

THE SINDH PROHIBITION OF CORPORAL PUNISHMENT ACT, 2016.

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to make provisions of 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 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 it is obligatory on Pakistan Government to make provisions for the prohibition of all kinds of corporal punishment under various international conventions, conventions and instruments.

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Prohibition of Corporal Punishment Act, 2016.

(2) It extends to the whole of the Sindh.

(3) It shall come into force at once.

2. () In this Act, unless the context otherwise requires:

(a) "care institutions" means an educational institution, an orphanage or a place of safety which houses 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" punishment 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:

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Definitions.

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(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.

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

3. (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.

Prohibition of
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4. (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 other respective laws.

(2) In addition, the following minor and major penalties will apply to persons who violate the provisions of section 3 of this Act in educational, care and penal institutions, and other alternative care setting

namely-

(a)

(b)

Minor penalties:

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(iii)

(iv)

censure,

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;

stoppage from promotion, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and

recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of orders;

Major penalties:

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(ii)

(iii)

(iv)

demotion to a lower post or time-scale, or to a lower stage in a time scale;

compulsory retirement;
removal from service; and

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)

(b)

appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him ;or

appointed, otherwise than under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or

engaged under a contract in accordance with the terms of the contract.

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5. The Provincial 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. (1) The Provincial Government shall devise a comprehensive system for the enforcement and monitoring of the Act in private institutions whether registered or unregistered which will be prescribed.

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

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

8 (dd) The Provincial Government may, by official notification prescribe Rules under the Act, within six month's time after promulgation of this Act.

(2) The Provincial Government shall amend the respective Education Code and 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 the Juvenile Justice System.

Complaint procedure
in the cases of
corporal punishment.

Enforcement of the
provisions of this Act
to private institutions.

This Act to override
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Rules.