explicitly asked a man, whose name was *Artemidorus* that if he had any problem or difficulty in imposing or applying the corporal punishment over his children, he could call for support and assistance from the area magistrate⁴⁸ or let public officials to administer the actual punishment⁴⁹.

The typical example of this phenomenon of mistreatment and child abuse can be found in Ancient Roman Law, under which parents had legal authority to kill, sell, put in servitude, or harshly discipline their children⁵⁰. In Roman society the children were not just more liable to sickness than adult, but were also likely to be frightened and subject of physical frailty like women and slaves⁵¹. The child was associated with slaves, women, and animals, where all four symbolize behaviour opposed to that of the adult male citizen⁵².

State interference was considered illegal and in derogation with the privacy of the family. Domestic violence against children has never been taken as an issue of serious or a matter of public concern, thinking that as it was private family matter, not fit to be discussed or intervened by any outsider. Subjection of children to cruel and harsh disciplinary measures was considered as "parents' privilege" and a way to teach the children the first lessons of their lives of obedience and discipline⁵³. Therefore, children were placed along with women, animals, and slaves. It is quite astonishing to note that animals' protection rights precede the children's protection.

Children were excluded from the main spheres of life, the family life being a domain of private law, separated from public spheres and state intervention. This can be found in Aristotle's early division between *polis* and *oikos* classes of the society. Only the men, according to Aristotle, were intended to live in *polis* by

nature, where the highest degree of betterment could be achieved. Contrary to this on the other hand, the children, slaves, and women were restricted to *oikos*, where a lesser degree of betterment could be achieved.⁵⁴

The Ancient Roman law gave the powers of life and death to the father of their offspring. The *pater familias* (family head) had the right and power of “*vitae necisque potestas*” (power of life and death) over all his descendents, who come in his paternal power⁵⁵ and had sole discretion and right over his descendents to imprison, to scourge, to chastise, to place them in chains, to lash, to set them at work in the fields or even to kill during the entire lives of the descendents. Again, the Emperor Augustus in a statute of 18/17 B.C, introduced the right of killing (*ius occisenti*), which criminalized adultery. This law gave the right to *pater familias* to kill his daughter and her lover if they had sufficient proofs of adultery⁵⁶.

It was considered that the human life commences in a state of animal like unruliness and disorder, whereby the fundamental and basic task of the society was to impose some higher moral order on raw human nature, till the humanity was civilized and bounded by the imposition of moral orders. The great Greek philosopher of 5th century B.C.E., Plato in his two treaties on social ethics i.e., ‘*the Republic*’ and ‘*the Laws*’ proponed such kind of views that the necessity of disciplining and educating the children, had how much importance for a good society. He says that “a boy is the most difficult to handle, of all wild young things” because he has in him more intelligence than any other that is not “runclear” yet. He says a boy is the most mischievous, craftiest, and unruliest of brutes.⁵⁷

Children in International Law

In 1924, the Geneva Declaration on the Rights of the child was first document at international level which firstly recognized the rights of the children, which summarized needs and protections of the children in 5 points. The Declaration revolved around the right to life, development, relief, protection, and assistance of children. After coming into being of United Nations in 1945 and adoption of Universal Declaration of Human Rights in 1948 under umbrella of UN, again the Declaration on the Rights of the Child in 1959 was adopted which enlisted the rights of children under 10 different heads. The rights included were equality, special protections, name, nutrition, housing, education, understanding and love of parents, recreational activities, relief, neglect, and exploitations, and finally right to be brought up properly. Nonetheless, both Geneva Declarations were mostly on special care, protection and needs of children. However, the Charter of United Nations 1945, UDHR 1948, the Geneva Conventions and its Protocols 1949-1979, twin Covenants of 1966 had marginally but sometimes specifically mention of children and their protections.

Historical moment came in 1989 when UN Convention on the Rights of the Child was adopted which first time in the history declared children as rights-holders, neither property of the parents nor only objects of protection. The UN Convention was followed by three optional protocols namely children's involvement in armed conflicts⁵⁸, Sale of Children, Child Prostitution and Child Pornography⁵⁹, and communications procedure⁶⁰. The Convention along with its three subsequent optional protocols put obligations other states parties to protect and safeguard the rights of the children in any and all situations.

The Convention has brought the new ways of thinking, the new approaches towards the children and their status in society. Having gone through the effects and revolution of the Convention, the miseries of the children have not come to an end neither at international level nor at national level. In fact, each state has its own unique problems for the non-implementation of the UN Convention on the Rights of the Child. However, there are some common grey areas in all jurisdictions of world, such as the reflection of the best interests of the child, the existence of multiple types of discriminations, not following the children's right to participations and their right to life as well.

Rights of the Children and Legal System of Pakistan

There was no comprehensive and concrete legislation on children before signing and ratification of UN Convention on the Rights of the child, although there were some laws which protected some rights of the children such as protection again marriage before marriageable age⁶¹, property rights and welfare in custody cases⁶², child labor⁶³ but most of this legislation was during the pre-partition era. After coming into existence of Pakistan, provincial assemblies adopted some local laws and a very few legislations at federal level for the protection of children⁶⁴. The provinces of Punjab⁶⁵, Sind⁶⁶, KPK⁶⁷, Balochistan⁶⁸ and AJK⁶⁹ have adopted some provincial laws according to the needs and circumstances of the area. The provincial laws revolved around right to compulsory primary education, restraining child marriages, child abuses and child labor, neglected and street children and overall welfare of the children.

After ratification of UN Convention, Pakistan adopted Juvenile justice system Ordinance (JJSO) in 2000 which again was repealed by Juvenile Justice system Act (JJSA), 2018, to bring the law in conformity with international commitments and UN Convention. Lahore High Court decision in the case of *Farooq Ahmed v. Federation of Pakistan*⁷⁰, played pivotal role in repealing JJSO and enacting new legislation; as in aforesaid judgement, the Juvenile Justice System Ordinance (JJSO) 2000, was held unconstitutional. JJSA 2018 removed the lacunas in earlier Ordinance of 2000 such as definition of juvenile and juvenile offender, changed the investigation procedure, made provision for detention of children in observation homes, introduced diversion process, sub-categorized offences, established separate juvenile courts, established juvenile justice committee, made offence to print any information regarding juvenile without prior permission,

provisions for no hand-cuff, no prison and no death penalty for children and more interestingly gave overriding effect on other laws.

Conclusion

To sum up, we may say that the children have been the victim of neglect, exploitation, abuse, and violence in the one form or the other throughout centuries. They were not entitled to the any kind of protection in the antiquity *parens patriae* was all in all in all respect. Infanticides were considered as the legal and acceptable tradition in the community by the stakeholders and intellectuals of the time being⁷¹. They have been considered the disadvantaged, marginalized and socially excluded group of the society⁷². They always occupied the inferior social status, always have been regarded as less worthy of consideration even than themselves, and have been dictated by the adults, who used to dictate the norms and standards of social interaction.

The Declarations on the Rights of Child of 1924 and 1959 paved the way for the recognition of the children. After said declarations, UNCRC 1989 revolutionarised and changed the status of children from property of parents and object of protection to subject of rights having all human rights with extra protections being weak and vulnerable. Pakistan earlier had not sufficient legislation exclusively on children but after ratification of said Convention, it adopted JJSO 2000 which was subsequently repealed by JJSA 2018 removing most of the lacunas in earlier Ordinance. Now most of the laws of Pakistan relating to children are in conformity with international standards and UNCRC, but with some reservations made with reference to international treaties such as marriageable age and Islamic injunctions.

End Notes and Bibliography

- ¹R. Ganga and M. Supputhai (eds.), *Children Rights as Basic Human Rights: Sensitization of Stakeholders*, New Delhi, India, 2007, p. 327.
- ² Musa Khan Jalazai (ed.), *Child Labour and Child Abuse in Pakistan*, Lahore Pakistan, 2004, p. 51.
- ³Trevor Buck, *International Child Law*, Routledge Publishers, 3rd Ed., 2014, p. 2.
- ⁴ Lynne Marie Kohm, Tracing the Foundations of the Best Interests of the Child Standard in American Jurisprudence, *Journal of Law and Family Studies*, 2008, vol. 10, pp. 1-40.
- ⁵ *Id.*, p. 4.
- ⁶ Thomas EJ Wiedemann and Thomas Wiedemann, *Adults and children in the Roman Empire*, Routledge Publishers, 2014, p. 19.
- ⁷ Hillary Rodham Clinton, Children under the Law, *Harvard Education Review*, 1973, vol. 43, p. 487
- ⁸ D. Kelly Weisberg, Evolution of the Concept of the Rights of the Child in the Western World, *The Review (International Commission of Jurists)*, 1978, vol. 21, pp. 43-51.
- ⁹ Maggie Black, *The Children and the Nations: The Story of UNICEF*, 1986, p. 198.
- ¹⁰ S. J. Stoljar and others, Persons and family: Children, Parents and Guardian, *International Encyclopedia of Comparative Law*. 2007, vol. 4, Ch. 7, pp. 16-25.
- ¹¹ Hammurabi ruled Babylon from 1792 to 1750 B. C. E.
- ¹² Robert M. Regoli, John D. Hewitt, and Matt De Lisi, *Delinquency in society*, Jones & Bartlett Publishers, 2012, p. 9.
- ¹³ Donia Zerrari, *Les droits de l'enfant dans le conflit armé*, Mémoire soutenue à l'Université Lille 2, 2006, p. 9
- ¹⁴Jenifer Neils, John Howard Oakley, Katherine Hart et al., *Coming of age in Ancient Greece: images of childhood from the classical past*, Yale University Press, 2003. p. 1
- ¹⁵ Leila Ahmed, *Women and gender in Islam: Historical roots of a modern debate*, Yale University Press, 1992, p. 29.
- ¹⁶ Hugh Cunningham, *Children and childhood in Western society since 1500*, Pearson Education, 2005, p. 18.

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- ¹⁷ Yvon Garlan, *Les Esclaves en Grèce ancienne*, La Découverte, Paris, 1982, p. 58. (translated in English as *Slavery in Ancient Greece*, Cornell University Press, New York, 1988).
- ¹⁸ Edmond Lévy, *La Grèce au Ve siècle de Clisthène à Socrate*, Paris-Seuil, 1995, p. 178.
- ¹⁹ Sue Blundell, *Women in ancient Greece*, Harvard University Press, 1995, p. 86. See also in detail, Pierre Brulé, *Women of ancient Greece*, Edinburgh University Press, 2003 ; Marilyn Katz, Ideology and “the status of women” in ancient Greece. *History and Theory*, 1992, pp. 70-97.
- ²⁰ Nigel Gay Wilson (ed.), *Encyclopedia of ancient Greece*, Routledge Publishers, 2013, p. 157; Stuart N. Hart, From property to person status: Historical perspective on children's rights, *American Psychologist*, 1991, vol. 46 (1), p. 53.
- ²¹ *Id.*, p. 157.
- ²² *Id.*, p. 158.
- ²³ Pierre Brulé, Infanticide et abandon d'enfants, *Dialogues d'histoire ancienne*, 1992, No. 18, pp. 53–90.
- ²⁴ Dennis D. Hughes, *Human sacrifice in ancient Greece*, Psychology Press, 1991, p. 1.
- ²⁵ Robert C. Solomon, and Kathleen Marie Higgins, *A short history of philosophy*, Oxford University Press, 1996. See also, Walter Burkert, *Structure and history in Greek mythology and ritual*. University of California Press, 1982, p. 9.
- ²⁶ Jenifer Neils and John Howard Oakley, Katherine Hart, Lesley A. Beaumont, Helene Foley, Mark Golden, Jill Korbin, Jeremy Rutter, and H. A. Shapiro, *Coming of age in Ancient Greece: images of childhood from the classical past*, Yale University Press, New Heaven, 2003, p. 24.
- ²⁷ Herbert Siegel, Agamemnon in Euripides "Iphigenia at Aulis", *Hermes*, 1981, pp. 257-265.
- ²⁸ Dennis D. Hughes, *Human Sacrifice in Ancient Greece*, *op. cit.*, p. 124.
- ²⁹ Nigel Gay Wilson (ed.), *Encyclopedia of ancient Greece*, *op. cit.*, p. 1.
- ³⁰ *Id.* p. 158.
- ³¹ Beryl Rawson, *Children and childhood in Roman Italy*, Oxford University Press, 2003, p. 1.
- ³² Lynne Marie Kohm, Tracing the Foundations of the Best Interests of the Child Standard in American Jurisprudence, *op. cit.*, p. 4.

³³ Hugh Cunningham, 2005, *op. cit.*, p. 22.

³⁴ Thomas EJ Wiedemann and Thomas Wiedemann, *Adults and children in the Roman Empire*, Routledge Publisher, 2014, p. 17.

³⁵ Barbara Bennett Woodhouse, Hatching the Egg: A Child-Centered Perspective on Parents' Rights, *Cardozo Law Review*. 1993, vol. 14, pp. 1747-1866.

³⁶ Ira Mark Ellman, Paul M. Kurtz, Lois A. Weithorn, Brian Bix and Karen Czapanskiy, *Family Law: Cases, Text, Problems*, LexisNexis, 1998, 3rd Ed., p. 613.

³⁷ Kathleen Nemechek, Child Preference in Custody Decisions: Where We Have Been, Where We Are Now, Here We Should Go, *Iowa Law Review*, 1998, p. 437.

³⁸ David Wegeling De Bruin, (PhD thesis) *child participation and representation in legal matters*, submitted in University of Pretoria, 2010.

³⁹ Karen K. Hersch, *The Roman wedding: ritual and meaning in antiquity*, *op. cit.*, p. 39.

⁴⁰ Van Zyl Roman Pvt. Law 87, describes the word “*paterfamilias*” as the father of the family, under whose authority and paternal power, everyone fell, who formed the part of that family. He had the exclusive and extensive powers over all family, property, slaves. He controlled the lives of all his descendents, i.e. sons, daughters, adopted children, grandchildren. It did not matter how old the descendents were.

⁴¹ A person having full legal rights and capacity, independent and legally competent to manage ones own affairs.

⁴² *Alieni juris* is anyone who is under the control or guardianship of any other person. *Alieni juris* can't exercise his full legal rights, because he is under the full or partial authority of some one other. *Alieni juris* is a Latin phrase which normally refers to children or minor, who exercise their right under the control of a guardian. *Alieni juris* will be either under the power or bondage of another person. A debtor under the control of a creditor is an *alieni juris*. <http://definitions.uslegal.com/a/alieni-juris/>

⁴³ Barbara Bennett Woodhouse, Hatching the Egg..., 1993, *Op. cit.*, p. 1845.

⁴⁴ Karen K. Hersch, *The Roman wedding: ritual and meaning in antiquity*, Cambridge University Press, 2010, p. 40.

⁴⁵ Bruce W. Frier and Thomas A. J. McGinn, *A Case Book on Roman Family Law*, Oxford University Press, 2003, p. 210.

⁴⁶ *Id.*, p 211

⁴⁷ Harriet I. Flower (ed.) *The Cambridge companion to the Roman republic*, Cambridge University Press, 2014, p. 111.

⁴⁸ Bruce W. Frier and Thomas A. J. McGinn, *op. cit.*, p. 9

⁴⁹ *Id.*, p. 191

⁵⁰ *Ibid.*

⁵¹ Thomas Wiedemann, *Adults and Children in the Roman Empire*, Routledge Publishers, New York, 2014, p. 18.

⁵² Thomas EJ Wiedemann and Thomas Wiedemann, *Adults and children in the Roman Empire, op. cit.*, p. 8.

⁵³ A. M. Bagulia, *Child and crime*, SBS Publishers, New Dehli, India, 2006, p. 29.

⁵⁴ Jurgen Habermas and Thomas Burger (translators), *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Massachusetts Institute of Technology Press, Massachusetts, Cambridge, 1991, p.3-4

⁵⁵ Karl-Joachim Holkeskamp, *Under Roman Roofs: Family, House, and Household*, Cambridge University Press, 2014, 2nd Ed. p. 111. It is mentioned in Rome's earliest legal code, i.e. "the Twelve Table" of 449 B.C. and it is hoped that this is an old institution and is mostly referred and associated with the Kings of Rome for example Papinian, Coll. some sources indicate that the power of life and death was considered as the integral and essential element of *patria potesta*. The original and absolute power of this way, as described by the Greek antiquarian Dionysius of Halicarnassus, "A virtually total rights over a son during his entire life, whether he chose to imprison him, scourge him, place him in chains and set him to work in the fields or kill him" although the father's right to kill his offspring was treated as void by the Christian Emperor Constantine in 318/319 A.D.

⁵⁶ Nikolaus Benke, On the Roman father's right to kill his adulterous daughter, *The History of the Family*, 2012, vol. 17(3), pp. 284-308

⁵⁷ Plato, "The Laws" in John Wall, Human Rights in Light of Childhood, *International Journal of Children's Rights*, 2008, vol. 16, p. 523-543

⁵⁸ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2000

⁵⁹ Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography 2000

⁶⁰ Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure 2011

⁶¹ The Child Marriage Restraint Act 1929.

⁶² The Guardian and Wards Act, 1890

⁶³ The Children (Pledging of Labour) Act, 1933 ; The Factories Act 1934 (Amended in 1997)

⁶⁴ The Juvenile Smoking Ordinance 1959; The Protection of Breastfeeding and Child Nutrition Ordinance, 2002; Child Protection (Criminal Laws Amendment) Bill, 2009; National Commission on the Rights of Children Bill, 2009; The Charter on the Child Rights Bill, 2009; The Child Marriages Restraint (Amendment) Bill, 2009; Domestic Violence against Women and Children (Prevention and Protection) Bill, 2009; Prohibition of Corporal Punishment Act, 2010.

⁶⁵ Punjab Supervision and Control of Children Homes Act, 1976; The Punjab Children Ordinance; 1983, The Punjab Youthful Offenders Ordinance, 1983; The Employment of Children Act, 1991 (Amended in 2005); The Bonded Labour System (Abolition) Act, 1992; The Punjab Compulsory Primary Education Act, 1994; The Punjab Destitute and Neglected Children Act, 2004 The Punjab Education Foundation Act, 2004, Punjab Destitute and Neglected Children's Amendment Act 2007

⁶⁶ Sindh Children Act 1955; Sind Child Protection Authority Bill, 2009; Sindh's Child Marriage Restraint Act, 2013; The Sindh Prohibition of Employment of Children Act, 2017.

⁶⁷ The North West Frontier Province Elementary Education Foundation Ordinance, 2002; The NWFP Child Welfare and Protection Bill, 2009; The Khyber Pakhtunkhwa Child Protection Welfare Act 2010.

⁶⁸ The Balochistan Compulsory and Free Education Ordinance, 2013; The Balochistan Child welfare & Protection Bill 2011; the Balochistan Prohibition of Corporal Punishment Bill; the Employment of Children (Amendment) Act and the Balochistan Borstal Institution Act.

⁶⁹ The AJK Child Protection Authority, Bill 2009

⁷⁰ PLD 2005, Lahore 15

⁷¹ Neha Bhandari, *Rights in the Real Life: How the UN CRC has Improved the Situation for Children*, Save the children Sweden, 2009, p. 2.

⁷² Jotsna Tiwari (ed.), *Child Abuse and Human Rights*, Isha Books New Delhi, India, 2004, p.11.