

[AS PASSED BY THE SENATE]

A

Bill

to make provisions for prohibition of corporal punishment against children

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

AND WHEREAS in recognition of the Constitution's fundamental rights, it is necessary to make provisions for the protection of children against corporal punishment by any person, in all types of educational institutions including formal and non-formal, both public and private, in child care institutions including foster care and any other alternative care settings both public and private and in the juvenile justice system;

AND WHEREAS it is obligatory on Government of Pakistan to make provisions for the prohibitions of all kinds of corporal punishment under various international human rights conventions, covenants and instruments.

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Prohibition of Corporal Punishment Act, 2017.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless the context otherwise requires, -

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

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

(c) "Competent Authority" means the Ministry of Interior for the propose of the Act;

- (d) "corporal or physical punishment" means any punishment in which physical force is used and intended to cause some degree of pain or discomfort, how light it may be, which may involve hitting, smacking, slapping, spanking a child, with the hand or with an implement like a whip, stick, belt, shoe, wooden spoon, including kicking, shaking or throwing a child scratching, pinching, biting, pulling hair or boxing ears, forcing a child to stay in uncomfortable, painful positions, burning or forced ingestion including washing a child's mouth out with soap or forcing him to swallow hot spices including, but not limited to,-
- (i) "Assault" as defined in section 351 of the Pakistan Penal Code, 1860 (Act XLV of 1860) hereinafter referred to as "the Code";
 - (ii) "Criminal force" as defined in section 350 of the Code;
 - (iii) "hurt" as defined in section 332 of the Code; and
 - (iv) Other non-physical forms of punishment which are cruel and degrading, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child;
- (e) "educational institution" means any institution where any kind of instruction is imparted in a formal or non-formal way whether it is on a full time or part time basis; public or private; registered or unregistered; and
- (f) "Juvenile justice system" means the system provided in the Juvenile Justice System Ordinance, 2000 (XXII of 2000).

3. Prohibition of corporal Punishment.- (1) The child has the right to be shown respect for his personality and individuality and shall not be made subject to corporal punishment or any other humiliating or degrading treatment.

(2) Notwithstanding anything contained in section 89 of the Pakistan Penal Code, 1860 (Act XLV of 1860) and any other law for the time being in force, corporal punishment of child by any person is prohibited in all its forms, in schools and other educational institutions including formal and non-formal, both public and private, in child care institutions and in the juvenile justice system.

(3) Disciplinary measures concerning the child can only be taken in accordance with the child's dignity, and under no circumstance corporal punishment, or punishments which relate to the child's physical and mental development or which may affect the child's emotional status are allowed.

4. Punishment.- (1) Any person who is guilty of inflicting corporal punishment on a child shall be punishable with imprisonment extending up to a maximum of one year or fine up to fifty thousand rupees or both.

(2) This punishment shall be in addition to any punishment arising out of hurt or injury caused by such corporal punishment under other applicable laws.

5. Cognizance of Offenses.- (1) Cognizance of offenses under this Act shall be taken by the court of a magistrate upon complaint by the child on whom punishment is inflicted or the parent of such child or his next kin.

(2) Offenses under this Act shall be bailable.

6. Enforcement of the Provisions of this Act in Public and Private Educational and Public and Private Child Care institutions and Juvenile System Institutions.-

The competent authorities shall establish a comprehensive system for the enforcement and monitoring of the provisions of this Act in the public and private educational and public and private child care institutions and juvenile system institutions.

STATEMENT OF OBJECTS AND REASONS

It is function of the state to protect the inviolable dignity of children as human rights. Corporal or physical punishment is common and rampant in our schools and is also found in "care institutions". It is used as a form of showing control, intimidation and authority. For children, life is never easy or fair; therefore, within the institutional framework of the classroom, corporal punishment must be banned and replaced with constructive and communicative approach. Similarly, in child care institutions corporal punishment can become a form of abuse. These are the reasons for which this Bill seeks to eliminate corporal punishment.

SENATOR SALEEM MANDVIWALA
Member-in-charge