

Report No. 1

SENATE OF PAKISTAN



**REPORT OF THE FUNCTIONAL
COMMITTEE ON HUMAN RIGHTS**

ON "THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL, 2018

Presented by

**Senator Mustafa Nawaz Khokhar
Chairman**

SENATE SECRETARIAT

REPORT OF THE FUNCTIONAL COMMITTEE ON HUMAN RIGHTS ON THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL, 2018

I, Senator Mustafa Nawaz Khokhar, Chairman Functional Committee on Human Rights, have the honour to submit, on behalf of the Committee, this report on a Private Member's Bill titled Child Marriage Restraint (Amendment) Bill, 2018, introduced by Senator Sherry Rehman, in the House on 18th December, 2018, and referred to the Committee for consideration and report.

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

1.	Senator Mustafa Nawaz Khokhar	Chairman
2.	Senator Raja Muhammad Zafar-ul-Haq	Member
3.	Senator Rana Mahmood ul Hassan	Member
4.	Senator Muhammad Tahir Bizinjo	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Keshoo Bai	Member
7.	Senator Prof. Dr. Mehr Taj Roghani	Member
8.	Senator Hidayat Ullah	Member
9.	Senator Muhammad Ali Khan Saif	Member
10.	Senator Sana Jamali	Member
11.	Senator Dr. Jehanzeb Jamaldini	Member
12.	Senator Muhammad Usman Khan Kakar	Member
13.	Senator Ayesha Raza Farooq	Member
14.	Minister for Human Rights	Ex-Officio Member

3. The Committee considered the said Bill in its meeting held on 30th January, 2019, at Old PIPS Hall, Parliament Lodges, Islamabad, which was attended by the following:-

1.	Senator Mustafa Nawaz Khokhar	Chairman
2.	Senator Prof. Dr. Mehr Taj Roghani	Member
3.	Senator Keshoo Bai	Member
4.	Senator Ayesha Raza Farooq	Member
5.	Senator Sana Jamali	Member
6.	Senator Syed Muzafar Hussain Shah	Member
7.	Senator Barrister M. Ali Khan Saif	Member
8.	Senator M. Usman Khan Kakar	Member
9.	Senator Hidayat Ullah	Member
10.	Senator Sherry Rehman	Mover
11.	Minister for Human Rights	Ex-officio Member

4. Senator Sherry Rehman, Mover apprised the Committee regarding the objects and reasons of the Bill. She also acknowledged the efforts of the former Senator Sehar Kamran who initially introduced the said Bill. She added that all stakeholders were consulted to ban child marriage as per the new key clauses in the amended Bill. The Child Marriage Restraint (Amendment) Bill, 2018 aims to ban marriages before the age of 18. It will also clear the confusion about the definition and age of a child, which will also be 18 years, for the purposes of rights and obligations.

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5. Senator Muzaffar Hussain Shah principally supported the amendment, and was of the opinion that the Act of 1929 needed to be rephrased. He stated that if the Committee feels appropriate including Minister for Human Rights, then the Act can be examined in detail. He added that provincial legislators had enacted different legislation so far as far as the Child Marriage is concerned. He further added that the Committee may like to determine that there has to be uniformity among the federation and federating units. In the end, he added that the amendment basically is very much in conformity with social needs and perhaps it is also in conformity with international conventions and treaties.


6. Senator Prof. Dr. Mehr Taj Roghani supported the amendment and added that maternal and neonatal mortality is higher due to underage marriages. Senator Mohammad Ali Saif strongly supported the amendment and stated that Pakistan has signed international conventions, according to which the age of adulthood is 18, which has been ratified and implemented by a number of Muslim countries as well. He also briefed about the concept of adulthood which includes mental, physical and emotional stages. Senator Ayesha Raza Farooq seconded the amendment and was of the opinion that with this amendment, issues like stunted growth, high-mortality rate, physical and mental health will be addressed. Senator Usman Khan Kakar seconded the amendment and pointed out issues related to early marriages in less developed areas. Senator Sana Jamali and Senator Keshoo Bai strongly supported the amendments. Senator Keshoo Bai also highlighted difficulties of becoming a mother at a young age. Senator Hidayat Ullah was of the opinion that the Government of Khyber Pakhtunkhwa may initiate a similar Bill that would be extended and implemented in the tribal areas of Khyber Pakhtunkhwa.

7. Representatives from National Commission of Human Rights also supported the amendment in the Bill. Furthermore, Ms. Shireen Mizari, Minister for Human Rights strongly supported the Bill, and stated that such developments will help the State comply with all international obligations. The Chairman Committee thanked the Members, Mover and Minister for Human Rights for their valuable input and comments. He added that with this amendment, child marriage will be curtailed. He added that passing this bill will send a good message from the Federal Parliament to the Provinces.

8. After due deliberation, the Committee observed that the Amendments in Child Marriage Restraint Act, 1929 (*XIX of 1929*) doesn't violate or disregard provisions of the Constitution of Islamic Republic of Pakistan. Therefore, the Committee unanimously recommended that the Child Marriage Restraint (Amendment) Bill, 2018, as introduced in the Senate, may be passed by the House.

9. The Bill, as introduced in the Senate, is annexed. The Committee gave approval for presentation of this report to the House.


(HAMMAD KHAN MARRI)
Secretary (Committee)


(SENATOR MUSTAFA NAWAZ KHOKHAR)
Chairman (Committee)

Islamabad, the
February, 2019.

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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, extent and commencement.**- (1) This Act may be called as the Child Marriage Restraint (Amendment) Act, 2018.

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

(3) 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, in section 2, for paragraph (a), the following shall be substituted, namely:-

"(a) "child" means a person who is under eighteen years of age;"

3. **Amendment of section 4, Act XIX of 1929.**- In the said Act, in section 4, for the phrase "simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both" the phrase "rigorous imprisonment which may extend to three years but shall not be less than two years and a fine which may extend to 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, for the phrase "simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both" the phrase "rigorous imprisonment which may extend to three years but shall not be less than two years and a fine which may extend to 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, for the phrase "simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both" the phrase "rigorous imprisonment which may extend to three years but shall not be less than two years and a fine which may extend to 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.

2. 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 SHERRY REHMAN
Member-in-Charge