

[AS INTRODUCED IN THE SENATE]

A

Bill

further to amend the Juvenile Justice System Ordinance, 2000, in its application to the Islamabad Capital Territory

WHEREAS it is expedient further to amend the Juvenile Justice System Ordinance, 2000 (Ordinance XXII of 2000), in its application to the Islamabad Capital Territory for the purposes hereinafter appearing;

1. Short title, extent and commencement.-(1) This Act may be called the Juvenile Justice System (Amendment) Act 2016.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Amendment of section 2, Ordinance XXII of 2000.-In the Juvenile Justice System Ordinance, 2002 (Ordinance XXII of 2000), hereinafter referred to as the said Ordinance, in section 2,-

(i) for paragraph (a), the following shall be substituted, namely:-

“(a) “Borstal institution” means any place or institution, established by the Government, not being a police lock up or jail, established separately, to take care of children who have committed an offence and to give them education and training for their mental, moral and psychological development;” and

(ii) after paragraph (c), the following new paragraph shall be inserted, namely:-

“(cc) “corporal punishment” means subjecting of a juvenile by any person to physical punishment that involves the deliberate infliction of pain as retribution for an offence or for the purpose of disciplining or reforming the juvenile;”.

3. Amendment of section 4, Ordinance XXII of 2000.- In the said Ordinance, in section 4, in sub-section (3), for the words “The Juvenile Court” occurring in the beginning the words “Notwithstanding anything contained in any other law for the time being in force, the Juvenile Court” shall be substituted.

4. Amendment of section 8, Ordinance XXII of 2000.-In the said Ordinance, in section 8, after the words “or journal” the words “or transmitted through electronic means” shall be inserted.

5. Insertion of new sections 10A and 10B, Ordinance XXII of 2000.- In the said Ordinance, after section 10, the following new sections shall be inserted, namely:-

“10A. Investigation in Juvenile Cases- Notwithstanding anything contained in any other law for time being in force, the child accused of an offence shall be interrogated by a police officer not below the rank of Sub-Inspector of Police:

Provided that in such cases the officer conducting investigation shall be assisted by a psychiatrist/psychologist.

10B. Disposal of cases of Trivial Nature- (1) Notwithstanding anything contained in any other law for time being in force, where at any stage of proceedings, inquiry or trial, it appears that the offence in which child is involved is of a trivial nature or compoundable then the court may dispose of the case through amicable settlement with compensation or otherwise with the consent of the parties as the Court may deem fit.

(2) If a settlement is reached between the parties, the offence shall be deemed to have been compoundable in terms of compromise and the Court shall pass order accordingly.”

6. Amendment of section 11, Ordinance XXII of 2000.-In the said Ordinance in section 11, in the existing proviso to paragraph (a), for the full stop “.” occurring at the end a colon “:” shall be substituted and thereafter, the following second proviso shall be inserted, namely:-

“Provided further that no female child shall be placed under supervision of a male Probation Officer.”

7. Insertion of sections 11A and 11B, Ordinance XXII of 2000.- In the said Ordinance, after section 11, the following new sections, shall be inserted, namely:-

“11A. Power to deal in other ways with juvenile offenders.- Notwithstanding anything contained in this Act or in any other law for the time being in force, the juvenile Court may, if it deems fit, instead of sentencing the child imprisonment or directing him to be detained in a Borstal Institution, order him to be discharged after due admonition.

11B. Removal of disqualification attached with conviction.- Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Ordinance, shall not suffer any disqualification, if any, attached with the conviction of offence under such law.”

8. Insertion of section 13A, Ordinance XXII of 2000.-In the said Ordinance, after section 13, the following new section shall be inserted, namely:-

"13A. Prohibition of corporal punishment and punishment for violation.-(1) A juvenile who has committed an offence shall not be subjected to any corporal punishment.

(2) Whoever, having actual charge of, or control over a juvenile who has committed an offence, assaults, abuses, or subjects him to corporal punishment in a manner which is likely to cause such juvenile unnecessary mental or physical suffering, shall be punishable with imprisonment which may extend to five years but which shall not be less than three years and with fine which may extend to two hundred thousand rupees but which shall not be less than one hundred thousand rupees."

9. Substitution of section 14, Ordinance XXII of 2000.-In the said Ordinance, for section 14, the following shall be substituted, namely:-

"14. Ordinance to override other laws.- The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force except provisions of such law which are more conducive for giving relief to the juvenile."

STATEMENT OF OBJECTS AND REASONS

The international instrument which provides for the rights of the child is the Convention on Rights of Child, 1989. The Convention provides that a child due to his mental and physical immaturity, needs special safeguards and care, including appropriate legal protection. The Convention also safeguards the rights of a child who has committed an offence and strives to give such a child an opportunity to rehabilitate and become a useful citizen. Pakistan has ratified the Convention on Rights of Child, thus it is incumbent on the State to implement the provisions as provided in this Convention. The Juvenile Justice System in Pakistan is far from perfect. To provide for the rights of juvenile offenders, the Juvenile Justice System Ordinance was promulgated in 2000. However, due to various ambiguous and insufficient provisions of this law, the rights juvenile offenders are often ignored and they are maltreated by the law-enforcement authorities. This Bill strives to remove the lacunas and loopholes of Juvenile Justice System Ordinance, 2000. It is also one of the objects of the Bill to harmonize the law on juvenile justice with the International Convention.

SENATOR MOHAMMAD AZAM KHAN SWATI
Member-In-Charge