

A
Bill
to restrain the solemnization of child marriage

Preamble.

WHEREAS, it is expedient to restrain the solemnization of child marriages and matters incidental or ancillary thereto.

It is hereby enacted as follows:-

Short title and Commencement.

1. (1) This Act may be called the “**Balochistan Child Marriages Restraint Act, 2023**”.

(2) It shall extend to the whole of Balochistan..

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject text,

Definition.

(a) “**Act**” means the Balochistan Child Marriages Restraint Act, 2023;

(b) “**Adult**” means a person of either sex who is eighteen or above eighteen years of age;

(c) “**Child**” means a person of either sex who is under eighteen years of age;

Explanation: For the application this Act the appearance of the person or the start of puberty shall be no ground to consider any person adult or minor.

(d) “**Child marriage**” means a marriage to which both or either of the contracting parties is a child;

(e) “**Court**” means court exercising the powers of First Class Judicial Magistrate;

(f) “**Contracting party**” means either of the parties whose marriage is, or is about to be solemnized;

(g) “**Complainant**” any person or organization; and

(h) “**Government**” means the Government of Balochistan.

Punishment for male adult marrying a child.

3. (1) Whoever, being a male above eighteen years of age, contracts a child marriage shall be punished with rigorous imprisonment which may extend up to three years but shall not be less than two years and with fine which may extend up to two hundred thousand rupees but shall not be less than one hundred thousand rupees

Notwithstanding anything contained in section 25 of the Balochistan General Clauses Act, 1956, or section 64 of the Pakistan Penal Code, a Court sentencing an offender shall be competent to direct that,

in default of payment of the fine imposed, he shall under go a term of three months of imprisonment

Punishment for solemnizing a child marriage.

4. (1) Whoever performs, conducts, directs or promotes or abets any child marriage shall be punishable with rigorous imprisonment which may extend to three years but not less than two years and shall be liable to fine which may extend up to two hundred thousand rupees but not less than one hundred thousand rupees

Notwithstanding anything contained in section 25 of the Balochistan General Clauses Act, 1956, or section 64 of the Pakistan Penal Code, a Court sentencing an offender shall be competent to direct that, in default of payment of the fine imposed, he shall under go a term of three months of imprisonment

Permission for the early child marriage in specific circumstances

5. (1) Where any guardian of a child whose age is below 18 and more than 16 wants to solemnize marriage of a child under specific circumstances then the guardian of the child may file an application before the Court seeking permission of early marriage. The application shall contain the grounds upon which the guardian wants to solemnize the marriage of a child.

(2) The court may after hearing the guardians well as recording the statement of the child accept or reject the application.

(3) Notwithstanding the penalties mentioned in this law which may be for contravention of any provision of this Act to any person, the marriage of a child if contracted should remain valid subject to express consent of the girl before the court

(4) The Court shall decide the matter within one month from the date of filing of an application in the Court.

Requirement of computerized National identity card for registration of marriage

6. (1) The Nikah Khawan, Nikah Registrar and Secretary of Union Council shall be bound to take a copy of Computerized Nation Identity Card/ proof of registration issued by NADRA of both parties to the marriage at the time of solemnization and registration of Nikah. Any omission or negligence on the part of Nikah Khawan, Nikah Registrar and Secretary of Union Council shall amount to criminal offence under this Act and shall be punishable with rigorous imprisonment which may extend up to one year and shall also be liable to fine which may extend up to one hundred thousand rupees. Exception granted only in case of court permission as mentioned in section 5.

Cognizance of offence and trial.

7. (1) No court other than the Judicial Magistrate of first class can take cognizance of a complaint made by a complainant.

Marriage of a Child Shall be void ab initio

8. (1) Marriage of child shall be void ab initio if-

(a) Where a child is taken or enticed out of the keeping of the lawful guardian; or

(b) Where a child is by force compelled, or by any deceitful means induced to go from any place; or

(c) Where a child is sold for the purpose of marriage; and made to go through a form of marriage or if the child is married after which the minor is sold or trafficked or used for immoral purposes, such a marriage shall be null and void ab initio.

(d) If during such marriage a child is born shall be considered legitimate and his/her maintenance shall be responsibility of the father.

Explanation: The persons involved in such activities shall also be punished as provided in Chapter XVI-A of Pakistan Penal Code of 1860 (Act No. XLV of 1860).

Offenses to be cognizable, non-bailable and non-compoundable.

9. (1) Notwithstanding anything contained in the Code of Criminal Procedure, (Act of V1898), an offence punishable under this Act shall be cognizable, non-bailable and non-compoundable.

Act to override all other Law.

10. (1) The Provisions of this Act shall have overriding effect notwithstanding anything contained in any other law for the time being in force.

Appeals.

11. (1) Any person aggrieved by any judgment, sentence or order passed under this Act, may within thirty days of such judgment, sentence or final order prefer an appeal to the Court of District and Session Judge.

Power of Government to make Rules

12. (1) The Government shall, by notification in the Official Gazette, make rules for carrying out the provision of this Act within six months of passing of this law.

Application of the Code of Criminal Procedure Code 1898, Removal of difficulties

13. (1) The Code of Criminal Procedure 1898 shall be fully applicable in the matters of trials, bails, sentences, appeals etc.

14. (1) If any difficulty arises in giving effect to any of the provisions / section of this Act the Government may, by the Notification in the official Gazette make such provisions as it may think fit for removing such difficulty.

Repeal and Savings

15. (1) The Child Marriage Restraint Act, 1929 (Act No. XIX of 1929) is hereby repealed in its application to the extent of Province of Balochistan.

(2) Notwithstanding such repeal, all cases and other proceedings pending or continued under the said Act at the commencement of this Act shall be continued and disposed of in accordance with provisions of the repealed Act.