

[AS 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 fundamental right;

WHEREAS it is necessary to make provisions for the protection of children against corporal punishment by any person, at work place, in all types of educational institutions including formal, non-formal, and religious both public and private, in child care institutions including foster care, rehabilitation centers and any other alternative care settings both public and private, and in the Juvenile Justice System;

AND WHEREAS Pakistan has ratified United Nations Convention on Rights of the Child (1989) and in accordance with Article 19 of this Convention, Government of Pakistan has committed to taking all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation;

It is hereby enacted as follows:-

1. Short title, extent and Commencement.— (1) This Act may be called the Islamabad Capital Territory Prohibition of Corporal Punishment Act, 2019.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

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

(a) “care institutions” means an educational institution, an orphanage or a place of safety for one or more children for the purposes of providing alternative care or foster care; it may include a children’s home, rehabilitation center 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” or “physical” means any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light it may be, which may involve hitting (“smacking”, “slapping”, “Spanking”) a child, with the hand or with an implement (a whip, stick, belt, shoe, wooden spoon, etc.) including kicking, shaking or throwing a child, scratching, pinching, biting, pulling hair or boxing ears. Forcing a child to stay in uncomfortable positions, burning, scalding or forced ingestion for example, washing a child’s mouth out with soap or forcing him to swallow hot spices, including mental abuse or any other kind of punishment 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, scapegoats, threatens, scares or ridicules the child;

(d) "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; including boarding houses, both public or private; registered or unregistered;

(e) "work place" means the place of work or the premises where an organization or employer operates and includes building, factory, shop, commercial establishment, workshop, farm, residential hotel or restaurant, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

(2)"words and expression" used but not defined shall have the same meaning as assigned in the respective laws.

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 and any other law and regulation for the time being in force, corporal punishment of children by any person is prohibited in all its forms, at work place, in schools and other educational institutions including formal, non-formal, and religious, both public and private, in child care institutions including foster care, rehabilitation centers and any other alternative care settings, both public and private, 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 circumstances corporal punishments, or punishments which relate to the child's physical and mental development or which may affect the child's emotional status are allowed.

4. Penalties.— (1) Whoever violates the provisions of section 3 of this Act shall be liable to the punishments prescribed for the said offences in the Pakistan Penal Code, 1860 and in other enactments.

(2) The following minor and major penalties shall be in addition to other enactment, who violate the provisions of section 3 of this Act in educational, care institutions, and in other alternative care setting:-

(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 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 caused to government by negligence or breach of orders;

(b) Major penalties:

- (i) demotion 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.

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

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

- (a) appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him ;or
- (b) appointed, otherwise than 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.— The Federal Government shall prescribe a complaint procedure in coordination with other line departments, to entertain complaints of corporal punishment by children or by any other person.

6. Enforcement of the provisions of this Act to private institutions.— (1) The Federal Government 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 in writing that they will be responsible for the formulation of complaint system in line with the Act and Rules made there under for entertaining complaints of corporal punishment; failing which will make them liable to the cancelation of registration. The form of undertaking will be prescribed.

(4) In case of a private institution the complaint of corporal punishment may also be filed for invoking the provisions of the Act before an authority which may be prescribed.

7. This Act to override all other laws.— The provisions of this Act shall override all other laws for the time being in force.

8. Rules.— (1) The Federal Government may make rules, by official notification under the Act, within six months after promulgation of this Act.

(2) The Federal Government shall amend the Code of Conduct for teachers and the relevant Rules etc. to include the prohibition of corporal punishment against children at workplace and in

all educational institutions including formal, non-formal, and religious, both public and private, and in child care institutions including foster care, rehabilitation centers, and any other alternative care settings, both public and private and in Juvenile Justice System.

STATEMENT OF OBJECTS AND REASONS

Physicians, psychologists, and educationists around the globe have pointed out towards negative effects of physical punishment of children on their mental and cognitive development. Countless studies have proved that corporal punishment and uncongenial learning environment creates a number of psycho-social imbalances in the personalities of children including aggression. Experts have consensus that physical punishment can have adverse consequences on the child's health, particularly their behavior and emotional wellbeing. One of the reasons attributed to the higher drop-out rate in schools and low learning outcomes of students is physical punishment and castigation of pupils by the teachers.

The cases of injuries inflicted by teachers on their students are regularly reported by the media. In accordance with United Nations Convention on Rights of Child (1989) ratified by Pakistan, it is now the responsibility of the state to protect children from all forms of physical and mental violence and maltreatment. Therefore, it is desirable that corporal punishment is banned legally and declared an offense through an Act.

Sd/-

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