

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

WHEREAS it is expedient to enact the Child Protection System Act to promote child rights and protect child at risk in Islamabad Capital Territory (ICT).

AND WHEREAS Article 25 of the Constitution ensures that the State may make special provision for the protection of children.

AND WHEREAS Article 142(d) of the Constitution provide exclusive power to the parliament to legislate for Islamabad Capital Territory (ICT).

AND WHEREAS it is necessary to implement the rights of the child in accordance with the teachings of Islam, the Constitution of the Islamic Republic of Pakistan and the Convention on the Rights of the Child.

It is hereby enacted as follows:-

PART-I

PRELIMINARIES

1. Short title, extent and commencement. – (1) This Act may be called the Child Protection System Bill, 2014.

(2) It extends to the Islamabad Capital Territory (ICT).

(3) It shall come into force at once.

2. Definitions.—(1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) **“begging”** means- (i) soliciting or receiving alms in a public or private place; (ii) exposing or exhibiting any sore, wound, injury, deformity or disease with the object of obtaining or extorting alms; and (iii) having no visible or known means of subsistence and found wandering about with the ostensible object of soliciting or receiving alms;

(b) **“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;

(c) **“brothel”** means any house, part of a house, room or place in which a prostitute carries on prostitution or any place where facilities are available for prostitution;

(d) **“child”** for the purpose of this Act means every human being below the age of eighteen years;

(e) **“child at risk”** means a child in need of protection who;

(i) is at risk, including an orphan, child with disabilities, child of migrant workers, child working and or living on the street, child in conflict with the law and child living in extreme poverty;

(ii) is found begging; or

- (iii) is found without having any home or settled place of abode or without any ostensible means of subsistence; or
- (iv) has a parent or guardian who is unfit or incapacitated to exercise control over the child; or
- (iv) lives in a brothel or with a prostitute or frequently visits any place being used for the purpose of prostitution or is found to associate with any prostitute or any other person who leads an immoral or depraved life; or
- (v) is being or is likely to be abused or exploited for immoral or illegal purposes or gain; or
- (vi) is beyond the parental control; or
- (vii) is imprisoned with the mother or born in jail;
- (viii) has lost his parents or one of the parents and has no adequate source of income; or
- (ix) is victim of an offence punishable under this Act or any other law for the time being in force and his parent or guardian is convicted or accused for the commission of such offence; or
- (x) is left abandoned by his parent or parents as the case may be, which will include a child born out of wedlock and left abandoned by his parent;

(f) **“child pornography”** means taking, permits to be taken, with or without the consent of the child, any photograph, film, video, picture or representation, portrait, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of obscene or sexually explicit conduct, where:-

- (i) the production of such visual depiction involves the use of a minor engaging in obscene or sexually explicit conduct; or
- (ii) such visual depiction is a digital image, computer image, or Computer-generated image that is, or is indistinguishable from, that of a minor engaged in obscene or sexually explicit conduct; or
- (iii) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in obscene or sexually explicit conduct, preparation, possession or distribution of any data stored on a computer disk or any other modern gadget;

(g) **“Child Protection Institution”** means an institution or organization for the admission, care, protection and rehabilitation of children at risk, established or recognized under this Act or the rules made there under, which shall include a **“Kafalat Ghar”** or **“Children Home”** or **“Orphanage”** established by Government for the abandoned children;

(h) **“Child Protection Officer”** means a person appointed as Child Protection Officer under section 15 of this Act; (i) **“Child Protection Unit”** means a Child Protection Unit established for a local area under section 16 of this Act;

(j) **“child trafficking”** means knowingly purchasing, selling, harboring, transporting, providing, detaining or obtaining a child through coercion, kidnapping or abduction, or by giving or receiving any benefit for trafficking him into or out of Pakistan or with intention thereof, for the purpose of exploitative entertainment by any person and receiving or expecting to receive some benefit in lieu thereof;

(k) **“Code”** means the Code of Criminal Procedure, 1898 (Act V of 1898);

(l) **“Commission”** means the Child Protection and Welfare Commission established under section 5 of this Act;

(m) **Council** means Executive Council of the commission,

(n) **“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 or bringing up the child, that either results in or has a high likelihood of resulting in injury, psychological harm, mal-development or deprivation;

(o) **“fosterage”** means breast feeding and nurturing of an infant by a women (who is not the natural mother of that infant) according to Islamic tenants;

(p) **“Fund”** means the Children Protection and Welfare Fund established under section 12 of this Act;

(q) **“Government”** means the Federal Government;

(r) **“kafalat”** means adoption by payment to the Child Protection Institution where the child is under protection, for his living, maintenance and education expenses in that institution;

(s) **“member”** means a member of the Commission;

(t) **“narcotic drug”** means any article defined as narcotic drug in the Control of Narcotic Substance Act, 1997 (Act No. XXV of 1997);

(u) **“prescribed”** means prescribed by rules or regulations made under this Act;

(v) **“protection”** means care shelter maintenance, education and provision of parental/ family environment, this will also include an infant given in fosterage;

(w) **“rules and regulations”** means rules and regulations made under section 65 of this Act;

(x) **“section”** means a section of this Act;

(y) **“sexual abuse”** means employing, using, forcing, persuading, inducing, enticing, or coercing any child to engage in, or assisting any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or stimulation of such conduct either independently or in conjunction with other acts, with or without his consent; and

(z) **“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 at risk.

(2) Words and expressions used and defined under this Act, if defined under any other law for the time being in force shall be considered in addition to this section and not in derogation thereof and any words and expressions used in this Act but not defined shall have the same meaning respectively assigned to them in Code or the Juvenile Justice System Ordinance, 2000 (Ordinance No. XXII of 2000) or in any other relevant Federal Law.

3. Principle of Administration. – (1) The ICT Administration, shall respect and ensure the rights of children as set out in the Constitution of the Islamic Republic Pakistan and in the Schedule-I to this Act within their respective jurisdiction.

(2) The ICT Administration may amend the schedule by a notification in the Official Gazette.

4. An Act to override all other laws. – The provisions of this Act shall override the provisions of any other law for the time being in force.

PART-II

ESTABLISHMENT OF THE COMMISSION

5 . Establishment of the Commission. ---(1) the Government shall establish a Commission to be known for the Islamabad Capital Tertiary (ICT) and other areas in Federation, and the Commission Shall be known as the Child Protection Commission.

(2) The commission shall consist of:-

- (a) The Secretary Law Justice & Human Rights shall be the chairperson of the commission;
 - (b) (i) the government shall appoint a Vice Chairperson having experience of working on issues related to Child Rights for more than ten years, and is committed to the cause of child welfare and protection, (ii) the Vice Chairperson shall be the member/ Secretary General of the commission and shall work on full time on the prescribed terms and conditions (iii) the term of the office of the Vice Chairperson shall be for four years from the date on which he/she assume the charge of his/ her office. The term of the office of the Vice Chairperson may be extended only once for another four years;
 - (c) The government shall appoint eleven members one member each to represent rural and urban Islamabad, one member from minorities, one member from chamber of commerce and industries, one member from Islamabad Bar Association, one member from registered labour unions, one member representing the NGOs, one member representing INGOs, one member representing UN agencies working for children, one child member of outstanding performance from public sector education institution, one child member of outstanding performance from private sector education institutions. The term of the office of a member other than a child member shall be for four years, extendable once for another four years. The child member shall be selected once for two years term;
 - (d) Ten ex-officio members who shall be representatives of ministries of Interior, information, finance, cabinet, Education, Health local government; National Commission on Human Rights, National Commission on Status of Women and Both the elected members of National assembly;
- (3) the vice chairperson and members appointed under sub section (2) (b),(c) may resign from his or her office by tendering written resignation addressed to the chairperson, and on acceptance of such resignation such vacancy shall be filed within thirty days for un expired term of the member.

6. Removal of members and Vice Chairperson:- the Vice Chairperson and members appointed under sub-section (2) (c) may be remove from the office by the Chairperson if he or she as the case may be ; (a) after proper inquiry found guilty of misconduct; (b) is adjudged an insolvent; (c) is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority; and (d) has on convection of any offence involving moral turpitude been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his or her release.

7. Acting Vice Chairperson:- by reason of vacancy in the office of Vice Chairperson due to death, illness, resignation or otherwise, the chairperson shall appoint an acting Vice Chairperson from amongst adult members of the commissions appointed under sub-section(2)(c).

8. Terms and conditions applicable to members;- (1) The traveling and daily allowances and other allowances payable to and terms and conditions as applicable to members other than ex-officio members, shall be such as may be prescribed; (2) the salary and allowances applicable to Vice Chairperson, shall be such as prescribed by the government; (3) the executive and financial authority of the commission shall be vested in the Chairperson to be administered by the vice chairperson through good well and authentication of the office of the chairperson.

9. Secretaries of the Commission:- there shall be a secretariat of the commission headed by the Vice Chairperson with complement of officers and the support staff as may be prescribed.

FUNCTION AND POWERS OF THE COMMISSION

10 Function and powers of the commission:- (1) (a) the Commission shall examine the policy, programs and other measures taken by the government for the implementation of U.N. Convention on the Rights of the Child and other international, regional and national treaties signed and ratified by the government; (b) to devise strategy and set targets for the prevention, protection, rehabilitation and reintegration of children at risk; (d) to review all laws, rules and regulations

affecting the status and rights of children and propose new laws in this behalf, (e) to promote inter provincial and regional coordination for creating conducive environment, strengthening referral mechanism for smooth reunification and reintegration of street children with their families across the country; (f) Strengthening public private partnership for the welfare and protection of the children; (g) monitoring the implementation and provide guideline for developing strategy in support implementation of child related laws; (h) to examine progress report and recommend goal and targets for future planning and development; and (i) approval of agreements, funds and budget sanctions and utilization, sanction of staff and final approval of appointments, formation of special committees.

(2) Executive Council: - (a) there shall be an executive council which shall be principal administrative body of the commission responsible for preparing strategies, plans of actions for ensuring right welfare and protection of the children in Islamabad by executing all policies, decisions and guidelines recommended from time to time by the commission; (b) the Vice Chairman appointed under section 5. (2)(b)(i) shall be the chairperson of the executive council, (c) the Executive council shall consist of senior officers nominated by:- (i) Chief Commissioner Islamabad, (ii) Chairperson Capital Development Authority Islamabad, (iii) Directorate General of Education Islamabad (iv) Directorate General of Special Education Islamabad (v) Directorate of Social Welfare Islamabad, (vi) D.G. Health Islamabad, (vii) I. G. Police Islamabad, (viii) P.I.D (ix) one Union Council Chairperson nominated by the Government, (x) one nominee of unicef (xi) one nominee from INGOs and (xii) one nominee of Islamabad based NGOs, (xiii) the Child Protection Officer appointed under section 15 shall be the Secretary General of the executive council.

11. Meetings of the Commission and Executive Council:- (1) meeting of the commission (a) meeting of the commission shall be held twice in a calendar year however the chairperson may call additional meetings if and when required, (b) all meetings shall be chaired by the Chairperson, (c) the agenda of the meeting shall be circulated among members at least one week before the meeting. (d) the meeting of the commission shall be conducted in accordance with the procedure as may be prescribed, (e) all the decisions of the commission shall be authenticated by the chair person or any person authorized by the chairperson, (f) the quorum of the meeting shall not be less than one half of the total strength of the Commission.

(2) Meetings of the Executive Council (a) meeting of the Executive Council shall be held in each quarter of the year however the chairperson the Executive Council may call additional meetings if and when required, (b) all meetings shall be chaired by the Chairperson the Executive Council, (c) the quorum of the meeting shall not be less than one half of the total strength of the Executive Council,

PART III

CHILD'S PROTECTION AND WELFARE FUND

12. Child's Protection and Welfare Fund.- (1) The Government shall make annual budgetary allocations for establishment and functioning of the Commission.

(2) In addition to the annual budgetary allocations under sub-section (1) the government shall establish a fund to be known as Child's Protection and Welfare Fund for the promotion and protection of the rights of children in ICT.

(3) There shall be credited to the Fund such voluntary donations, contributions or subscriptions as may be made by the Government and, or any individual or national and international organization,

(4) The Fund, created under sub-section (2), shall be administered by the executive council, which shall make such allocations for specific activities, as it deems appropriate.

(5) The Fund shall be utilized for-

(a) Promotion and protection of the rights and welfare of children; and

(b) Such other activities, which may fall within the purview of the executive council.

(6) 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.

13. Audit of the Fund: - (1) The Fund shall be kept, operated, spent and audited in such manner as may be prescribed, (2) The executive council as well as each child protection institution shall make the annual audit report of the Fund available to general public as soon as such report is prepared.

14. Financial Control. - (1) The Chairperson of the commission shall be the Principal Accounting Officer of 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 executive council 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, (5) The accounts of the Fund shall also be audited by the Auditor General of Pakistan.

PART IV

CHILD PROTECTION OFFICERS AND CHILD PROTECTION UNIT

15. Appointment of the child protection officers:- (1) The commission may appoint child protection officers to carry out the purposes of this Act.

(2) The executive Council shall determine the eligibility for appointment, terms and conditions of service of the child protection officers.

(3) The child protection officer may seek police assistance in performance of his duties under the Act or the rules.

(4) A station house officer shall provide appropriate police assistance to the child protection officer, whenever such assistance is sought.

(5) Subject to the provisions of this Act and of any rules made there under, a Child Protection Officer may, within the local limits for which he is appointed, and in any other area with the permission of the Commission,- (a) inspect any Child Protection Institution or any other such establishment or building where shelter, training facilitation offered or purported to be offered to children at risk, run under governmental or non-governmental organization, the means employed for livelihood of such children, their living conditions and all relevant record etc; (b) enter and search, with police assistance, if any, as he/she deems necessary, any building, premises or place, in which he has reason to believe that an offence under this Act or any rules made there under has been or is being committed or may continue to be committed; (c) seize such materials and articles which he/she has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any rules made there under; (d) call any person to be present as witness in the course of search in connection with any other matter under this Act where the presence of witnesses is necessary; and (e) exercise such other powers as the Commission may delegate to it, for carrying out the purposes of this Act or any rules made there under: Provided that the powers under clause (a) of this sub-section shall be exercisable only by a Child Protection Officer specifically authorized in this behalf, by an order in writing, by Government, subject to such conditions as may be specified in such order.

(3) The provisions of the Code shall apply to searches and seizures made under this Act.

(4) The Child Protection Officer may, with prior authorization of Government, in writing through Gazette notification, register First Information Report or Complaint against any person or persons who have committed any offence under this Act.

