

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

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 it is necessary to make provisions for the protection of children against corporal punishment in all types of educational institutions including formal and non-formal, both public and private, and in child care institutions including foster care and any other alternative care settings both public and private;

AND WHEREAS it is obligatory for Government of Pakistan to make provisions for the prohibition of all kinds of corporal punishment under various international 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, 2010.

- (1) It extends to the whole of Pakistan.
- (2) It shall come into force at once.

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

- (a) "care institutions" means an institution, an orphanage or a place of safety which houses five or more children for the purposes of providing alternative care or foster care; it may include a children's home 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) "corporal punishment "corporal" or "physical" punishment means any punishment in which physical force is used and intended to cause some degree of pain or discomfort, which may involve hitting a child, with the hand or with an implement (a whip, stick, belt, shoe, etc.) including kicking, shaking or throwing a child, pulling hair or boxing ears, forcing a child to stay in uncomfortable positions, burning, scalding or forced ingestion, for example, washing a child's mouths out with soap including but not 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 and degrading, for example, punishment which belittles, humiliates, denigrates, threatens, scares or ridicules the child.
 - (d) "educational institution" means any institution where any kind of instruction is imparted to five or more children in formal or non-formal way whether it is on full time or part time basis; public or private; registered or unregistered;
2. "Words and expression" used but not defined in this Act shall have the same meanings as assigned in the respective laws other laws on the subject for the time being in force

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 to other humiliating or degrading treatments.

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

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

4. **Penalties**.- (1) Whoever violates the provisions of Section 3 of this Act shall be liable to the following minor and major penalties in addition to the punishments prescribed for the offences in respective laws, namely:-

(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 a post;
- (iii) Stoppage from promotion, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and
- (iv) Recovery from pay of the whole or any part of any pecuniary loss cause to Government by negligence or breach of orders;

(b) Major Penalties:

- (i) reduction 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.

(2) Removal from service does not, but dismissal from service does, disqualify for future employment.

(3) In this section removal or dismissal from service does not include the discharge of a person who is-

- (a) appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or
- (b) appointed, under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or
- (c) engaged under a contract in accordance with the terms of the contract.

5. **Complaint procedure in the cases of corporal punishment.**- (1) The Federal and Provincial Government may prescribe a complaint procedure to entertain complaints of corporal punishment by children or by any other concerned person.
6. **Enforcement of the provisions of this Act to private institutions.**- (1) The Federal and Provincial Governments shall devise a comprehensive system for the enforcement and monitoring of the Act in private institutions whether registered or unregistered,
- (2) All private institutions shall formulate a complaint system to address corporal punishment.
 - (3) At the time of registration the private institutions will have to submit an undertaking which will be prescribed, that they will be responsible for the formulation of complaint system in line with this Act and Rules made thereunder for entertaining complaints of corporal punishment; failing which will make them liable to the cancellation of registration.
 - (4) In the case of private institution the complaint of corporal may also be filed for invoking the provisions of this Act before an authority which may be prescribed.
8. **This Act to override all other law.**- The provisions of this Act shall override all other laws for the time being in force.
9. **Rules.**- (1) The Federal and Provincial Governments may, by official notification, prescribe Rules under this Act.
- (2) The Federal and Provincial Governments shall amend the respective Education Codes and the Code of Conducts for teachers to include the prohibition of corporal punishment against children in all educational institutions including formal and non-formal, both public and private, and in child care institutions including foster care and any other alternative care settings, both public and private.

STATEMENT OF OBJECTS AND REASONS

It is a function of the state to protect the inviolable dignity of children as a human right. 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.

Sd/-
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