

***SENATE OF PAKISTAN
HOUSE OF THE FEDERATION***

Report No.31



***Report of the Senate Standing Committee on Interior on the issue "The
Child Marriage Restraint (Amendment) Bill, 2017 moved by Senator Sehar
Kamran on 21st August, 2017."***

PRESENTED BY

SENATOR A. REHMAN MALIK
CHAIRMAN

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON INTERIOR ON "THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL, 2017 MOVED BY SENATOR SEHAR KAMRAN HAQ ON 21ST AUGUST, 2017"

I, Chairman of the Standing Committee on Interior, have the honour to present the report on The Child Marriage Restraint (Amendment) Bill, 2017 moved Senator Sehar Kamran on 21st August, 2017 and referred by the House to the Standing Committee on Interior for consideration and report thereof.

2. The composition of the Standing Committee on Interior is as under:-

1.	Senator A. Rehman Malik	Chairman
2.	Senator Shahi Syed	Member
3.	Senator Mir Israrullah Khan Zehri	Member
4.	Senator Muhammad Saleh Shah	Member
5.	Senator Muhammad Talha Mehmood	Member
6.	Senator Col. (R) Syed Tahir Hussain Mashhadi	Member
7.	Senator Dr. Jehanzeb Jamaldini	Member
8.	Senator Chaudhary Tanvir Khan	Member
9.	Senator Muhammad Javed Abbasi	Member
10.	Senator Muhammad Ali Khan Saif	Member
11.	Senator Mukhtiar Ahmed Dhamrah @ Aajiz	Member
12.	Senator Syed Shibli Faraz	Member
13.	Minister for Interior	Ex-officio Member

3. The matter was taken up in the meeting of the Standing Committee held on 23rd October, 2017.

4. The Committee disposed of the matter on 23rd October, 2017 and allowed to submit the report to the House. The following members of the Committee attended the meeting.

1.	Senator A. Rehman Malik	Chairman
2.	Senator Chaudhary Tanvir Khan	Member/Mover
3.	Senator Dr. Muhammad Ali Khan Saif	Member/Mover
4.	Senator Syed Shibli Faraz	Member
5.	Senator Col. (R) Syed Tahir Hussain Mashhadi	Member
6.	Senator Muahmmad Javed Abbasi	Member/Mover

7.	Senator Sehar Kamra	Mover
8.	Senator Rubina Khalid	Mover
9.	Senator Mualana Hafiz Hamdullah	Mover
10.	Senator Muhammad Azam Khan Swati	Mover

SUMMARY

At the very outset, the Chairman Standing Committee, discussed the Bill and briefed the Committee that "The Child Marriage Restraint Act, 1929" was introduced by the Founder of Pakistan, Quaid-e-Azam Muhammad Ali Jinnah, while he was a Member of the British Indian Legislative Assembly in 1929. At that time the age was fixed as 18 years for male and 15 years for female.

The mover contended that the focus of the Bill is on the female folk to save the female children from early marriages. Our societal tendency towards early marriages of female children is of grave concern for every patriotic Pakistani. Senator Sehar Kamran viewed the marriage contract as a civil contract and for that the citizen of Pakistan must be of 18 years age.

The Committee also observed that mental maturity, balance of mind and mature thoughts help in understanding the intricacies of marital life resulting in better understanding and lesser ratio of divorce. At comparatively younger age the ratio of divorce is more than the usual.

One of the experts on Islamic law Professor Dr. Muhammad Munir Islamic International University opined that Allahabad High court of India has decreed that marriage is not only a contract but a "Sacrosanct contract". Keeping in view the importance of the contract the age of the female child should also be 18 years as that of a male. The Committee also regarded it as discrimination and flagrant disregard to the provision of the constitution. Article 25 of the Constitution clearly enunciates that all citizens are equal. To add, it's a matter of Islamic Fiqh and to raise the age limit is, 'Mubah' i.e valid.

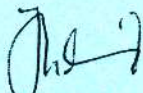
Senator Muhammad Javed Abbasi relied on the argument of puberty and deemed more appropriate to respect the social practices that are in vogue. Not only that Islamic practices recognize puberty as the time of marriage of the female child but also our society practices the same. Barring this practice may result in social repercussion, he opposed.


Senator Chaudhary Tanvir Khan also opposed the Bill on social grounds. In his view, it is more a social and cultural practice and if barred by legislation up till 18 years, it may cause social repercussions.

RECOMMENDATION:

1. The Chairman Standing Committee put the Bill for voting. Three of the members, present, voted for and two of the members voted against the Bill.
2. By majority the Committee recommended that the Bill may be passed by the House.

The Bill is attached.


(JAVOID IQBAL)
Secretary Committee


(SENATOR A. REHMAN MALIK)
Chairman

[AS INTRODUCED IN THE SENATE]

A

BILL

further to amend the Child Marriage Restraint Act, 1929 (XIX of 1929)

Whereas it is expedient further to amend the Child Marriage Restraint Act, 1929 (XIX of 1929) for purposes of curbing the menace of child marriage prevalent in the country and to save women from exploitation on that account, and for matters ancillary thereto;

It is hereby enacted as follows:-

1. Short title and commencement.— (1) This Act may be called as the Child Marriage Restraint (Amendment) Act, 2017.

(2) It shall come into force at once.

2. Amendment of section 2, Act XIX of 1929.— In the Child Marriage Restraint Act, 1929 (XIX of 1929), hereinafter referred to as the said Act, for section 2, the following shall be substituted, namely:-

"2. In this Act, unless there is anything repugnant in the subject or context,-

- (a) "child" means a person who is under eighteen years of age;
- (b) "child marriage" means a marriage to which either the contracting party is a child; and
- (c) "contracting party" to a marriage means either of the party whose marriage is, or is about to be solemnized."

3. Amendment of section 4, of Act XIX of 1929.— In the said Act, in section 4,-

- (i) for the word "simple" the word "rigorous" shall be substituted;
- (ii) for the words "one month" the words "three years but shall not be less than two years" shall be substituted; and
- (iii) for the words "one thousand rupees" the words "two hundred thousand rupees but shall not be less than one hundred thousand rupees" shall be substituted.

4. Amendment of section 5, Act XIX of 1929.— In the said Act, in section 5,-

- (i) for the word "simple" the word "rigorous" shall be substituted;
- (ii) for the words "one month" the words "three years but shall not be less than two years" shall be substituted; and

- (iii) for the words "one thousand rupees" the words "two hundred thousand rupees but shall not be less than one hundred thousand rupees" shall be substituted.

5. Amendment of section 6, Act XIX of 1929.- In the said Act, in section 6, in sub-section (1),-

- (i) for the word "simple" the word "rigorous" shall be substituted;
- (ii) for the words "one month" the words "three years but shall not be less than two years" shall be substituted; and
- (iii) for the words "one thousand rupees" the words "two hundred thousand rupees but shall not be less than one hundred thousand rupees" shall be substituted.

6. Substitution of section 8, Act XIX of 1929.- In the said Act, for section 8, the following shall be substituted, namely:-

"8. Jurisdiction under this Act.- The Family Court, established under section 3 of the West Pakistan Family Court Act 1964 (XXXV of 1964) shall exercise jurisdiction under this Act and may take cognizance of an offence in the manner provided by section 190 of the Code of Criminal Procedure 1898 (V of 1898)."

7. Substitution of section 9, Act XIX of 1929.- In the said Act, for section 9, the following shall be substituted, namely:-

"9. Offences under this Act shall be cognizable.- All offences under this Act shall be cognizable; such cognizance shall in no case be taken after the expiry of one year from the date on which the offence is alleged to have been committed."

8. Substitution of section 12, Act XIX of 1929.- In the said Act, for section 12, the following shall be substituted, namely:-

"12. Power to issue injunction prohibiting marriage.- (1) Notwithstanding anything to the contrary contained in any other law, the court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act is going to be arranged or is about to be solemnized, issue an injunction prohibiting such marriage.

(2) Whoever, knowing that an injunction has been issued against him under sub-section (1) of this section, disobeys such injunction, shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one hundred thousand rupees, or with both."

STATEMENT OF OBJECTS AND REASONS

Poverty, illiteracy, anti-human rights social and cultural practices are factors cited for the prevalence of child marriage. An early marriage leads to early conception, which ultimately affects the health of the teenage girl. Typically enormous pressure to bear children is put on child brides. In developing countries, the leading cause of death for young girls between the age of 15 and 18 is early pregnancy. A child according to the UN Convention on the Rights of the Child is any person under the age of 18. Unfortunately the practice of child marriage is common in all parts of Pakistan particularly in the poor urban and rural areas but the act of solemnizing child marriage is not cognizable and the police cannot take actions against the offenders. The amendment is intended to serve as a deterrent and to remove the existing gender disparity in age.

Moreover, Committee on the Rights of the Child in its concluding observations on the fifth periodic report of Pakistan commented "The Committee reiterates its previous recommendation that the State party ensure the full harmonization of its legislation as regards the definition of a child so as to define a child as every human being below the age of 18 years. In particular, it recommends the amendment of the Zina and Hadood Ordinances (1979) as well as the Child Marriages Restraint Acts in all its provinces in order to align the age of marriage of boys and girls by raising the minimum age of marriage for girls to 18 years." Thus it also becomes our obligation to align this Act according to the provisions of UNCRC.

SENATOR SEHAR KAMRAN
Member In Charge

REPORT OF THE COMMITTEE – PRESENTATION OF:

- 1. SENATOR A. REHMAN MALIK**, Chairman, Standing Committee on Interior, to present report of the Committee on the Bill further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898 [The Criminal Laws (Amendment) Bill, 2017], introduced by Senator Chaudhary Tanvir Khan on 21st August, 2017.

- 2. SENATOR A. REHMAN MALIK**, Chairman, Standing Committee on Interior, to present report of the Committee on the Bill to prohibit the practice of Witchcraft [The Prevention of Witchcraft Bill, 2017], introduced by Senator Chaudhary Tanvir Khan on 21st August, 2017.

- 3. SENATOR A. REHMAN MALIK**, Chairman, Standing Committee on Interior, to present report of the Committee on the Bill further to amend the Child Marriage Restraint Act, 1929 (XIX of 1929) [The Child Marriage Restraint (Amendment) Bill, 2017], introduced by Senator Sehar Kamran on 21st August, 2017.