

REPORT NO. 08

SENATE OF PAKISTAN



REPORT OF THE SENATE FUNCTIONAL COMMITTEE ON HUMAN RIGHTS

On

THE ZAINAB ALERT, RESPONSE AND RECOVERY BILL,
2020

PRESENTED BY
SENATOR MUSTAFA NAWAZ KHOKHAR

SENATE SECRETARIAT

REPORT OF THE SENATE FUNCTIONAL COMMITTEE ON HUMAN RIGHTS ON "THE ZAINAB ALERT, RESPONSE AND RECOVERY BILL, 2020"

I, Senator Mustafa Nawaz Khokhar, Chairman Senate Functional Committee on Human Rights, have the honor to present the report, on behalf of the Committee, on "**The Zainab Alert, Response and Recovery Bill, 2020**" introduced in the House by Dr. Shireen M. Mazari, Minister for Human Rights, in its sitting held on 14th January, 2020 and referred to the Senate Functional Committee on Human Rights.

2. The composition of the Functional Committee on Human Rights is as under:-

1.	Senator Mustafa Nawaz Khokhar	Chairman
2.	Senator Prof. Dr. MehrTajRoghani	Member
3.	Senator Muhammad Ali Khan Saif	Member
4.	Senator Dr.JehanzebJamaldini	Member
5.	Senator AyeshaRazaFarooq	Member
6.	Senator Raja Muhammad Zafar-ul-Haq	Member
7.	Senator Kamran Michael	Member
8.	Senator Shaheen Khalid Butt	Member
9.	Senator QuratulAinMarri	Member
10.	Senator MuhammadTahirBizinjo	Member
11.	Senator MuhammadUsman Khan Kakar	Member
12.	Senator KeshooBai	Member
13.	Minister for Human Rights	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 10th February 17th February, 21st February, and 24th February, 2020. Final consideration of the Bill was held in the meeting dated 24th February, 2020, and was attended by the following members:-

I.	Senator Mustafa Nawaz Khokhar	Chairman
II.	Senator Muhammad Ali Khan Saif	Member
III.	Senator Dr. MehrTajRoghani	Member
IV.	Senator Shaheed Khalid Butt	Member
V.	Senator KeshooBai	Member
VI.	Senator Muhammad Usman Khan Kakar	Member
VII.	Senator Muhammad Tahir Bizinjo	Member

4. The Committee observed that the Bill in question is an extremely important one. However, it is only meant for the Islamabad Capital Territory. The cases of abduction and

exploitation of children is however witnessed all over the country. The Committee opined that cases regarding the exploitation and abduction of children should be heard by the Anti-Terrorism Courts, and as such, jurisdiction of the ATCs should be included in the Bill. Senators Dr. MehrTajRoghani, Muhammad Ali Khan Saif, Faisal Javed, Dr. JehanzebJamaldini, KeshooBai, and Kamran Michael endorsed the proposal. However later on in its subsequent meeting dated 21st February, 2020, the Committee revisited its earlier decision after taking certain important factors into account and unanimously decided that the trial under the Act shall be conducted through designated courts and not the Special Courts.

5. Senator QuratulainMarri opined that the Bill under consideration should remain limited to the Islamabad Capital Territory, and the provinces should be allowed to pass their own bills. Senator Muhammad Usman Khan Kakar added that the Bill could be extended to whole of Pakistan if the provincial autonomy of the provinces is not compromised.

6. After detailed deliberations and hearing all stakeholders, the Committee approved the following amendments to **“The Zainab Alert, Response and Recovery Bill, 2020”**:

- a) In the preamble, in the third paragraph, after the words, “relating to the rights of children”, **the following may be added: “including, but not limited to, the United Nations Convention on the Rights of Child ratified by Pakistan on 12th November, 1990;”**
- b) In the preamble, in the fourth paragraph, the sentence beginning from **“it is thus essential to legislate” may be omitted.**
- c) In the preamble, in the sixth paragraph, after the words, “supporting and complementing”, **the following may be substituted: “the mandate of federal and provincial law enforcement agencies and child protection and welfare institutions and to coordinate and guide the efforts of all governmental agencies, authorities and departments in relation to cases of missing and abducted children.”**
- d) In clause 1, sub clause (2) **may be substituted with the following: “It shall extend to the whole of Pakistan”.**
- e) In Clause 3, sub-clause (2), after the words “appointed by the Prime Minister”, **the words “after public advertisement,” may be inserted.**
- f) In Clause 3, sub-clause (2), after the words “as may be prescribed by”, **the words “Ministry of Human Rights.” may be inserted,**
- g) In Clause 3, sub-clause (2), after the words “as may be prescribed by”, **the words “rules and such,” may be omitted.**
- h) In Clause 3, sub-clause (2), the sentence beginning from “other officers and employees” **may be substituted with the following “Other officers and employees shall be appointed by the Director General in consultation with the Ministry of Human Rights in such manner and on such terms and conditions as may be prescribed by rules.”**

- i) In Clause 3, sub-clause (3), the sentence beginning with **“The Qualifications and experience of staff”**, may be omitted.
- j) In Clause 3, sub-clause (5) may be substituted with the following, namely: **“All helplines, including helpline 1099 shall forward to ZARRA all complaints relevant to the mandate ZARRA.”**
- k) In Clause 5, sub clause (a), after the words **“when there is a missing or abducted child”**, the words **“at the Federal Capital Level,”** may be omitted.
- l) In Clause 5, sub clause (b), after the words **“SMSs, MMSs”**, shall be substituted with the word **And** after the words **“Pakistan Electronic Media Regulatory Authority (PEMRA) for”**, the word **“broadcast”** may be inserted.
- m) In Clause 5, sub-clause (e), the words **“cover all territories of ICT”** may be substituted with **“cover all territories of Pakistan”**.
- n) In Clause 5, sub clause (f), after the words **“brought on to the ZARRA database.”**, the word **NCRC** shall be substituted with the words **National Commission On The Rights Of Child**.
- o) In Clause 5, sub-clause (f), after the words **“National Commission on the Rights of Child and division concerned shall”**, the word **“also”** may be inserted.
- p) In Clause 5, sub-clause (f), after the words **“have the responsibility to maintain”**, the word **“the”** shall be substituted with the word **“a”**.
- q) In Clause 5, sub-clause (m) may be substituted with the following: **“to coordinate and cooperate with relevant foreign agencies and authorities in cases of missing or abducted children where the child has been wrongfully removed to, or from, Pakistan, and frame Standard Operating Procedures for the same.”**
- r) In Clause 5, after sub-clause (n) the following new sub-clause (o) may be added: **“to seek the cooperation of all federal and provincial law enforcement agencies and any other federal or provincial agencies, authorities or departments in cases of missing or abducted children.”**
- s) In Clause 7, sub-clause (1), after the words **“latest status of the case and all available details”**, the words **“on a daily basis.”** may be inserted.
- t) In Clause 7, sub-clause (2) may be substituted with the following: **“The local police and concerned law enforcement agencies shall on receipt of information under sub-section (1) take an immediate action and launch investigation, search, rescue and recovery operations. ZARRA shall, wherever required, coordinate the efforts of the concerned police stations and other federal and provincial agencies, authorities or departments.”**
- u) After Clause 7 of the bill, a new Clause 8 may be inserted as follows, and subsequent clauses be renumbered. **8(1) “Notwithstanding anything contained in any other law for the time being in force, upon receiving information that a child is missing, the officer in charge of a police station shall reduce the same into writing in the same book and in the same manner as prescribed for a cognizable offence under section**

154 of the Code of Criminal Procedure and shall be under a duty to cause investigation of the same and recover the missing child and also ensure that the required information in Schedule A to this Act, is made part of the complaint.

(2)A police officer investigating the case of a missing child shall have the same powers as available to an officer investigating a cognizable offence under the Code of Criminal Procedure.

Provided that the provisions of this section are intended to supplement the powers, responsibilities and duties of the police in relation to missing children and nothing herein shall be deemed to curtail or detract from their powers, responsibilities and duties in respect of any offence relating thereto as provided under any other law for the time being in force.”

- v) In Clause 8 (renumbered clause 9), after the words “with the provisions of section”, the words “154 of the code”, may be substituted with the words “8 of this Act”.
- w) In Clause 8 (renumbered clause 9), after the words “shall be punished with imprisonment”, the words “of either description not less than one year and up to two years, or a fine not less than Rs. 50,000/- and up to Rs. 100,000/-“may be inserted.
- x) Clause 14 (renumbered clause 14) may be omitted, and subsequent clauses be renumbered.
- y) Clause 15 (renumbered clause 14) may be omitted, and subsequent clauses be renumbered.
- z) Clause 16 (renumbered clause 17) may be omitted, and subsequent clauses be renumbered.
- aa) Clause 17 (renumbered clause 15) shall be omitted.

Clause 17 (renumbered clause 15) shall be substituted with the following, namely: 15. Completion of trial.- Notwithstanding anything contained in any other law for the time being in force, offences against children under the age of 18, including but not limited to, section 292-A, section 292-B, section 328, section 328-A, section 361, , section 362, section 364, section 364-A, section 365, section 366-A, section 369, section 369-A, section 372, section 373, section 375, section 377 and section 377-A of the Pakistan Penal Code shall be tried by magistrates and judges, as the case may be, specifically designated for such purpose by the Sessions Judge of the district concerned and all such trials shall be concluded in not more than three months.

Provided that nothing herein shall affect the trial of any offence being conducted or to be conducted by the anti-terrorism courts established under ATA 1997.

- bb) Provided that nothing herein shall affect the trial of any offence being conducted or to be conducted by the anti-terrorism courts established under ATA 1997.

- cc) After clause 19 (renumbered clause 16), a new clause 17 may be inserted in the following terms: **17. Removal of difficulties.** - if any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty.
- dd) In schedule A, clause (a), after sub-clause (vi), a new sub-clause (vii) may be inserted as : **“(vii) Languages spoken and”**.
- ee) In schedule A, clause (a), after new sub-clause (vii), a new sub-clause (viii) may be inserted as: **“(viii) School attended;”**.
- ff) In schedule A, clause (h), after in the title the words, “kidnapped or abducted child” shall be substituted with the words **missing child**”.

7. All Members in attendance supported the abovementioned amendments. However, Senator QuratUlAinMarri recorded her dissent with respect to the proposed amendments at serial number (b), (d), (k) and (m) above.

8. In View of the above, the Committee recommends that **“The Zainab Alert, Response and Recovery Bill, 2020”** as reported by the Senate Functional Committee on Human Rights, may be passed by the House. The Bill, **as reported by the Committee is annexed as “A”** and the Bill as laid in the Senate is annexed as **“B”**.



(MUGHEES AHMAD SHAIKH)
D.S. / Secretary (Committee)



(SENATOR MUSTAFA NAWAZ KHOKHAR)
Chairman (Committee)

Islamabad, the 3rd March, 2020

[AS REPORTED BY THE COMMITTEE]

A

BILL

to make provisions for raising alert, response and recovery of missing and abducted children

WHEREAS the Constitution of the Islamic Republic of Pakistan recognizes the inviolability of life, liberty and dignity of a person as fundamental right;

AND WHEREAS, in recognition of the Constitution's fundamental rights, it is necessary to make provisions for the protection of missing and abducted children under the age of eighteen years, that includes raising alert, responding and recovering of missing and abducted children;

AND WHEREAS it is obligatory on the Government of Pakistan to make provisions for ensuring the right to life and protection from violence, abuse, neglect, abduction or exploitation of children under the age of eighteen years, as envisaged under various national and international laws, conventions, covenants and instruments, relating to the rights of children, **including, but not limited to, the United Nations Convention on the Rights of the Child ratified by Pakistan on 12th November, 1990;**

AND WHEREAS it is a matter of national concern that children under the age of eighteen years, who are abducted, are at high risk of violence, exploitation, abuse, trafficking, rape or death;

AND WHEREAS it is urgent and necessary to introduce systems with respect to raising alerts, as well as the response and recovery of missing and abducted children, so that incidents such as that of a seven-year old Zainab, resident of district Kasur, who was abducted, raped and murdered in January, 2018, do not occur again in future;

AND WHEREAS it is in the interest of efficacy and avoidance of duplication of efforts that the ZARRA established pursuant to this Act will work supporting and complementing **the mandate of federal and provincial law enforcement agencies and child protection and welfare institutions and to coordinate and guide the efforts of all governmental agencies, authorities and departments in relation to cases of missing and abducted children.**

It is hereby enacted as follows: -

PART I

1. **Short title, extent and commencement.**- (1) This Act may be called the Zainab Alert, Response and Recovery Act, 2019.

(2) **It shall extend to the whole of Pakistan.**

(3) It shall come into force at once.

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

- (a) "Act" means the Zainab Alert, Response and Recovery Act 2019;
- (b) "Alert" means any notification raised by ZARRA after receiving any information or complaint about missing children on any media;
- (c) "Alert system" means an alert system established under this Act;
- (d) "Abduction" means,-
 - (i) whoever by will or force, threat, violence, coercion or by any deceitful means induces any child under eighteen years of age to move from one place to another and includes kidnapping as defined in the Pakistan Penal Code 1860 (Act XLV of 1860); or
 - (ii) Whoever has un-lawful custody of a minor or removing a child from the custody of his parents or lawful guardianship;
- (e) "Abductor" means a person, a group of persons or an organization who kidnaps, traffics or abducts a child;
- (f) "Board" means the ICT Child Protection Advisory Board established under the Islamabad Capital Territory Child Protection Act, 2018 (XXI of 2018);
- (g) "Child" means anyone who has not attained the age of eighteen years at the time of commission of an offence or when reported to be missing or abducted;
- (h) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898)

