**Protecting children from cybercrime**

Mehnaz Akber Aziz

Tuesday, Aug 08, 2023

Cyber communication has directly or indirectly affected almost all strata of society and all facets of our lives. Now that it is an integral part of our day-to-day socio-economic lives as a necessity, it poses grave challenges to child protection in addition to numerous threats to individual and state-security that countries and their elected parliaments and governments are expected to address on a priority basis.

In this context, as a member of the National Assembly of Pakistan, I introduced significant amendments in the existing Prevention of Electronic Crimes Act, (PECA) 2016, in the form of ‘the Criminal Laws (Amendment) Act, 2023, to ensure child protection against ever-increasing electronic crimes. The 2016 law was found to be insufficient as it did not cover many of the electronic offences faced by our children in today’s scenario.

The amendment act is truly landmark in its nature as it not only comprehensively identifies the various threats vis-a-vis safeguarding children against electronic crimes but it reinforces the implementation of child protection with categorical safety-valves against range of electronic crimes. In the 2023 amendment, certain offences relating to electronic crimes against children are criminalized for the first time to ensure their protection against those impending threats.

The salient amendments to the Criminal Laws (Amendment) Act, 2023 include section 22-A which imposes imprisonment and fines on individuals who use online methods to establish trust with minors for the purpose of sexual abuse, solicitation, or sharing explicit content.

Section 22-B criminalizes the commercial sexual exploitation of children child prostitution and child sex tourism while section-C imposes imprisonment and fines on those who use information systems for kidnapping, abduction or trafficking of a minor.

Section 24-A criminalizes cyberbullying with the intent to harass, threaten or target another person posts or sends electronic messages and Section 30 covers power and procedure to investigate. In addition to the FIA, the police shall be authorized to take cognizance of the offences under this Act.

In section 30-C it is stated that the trial of offences against minors shall be conducted in-camera. And section 31-A says that, whether or not a specific complaint has been made against the content, the NR3C, the FIA is in charge of gathering information prior to the Pakistan Telecommunication Authority blocking or removing it.

In preparation of the new law, we studied the substantial existing international treaties to protect children from online abuse. The United Nations Convention against Transnational Organized Crime (2000) referred to as the Salvador Declaration strengthened efforts to prevent child sexual exploitation through the internet. The Optional Protocol to the Convention on the Rights of the Child (2000) was a landmark against sale of children, child prostitution and pornography. Similarly, European states introduced the Convention on the Protection of Children against Sexual Exploitation (Lanzarote Convention) in 2007.

In Pakistan, while cyber laws come under telecommunications as per item 7 of Part I of the Federal Legislative List in the constitution, they also come under national and provincial jurisdictions, which can both legislate and reform matters related to criminal procedure, the Pakistan Penal Code 1890 (PPC) and the Law of Evidence (the Qanoon-e-Shahadat Ordinance 1984). Numerous laws are in place aiming at preventing, prohibiting and penalizing varying cybercrimes committed against people, property and government institutions such as online fraud, viral transmissions, financial crimes, accessing confidential information and online terrorism.

In this context, I started the initiative to table significant revisions in the existing Prevention of Electronic Crimes Act 2016 (PECA) by enacting the Criminal Laws (Amendment) Act 2023. These amendments seek to safeguard children from online sexual exploitation and penalizing varying relatable offences with harsh imprisonments and fines. The PECA originally promulgated in 2016 prohibited cyber pornography, cyber stalking and penalized “anyone from making, spreading, transmitting, or intimidating, cultivating, enticing or inducing a person or minor against any explicit or obscene images or videos of a person and minor through information system”.

The recent amendments in PECA by the Criminal Laws (Amendment) Act 2023 increases the penal consequence of child pornography, in section 22, culpable of imprisonment from 14 years extendable to 20 years repealing the similar provision in PPC. It has for the first time clearly defined what would surmount to being considered as ‘sexual explicit conduct’, besides describing where “Whoever employs, uses, forces, persuades, induces, entices, or coerces any person to engage or assist any other person to engage in sexual exploitation or conduct with a minor.”

The new amendment exhibits principles of fair trial, allowing the accused to be produced before the designated court for the remand of the accused to police or FIA custody. The law obligates the federal and provincial governments to establish a victim and witness protection system. In order to protect the dignity and privacy of minors, the law calls for in-camera trials of offences against minors.

Similarly, increasing the ambit of grievances, section 24-A allows the PTA to attend to complaints regarding removal or blocking of any online cyber bullying content. The amended law brings changes in section 164 of the Qanun-e-Shahadat Order 1984 allowing admissibility of witnesses and evidence recorded by court by modern devices or techniques including video call, Viber, Skype, IMO, WhatsApp, Facebook, Messenger, line caller and video conference etc.

It has been a huge challenge that, while obscene and explicit videos of children and adults are frequently shared on social media – for example Facebook, Instagram and Whatsapp – all of these platforms are headquartered in the US and there is no Mutual Legal Assistance (MLA) between our country and theirs. It might be simpler and easier to find the real culprits quicker if we also focus on generating an MLA agreement with key countries like the US on online child sexual abuse.

Meanwhile, custody remand of an accused has been increased to 30 days plus the initial 14 days of remand, adequate period under confinement to complete investigation. Under the law anyone even if unrelated to the victim can complain, however, he or she must show evidence to believe that offence was or was likely to be committed for them to file a complaint. The new legislation is a giant-leap achieved by parliament vis-a-vis securing well-coordinated efforts amongst FIA, PTA and the police against cyber-bullying, online grooming, cyber enticement, sexual exploitation of children, exposure to harmful online content, kidnapping, abduction or trafficking of minors for abuse of sexual conduct and non-commercial exploitation.

However, as commendable as it is, the current amendment requires measures and procedures for its implementation. Rules must be drafted for the proper enforcement of this Amendment. It further requires institutional capacity building for implementation such as training of actors from the FIA, prosecution, judiciary, and forensic departments. There is a need to build institutional oversight mechanisms to check enforcement.

Institutions such as the Parliamentary Caucus on Child Rights (PCCR) and the National Commission on the Rights of Child (NCRC) must monitor the enforcement of the said amendment. Moreover, for the enforcement of the amendment, the government must commit budgetary allocation.

The writer, the mover of the new law, is a member of the National Assembly, parliamentary

secretary for the Ministry of Law and Justice, convener of the

Parliamentary Caucus on Child Rights and the global co-chair of the

International Parliamentary Education Network.