



ARTICLE

Pakistan: Domestic Violence Bill Referred to Council of Islamic Ideology

In a letter to National Assembly Speaker Asad Qaiser dated July 5, 2021, the adviser on parliamentary affairs to Pakistan's prime minister, Babar Awan, [recommended](#) that the [Domestic Violence \(Prevention and Protection\) Bill, 2021](#) be referred for review to the Council of Islamic Ideology (CII)—a constitutional advisory body on Shari'a law issues. In providing his rationale for the referral, Awan made [reference](#) to several Islamic provisions of the [Constitution of Pakistan](#), including article 230(1)(b), which provides that the functions of the CII are "to advise a House, a Provincial Assembly, the President or a Governor on any question referred to the Council as to whether proposed law is or is not repugnant to the Injunctions of Islam," and to "concerns of various segments of society."

Background to the Bill

The current version of the bill was initially introduced in the National Assembly, the lower house of the bicameral Majlis-e-Shura (Parliament), by Shireen Mazari, the federal minister of human rights, on April 19, 2021. The bill [passed](#) the same day and was then referred to the Senate, the upper legislative chamber, "where the opposition had defeated the government by one vote to block the immediate passage of the proposed law, insisting that the bill be referred to the relevant standing committee for further deliberation."

The [Senate Committee on Human Rights](#) submitted its [report](#) on June 18, 2021, recommending that the bill be passed by the Senate with a few minor amendments. On June 21, the bill [passed](#) the Senate and has now been returned to the National Assembly for passage, after which it will be presented to the president of Pakistan for final assent to become a law.

The CII [reportedly](#) had already expressed reservations to the Ministry of Human Rights about several provisions in the bill on June 17, 2021, and had recommended a halt to the legislative process "until the Islamic constitutional body reviewed the bill and gave its findings to the government." In addition, a senior official of the Ministry of Human Rights had stated that on receiving the June 17 letter from the CII, "the ministry had halted the process and now the ministry would move ahead in consultation with the CII." The bill is currently with the National Assembly Secretariat and will be submitted before the National Assembly at some point for a vote on the Senate version of the bill.

On the federal level, passage of a law against domestic violence has been pending for almost a decade, and because of the referral it would now be further delayed.

Features of the Bill

The aim of the bill is to establish an “effective system of protection, relief and rehabilitation” for women, children, and other persons vulnerable to domestic violence in the territorial jurisdiction of the Islamabad Capital Territory. The provinces of Punjab, Sindh, and Khyber Pakhtunkhwa have enacted their own laws against domestic violence.

Section 3 of bill defines “domestic violence” as follows:

3. Domestic Violence. – Domestic Violence shall mean all acts of physical, emotional, psychological, sexual and economic abuse committed by a respondent against women, children, vulnerable persons, or any other person with whom the respondent is or has been in a domestic relationship that causes fear, physical or psychological harm to the aggrieved person.

Section 3(b) defines “emotional, psychological and verbal abuse” as “where the aggrieved individual suffers from a pattern of degrading or humiliating conduct of the respondent.” Such abuse includes but is not limited to

- (i) repeated exhibition of obsessive jealousy causing repeated invasion of the victim’s privacy, liberty, integrity and security;*
- (ii) insults or ridicule directed at the aggrieved person;*
- (iii) threats to cause physical pain to spouse or other members of shared household;*
- (iv) threats of divorce or second marriage on baseless accusations of insanity or infertility;*
- (v) bringing false allegations upon the character of a female member or any member of the shared household;*
- (vi) willful or neglected abandonment of the aggrieved person;*
- (vii) stalking;*
- (viii) harassment; or*
- (ix) compelling the wife to cohabit with anybody other than the husband.*

Section 4 would punish domestic violence with imprisonment for six months to three years, “depending on the gravity of the act,” and a fine of 20,000 to 100,000 rupees (about US\$123 to \$616) to be paid as compensation to the aggrieved person. In default of payment of the fine, the court could award simple imprisonment for three months. In addition, persons who aid or abet in the commission of an offense are also subject to the same punishment provided above. The section also notes that if an offense that falls under [Pakistan’s Penal Code](#) is committed in a domestic relationship, the offense is punishable as provided under the Penal Code.

Part III of the bill deals with court protection from domestic violence and would empower the courts to issue interim, protection, custody, and residence orders and award monetary relief to victims at the respondent’s expense. Part IV of the bill would establish a Protection Committee and protection officers and set out their powers, duties, and functions. Duties of the Protection Committee would include informing aggrieved persons of their rights under the law; assisting them in obtaining any medical treatment necessitated by domestic violence; helping them relocate to an acceptable safer place, which may include the house of any relative or family friend or other safe place; and assign the protection officer to assist them in preparing or filing any petition or report in court.

Reactions to the Referral

The federal minister for religious affairs, Pir Noor-ul-Haq Qadri, and the CII chairman, Qibla Ayaz, have [reportedly](#) expressed their concerns over the bill in respect of certain clauses that “contradict our social values” and have declared it un-Islamic. The bill’s definition of “domestic violence” has also been criticized as being too broad and a potential threat to the family system. Senator Mushtaq Ahmed, a member of Jamaat-e-Islami and a vocal opponent of the bill, is [reported](#) to have said that the bill is “very broad and open-ended” and “open for interpretation” in that it mentions harassment without saying what it is. He also claims that it “treats everyone in the family with the yardstick[, whereas] ... [i]n our culture and religion, the stature of parents is above the rest and they can’t be treated like other members of the family.”

According to one [Dawn news report](#), experts believe that “referring the federal bill to CII was only aimed at delaying the enactment of the law.” They question the logic of referring the federal bill to the council when nearly identical laws have already been enacted in Sindh, Balochistan and Punjab. [Reema Omer](#), a legal advisor to the International Commission of Jurists (ICJ), also fears that the referral may produce the same result that occurred with the domestic violence bill in Khyber Paktunkwa—namely, “the most diluted, weak law in the country.” Many [commentators](#) on social media have expressed their concern over a hashtag that advocated rejecting the bill for being against Islam and Pakistani culture. Others have criticized the lack of women’s representation on the CII.

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