

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

to provide for constitution of a National Commission on the rights of the child and for matters connected therewith or incidental thereto

WHEREAS it is expedient to set up a National Commission on the rights of the child in accordance with international obligations and for matters connected therewith or incidental thereto:

It is hereby enacted as follows:—

**CHAPTER I
PRELIMINARY**

1. **Short title, extent and commencement.**— (1) This Act may be called the National Commission on the Rights of the Child Act, 2017.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “Chairperson” means the Chairperson of the Commission,

(b) “Child” means any person below the age of eighteen years;

(c) “Child rights” means and includes but may not be limited to rights of the child in the United Nations’ Convention on Rights of the Child and in any other domestic law;

(d) “Commission” means the National Commission on the Rights of the Child constituted under section 3;

(e) “Member” means a person appointed as member of the Commission and where the context so permits includes the Chairperson;

(f) “Prescribed” means prescribed by rules made under this Act;

(g) “Rules” mean rules made under this Act, and

(h) “Secretary” means Secretary of the Commission appointed under section 14.

CHAPTER II
NATIONAL COMMISSION ON THE RIGHTS OF THE CHILD

3. Constitution of Commission.— (1) The Federal Government shall constitute a commission to be known as the National Commission on the Rights of the Child to exercise its powers and perform its functions under this Act

(2) The Commission shall consist of—

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| (a) a person being citizen of Pakistan of not less than forty-five years of age, having experience of not less than fifteen years of working in the field of child rights, to be appointed by the Federal Government in the prescribed manner. | Chairperson |
| (b) Secretary of the Division, allocated with the business of child rights, or his representative not below the rank of Joint Secretary (B-20). | Member
ex-officio |
| (c) a representative of Foreign Affairs Division not below the rank of Joint Secretary (B-20). | Member
ex-officio |
| (d) a representative of Interior Division not below the rank of Joint Secretary (B-20). | Member
ex-officio |
| (e) Chairperson of the National Commission for Human Rights or his representative not below the rank of an officer in B-20. | Member
ex-officio |
| (f) Chairperson of the National Commission on the Status of Women or his representative not below the rank of an officer in B-20. | Member
ex-officio |
| (g) Chairpersons of Provincial Commissions on the Rights of the Child, set up under Provincial laws; | Members
ex-officio |
| (h) Six members, one each from each Province, Islamabad Capital Territory and the Federally Administered Tribal Areas, two out of which shall be from women and one from minorities, all having experience of not less than ten years of work in the field of child rights; | Members |
| (i) one child; and | Member |
| (j) Secretary of the Commission | Ex-officio
Member |

(3) The Secretary shall act as Secretary of the Commission as well.

(4) The Commission shall be a body corporate having perpetual succession and a common seal with powers, among others, to acquire, hold and dispose of any property, moveable and immoveable, and shall sue and be sued by its name.

4. Secretariat of the Commission.— (1) The secretariat of the Commission shall be at Islamabad.

(2) The Commission may establish its offices at such other places as the Chairperson may determine, with approval of the Federal Government.

5. Appointment of Chairperson and members.— (1) The Chairperson and members, other than ex-officio members, shall be appointed by the Federal Government on such salary, allowances, privileges and other terms and conditions as may be prescribed.

(2) The salary, allowances, privileges and other terms and conditions under sub-section (1) of the Chairperson or any member, as the case may be, shall not be varied to their disadvantage after their appointment.

6. Term of office of Chairperson and members.— (1) The Chairperson and every member, other than ex-officio members, shall hold office for a term of three years, extendable for a further term of three years, provided that Chairperson or a member, other than ex-officio member, shall not hold office for more than two terms.

(2) The Chairperson or a member may, at any time by writing under his hand addressed to the Federal Government, resign from his office

7. Disqualification.— A person shall be disqualified for becoming or being the Chairperson or a member of the Commission, if such person—

- (a) is an un-discharged insolvent or has been declared a bankrupt, or
- (b) is of unsound mind or has physical infirmity to discharge his functions under this Act, or
- (c) has been dismissed from public service of Pakistan on grounds of inefficiency, misconduct, fraud or corruption, or
- (d) has been convicted of an offence of moral turpitude

8. **Removal from office.**— (1) Subject to the provisions of sub-section (2), the Chairperson or a member may be removed from office on—

- (a) the grounds of misconduct,
- (b) any condition under section 7, or
- (c) a resolution passed for such removal by fifty percent of the total members of the Commission

(2) No person shall be removed under sub-section (1) until—

- (a) the reasons in writing for the removal have been communicated to the person concerned by the Federal Government,
- (b) he has been given an opportunity of submitting, against the communication under clause (a), a reply in writing within seven days of receipt of the communication from the Federal Government, and
- (c) such person has been given an opportunity of being heard in person after submission of reply under clause (b).

9. **Vacation of office by the Chairperson or member.**— If a vacancy occurs in the office of the Chairperson or of any member, whether by reason of death, resignation or removal under section 8, such vacancy shall be filled within a period of sixty days by making a fresh appointment in accordance with the provisions of section 5 and the person so appointed shall hold office for the residual of the term of office of the Chairperson or member of whom the vacancy has arisen

10. **Acting Chairperson.**— Where at any time the Chairperson is unable to perform his functions due to any reason, the Federal Government may appoint acting Chairperson for performance of functions under this Act till the vacancy is filled on regular basis under section 5:

Provided that period of acting appointment shall not exceed four months

11. **Vacancy not to invalidate proceedings of Commission.**— No act or proceedings of the Commission shall be invalid merely by reason of existing of a vacancy in, or constitution of, the Commission

12. **Procedure for transaction of business.**— (1) The Commission shall meet regularly at such time as the Chairperson thinks fit, but at least once in every quarter

(2) All decisions at a meeting shall be taken by majority

Provided that in the case of equality of votes, the Chairperson or in his absence the person presiding shall have and can exercise a second or casting vote

(3) If for any reason, the Chairperson is unable to attend a meeting of the Commission, any member chosen by the members present from amongst themselves at the meeting shall preside

(4) Quorum of the meeting shall not be less than fifty percent of its total membership at the time of such meeting

Provided that fifty percent of *ex-officio* members are also present

(5) In the event of a requisition signed and presented by one-fourth of the members, the Chairperson shall call a meeting of the Commission within seven days of such requisition, presented to the Chairperson

13. Executive Committee of the Commission.— (1) The Commission shall constitute an Executive Committee comprising the Chairperson, two Members and Secretary of the Commission

(2) The Executive Committee shall perform such functions as may be assigned to it by the Commission

14. Secretary, officers and other employees of the Commission.— (1) The Federal Government shall appoint Secretary of the Commission on such terms and conditions as may be prescribed

(2) The Secretary shall be responsible for proper administration of affairs of the Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other functions as may be prescribed

(3) The Commission may appoint consultants, researchers, experts, advisers, officers and other staff members on such terms and conditions, on a criteria as may be prescribed.

CHAPTER III POWERS AND FUNCTIONS OF THE COMMISSION

15. Functions of the Commission.— The Commission shall perform all or any of the following functions, namely -

- (a) examine existing or proposed legislations and administrative instruments, and proposals related to child rights and make such recommendations as it deems appropriate
- (b) liaise with provincial commissions set up under provincial laws and other concerned provincial organizations.
- (c) examines and reviews any law or policy, or practice, for the time being in force for protection of child rights and recommend measures for their effective implementation.
- (d) presents to the Federal Government and to the provincial governments, as the case may be, reports upon working of such law or policy, or practice specified under clause (c).
- (e) inquires into violation of child rights and recommends to the relevant agency or department initiation of proceedings in such cases;
- (f) examine all factors that inhibit enjoyment of rights of child eg. violence, abuse and exploitation, trafficking, torture, pornography and prostitution and recommend appropriate remedial measures.
- (g) sponsors, steer, encourage research and maintain a database relating to children and their issues to provide knowledge and awareness for national policy and strategic action for its remedy;
- (h) spread awareness and promote dialogue on child rights among various sections of the society and promote awareness of the safeguards available for protection of these rights:
 - (i) examines international instruments and undertake periodical review of existing policies and programmes on child rights and make recommendations for their effective implementation in the best interest of children.
- (j) advise the Federal Government to sign, ratify or accede to any such proposed international treaty, protocol, etc.
- (k) while inquiring into complaints of violations of child rights may call for information or report from the Federal Government, civil society organizations and autonomous or concerned bodies and in this regard the Commission shall have the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) for enforcing the attendance of any person and compelling the production of documents, and
- (l) undertakes such other functions as assigned by the Federal Government and as it may consider necessary for promotion and protection of child rights and any other matter incidental to the above functions

16. Delegation of functions.— The Commission or the Chairperson may, by notification in the official Gazette, delegate its functions subject to such conditions as it

or he may specify in this behalf to any body or individual that is part of the Commission.

17. **Annual reports of the Commission.**— (1) The Commission shall prepare an annual report on the situation of child rights in the country and performance of the Commission and submit it to the Federal Government which shall lay the report before each House of Majlis-e-Shoora (Parliament)

(2) The Commission may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report

(3) The Commission shall assist the Federal Government in preparation of its periodic reports in accordance with international declarations, conventions, treaties, covenants and agreements relating to children and their rights

CHAPTER IV FUND, FINANCE, ACCOUNTS AND AUDIT

18. **Fund.**— (1) There shall be established by the Federal Government a fund to be known as the Child Rights Fund, which shall vest in the Commission and shall be used by the Commission to meet charges in connection with its functions under this Act.

(2) The sources of the Fund, amongst other moneys, may be the following, namely:—

- (a) such fund as the Federal Government shall allocate each year as a non-lapsable grant in annual budget of the Fund,
- (b) such voluntary donations, contributions or subscriptions as may be made by Provincial Governments,
- (c) donations, if any, made by private individuals, national and international natural and juristic persons,
- (d) income from investment by the Commission as may be prescribed, and
- (e) all other sums or properties or assets which may in any manner become payable to or vest in the Commission in respect of any matter.

(3) The Commission shall, while performing its functions and exercising its powers under this Act, ensure highest sense of prudence in respect of expenditures incurred from the Fund.

- (4) The Fund shall be expended for the purposes of—
- (a) performing functions of the Commission;
 - (b) establishment charges of Chairperson and members, including consultants, researchers, experts, advisers, officers and other staff members, legal and other fees and costs, and
 - (c) such other activities which fall within purview of the Commission.
- (5) The Commission may invest money from the Fund in accordance with instructions of the Federal Government

19. Accounts and audit of Commission.— (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Federal Government

(2) The Chairperson shall be the Principal Accounting Officer of the Commission and the accounts of the Commission shall be audited by the Auditor-General at such intervals as may be specified by him

(3) The accounts of the Commission, as certified by the Auditor-General or any other person appointed on his behalf, together with the audit report thereon shall be forwarded annually to the Federal Government by the Commission and the Federal Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of the Parliament

CHAPTER V MISCELLANEOUS

20. Power of the Federal Government to issue directives.— The Federal Government may, as and when it considers necessary, issue directives to the Commission on matters of policy and such directives shall be binding on the Commission and if a question arises as to whether any matter is a matter of policy or not, the decision of the Federal Government thereon shall be final

21. Returns or information.— The Commission shall furnish to the Federal Government such returns or other information with respect to its activities as the Federal Government may, from time to time, require

22. **Power to make rules.**— The Federal Government may, in consultation with the Commission and by notification in the official Gazette, make rules to carry out purposes of this Act.

23. **Power to remove difficulties and doubts.**— If any difficulty or doubt arises in giving effect to the provisions of this Act, the Federal Government may, by order in writing published in the official Gazette, make such provisions as may appear to it to be necessary for removing the difficulty or doubt.

Provided that no order shall be made under this section after expiry of a period of three years from commencement of this Act

Statement of Objects and Reasons

Pakistan ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1990 and its Optional Protocol on Sale of Children, Child Prostitution and Child Pornography in 2011, thus obliged to implement these instruments and report progress to the UN Committee on the Rights of the Child, Geneva every five years. The UN Committee on the Rights of the Child while considering Pakistan's 3rd and 4th periodic report during 2009 urged the Government of Pakistan for establishment of an independent commission to monitor, protect and promote the Rights of the Child. The National Commission on the Rights of the Child Bill, 2015 has been prepared to fulfil our obligations under different International Conventions in general and the UNCRC in particular.

2. The Bill is designed to achieve the aforesaid object.

PERVAIZ RASHID

Minister for Law, Justice and Human Rights
Minister-in-charge

[Note of Dissent]

The Chairman,
Standing Committee on Law, Justice and Human Rights,
National Assembly of Pakistan,
Islamabad

Subject: **DISSENT ON "THE NATIONAL COMMISSION ON RIGHTS OF CHILD BILL, 2015"**

Dear Mr. Chairman,

In my capacity as a member of the Standing Committee on Law, Justice and Human Rights, I examined the Bill "the National Commission on Rights of Child Bill, 2015" in the meeting of the Committee held on 20th August 2015.

The proposed bill provides for amendments in section 82 & 83, of Pakistan Penal Code (PPC) through which the minimum age of criminal responsibility is proposed to be increased from 7 to 10 years and from 12 to 14 years as lower and upper age. I expressed my dissent and I suggest that **the age of Child be increased to 16 years.**

I strongly feel that further deliberation on the Bill is required until a reasonable consensus. I am sure my concern for dissent will be looked into seriously by you and other honourable Members of the committee.

Sincerely,


Syed Naveed Qamar