



House of the Federation

## **SENATE OF PAKISTAN**

### **REPORT NO. 6**

### **REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS**

**ON**

***“The Islamabad Capital Territory Prohibition of Corporal  
Punishment Bill, 2021”***

***Presented by:***

**SENATOR WALID IQBAL  
CHAIRMAN**

**STANDING COMMITTEE ON HUMAN RIGHTS**



## **SENATE SECRETARIAT**

Subject: **REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS.**

I, Chairman of the Standing Committee on Human Rights, have the honour to present this report on "The Islamabad Capital Territory Prohibition of Corporal Punishment Bill, 2021", introduced by Senator Saadia Abbasi on her behalf and on behalf of Senator Walid Iqbal in the Senate sitting held on 27<sup>th</sup> September, 2021. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee is as follows:-

1.	<b>Senator Walid Iqbal</b>	<b>Chairman</b>
2.	Senator Mushahid Hussain Sayed	Member
3.	Senator Muhammad Tahir Bizinjo	Member
4.	Senator Gurdeep Singh	Member
5.	Senator Mustafa Nawaz Khokhar	Member
6.	Senator Seeme Ezdi	Member
7.	Senator Abida Muhammad Azeem	Member
8.	Senator Falak Naz	Member
9.	Senator Qurat ul Ain Marri	Member
10.	Senator Kamran Michael	Member
11.	Senator Prof. Dr. Mehr Taj Roghani	Member
12.	Senator Syed Faisal Ali Subzwari	Member
13.	Minister for Human Rights	Ex-officio Member

3. The Standing Committee on Human Rights considered the matter in its meeting held on 28<sup>th</sup> September, 2021. The Chairman Committee, while considering the fact that he is Member-in-Charge of the Bill alongwith Senator Saadia Abbasi and in order to avoid any impression of conflict of interest, excused himself from chairing the meeting. Accordingly, the Committee in terms of sub-rule (3) of rule 175 of the Rules of Procedure and Conduct of Business in the Senate, 2012, chose Senator Mustafa Nawaz Khokhar to act as Chairman for the sitting. Accordingly, following hon'ble Senators were present at the time of consideration of the Bill:-


1.	Senator Mustafa Nawaz Khokhar	<b>Acting Chairman</b>
2.	Senator Mushahid Hussain Sayed	Member
3.	Senator Muhammad Tahir Bizinjo	Member
4.	Senator Gurdeep Singh	Member
5.	Senator Seeme Ezdi	Member
6.	Senator Abida Muhammad Azeem	Member
7.	Senator Falak Naz	Member
8.	Senator Prof. Dr. Mehr Taj Roghani	Member

4. Senator Saadia Abbasil Member-In-Charge briefed the Committee about the salient features of the Bill and also informed that previously this Bill was introduced in the National Assembly as a private Member bill. After passage, the same was transmitted to the Senate and she sponsored the Bill. The Bill was extensively considered by this Committee and the Committee, especially Senator Walid Iqbal, Chairman Committee, had burned the midnight oil to improvise the contents of the bill. However, the Bill could not be passed by the Senate as no session was held during the constitutional timeline of the Bill. The Member-in-Charge of the Bill also made reference to previous proceedings of the Committee wherein the Bill, in its previous form, was considered and informed that the Committee had also invited Senators belonging to religious parties including Senator Molana Abdul Ghafoor Haideri, Senator Kamran Murtaza, Senator Mushtaq Ahmed, Senator Hafiz Abdul Karim and Senator Prof. Sajid Mir to seek their input in order to avoid any controversy at a later stage and ensure that the Bill is in line with Islamic injunctions. Senator Prof. Sajid Mir was of the view that corporal punishment should not be completely abolished rather certain limits should be provided. He made reference to various *Ahadith* in this regard and noted that ouster of 'household' from the purview of this Bill is satisfactory. Senator Kamran Murtaza, in person and other Senators belonging to his party, through written submissions, principally supported the Bill, however proposed amendments which primarily related to setting out procedures for cognizance of offences under the proposed law, overriding effect of the Bill, etc.

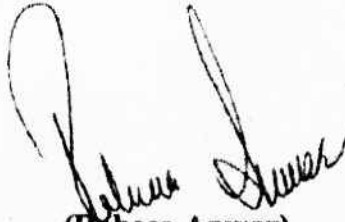
5. The Ministry of Human Rights (MoHR) supported the Bill in principle.

6. The Committee considered the Bill clause by clause and the members present approved following amendments to "The Islamabad Capital Territory Prohibition of Corporal Punishment Bill, 2021":-

In the Islamabad Capital Territory Prohibition of Corporal Punishment Bill, 2021,-

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- (i) In clause 6, in sub-clause (6) after the word "power" the following shall be added namely,-  
**"of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908)"**
  - (ii) In clause 9, for the words "Federal Government", the words "Ministry of Human Rights" shall be substituted;
  - (iii) In clause 11, for the words "Federal Government", the words "Ministry of Human Rights" shall be substituted;

7. Accordingly, the Committee recommends that "The Islamabad Capital Territory Prohibition of Corporal Punishment Bill, 2021", as reported by the Committee may be passed by the Senate of Pakistan. (Copy of Bill as reported by the Committee is annexed as "A" and copy of Bill as introduced in the Senate is annexed as "B").



**(Rabeea Anwar)**  
J.S/ Secretary Committee



**(Senator Mustafa Nawaz Khokhar)**  
Acting Chairman Standing Committee on  
Human Rights





A  
Bill

to make provisions for prohibition of corporal punishment against children.

WHEREAS the Constitution recognizes the inviolability of dignity of a person as a fundamental right:

WHEREAS it is necessary to make provisions for the protection of children against corporal punishment by any person, at the work place, in all types of educational institutions, including formal, non-formal, and religious, in each case both public and private, in child care institutions, including foster care institutions and rehabilitation centers, and in any other alternative care settings, in each case both public and private, and in the Juvenile Justice System;

AND WHEREAS Pakistan has ratified the United Nations Convention on the Rights of the Child (1989), and in accordance with Article 19 of this Convention, Government of Pakistan has committed to taking all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, and maltreatment or exploitation;

It is hereby enacted as follows:-

**1. Short title, extent and Commencement.**- (1) This Act may be called the Islamabad Capital Territory Prohibition of Corporal Punishment Act, 2021.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

**2. Definitions.** - (1) In this Act, unless the context otherwise requires:-

(a) "care institution" means an educational institution, an orphanage or a place of safety for one or more children for the purposes of providing alternative care or foster care; it may include a children's home, rehabilitation center or shelter, either on permanent or temporary basis, whether public or private, registered or unregistered;

(b) "child" means any person under the age of eighteen years;

(c) "Competent Authority" means any of the committees notified in terms of section 5.

(d) "corporal punishment" means any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light it may be, which may involve hitting ("smacking", "slapping", "spanking") a child, with the hand or with an implement (a whip, stick, belt, shoe, wooden spoon, etc.), including kicking, shaking or throwing a child, scratching, pinching, biting, pulling hair or boxing ears, forcing a child to stay in uncomfortable positions, burning, scalding or electrocuting a child, causing a child to forcibly ingest any substance, or washing a child's mouth out with soap, along with any punishment involving coercive or threatening conduct, such punishments to include but not be limited to:

(i) "assault" as defined in section 351 of the Pakistan Penal Code (Act XLV of 1860) hereinafter referred to in this section as "the said Code";

(ii) "hurt" as defined in section 332 of the said Code;

(iii) "criminal force" as defined in section 350 of the said Code; and

(iv) other non-physical forms of punishment which are cruel or which threaten or scare a child.

(e) "educational institution" means any institution where any kind of education is imparted in a formal or non-formal way on a full time or part time basis, including schools, seminaries, *deeni madaris* or boarding houses, in each case both public or private, registered or unregistered;

(f) "work place" means the place of work or the premises where an organization or employer operates, and includes a building, factory, shop, commercial establishment, workshop, farm, residential hotel or restaurant, open area or a larger geographical area where the activities of an organization or of an employer are carried out and including any situation that is linked to official work or official activity outside the office.

(2) Words and expressions used but not defined herein shall have the same meanings as assigned in the respective applicable laws.

**3. Prohibition of Corporal Punishment.** – (1) A child has the right to be shown respect for his personality and individuality and shall not be made subject to corporal punishment.

(2) Notwithstanding anything contained in section 89 of the Pakistan Penal Code, 1860 and any other law, rule or regulation for the time being in force, corporal punishment of children is prohibited in all its forms, at the work place, in private and public educational institutions, including formal, non-formal, and religious, in care institutions including foster care institutions and rehabilitation centers, and in any other alternative care settings, in each case both public and private, and in the Juvenile Justice System.

(3) Disciplinary measures concerning the child may only be taken in accordance with the child's dignity, and under no circumstances shall the infliction of any kind of corporal punishment on a child be allowed.

**4. Penalties.**– (1) Whoever violates the provisions of section 3 shall be liable to the punishments prescribed for the related offences in the Pakistan Penal Code, 1860 and in any other applicable law.

(2) **Whoever** violates the provisions of section 3 in any educational institution, care institution, work place or in any other similar setting shall also be liable to the following minor and major penalties in addition to those referred to in sub-section (1):-

(a) Minor penalties:

(i) censure;

(ii) withholding, for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement in accordance with the rules or orders pertaining to the service or post; and

(iii) stoppage from promotion for a specific period, at an efficiency bar in the time – scale, otherwise than for unfitness to cross such bar.

(b) Major penalties:

(i) demotion to a lower post or time-scale, or to a lower stage in a time scale;

(ii) compulsory retirement;

(iii) removal from service; and



(iv) dismissal from service.

**5. Competent Authority.-** (1) The Competent Authority to receive complaints, conduct inquiry and fix penalties in terms of sub-section (2) of section 4 shall be:-

- (a) in case of a public sector educational institution, a committee notified by the Ministry of Federal Education and Professional Training;
- (b) in case of a religious seminary or a *deeni madrasa*, a committee notified by the *Wafaq-ul-Madaris*; and
- (c) in all other cases, a committee notified by the Ministry of Human Rights.

(2) Each committee shall be notified as aforesaid within thirty days of the enactment of this Act and shall consist of three members of whom at least one member shall be a woman. A chairperson shall be designated from amongst the committee members.

**6. Procedure for complaint.-** (1) A complaint under this Act may be filed with the Competent Authority in writing by the child on whom corporal punishment is inflicted or the parent of such child or such child's next of kin.

(2) The Competent Authority shall decide the complaint within thirty days of its receipt.

(3) For this purpose, the Competent Authority shall:-

- (a) within three days of receipt of a written complaint, communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which shall be given;
- (b) require the accused within seven days from the day the charge is communicated to him to submit a written defense; and
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Competent Authority may consider necessary and each party shall be entitled to cross-examine the witnesses against him:

Provided that if the accused fails to submit a written defense without reasonable cause, the Competent Authority shall proceed ex-parte.

(4) Subject to the provisions of this Act and any rules made thereunder the Competent Authority shall have power to regulate its own procedure for conducting inquiry and for fixing the place and time of its sitting.

(5) The Competent Authority shall give its decision in writing by recording reasons thereof.

**(6) The Competent Authority shall have power of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908):-**

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

(7) The Competent Authority shall have the power to inquire into the matters of corporal punishment under this Act, to get any party involved medically examined by an authorized doctor, if necessary, and may impose appropriate penalty against the accused within the meaning of sub-section (2) of section 4.

7. **Appeal against the decision of Competent Authority.-** (1) Any person aggrieved by a decision of the Competent Authority may, within thirty days of communication thereof, appeal to the Federal Ombudsman holding office under the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983.

(2) The appeal filed under sub-section (1) shall be decided within thirty days.

(3) Any person aggrieved by a decision of the Federal Ombudsman under sub-section (2), may, within thirty days of decision, make a representation to the President of Pakistan who may pass such order thereon as he may deem fit.

8. **Cognizance of Offence.-** In terms of sub-section (1) of section 4, cognizance of an offence under this Act shall be taken by a court of competent jurisdiction on the complaint of a child on whom corporal punishment is inflicted or the parent of such child or such child's next of kin.

9. **Enforcement of the provisions of this Act.-** The Ministry of Human Rights shall devise a comprehensive system for the enforcement and monitoring of this Act and develop a Code of Conduct for prohibition of corporal punishment as contemplated by this Act, and shall make efforts to create the requisite deterrence and awareness amongst the stakeholders.

10. **Act to override other laws.** The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

11. **Power to make rules.-** The Ministry of Human Rights may make rules to carry out the purposes of this Act.

#### **STATEMENT OF OBJECTS AND REASONS**

Physicians, Psychologists and educationists around the globe have pointed out towards negative effects of physical punishment of children on their mental and cognitive development. Countless studies have proved that corporal punishment and uncongenial learning environment creates a number of psycho-social imbalances in the personalities of children including aggression. Experts have consensus that physical punishment can have adverse consequences on the Child's health, particularly their behavior and emotional wellbeing. One of the reasons attributed to the higher drop-out rate in schools and low learning outcomes of students is physical punishment and castigation of pupils by the teachers.

The cases of injuries inflicted by teachers on their students are regularly reported by the media. In accordance with the United Nations Convention on the Rights of the Child (1989) ratified by Pakistan, it is now the responsibility of the state to protect children from all forms of physical and mental violence and maltreatment. Therefore, it is desirable that corporal punishment is banned legally and declared an offense through an Act.

**SENATOR SAADIA ABBASI  
SENATOR WALID IQBAL  
MEMBER-IN-CHARGE**

<sup>AS</sup>  
[TO BE INTRODUCED IN THE SENATE]

A  
BILL

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