

## The Crime Of Sexual Exploitation Of Minor Girls: A Study From The Perspective Of Islamic Jurisprudence And Its Impact On Human Health

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### ABSTRACT

The research aimed to define the crime of sexual exploitation of minor girls, and its ruling from the perspective of Islamic jurisprudence, and to monitor the effects thereof, and the penalty for sexual exploitation of minor girls, and to clarify its effects from both the Sharia and legal perspectives. The study relied on the descriptive method, and within that framework adopted the analytical approach. It resulted in many findings, the most prominent of which are as follows: Sexual exploitation is any sexual contact between a child and an adult for the purpose of satisfying the sexual desires of the latter, using his influence to dominate the child. Forms of sexual exploitation include: providing money, shelter, food, goods, or services to a vulnerable person in exchange for sexual relations or sexual services — this constitutes sexual exploitation. A minor girl is defined as one who has not yet reached the age of majority, i.e., the age of 18 years — this is the view of positive law. Islamic Sharia does not distinguish between sexual exploitation of the minor or the adult; as it considers sexual exploitation a form of coercion into fornication. The penalty for sexual exploitation in Islamic Sharia falls under the punishment of *ḥadd al-ḥirābah*, as it constitutes spreading corruption upon the earth and the propagation of indecencies. The penalty for sexual exploitation under Saudi law is imprisonment for a term not exceeding two (2) years, and a fine not exceeding one hundred thousand Saudi riyals (SAR 100,000), or either of the two penalties. The crime of sexual exploitation of minor girls is extinguished by death. The spread of the crime of sexual exploitation of minor girls affects human health; as it leads to the spread of physical and psychological diseases requiring substantial expenditure for treatment and eradication.

### The researchers recommend the following:

1. Calling upon governments to tighten penalties related to sexual exploitation.
2. Increasing educational awareness regarding the prohibition of this crime and clarifying its penalties.

**Keywords:** *Exploitation – Minor Girls – Sex – Islamic Jurisprudence*

### 1. INTRODUCTION

All praise is due to Allah as is rightly His due, and as befits the majesty of His Countenance, the greatness of His Sovereignty, the comprehensiveness of His Mercy, and the abundance of His blessings. Peace and blessings be upon our Master Muhammad, and upon all his family and companions.

This research sheds light on the concept of exploitation and sexual assault on minor girls. Offering money, shelter, food, goods, or services to a vulnerable person in exchange for sexual relations or sexual services is considered sexual exploitation. Moreover, threatening, using force, or intimidation to engage in sexual relations or to obtain sexual services from any person in circumstances of unequal power is considered sexual assault. The research includes a clarification of the penalty for this under Islamic jurisprudence.

The Penal Law in the Kingdom of Saudi Arabia—specifically—is strict regarding the assault on minors, male or female. What the courts witness is clear evidence of this strictness, particularly as this crime causes psychological trauma and severe physical illnesses which may afflict the victim throughout their life. The research observes the most important aspects in this regard.

### 2. RESEARCH PROBLEM

The research problem may be formulated in the following principal question: What is the reality of the crime of sexual exploitation of minor girls from the perspective of Islamic jurisprudence, and what are its penalties and causes for exemption? And what is its impact on human health?

### 3. RESEARCH OBJECTIVES

Based on the foregoing questions, the objectives of the study may be formulated as follows:

- To define sexual exploitation of minor girls.
- To establish the jurisprudential basis for sexual exploitation of minor girls.
- The penalty for sexual exploitation of minor girls, and its causes for exemption.
- The impact of sexual exploitation of minor girls on human health.

### 4. RESEARCH METHODOLOGY

The study relies on the inductive method, whereby the issue subject to research is traced through specialised writings that have addressed it by way of presentation and analysis.

**Research Structure:** The study consists of an introduction, two topics, a conclusion, and an index:

**Introduction:** It addressed the research problem, its objectives, importance, methodology, and plan. It includes two topics, a conclusion, and an index of references.

**Topic One:** Definition of the crime of sexual exploitation of minor girls.

**Topic Two:** The penalty for the crime of sexual exploitation of minor girls, and its impact on human health.

### 5. TOPIC ONE: DEFINITION OF THE CRIME OF SEXUAL EXPLOITATION OF MINOR GIRLS...

#### First: Definition of crime.

In linguistic terms, "crime" is derived from the Arabic term *jurm*, meaning transgression, and *jurm* also signifies sin, with its plural forms being *ajrām* and *jurūm*. In the Hadith it is stated: *"The worst of the Muslims in terms of crime is the one who asks about something that was not forbidden, so that it becomes forbidden because of his inquiry."* The phrase "tajarrama alayya fulan" means: "Someone falsely accused me of a crime I did not commit.". The criminal is the offender. [7]

Crime is defined in Islamic law as a prohibited act for which Allah has prescribed either a fixed penalty (ḥadd) or a discretionary penalty (ta'zīr). [8] In legal terminology, a crime is defined as a voluntary act prohibited by law for which the perpetrator is subject to criminal penalty. [9]

#### Second: Definition of sexual exploitation.

Sexual exploitation is any sexual contact between a child and an adult for the purpose of satisfying the sexual desires of the latter, using his influence or enticing the child to gain control. [1]

Sexual exploitation and assault are situations in which those working in the humanitarian field abuse their power or the trust of refugees, asylum seekers, or migrants to obtain sexual relations or sexual services. [2]

#### Third: Forms of sexual exploitation:

1. Offering money, shelter, food, goods, or services to a vulnerable person in exchange for sexual relations or sexual services is considered sexual exploitation.
2. Threatening, using force, or intimidation in order to establish sexual relations.
3. Providing humanitarian aid (for example, food, clothing, shelter, hallucinogenic substances), or any sexual relationship maintained by force or intimidation, in exchange for sex is considered sexual exploitation. [2]
4. One view holds that sexual exploitation of children via the internet may occur through the display of pornographic materials based on child-like imitation or simulation, using characters in video recordings or photographs, accompanied by elements designed to enhance the impression of youthfulness. [4]

#### Fourth: (Minor girls) – Age limits for sexual exploitation in positive law:

Minor: male or female, is one who has not yet reached the age of majority, i.e., the age of 18 years. Positive law holds that any sexual relationship with a minor under 18 years of age, regardless of whether consent is obtained through the offer of money, work, goods, or services in exchange for sexual relations, constitutes sexual exploitation... The matter differs in Islamic Sharia, as there is no distinction between minor and adult in the context of sexual exploitation of minor girls. Sharia considers it a form of coercion and enticement into fornication. [5]

### 6. MEANS OF PROVING THE CRIME OF SEXUAL EXPLOITATION OF MINOR GIRLS

Among the means of proving this crime, and the most important methods recognised by the criminal legislator as means for proving crimes, are: inspection, expert testimony, witness testimony, confession, circumstantial evidence, oath, and others.

[9]

## **Topic Two: The penalty for the crime of sexual exploitation of minor girls, and its impact on human health.**

### **First: The penalty for sexual exploitation of minor girls in Islamic jurisprudence:**

Spreading indecency in society is a crime for which the noble Sharia has prescribed a grave punishment; it is a serious matter that must be avoided and distanced from, and sexual exploitation in all its forms is among the indecencies prohibited by Sharia.

Allah the Exalted said: *“Indeed, Allah commands justice, and good conduct, and giving to relatives; and forbids immorality, bad conduct, and oppression.”* [An-Nahl: 90].

The verse indicates the protection and preservation of honour and private parts, and refraining from all that is repugnant and abominable among sins, such as fornication and the like.

Ibn Mas‘ūd, may Allah be pleased with him, said: The Messenger of Allah, peace and blessings be upon him, said: *“There is none more jealous than Allah, and for that reason He has prohibited indecencies, both apparent and hidden.”* (Reported by al-Bukhārī) [3].

The hadith indicates the prohibition and criminalisation of all indecencies, both manifest and hidden, to safeguard honour.

## **7. CONCLUSION**

The penalty for sexual exploitation in Islamic Sharia falls under the punishment of *ḥadd al-ḥirābah*, because it constitutes spreading corruption upon the earth and propagating indecencies. Allah the Exalted said: *“Indeed, the recompense of those who wage war against Allah and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or have their hands and feet cut off on opposite sides or be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment.”* [Al-Mā'idah: 33].

### **Second: The penalty for sexual exploitation of minor girls under Saudi law:**

Royal Decree No. (M/14) dated 03/02/1436 AH, with the help of Allah Almighty – Child Protection Law. Article One: “Subjecting a child to any of the following shall be considered abuse or neglect: sexual harassment or exposure to sexual exploitation.” Article Nine: “It is prohibited to sexually exploit a child, to expose him or her to forms of sexual exploitation, or to involve him or her in criminal activity or begging.”

**Penalty:** Whoever commits an act constituting a crime of abuse as set forth in Article One of this law shall be punished by imprisonment for a term not exceeding two (2) years and a fine not exceeding one hundred thousand Saudi riyals (SAR 100,000), or by either of these two penalties. The competent court may issue an alternative punishment to custodial penalties.

The penalty for the crime referred to in paragraph (1) of this article shall be imprisonment for a term not less than two (2) years and not exceeding five (5) years, and a fine not less than one hundred thousand Saudi riyals (SAR 100,000) and not exceeding five hundred thousand Saudi riyals (SAR 500,000), in the event that the crime is accompanied by any of the following:

- a. If the person harmed by the abuse is among persons with disabilities.
- b. If the abuse occurred in the workplace, place of study, care, or worship.
- c. If the abuse was perpetrated by a person charged with implementing the provisions of this law.
- d. If the abuse was accompanied by the use of a weapon.
- e. If multiple acts of abuse occurred during the incident.

The penalty imposed shall be doubled in the event of repeat offences.

Whoever incites another, or agrees with, or assists another in any form of incitement, agreement, or assistance to commit the crime referred to in paragraph (1) of this article, shall be punished with the penalty prescribed for the crime. [10]

### **Third: Causes for Exemption from the Penalty for the Crime of Sexual Exploitation of Minor Girls:**

The penalty for this crime is extinguished in Islamic jurisprudence and positive law by death. [9]

### **Fourth: Impact of the Crime of Sexual Exploitation of Minor Girls on the Economy, Sustainable Development, and Human Health:**

The crime of sexual assault on minor girls leads to severe physical and psychological diseases, the treatment of which requires significant financial resources, and results in the presence of vulnerable individuals within society; this has a profound impact on the economy and sustainable development.

It is known that security encourages tourism, and security stability and economic growth are complementary to one another;

whenever security and stability are present, economic growth increases and develops, and thereby fosters economic expansion and sustainable development. This cannot be achieved without suppressing the crime of sexual exploitation of minor girls, which is in stark contrast to certain countries where no prohibitions against prostitution exist. [11]

## 8. CONCLUSION: THE STUDY REACHED MANY FINDINGS, THE MOST PROMINENT OF WHICH ARE

1. Sexual exploitation is any sexual contact between a child and an adult for the purpose of satisfying the sexual desires of the latter, using his influence to dominate the child.
2. Forms of sexual exploitation include: offering money, shelter, food, goods, or services to a vulnerable person in exchange for sexual relations or sexual services, which constitutes sexual exploitation.
3. A minor is a young girl who has not yet reached the age of majority, i.e., the age of 18 years.
4. Islamic Sharia does not differentiate in sexual exploitation between the minor and the adult; as it considers it a form of coercion into fornication.
5. The penalty for sexual exploitation in Islamic Sharia falls under the punishment of *ḥadd al-ḥirābah*; as it constitutes spreading corruption upon the earth and propagating indecencies.
6. The penalty for sexual exploitation under Saudi law is imprisonment for a term not exceeding two (2) years and a fine not exceeding one hundred thousand Saudi riyals (SAR 100,000), or by either of these two penalties.
7. Causes for Exemption from the Penalty for the Crime of Sexual Exploitation of Minor Girls: by death.
8. The spread of the crime of sexual exploitation of minor girls affects the economy, sustainable development, and human health.

## 9. RECOMMENDATIONS: THE RESEARCHERS RECOMMEND

1. Calling upon governments to tighten penalties related to sexual exploitation.
2. Increasing educational awareness regarding the prohibition of this crime and clarifying its penalty.

## 10. ACKNOWLEDGMENT

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