

## Draft Bill

# “The Protection of Children Act, 2006”

An Act to provide for the protection of the children ;

**Preamble: -** WHEREAS it is expedient to promote the best interest of the children by creating a facilitative and protective environment and rehabilitative mechanisms as espoused by the teachings of Islam and the Constitution of Pakistan;

It is hereby enacted as follows:

## Chapter I

### PRELIMINARIES

1. **Short title, extent and commencement: -** (1) This Act may be called The Protection of Children Act, 2006;
  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 the subject or context, the following words and expressions shall have the following meaning:
- (a). “**Adult**” means a person who has completed 18<sup>th</sup> years of age;
  - (b). “**Begging**” includes soliciting or receiving alms or charity in a public or private place by exhibiting, or otherwise, any sore, wound, injury, deformity or disease whether of himself or of any other person ;
  - (c). “**Best interest of a child**” means primary consideration, in all actions either by public or private bodies, for protection, survival, development and participation of children;
  - (d). “**Brothel**” means any dwelling, part of a dwelling whether a house, room or a place wherein a person carries on illegal sex or where facilities are known to be available for illegal sex;

- (e). **‘Board’** means the Board of Governors of the Bureau;
- (f). **“Bureau”** means the agency established by the Provincial Government for the protection of children;
- (g). **“Child”** means a person who has not yet attained the age of 18 years, at the time of any relevant proceeding;
- (h) **“Child Protection Centre’** means an institution for the protection and rehabilitation of children-in-need-of-care established by the government or any non-governmental organization and recognized under this Act;
- (i). **“Child Protection Officer”** means a person appointed under this Act;
- (j). **“Child-in-need-of-care”** means a child who: -
- i. is an orphan or is a victim of neglect by his parents or lawful guardian; or whose parents or guardians are unfit or incapacitated to look after his needs and exercise control over him; or
  - ii. is without a home or settled place of abode and without any ostensible means of subsistence; or
  - iii. is being or likely to be abused or exploited for immoral or illegal purpose or unconscionable gain; or
  - iv. lives in a brothel or frequently visits any place being used for sex or is associated with any person who leads an immoral or depraved life; or
  - v. is forced into the worst forms of the child labour, exploitative labour, or beggary; or
  - vi. is subjected to human trafficking within and outside Pakistan; or
  - vii. is being misused for drug trafficking or peddling or is subjected to abuse of any intoxicating substances including glue, narcotic drugs , spirits etc ; or

viii. is affected or infected with a serious disease, without any care;  
and

ix. is a victim of an offence punishable under this Act or any other law for the time being in force;

(k). “**Commission**” means the Commission for the Protection of Children as established by the Federal Government under this Act;

(l). “**Community Service**” means to perform an unpaid work, as determined by the court, to be done in the service of the community at large and to be carried out under the supervision of a Probation officer; and the breach of the which may lead to a fine or an imprisonment which may extend to half of the sentence prescribed for the offence;

(m) “**Court**” means the Child Protection Court so established or any Court exercising powers of a Child Protection Court under this Act;

(n) “**Fund**” means the Children Protection Fund established under this Act;

(o). “**Government**” means the Federal Government or a Provincial Government, as the case may be;

(p). “**Illegal sex**” includes all shades of illegal sexual relations, including sodomy and prostitution, as defined in any law for the time being in force;

(q) “**Member**” means a member of the Commission

(r) . “**Narcotic drugs, psychotropic and intoxicating substances**” shall have the same meaning as assigned to them in the Control of Narcotic Substances Act, 1997 (XXV of 1997) and the Prohibition (Enforcement of Hadd) Order, 1979 (P.O.IV of 1979);

(s). “**Organ**” means any limb or organ or any part, internal or external, in the body of a child, including intestines or any other tissue etc;

(t) “**Orphan**” means any child who has lost parents or one parent or his parents are not known and has no adequate source of income;

(u) “**Prescribed**” means prescribed by the Rules and Regulations made under this Act;

(v). **‘Probation officer’** means a probation officer under the Probation of Offenders Ordinance 1960 (XL V of 1960);

(w). **‘Separated child’** means any child who has been separated from a parent or parents;

(x) **“Suitable person”** means a person declared by the court suitable, in the best interest of the child, for entrustment with the custody of a child -in-need-of-care.

**3. An Act to override all other laws:** (1). The provisions of this Act shall override the provisions of any other law for the time being in force.

## **Chapter II**

### **ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION**

**4. Establishment of the Commission:-** (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 Commission for Protection of Children;

(2). The headquarter of the Commission shall be at Islamabad.

**5. Status of the Commission: -** (1). The Commission shall be a body corporate, having perpetual succession and a common seal;

(2) The Commission shall have administrative and financial autonomy and exercise its independent judgment in all matters.

**6. Composition of the Commission :-**( 1) The Commission shall consist of (a) Patron (b) Chairperson (c) a Vice-Chairperson and (d) Members (Private and Ex-officio).

**(2). Patron:** - The Minister in-charge for Ministry of Social Welfare and Special Education shall be Patron of the Commission;

**(3). Chairperson:** - The Secretary, Ministry of Social Welfare and Special Education shall be Chairperson of the Commission;

**(4). Vice-Chairperson:-** The Commission shall appoint a Vice -Chairperson from amongst the non-ex officio members of the Commission;

**(5). Secretary:-** The Commission shall elect one of its members as the Secretary of the Commission.

**7. Private Members:** (1) The Government shall nominate: -

a) One member from each Province, Islamabad Capital Territory, Federally Administered Tribal Areas and Federally Administered Northern Areas;

b) Two children representatives (below 18 years), comprising of one male and one female child;

c) One member from the minorities on rotation basis to ensure representation of all the recognized minorities.

**(2).** A person of well known integrity and commitment to the cause of rights of children shall be eligible for appointment as the member of the Commission.

**8. Ex-Officio Members:** The Government shall nominate representatives, not below the rank of a Joint Secretary, from Ministries of (i) Finance (ii) Education (iii) Health (iv) Foreign Affairs (v) Law (v i) Planning and Development (xii) Youth Affairs and (xii) Information, as ex officio members.

**9. Co-opted Member:** In performance of its functions, the Commission may co-opt any other person or representative, who shall sit in the meetings as observers, of any international or national organization or agency.

**10. Terms and conditions of Members: - (1).** The nominated members of the Commission shall hold office for a term of three years.

(2). A member, however, shall be eligible for appointment for two consecutive terms only;

(3). The members shall act on gratis basis and shall be entitled to travelling and daily allowance as prescribed by the Commission;

(4) A nominated member of the Commission may resign from the office by writing under his hands to the government;

(5) A vacancy in the membership of the Commission shall be filled in within seven days of resignation for the unexpired portion of the term of the member vacating his office.

**11. Removal of the Vice Chairperson or a Member: - (1)** The Government may, on the advice of the Commission, remove a person from the office of Vice-Chairperson or Member if that person:

- a) has become an un-discharged insolvent; or
- b) is convicted and sentenced to imprisonment; or
- c) has become of unsound mind and has been so declared by a competent court; and
- e) has abused the position as Vice-chairperson, or a Member as the case may be to render its continuance in office detrimental to public interest provided that no person shall be removed under this clause until he has been given a reasonable opportunity of being heard;

- 12. Functions of the Commission:** - (1), The Commission shall: -
- a) act as a focal point for effective supervision and coordination of child rights matters at national and international level and co-ordinate with the Provincial Governments in respect of activities for the development, protection, survival and participation of children etc.;
  - b) develop, in consultation with all the stakeholders, a National Policy and Plan of Action for the promotion and protection of the rights of children;
  - c) review and propose amendments in the laws, propose new laws, wherever necessary, and to bring laws in conformity with the relevant international instruments to serve the best interests of the children;
  - d) monitor the implementation of child related national laws in the light of the best practices and suggest measures for their effective implementation;
  - e) provide technical and other support in the interest of the children to the Provincial or Federal Governments or voluntary organizations;
  - f) set standards and monitor their implementation for the best care and protection of children, in the light of national, regional and international obligatory parameters;
  - g) monitor the violation of child rights, enquire into or refer individual complaints, for their redressal to the appropriate authorities;
  - h) develop integrated initiatives and coordinated plans in the areas of child rights and set up child protection management information system;
  - i) mobilize financial resources, through national and international agencies, for the programmes relating to rights of children;
  - j) ensure that recommendations made by the UN Committee on the Rights of the Child Committee are implemented;

k) any other functions, which may be assigned to it by the Federal Government.

**13. Meetings of the Commission:** - (1) Meetings of the Commission shall be held at a place and on such times as the Commission may direct and shall be presided over by the Chairperson or its nominee;

(2) Half of the total members of the Commission shall constitute quorum of the meeting thereof;

(3) All decisions of Commissions shall be taken by majority of the members present and voting and in case of equal division of votes, the Chairperson shall have the casting vote;

(4) All orders and decisions of the Commission shall be authenticated by the signatures of Chairperson or any other member authorized by him on his behalf.

**14. Investigative powers of the Commission:** - (1)The Commission shall have the powers to investigate or order any agency to investigate any matter having bearing on the interests of children;

(2) The Commission, subject to exceptions under the law, may summon any person whose attendance is considered necessary for the purpose of any business before it and the person so summoned shall be bound to appear at the time and place mentioned in the summons.

**15. Assistance to the Commission:-** (1) All the executive authorities and citizens shall act in aid and assistance of the Commission in the performance of its functions.

(2) Recommendations made by the Commission shall be binding on the concerned executive authorities and citizens.



**16. Appointment of Advisors etc.** The Commission may appoint advisors, consultants and experts having specialization and expertise in the child related matters for provision of expert assistance

**17. Secretariat of the Commission:** - There shall be a Secretariat of the Commission, headed by the Chairperson, which will be assisted by regular qualified and highly skilled staff in the areas of child survival, protection, development and participation.

**18. Reports:** -(1) The Commission shall prepare annual report of its activities and such other periodical or special reports as it may consider necessary;

(2) Reports of the Commission shall be submitted to the President of the Islamic Republic of Pakistan and laid before the Majlis -e-Shoora (Parliament) through the Patron of the Commission.

**19. Chairperson, Vice-Chairperson, Members and other staff of the Commission to be the public servants:** - The Chairperson, Vice-Chairperson, members, officers and other employees of the Commission shall be deemed to be public servants within the meanings of section 21 of the Pakistan Penal Code (Act XLV of 1860).

**20. Delegation of Powers:** - (1) The Commission may, subject to such conditions as it may specify, delegate all or any of its powers under this Act to Chairperson, Vice Chairperson or any of its members or officers or a Board.

(2) **Powers to make Rules:** - The Commission may, with the approval of the Government, by notification in the official Gazette, make rules and regulations for carrying out the purposes of this Act.

**21. Rights and Liabilities of the Commission:** All rights, liabilities and obligations, of the existing Commission constituted under the Federal Government Resolution No. 1-1/80 (NCCWD) dated the 11<sup>th</sup> August 1981 and Resolution No. F.1-1/86 (NCCWD) dated the 13<sup>th</sup> June 1991 whether arising out of any contract or otherwise, shall be deemed to have been acquired or incurred by the Commission on commencement of this Act, provided these are consistent with the objectives of the Commission .

## **Chapter 111**

### **CHILD PROTECTION FUND**

**22. Fund for the Protection of Children:** - (1) The Government shall establish a Fund, to be known as the Child Protection Fund;

(2). The Fund shall derive resources from the following, namely:

- a) allocations, grants, loans etc made by the government, Provincial Government or Local Bodies; or
- b) grants or donations received from foreign governments, national and international agencies, non-governmental organizations, private sector organizations or individuals.

(3) The Fund shall be administered by the Commission, which shall make such allocations for specific activities, as it deems appropriate.

(4) The Fund shall be utilized for –

- a) Performing functions of the Commission;
- b) Promotion and protection of the rights and welfare of children, and
- (c) such other activities, which may fall within the purview of the Commission

(5). The Fund may be utilized for payment of compensation , fines or damages on behalf of a child in accordance with the orders of the Court.

(6) The Commission may allocate any amount from this fund to agencies established by the Provincial Governments for protection of the children;

(7) In addition to allocating amount to the Fund, the Government shall make annual budgetary allocations for establishment charges of the Commission.

**23. Financial Control:** -(1) The Chairperson shall be the Principle Accounts Officer of the Commission in respect of expenditures incurred from the Fund and shall, for this purpose, exercise all the financial and administrative powers delegated by the Commission;

(2) The accounts shall be maintained in accordance with the standards as prescribed by the Controller General Accounts, Government of Pakistan;

(3) The Commission shall, in consultation with Auditor General of Pakistan, appoint a Chartered Accountant as auditor, who shall carry out the audit of the accounts of the Commission on annual basis;

(4) The auditor referred to in sub-section (3) shall be appointed on such remuneration and on such terms and conditions as the Commission may in consultation with Government and the Auditor General of Pakistan, determine.

## **Chapter IV**

### **ESTABLISHMENT CHILD PROTECTION BUREAUS**

**24. Establishment of Child Protection Bureaus:** - (1) Every Provincial Government shall, by notification in the official Gazette, establish the Child Protection Bureau, to exercise such powers and perform such functions as described in section----or may be delegated to it by the Provincial Government;.

(2) The Commission shall offer technical financial and other forms of assistance to the provincial government in order to safeguard the rights of children.

**25. Chairperson** (1) The Provincial Bureau shall be headed by a Chairman who shall be appointed by the Provincial Government for a period of three years on such terms and conditions as it may determine.

(2) The Chairman shall exercise such powers and perform such functions as may be determined by the Bureau.

(3) The Chairman may, during the term of his office, resign by tendering his resignation to the Commission.

(4) The provincial government may, remove the Chairman during the term of his office, in the manner as may be prescribed in the rules.

**26. Board of Governors:** - (1) The following members shall constitute the Board of Governors of a Provincial Bureau:

**A. Official Members:**

(i) Chief Minister of the Province	Patron in Chief
(ii) Provincial Minister or Advisor in-charge of child affairs	Chairperson
(iii) Secretary, Home Department	Member
(iv) Secretary, Social Welfare Department	Member
(v) Secretary, Local Government Department	Member
(vi) Secretary, Education Department	Member
(vii) Secretary, Information, Culture and Youth Affairs Department	Member
(viii) Secretary, Health Department	Member

**B. Non-Official Members:**

- (i) seven members to be appointed by the government provided that at least three of whom shall be members of the Provincial assembly, two members from treasury benches and one member from the opposition; provided further that the member from the opposition shall be nominated by the Leader of the Opposition; and
- (ii) Director General of the Bureau

Member/Secretary

**27. Appointment and removal of a Member:** - (1) A Member, not being an ex-officio Member, shall hold office for a period of three years from the date of his appointment.

(2) The provincial government may remove any such Member during the tenure of his office in the manner as may be prescribed under the rules.

(3) A Member, not being an ex-officio Member, may resign from his office by tendering his resignation to the Chairman of the Bureau.

**28. Casual vacancy:-** Any vacancy caused due to the death, resignation or removal of a Member other than an ex-officio Member, shall be filled in by the provincial government through appointment of another person as Member for the unexpired term of his predecessor.

## **Chapter V**

### **POWERS AND FUNCTIONS OF THE CHILD**

#### **PROTECTION BUREAUS**

**29. Powers and functions of the Bureau:** - Subject to the provisions of this Act and in accordance with the procedure laid down by the provincial government, the Bureau shall, exercise such powers and take such measures

as may be necessary for carrying out the aims and objectives of this Act, which include –

- a) all other acts as a focal point for effective supervision and coordination of child rights matters at provincial and local level and coordinate in respect of activities for the development, protection, survival and participation etc. of children;
- b) developing in consultation with all the stakeholders, a Provincial Policy and Plan of Action for the promotion and protection of the rights etc. of children;
- c) reviewing and proposing new laws and amendments in the laws, wherever necessary, to bring laws in conformity with the relevant international instruments to serve the best interests of the children;
- d) monitoring the implementation of laws related to child rights and suggest measures for their effective implementation;
- e) providing technical and other support in the interest of the children to the provincial departments, local governments or voluntary organizations;
- f) monitoring the violation of child rights, enquire into or refer individual complaints for their re-dressal to the appropriate authorities;
- g) mobilizing financial resources, through national and international agencies, for the programmes relating to rights of children;
- h) Provide protective measures, inter alia, food and shelter, education and training etc to the children-in-need of care;,
- i) establishing manage and recognize Child Protection Centres in accordance with the criteria laid down by the Board;
- j) monitoring and supervising prosecution of persons accused of offences created under this Act and to represent the juvenile offenders in the courts;

- k) ensure that recommendations made by the UN Committee on the Rights of the Child Committee are implemented; and;
- l) doing such acts as are ancillary and incidental to the above functions

**30. Meetings :-**(1). Six members including at least three ex -officio members shall constitute quorum for a meeting of the Board.

- (2) All decision shall be taken by the Board by simple majority and the Chairperson shall have the casting vote in case of equality of votes.

**31. Establishment of the Bureau at the district level -** (1) The Bureau may establish District Bureau at the district level in consultation with the Local Government.

- (2) The District bureau shall consist of such members as may be appointed by the Bureau in consultation with the local government.

**32. Annual progress report: -** (1) The Chairperson shall prepare an annual progress report at end of each financial year.

- (2) This report shall be submitted in a meeting of the Bureau, whenever such meeting takes place after the preparation of the report.

**33. Powers to Delegate:-** The Bureau may, subject to such conditions as it may specify, delegate all or any of its power under this Act to Chairperson, Vice Chairperson or any of its members or officers or a local government.

## **Chapter VI**

### **PROVINCIAL FUND FOR THE PROTECTION OF CHILDREN**

#### **34. Provincial Fund for the Protection of Children: -**

(1) There shall be established by the Provincial Government, a Fund, to be known as the Provincial Child Protection Fund. The Fund shall be derived from the following sources, namely;

- a) sums paid by the Government or
- b) grants, if any, made by the government, or local bodies; or
- c) loan advanced by the government, or local bodies; and
- d) donations and other non-obligatory funds received from foreign governments, national and international agencies, non-governmental organizations, private sector organizations or individuals .

(2) The Fund shall be administered by the Bureau, which shall make such allocation for specific activities, as it deems appropriate;

(3) .The Fund shall be utilized for –

- a) performing functions of the Bureau;
- b) promotion and protection of the rights and welfare of children, and
- (c) such other activities, which may fall within the purview of the Bureau;

(4). Funds may be utilized for payment of compensation in respect of fines or damages on behalf of a child in accordance with the orders of the Court;

(5). In addition to allocating amount to the Fund, the government shall make annual budgetary allocations for establishment charges of the Bureau.



**35. Financial Control: -**

- (1) The Bureau shall declare the secretary of the relevant department to be the Principle Accounts Officer of the Bureau.
- (2) The accounts shall be maintained in accordance with the standards as prescribed by the Controller General Accounts, Government of Pakistan.
- (3) The Bureau shall, in consultation with Auditor General of Pakistan, appoint a Chartered Accountant as auditor, who shall carry out the audit of the accounts of the Bureau, annually.
- (4) The auditor referred to in sub-section (3) shall be appointed on such remuneration and on such terms and conditions as the Bureau may in consultation with Government and the Auditor General of Pakistan, determine.

## **Chapter VII**

### **CHILD PROTECTION OFFICERS**

**36. Appointment of Child Protection Officers: -** (1) The provincial government may, upon recommendation of the Bureau, appoint Child Protection Officers to carry out the purpose of this Act.

- (2) The terms and conditions of appointment and service of Child Protection Officers shall be prescribed by the Bureau in accordance with the criteria laid down by the provincial government.

**37. Functions and Powers of Child Protection Officer: -** (1) A Child Protection Officer shall:

- a) Provide or arrange protective measures to the child -in-need of care;
- b) to assess and propose corrective measures to be submitted to the court or any other relevant authority;

- c) be responsible for monitoring the status of a child in respect of whom an order of custody and community service has been made by the Court;
- d) inquire into the credentials and suitability of a person who is interested in taking the custody of a child and shall forward his report to the Court with a view to facilitating an informed determination in the best interest of the child-in-need-of-care;
- e) undertake regular monitoring of Child Protection Centres in order to ensure that the children lodged therein are treated in accordance with the required standards. He shall submit his report to the Bureau, provincial government and the court concerned; and
- f) may seek the assistance of police or any other government agency in the performance of his duties under the Act and the rules made thereunder and a Station House Officer, SDPO or DPO and his staff or staff of any other government agency shall be duty bound to provide appropriate assistance to the Child Protection Officer, whenever such assistance is sought.

## **CHAPTER VIII**

### **CHILD PROTECTION COURT**

- 38. Establishment and recognition of Child Protection Court:** - (1) The provincial government may, in consultation with the respective High Courts, establish one or more Courts under this Act for a designated area.
- (2) The High Court shall appoint presiding officer of the Court established for the purpose of this Act and lay down the qualifications, terms and conditions for the presiding officers.

(3) Until a Court is established for a designated area, the High Court may confer powers of the Court for a local area upon a Senior Civil Judge or a Family Court.

**39. Powers and functions of the Court:** - (1) The Court shall exercise powers conferred and functions assigned to it under the provisions of this Act and the rules and regulations prescribed there-under;

(2) The court may issue orders in respect of handing over the custody of a child-in-need-of-care either to his parents, guardian, foster parents, a suitable person or a Child Protection Centre as the case may be;

(3) The court shall, inform the child of the situation and obtain his views before making an order in respect of his custody and care;

(4) The court shall, before making an order in respect of custody and care of a child-in-need-of-care, consider continuity in his upbringing and take into consideration the ethnic, religious, cultural, linguistic background and all other relevant factors in the best interest of the child -in-need of care;

(5) While making the orders under this Chapter, the court shall prefer keeping the child in parental care, or extended family care, or non -kinship care than placement of a child at a Child Protection Centre.

(6) The court shall monitor the status of that child through reports submitted by the Child Protection Officers, any officer of the Child Protection Bureau or through requiring the appearance of a child-in-need-of-care and the person responsible for his custody and care before itself;

(7) The Court shall finally decide a case within 60 days from the date of production of a child before it. In the event of the expiry of 60 days period before the final decision of the court, the court shall communicate, in writing, to the concerned District Judge, the reasons, if any, of the delay .

**40. Rescue of Children in need of Care:** - (1) A Child Protection Officer may take custody of a child-in-need-of-care and shall forthwith produce him before the Court;

(2) Where a child-in-need-of-care is in the custody of his parents or lawful guardians, the officer shall, instead of taking him into custody, make a report about the status of that child in the first instance to the Court for appropriate directions;

Provided that where a Child Protection Officer has received credible information about a child-in-need-of-care who is a victim of an offence alleged to have been committed either directly or indirectly by his parent or lawful guardian, the Child Protection Officer, in consultation with the Executive District Officer ( Community Development) of the district, shall take the child in his custody and forthwith produce him before the court for further orders.

**41. Temporary Custody:** - Whenever a child-in-need-of-care is taken into custody, he shall immediately, but not later than twenty four hours, be produced before the Court, and if immediate production of the child before the Court is not possible due to any reason, shall immediately be taken to the nearest Child Protection Centre for temporary custody till his production before the Court at the earliest possible time.

**42. Court may direct production of child by parent or lawful guardian:** -

(1). The Court, to which a report is made that a child is a child -in-need-of-care, may call upon such parent or lawful guardian to produce the child before it for examination.

(2). The court may, keeping in view the best interest of the child, after examining the condition of the child, either allow the child to remain in the

custody of his parents or lawful guardian or may ask the parent or the lawful guardian to show cause as to why the said child should not, during the pendency of the proceedings, be admitted in a Child Protection Centre.

(3) If it appears to the Court that it is not in the interest of the child to return its custody to the parent or lawful guardian or that the child is likely to be removed from the jurisdiction of the Court, it may order its immediate custody to a suitable person or admission to a Child Protection Centre.

**43. Examination of person producing or reporting:** - (1) The Court, before which a child-in-need-of-care is brought, shall examine on oath the person who has brought the child or made the report, record the substance of such examination and may, if the best interest of the child demands, order the admission of the child to a Child Protection Centre pending any further inquiry;

(2) On the date fixed for the production of the child or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record substance of the evidence as may be adduced, and consider any cause as may be shown, and may pass an order, directing the child to be admitted to a Child Protection Centre or given in the care of a suitable person or otherwise as the case may be, if deemed expedient and essential in the best interest and welfare of the child.

**44. Entrustment of the custody of a Child-in need of Care:** - (1) If the Court is satisfied that the child brought before it, is a child -in-need-of-care, the Court may order that he be admitted to a Child Protection Centre or his custody be entrusted to a suitable person, who is able and willing to look after the child, until such child attains the age of eighteen years or in exceptional cases for a shorter period.

(2) The Court when making such order may require such person to execute a bond, with or without sureties, undertaking to be responsible for the care,

education and well-being of the child and for the observance of such other conditions as the Court may impose to ensure welfare of the child.

(3) If at anytime it appears to the Court that there has been a breach of any condition contained in the bond, it may, after making such inquiry as it deems fit, order the child to be admitted into a Child Protection Centre or entrusted to the custody of any other suitable person and may forfeit the bond.

**45. Sending of child having place of residence outside jurisdiction: - (1).**

In the case of a child-in-need-of-care whose ordinary place of residence is not within the jurisdiction of the Court, the Court may direct that the child be produced before a Court having territorial jurisdiction over the place of residence of the child or to deal with his custody within a period of 24 hours excluding the time required for journey to such court;

(2). Where a child-in-need of care does not have a known place of residence, then the court taking the cognizance of the case may decide the matter keeping in view the best interest of the child-in-need of care.

**46. Warrant to search for a child-in-need-of-care: - (1)** If it appears to Court that there are reasons to believe that a child is in urgent need of care, the Court may issue warrant for the production of such child before it.

(2) The officer executing the warrant may be accompanied, if the Court so directs, by the informant, a duly Qualified Medical Practitioner or the police;

(3) If any such child is brought before the Court and the Court is satisfied that the child is-in-need-of-care, it may deal with his custody in accordance with the provisions of this Act.

**47. False, frivolous or vexatious information:** -(1) If information in respect of a child-in-need-of-care has been laid before a Court by any person, and the Court after such inquiry as it deems necessary, is of the opinion that such information is false, frivolous or vexatious, the Court may, for reasons to be recorded in writing, direct that compensation, not exceeding fifty thousand rupees, be paid by such informer to the aggrieved person against whom the information was laid ;

(2) Before making any order for payment of compensation, the Court shall call upon the informer to show cause why he should not pay compensation;

(3) The Court may, by its order directing payment of compensation, further order that in case of default, the person held liable for compensation shall suffer simple imprisonment for a term not exceeding one year;

(4) When an order for payment of compensation is made under sub - section (1) the compensation shall not be paid before the expiry of one month in order to allow sufficient time to appeal against such order.

**48. Transfer of cases in the interest of Justice: (1).** Whenever it appears to the court while dealing with a matter under this Act that:

(a) a fair and impartial trial cannot be held by it or holding trial will cause inconvenience to the parties or witnesses, or

(b) trial by some other court or at some other place is expedient for the ends of justice and is in the best interest of child,

the Court shall report the matter to the concerned High Court or the District Judge, as the case may be, for transfer of the case to another Court after hearing the parties.

## **CHAPTER IX**

### **CHILD PROTECTION CENTRES**

**49. Constitution and types of Child Protection Centres :** (1)The provincial government shall establish one or more Child Protection Centres in a designated area;

(2) The provincial government may accord recognition to an existing or new institutions established by public authorities or voluntary organizations after declaring the same as Child Protection Centre ;

(3). A Child Protection Centre may provide residential, educational, protective, rehabilitary facilities for children-in-need-of-care.

**50. Period of custody:** - A child-in-need-of-care who has been ordered to be admitted to a Child Protection Centre may be kept in custody for the period as specified by the court or till he attains the age of eighteen years whichever is earlier.

**51. Contribution of parents:** - (1) Where an order has been made for the admission of a child into a Child Protection Centre or given into the custody of suitable person, the Court may direct parent s, to pay maintenance of the child at such rate as may be determined by the Court ;

(2) Where an order has been made for the payment of compensation to a person who is the victim of physical or monetary damages due to the acts of a child, the court may, upon being satisfied that the parent or lawful guardian of the child has adequate financial resources to pay compensation,



shall order such parent or lawful guardian to make full or part payment to compensate the loss of the victim, and in case of default besides the recovery of the specified compensation through collector concerned as land revenue arrears, such parent or guardian shall also be liable for disobedience of the lawful orders of court under Section 188 Pakistan Penal Code 1860.

**52. Transfers to institutions in other provinces: -**

- (1) A child-in-need-of-care shall normally be kept in an institution that is at or nearest to his place of domicile;
- (2) The High Court may direct a child-in-need-of-care to be transferred from any Child Protection Centre in the province to any institution of like nature in any other province in respect of which the Government of that Province has made similar provisions provided that no child shall be so transferred without the consent of the government of the other province.

## **Chapter X**

### **RESTRAINT ON CHILD MARRIAGE**

**53. Punishment for marrying a child: (1).** Whoever contracts a marriage with a female child under eighteen years of age, shall be punishable with simple imprisonment which may extend to two years, or with fine which may extend to one hundred thousand rupees or both.

**54. Punishment for solemnizing a child marriage :- (1).** Whoever performs conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to two years or with fine which may extend to one hundred thousand rupees or both.

**55. Punishment for parents or guardian in a child marriage :- (1)** Whoever having a charge of a minor child, either in his capacity as a parent, guardian or otherwise in any other capacity, lawful or unlawful, contracts a

marriage of the child, or does any act to promote such marriage or permit it to be solemnized, shall be punishable with simple imprisonment which may extend to two years or with a fine to the extent of one hundred thousand rupees or both Provided that no woman shall be punished with imprisonment.

(2) For the purpose of this section, it shall be presumed, unless contrary is proved, that a person having charge of such minor child has permitted child marriage.

**56. Mode of taking cognizance of offence:** - (1). No court shall take cognizance of any offence under this chapter except on a written complaint made by any aggrieved person, and such cognizance shall in no case be taken after the expiry of six months from the date on which the offence is alleged to have been committed.

**57. Power to issue injunction prohibiting marriage: (1).** Notwithstanding any thing to the contrary contained in any other law, the court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act is going to be arranged or is about to be solemnized, issue an injunction prohibiting such marriage;

(2) Whoever , knowing that an injunction has been issued against him under sub-section (1) of this section, disobeys such injunction, shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to fifty thousands, or with both Provided that no women shall be punished with imprisonment.

## Chapter XI

### OFFENCES AND PENALTIES

**58. Abolishment of Corporal Punishment:-** (1) Corporal punishment means intentional use of physical force intended to cause a high degree of pain or discomfort for discipline, correction and control, changing behaviour or in the belief of educating/bringing up the child, that either results in or has a high likelihood of resulting in injury, psychological harm, mal-development or deprivation.

(2). Corporal punishment stands abolished in all its kinds and manifestations and its practice in any form is prohibited provided that when the offender is a parent of the child, decisions on prosecution and sentencing shall have regard to the best interests of the child.

**59. Punishment for Corporal Punishment:** Whosoever causes or permits to cause corporal punishment, through omission or commission, in any form, under any circumstances or for any purpose, to a child, shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to fifty thousand rupees, or with both.

**60. Cruelty to a Child:** - Whosoever having actual control over a child, wilfully assaults, ill-treats, neglects, abandons, exposes him, causes or procures him to be assaulted, ill-treated, neglected, abandoned, exposed to danger or negligently fails to provide adequate food, clothes, medical care, educational or other necessitates of life, shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees, or with both.

**61. Harmful vocation for a child:** - Whosoever, employs any child or cause him to be employed for the purpose of begging or engages him in any

activity or vocation for any purpose whatsoever, whether paid or unpaid, which is harmful for the physical, mental, or moral well-being of a child, shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to one hundred thousand rupees.

**62. Administering harmful substances to a child:** - Whosoever , administers or causes to be administered to a child, any harmful substances, including intoxicating substances, narcotic drug and psychotropic substances etc, except upon the prescription of a duly qualified medical practitioner, shall be punished with imprisonment for a term which may extend to five years and a fine which may extend to fifty thousand rupees.

**63. Permitting the entry of a child to places where substances harmful to a child are consumed or sold:** - Whosoever:

- (i) takes a child to a place where a harmful substance including intoxicating liquor, narcotic and psychotropic substances etc is served or consumed; or
- (ii) being the proprietor or in charge of such place, permits a child to enter such place for the consumption of such substances mentioned in para (i); or
- (iii) causes a child to go to such place or engages a child in the sale of harmful substances shall be punished with imprisonment which may extend to five years and with fine which may extend to one hundred thousand rupees.

**64. Inciting a child to bet or borrow:** - Whosoever, by words, spoken or written, or by signs or otherwise allows, incites, attempts to incite, allow, or deceits a child to engage in any unlawful betting or wagering or to enter into or take any share or interest in any betting or wagering transaction, shall be

punished with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees or with both.

**65. Exposure to seduction:** - Whosoever exposes a child to the risk of seduction, sodomy, sex or other immoral and harmful practices, shall be punished with imprisonment of either description for a term which may extend to ten years or with fine which may extend to one hundred thousand rupees or with both.

**66. Fraud or deceit on a child:-** Whosoever, by words, spoken or written, or by signs or otherwise, incites, attempts to incite, deceits or allows a child to engage in any activity which is harmful for the physical, mental, emotional, economic and social well being of a child shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one hundred thousand rupees or both.

**67. Violence against a Child:** - Whosoever, commits an act which cause or intend to cause, harm, pain, suffering or humiliation to a child, destroys, defiles or diminishes the value of any property belonging to him, is said to have committed an offence of violence.

**68. Punishment for Violence:** Whosoever, commits violence against a child shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to one hundred thousand rupees provided that if the offence is committed by a group of more than two persons, the term of imprisonment which may extend to ten years each with a fine which may extend to one hundred thousand rupees each .

**69. Sexual Abuse:** Any act of actual or threatened physical intrusion of sexual nature when performed by a person either independently or in conjunction with other acts, on the person of a child, whether by the use of threats, coercion, inducement, fraud, deceit or promise, with or without consent shall constitute an offence.

**70. Punishment for Sexual Abuse:** Whosoever, commits sexual nature abuse shall be punished with imprisonment for a term which may extend to life imprisonment and with fine which shall not be less than one hundred thousand rupees.

**71. Child Pornography: (1)** Whosoever, (a) takes, permits to be taken, either through deceit or consent, any indecent photograph, sketch of a child or any other form of representation etc wherein a child is exhibited to be engaged in real or simulated sexual activity or sexual organs of his body are exposed for sexual pleasure; or

(b) makes, causes to be made a film wherein a child is exhibited to be engaged in real or simulated sexual activity or sexual organs of his body are exposed for sexual pleasure; or

(c) distribute, show or transmit such indecent photographs, sketches, films or representations to others; or

(d). have in his possession such indecent photographs, sketches, film or representations,

is said to have committed the offence of child pornography.

Provided that preparation, possession or distribution of any data stored on a computer disk or any other modern gadget, shall also be an offence.

**72. Punishment for Child Pornography** Whosoever, commits the offence of child pornography shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to five hundred thousand rupees.

**73. Harmful practices :** Whosoever, coerces or induces any child to indulge in or to undertake any activity or vocation for the purposes of complying with a tradition or a custom, which is or might be dangerous, harmful, hazardous or otherwise improper for any child, shall be guilty of the offence of harmful practice.

**74. Punishment for harmful and abusive practices:** Whosoever commits the offence of harmful practice shall be punished with imprisonment for a term which may extend to three years or fine which may extend to one hundred thousand rupees or both.

**75. Dealing in organs of a child:-** (1) Whosoever illegally sells, purchases, delivers, transports, imports, exports, keeps or deals in any manner whatsoever in organs of a child, directly or indirectly, with or without consideration, or aids or abets in the commission or omission of the above, shall be guilty of an offence.

(2) Notwithstanding anything contained in sub-section (1) an act of implantation or transplantation of organs or tissues from the body of a living child, if authorized by qualified medical experts and conducted under their supervision in accordance with the standards of medical profession in the best interest of the child, shall not constitute an offence.

**76. Punishment for dealing in organs of a child:-** Whosoever, commits the offence of dealing in organs of a child may be punished with sentence of death or imprisonment for life and shall also be liable to fine which may extend to one million rupees.

**77. Unauthorized custody:** - Whosoever takes a child-in- need of care, into his custody in contravention of the provisions of this Act, shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to fifty thousand rupees or with both.

**78. Punishment for attempting to commit an offence:** Whosoever attempts to commit an offence punishable under this Act or to cause such an offence to be committed, and shall be punished with the punishment provided for that offence.

## **Chapter XII**

### **SENTENCING OF CHILDREN**

**79. Sentencing in respect of a child above the age of twelve and below the age of fifteen :( 1)** A child above the age of twelve and below the age of fifteen, when convicted may be:

(i) Ordered to perform a community service, through probation officer, if the offender is above the age of fourteen, up to the half of the imprisonment prescribed for the offence; or

(ii) Fined provided that there shall be no imprisonment in default of the payment of the fine provided further, the juvenile court may combine sentences.

(2). The court may order that the fine may be paid from the Fund if it is satisfied that the child is destitute, without parental care and his parents or lawful guardians are incapable of making payment on his behalf.



**80. Sentencing in respect of a child above the age of fifteen and below the age of eighteen:-** A child above the age of fifteen and below the age of eighteen when convicted shall be treated in accordance with the provisions of Juvenile Justice System Ordinance 2000 provided that the court may order the community service up to the imprisonment prescribed for the offence.

### **CHAPTER XIII**

#### **MISCELLANEOUS**

**81. Application of other Laws:** If an offence punishable under this Act is also an offence in any other law for the time being in force, nothing in that law shall prevent the offender from being punished under this Act. Provided that if the corresponding punishment provided for an offence is greater in degree than the punishment provided for under this Act, the offender shall be liable to punishment greater in degree provided for the offence committed by him.

**82. Officers to be public servants:** - The officers appointed or authorized under this Act shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code 1860 (XLV of 1860).

**83. Immunity:** - No suit, prosecution or other legal proceeding shall be instituted or entertained against any person, acting or purporting to act under this Act or the rules, in good faith and for the welfare of a child.

**84. Power to make rules:** - (1) The Federal Government and the Provincial may, by notification, make rules and regulations for carrying out the purposes and functions of this Act.

**85. Repeal and Saving:** - (1) The Child Marriage Restraint Act 1929 (**ACT NO.XIX OF 1929**) is hereby repealed.

(2) Children Homes or similar institutions established and functioning under any law for the time being in force in Pakistan shall be deemed to be the Child Protection Centres established or recognized under this Act.