

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

**A
BILL**

to enact a Charter for the promotion for an enabling environment that is free of violence, abuse and exploitation of children.

WHEREAS, it is expedient to promote the best interest of the child as espoused by the teachings of Islam, the

Constitution of Pakistan and the Convention on the Rights of the Child.

It is hereby enacted as follows:

1. Short title, extent and commencement.- (1) This Act may be called the Charter of Child Rights Act, 2014.

(2) It extends to the whole of Pakistan

(3) It shall come into force at once.

**CHAPTER I
PRELIMINARIES**

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context, the following words and expressions shall have the following meaning:

(a) "The best interest of a child" Where there is a reference in this Act to the best interests of the child the factors to be taken into account in determining the child's best interests shall include;

i. the child's right to be protected from abuse, neglect and harm or threat of harm;

ii. the welfare, well being and safety of the child;

iii. the child's physical and emotional needs and level of development;

iv. the child's family to be considered as the preferred environment for the care and upbringing and the responsibility for the protection of the child to rest primarily with parents;

v. the quality of the relationship the child has with a parent or any other person and the effect of maintaining that relationship;

vi. the child's religious, cultural and spiritual views;

vii. the child's level of education and educational requirements;

viii. the child is given the opportunity to freely express his own views and opinion and these views are to be given due weight; and

ix. the effect on the child of a delay in making a decision.

(b) "Child" means every human being below the age of eighteen years;

**CHAPTER II
RESEPECT FOR CHILD RIGHTS**

3. (1) The Federal Government, and the Provincial Governments, shall respect and ensure the rights set forth in this Act to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

(2) The Federal Government, and the Provincial Governments, shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

(3) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

(4) The Federal Government, and the Provincial Governments, shall undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for him, and, to this end, shall take all appropriate legislative and administrative measures.

(5) The Federal Government, and the Provincial Governments, shall ensure that the institutions, responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, number and suitability of their staff, as well as competent supervision.

(6) The Federal Government, and the Provincial Governments, shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in this Act. With regard to economic, social and cultural rights, the Federal Government, and the Provincial Governments, shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation, which are possible.

(7) The Federal Government, and the Provincial Governments, make the principles and provisions of this Act widely known, through print and electronic media to adults and children alike.

(8) The Federal Government, and the Provincial Governments, shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the involving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Act.

CHAPTER III INHERENT RIGHT TO LIFE

4. (1) The Federal Government, and the Provincial Governments, shall recognize that every child has the inherent right to life.

(2) The Federal Government, and the Provincial Governments, shall ensure to the maximum extent possible the survival and development of a child.

CHAPTER IV REGISTRATION AT BIRTH

5. (1) The Provincial Governments shall ensure that every child is registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his parents.

(2) The Provincial Government shall enact proper laws relating to registration at birth.

CHAPTER V PRESERVATION OF IDENTITY

6. The Federal Government, and the Provincial Governments, shall to respect the right of the child to

preserve his identity, including nationality, name and family relations as recognized by law without unlawful interference.

CHAPTER VI PARENTS

7. (1) The Federal Government, and the Provincial Governments, shall ensure that a child shall not be separated from his parents against his will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, determine that such separation is necessary for the best interest of the child. Such determination may be necessary in a case involving abuse or neglect of the child by the parents, or where the parents are living separately and a decision must be made as to the child's place of resident.

(2) In any proceedings pursuant to sub-section (1) of section 8, all interested parties shall be given an opportunity to participate in the proceedings and make their views know.

(3) The right of the child shall be respected, who is separated from one or both of the parents, to maintain personal relations and direct contact with both the parents on a regular basis, except if it is contrary to the child's best interest.

CHAPTER VII CHILD'S VIEWS

8. (1) The Federal Government, and the Provincial Governments, shall to the child who is capable of forming his views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

(2) For the purpose of sub-section (1) of section 9, the child shall in particular be provided the opportunity to be heard in any judicial proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the law.

CHAPTER VIII FREEDOM OF EXPRESSION

9. (1) Every child in Pakistan shall have the right of freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. The exercise of this right may be subject to certain restrictions as are provided by law and are necessary.

(2) The Government in this regard recognizes the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his social, spiritual and moral well-being and physical and mental health.

CHAPTER IX FREEDOM OF RELIGION

10. (1) The Federal Government, and the Provincial Governments, shall respect the right of the child to freedom of thought, conscience and religion.

(2) The Federal Government, and the Provincial Governments, shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in exercise of his right in a manner consistent with the evolving capacity of the child.

**CHAPTER X
FREEDOM OF ASSOCIATION**

11. The Federal Government, and the Provincial Governments, shall recognize the rights of the child to freedom of association and to freedom of peaceful assembly. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in the interests of national security or public safety, public order, the protection of public health or morals or for protection of the rights and freedoms of others.

**CHAPTER XI
RIGHT OF PRIVACY**

12. No child in Pakistan shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation; and every child shall have the right to the protection of the law against such interference or attacks.

**CHAPTER XII
UPBRINGING THE CHILD**

13. (1) The Federal Government, and Provincial Governments, shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

(2) For the purpose of guaranteeing and promoting the rights set forth in this present Act, the Federal Government, and Provincial Governments, shall render appropriate assistance to parents and legal guardians in the performance of their child-bearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

**CHAPTER XIII
PROTECTION FROM VIOLENCE**

14. (1) The Federal Government, and Provincial Governments, shall take 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, including sexual abuse, while in the care of parents, legal guardian or any other person who is responsible to take the care of the child.

(2) Such protective measures, as described in sub-section (1) of section 15, shall, as may be appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment, and, as may be appropriate, for judicial involvement.

(3) A child temporarily or permanently deprived of his family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance to be provided by the State. The Provincial Governments shall in accordance with the law ensure alternative care for such a child.

CHAPTER XIV
RIGHS OF SPECIALLY ABLED CHILDREN

15. (1) The Federal Government, and Provincial Governments, recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. In this regard, the Government recognizes the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or for other person caring the child.

(2) Recognizing the special needs of a disabled child, assistance extended in accordance with subsection (1) of section 17 shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others responsible for caring the child, and shall be designed to ensure that the disabled child has effective access to education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

CHAPTER XV
RIGHS TO HEALTH

16. (1) The Federal Government, and Provincial Governments, shall recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. In this regard, the Government shall strive to ensure that no child is deprived of his right of access to such health care services.

(2) The Federal Government, and Provincial Governments, shall pursue full implementation of his right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat diseases and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

(3) The Provincial Governments shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

(4) The Federal Government, and Provincial Governments, shall recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. The parents or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development. The Federal Government, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and

shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing of a child

CHAPTER XVI EDUCATION

17. The Federal Government, and Provincial Governments, recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and reduction in drop-out rate.

CHAPTER XVII REST & RECREATION

18. The Federal Government, and Provincial Governments, recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and arts. They shall, in this respect, respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activities.

CHAPTER XVIII CHILD LABOUR

19. (1) The Federal Government, and Provincial Governments, recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

(2) The Federal Government, and Provincial Governments, shall take legislative, administrative, social and educational measures to ensure the implementation of this section. To this end, the Government shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment which shall not be less than 14 years;
- (b) Provide for appropriate regulation for the timing and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of this section.

CHAPTER IX DRUGS

20. The Federal Government, and Provincial Governments, shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

CHAPTER XX SEXUAL ABUSE

21. (1) The Federal Government, and Provincial Governments, undertake to protect the child from all

forms of sexual exploitation and sexual abuse. For these purposes, the Government shall in particular take all measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

(2) The Federal Government, and Provincial Governments, shall take all appropriate measures to prevent the abduction of, the sale of or trafficking of in children for any purpose or in any form.

CHAPTER XXI JUVENILE JUSTICE

22. (1) The Federal Government, and Provincial Governments, shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Neither capital punishment nor life imprisonment without possibility of release shall be imposed upon the persons below eighteen years of age;

(b) No child shall be deprived of his liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and shall last for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of human being, and in a manner which takes into account the needs of persons of his age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

(2) The Federal Government, and Provincial Governments, shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of; any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters health, self-respect and dignity of the child.

CHAPTER XXII CHILD RIGHTS COMMISSION

23. (1) The Government shall, within sixty days of the commencement of this Act, by notification in the Official Gazette, establish a commission to be called the Child Rights Commission.

(2) The Commission shall act as a focal point for effective supervision and coordination of child rights matters at national and international level and coordinate with the Provincial Government in respect of activities for the development, protection, survival and participation of children.

CHAPTER XXIII MISCELLANEOUS

24. **This Act to override all other laws.**- The provision of this Act shall override all other laws on the subject, law for the item being in force.

25. **Power to make rules.**- The Federal and Provincial Governments may, by notification, make rules and regulations for carrying out the purposes and functions of this Act.

STATEMENT OF OBJECTS AND REASONS

Children under eighteen years of age today account for approximately 20% of the population though they are Pakistan's future yet are voiceless in the public domain. Therefore, it is, the responsibility of the elected representatives to protect & promote the rights of Pakistan's children. This Bill seeks to pronounce on the rights of the child. Conceived as a comprehensive Charter it provides a national legislative framework for enactment at the Federal and Provincial levels.