

The Sindh Children Act 1955¹ **(No XII)**

I - Preliminary

1. **Short Title and Extent.** (1) This Act may be called the Sindh Children Act 1955.

(2) It extends to the whole of the Province of Sindh.²

2. **Commencement.** Section 1 shall come into force at once. The rest of the Act, or any provision thereof, shall come into force in any area on such date as the Provincial Government may, by notification in the official Gazette, specify.

3. **Saving.** The Provincial Government may, by notification in the official Gazette direct that all or any of the provisions of the Act shall not apply to any class of children or youthful offenders in the whole of the Province³ or in any particular area.

4. **Definitions.** (1) In this Act unless there is anything repugnant in the subject or context:

(a) “adult” means a person who is not a child;

(b) “after-care association” means any association, society, organization or body, incorporated or not, the objects of which include assistance to and welfare of youthful offenders and children on their discharge

1. For Statement of Objects and Reasons, See Sindh Government Gazette, Part IV, pp. 58, 61-62; and for Proceedings in Assembly, Sindh Legislative Assembly Debates, 1955, Vol IV, Book No 2, pp. 35-36.

2. The words “including Khairpur District” inserted by the Sindh Children (Amendment) Act 1974 (No XVIII), sec. 2, omitted by the Sindh Borstal Schools and the Sindh Children (Amendment) Act 1975 (No XIV).

The word “Province” substituted the words “of Sindh”, by the Sindh Amendment Act 1975, *op. cit.*, section 11.from a certified school, recognized institution, remand home, borstal school or like institution;

(c) “begging” means:

(i) soliciting or receiving, alms in a public place, whether or not under any pretence such as singing, dancing, fortune-telling, performing tricks or selling articles;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting with the object of obtaining or extorting alms any sore, wound, injury, deformity or disease;

(iv) having no visible means of subsistence and wandering about and remaining in any public place in such condition or manner as makes it likely that the person doing so exists by soliciting or receiving alms; -

(v) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms, but does not include soliciting or receiving alms in or about a mosque, temple or place of public worship, and soliciting or receiving money or food or gifts for a purpose authorized by any law or authorized in the prescribed manner by the District Magistrate or by the Provincial Government;

(cc) “chief inspector” means the Chief Inspector of certified schools appointed under this Act;⁴

3. Added by the Sindh Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955 (No V), section. 7, Schedule. III.

(d) “brothel” means a brothel as defined in the West Pakistan Suppression of Prostitution Ordinance 1961 ;⁵

(e) “certified school” means an industrial school established or any other school or institution- certified by the Provincial Government under section 25;

(f) “dangerous drug” means any article defined as “dangerous drug” in the Dangerous Drugs Act 1930;

(g) “final order” means an order passed by a Juvenile Court or any Court empowered under section 8 to exercise the powers of a Juvenile Court, under the following sections, namely 45 to 47, 71 to 76, 79, 81 to 84, 90 to 92, 101 and 103;

(h) “fit person” includes an institution which in relation to the care of any child means any association or body of individuals whether incorporated or not established for or having for its object the reception or protection of children or the prevention of cruelty to children and which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of the child’s birth;⁶

(i) “guardian” in relation to a child or youthful offender includes any person who, in the opinion of the Court having cognizance of any proceedings in relation to the child or youthful offender, has for the time being the actual charge of, or control over, the said child or youthful offender;

4. The words “the West Pakistan Suppression of Prostitution Ordinance 1961” substituted the words “the Sindh Prevention of Prostitution Act 1951 (No XX)”, by the Sindh Amendment Act 1975, *op. cit.*

5. The words “religion of the child’s” substituted the word “religious of its”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

- (j) “immoral behavior” includes any act or conduct which is indecent or obscene;
- (k) “Juvenile Court” means a court established under section 7 of this Act;
- (l) “place of safety” includes a remand home, or any other suitable place or institution, the occupier or manager of which is willing temporarily to receive a child or where such remand home or other suitable place or institution is not available, in the case of a male child only a police station in which arrangements are available or can be made for keeping children in custody separately from other offenders;
- (m) “prescribed” means prescribed by rules made under this Act;
- (n) “probation of good conduct” means the release of a youthful offender on probation of good conduct on his personal recognizance. The expression ‘probation of good conduct order’ shall be construed accordingly;
- (o) “prostitution” means offering of the body for indiscriminate lewdness, for hire or otherwise, notwithstanding anything contained in the West Pakistan Suppression of Prostitution Ordinance 1961 ;⁷
- (p) “society” means a body or association of individuals whether incorporated or not;
- (q) “supervision” means the placing of a child under the control of a probation officer or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit

7. **Substituted reference to the Sindh Prevention of Prostitution Act 1951 (No XX).** See Footnote No. 5. person to whose care the child has been committed. The expression ‘supervision order’ shall be construed accordingly;

(r) “voluntary home” means any place for the reception of children maintained wholly or partly by voluntary contributions;

(s) “youthful offender” means any child who has been found to have committed an offense; and

(t) “code” means the Code of Criminal Procedure⁸ 1898.

(2) Words and expressions used and not defined in this Act but defined in the Code shall have the meanings assigned to them in that Code.

5. **Continuation of Proceedings against Child on his Attaining Specified Age.** For the purpose of this Act, a person shall be deemed to be a child, if at the time of the initiation of any proceedings against him under this Act or at the time of his arrest in connection with which any proceedings are initiated against him under this Act, such person has not attained the age of 16 years: ;

Provided that if during the course of the proceedings under this Act such person attains the age of 16 years the proceedings already commenced shall be continued and orders may be passed in respect of such person under this Act as if such person was a child notwithstanding anything to the contrary in this Act.

6. **Reformatory Schools Act 1897 and Certain Provisions of Code not to Apply.** The provisions of the Reformatory Schools Act 1897 and of sections 29B and 399 of the Code shall cease to apply to any area in which Parts II to XI of this Act have been brought into operation.

- .8. Comma substituted the word “of”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

II - Powers and Functions of Courts Having Jurisdiction under the Act

7. **Juvenile Courts.** The Provincial Government may, by notification in the official Gazette, establish one or more Juvenile Courts for any local area.

8. **Courts Empowered to Exercise Powers of Juvenile Court.** The powers conferred on a Juvenile Court under this Act shall be exercisable by:

- (a) High Court;⁹
- (b) A Court of Session;
- (c) A District Magistrate;
- (d) A Sub-Divisional Magistrate; and
- (e) A Magistrate of the First Class, whether trying any case originally or on appeal or in revision.

9. **Powers of Juvenile Courts and other Courts Mentioned in Section 8.** (1) When a Juvenile Court has been established for any local area, such court shall try all cases in which a child is charged with the commission of an offense and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try any case in which an adult is charged with any offense mentioned in Part VI of this Act.

(2) When a Juvenile Court has not been established for any local area, no Court other than a Court empowered under section 8 to exercise the powers of a Juvenile Court shall have power to try any case in which a child is charged with

9. The words “High Court” substituted the words “Chief Court of Sindh”, by the Sindh Amendment Act 1975, *op. cit.*, section 13.

the commission of an offense or to deal with or dispose of any other proceeding under this Act.

(3) When it appears to a Juvenile Court or a Court empowered under the provisions of section 8, such Court being subordinate to the Court of Session, that the offense with which a child is charged is triable exclusively by the Court of Session, the Court, shall immediately transfer the case to the Court of Session for trial in accordance with the procedure outlined in this Act.

10. No Joint Trial of Child and Adult in Area where Juvenile Court Exists. (1) Notwithstanding anything contained in section 239 of the Code or any other law for the time being in force, no child shall be charged with or tried for any offense together with an adult.

(2) If a child is accused of an offense for which under section 239 of the Code or any other law for the time being in force, such child, but for the provisions of subsection (1) could have been tried together with an adult, the Court taking cognizance of the offense shall direct separate trials of the child and the adult.

11. Procedure in Appealable Summons Cases to be Followed by Juvenile Courts and Magistrates' Courts in Trials of Children. A Juvenile Court or a Court empowered under section 8 to exercise the powers of Juvenile Court shall, as far as practicable, follow the procedure provided in the Code for summary trials in summons cases in which an appeal lies.

12. Sittings, etc. of Juvenile Courts. (1) A Juvenile Court shall hold its sittings at such places, on such days and in such manner as may be prescribed.

(2) In the trial of a case in which a child is charged with an offense a Court shall, as far as may be practicable sit in¹⁰ a different building or room from that in which the ordinary

10. The original text says “on”.sittings of the Court are held, or on different days or at different times from those at which the ordinary sittings of the Court are held.

13. Adult to be Committed to Sessions in a Case to be Committed to Sessions.

(1) When a child is accused along with an adult of having committed an offense and it appears to the Court taking cognizance of the offense that the case is a fit one for committal to the Court of Session, such Court shall, after separating the case in respect of the child from that in respect of the adult, direct that the adult alone be committed to the Court of Session for trial.

(2) The case in respect of the child shall then¹¹ be transferred to a Juvenile Court if there is one or to a Court empowered under section 8, if there is no Juvenile Court for the local area and the Court taking cognizance of the offense is not so empowered:

Provided that the case in respect of the child shall be transferred to the Court of Sessions under the provisions of subsection (3) of section 9 if it is exclusively triable by the Court of Sessions in accordance with the second schedule of the Code.¹²

15. Presence of Persons in Juvenile Courts. Save as provided in this Act, no person shall be present at any sitting of a Juvenile Court except:

11. The word “then” substituted the word “than”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

12. Section 14 omitted by the Sindh Children (Amendment) Ordinance 1984 (No IX). section. 14 read as follows:

Appearance of Legal Practitioners Before Juvenile Courts.

Notwithstanding anything contained in any law for the time being in force, a legal practitioner shall not be entitled to appear in any case of proceeding before a Juvenile Court, unless the juvenile Court is of opinion that in public interests the appearance of a legal practitioner is necessary in such case or proceedings and authorizes, for reasons to be recorded in writing, a legal practitioner to appear in such case or

proceeding.

- (a) the members and officers of the Court;
- (b) the parties to the case before the Court and other persons directly concerned in the case including the police officers; and
- (c) such other persons as the Court specially authorizes to be present.

16. **Withdrawal of Persons from Courts.** If at any stage during the course of a trial of a case or proceeding, a Court considers it expedient in the interest¹³ of the child to direct any person, including the parent, guardian or the spouse of the child or the child himself to withdraw, the Court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the Court may take steps to remove him.

17. **Dispensing with Attendance of Child.** If at any stage during the course of the trial of a case or proceeding, a Court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the Court may dispense with his attendance and proceed with the trial of the case in the absence of the child.

18. **Withdrawal of Persons from Court when Child is Examined as Witness.** If at any stage during the course of a trial of a case or proceeding in relation to an offense against, or any conduct contrary to, decency or morality, a child is summoned as a witness, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not being parties to the case or proceeding their legal advisors and the officers concerned with the case or proceeding to withdraw. Such persons shall then withdraw. If any person refuses to withdraw, the Court may take steps to remove him.

.13. The word "interest" substituted the word "interests", by Sindh Laws

(Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

19. Attendance at Court of Parent of Child Charged with Offense, etc. (1) Where a child brought before a Court under this Act has a parent or guardian, such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to attend the Court before which any proceeding is held under this Act, unless the Court is satisfied that it will be unreasonable to require his attendance.

(2) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child:

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(3) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody of charge of his parent by an order of a Court.

(4) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child if such mother or female guardian does not according to the customs and manner of the country, appear in public, but any such mother or female guardian may appear before the court by a pleader or agent.

20. Committal to Approved Place of Child Suffering from Dangerous Disease and its Future Disposal.

(1) When a child, who has been brought before a Court under any of the provisions of this Act, is found to be suffering from a disease requiring prolonged medical treatment, or a physical or mental complaint that will respond to treatment, the Court may send the child to a remand home or to any other place recognized to be an approved¹⁴ place in accordance with the rules made under

14. The word “approved” substituted the word “approval”, by the Sindh Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955, *op. cit.* this Act for such period as it may think necessary for the required treatment.

(3) Where a Court has taken action under subsection (1) in the case of a child suffering from an infectious or contagious disease, the Court before restoring the said child to his partner in marriage, if there is one, or to the guardian, as the case may be, shall where it is satisfied that such action will be in the interest¹⁶ of the said child, call upon his partner in marriage or the guardian, as the case may be, to satisfy the Court by submitting to medical examination that such partner or guardian will not reinfect the child in respect of whom the order has been passed.

21. Factors to be Taken into Consideration in Passing Orders by Courts. For the purpose of any order which a Court has to pass under this Act, the Court shall have regard to the following factors:

- (a) the character and age of the child,
- (b) the circumstances in which the child is living;
- (c) the reports made by the Probation Officer; and
- (d) such other matters as may, in the opinion of the Court, require to be taken into consideration in the interests of the child:

15. Section 20(2) omitted by the Sindh Laws (Amending & Repealing) Act 1993 (No II), section 6(i). The omitted subsection read as follows:

“(2) Where a child is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Sindh Lepers Act 1947, or the Lunacy Act 1912 as the case may be.”

The words “the Sindh Lepers Act 1947” substituted the words “the Lepers Act, 1898” from the above omitted subsection, by the Sindh Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955, *op. cit.*

16. The word “interest” substituted the word “interests”, by the Sindh Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955, *op. cit.* Provided that where a child is found to have committed an offense, the above factors shall be taken into consideration after the Court has recorded a finding against him to that effect.

22. **Reports of Probation Officers and other Reports to be Treated Confidential.** The report of the Probation Officer or any other report considered by the Court under section 21 shall be treated as confidential:

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the Court may, if it thinks expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce evidence as may be relevant to the matters stated in the report.

23. **Prohibition on Publication of Names, Addresses, etc., of Children Involved in Cases or Proceedings under the Act.** No report in any newspaper, magazine or news sheet of any case or proceeding in any Court under this Act in which a child is involved shall disclose the name, address or school or include any particulars calculated to lead directly or indirectly to the identification of any such child, nor shall any picture be published as being or including a picture of any such child:

Provided that for reasons to be recorded in writing, the Court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion such disclosure is in the interest of child welfare and is not likely to affect adversely the interest of the child concerned.

24. **Provisions of Criminal Procedure Code 1898 to Apply to Trial of Cases and Conduct of Proceedings under the Act unless Excluded.** Except as expressly provided under this Act or the rules made

17. The word “interest” substituted the word “interests”, by the Sindh Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955, *op. cit.*thereunder, the procedure to be followed in the trial of cases and the conduct of proceedings under this Act shall be in accordance with the provisions of the Code.

III - Industrial Schools, Certified Schools, Remand Homes and other Institutions, Societies and Associations

25. **Establishment and Certification of Schools.** (1)
The

Provincial Government may establish and maintain industrial schools for the reception of children and youthful offenders.

(2) The Provincial Government may certify that any industrial school or other educational institution not established under subsection (1) is fit for the reception of children or youthful offenders.

(3) The Provincial Government may establish an Association or Society in any local area for the after-care of youthful offenders, and children discharged from certified schools and recognized institutions and may regulate its activities and functions in the prescribed manner.

26. **Declaration of Places as Remand Homes.** The Provincial Government may, by notification in the official Gazette, declare any particular place as a remand home for the purposes of this Act.

27. **Conditions to be Prescribed for Fit Person, Institutions and Approved Places.** The Provincial Government may prescribe conditions subject to which institutions, associations or societies shall be recognized for the purposes of this Act.

Management of Certified Schools. (1) For the control and management of every school established under subsection (1) of section 25, a superintendent and a committee of visitors shall be appointed by the Provincial Government, and such superintendent and committee shall be deemed to be managers of the school for the purposes of this Act.

(2) Every school certified under subsection (2) of section 25 shall be under the management of its governing body, the members of which shall be deemed to be the managers of the school for the purposes of this Act.

29. Liabilities of Managers. (1) The manager of a certified school recognized by the Provincial Government shall be consulted by the Court before any child is committed to it.

(2) The manager of a certified school recognized by the Provincial Government may decline to receive any child proposed to be committed to it under this Act:

Provided that when such school has once accepted any child, it shall be bound to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the School, or until the withdrawal or resignation of the certificate of the school.

30. Medical Inspection of Certified Schools and Recognized Institutions. Any registered medical practitioner empowered in this behalf by the Provincial Government may visit any certified school or any recognized institution at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school.

31. Power of Provincial Government to Withdraw Certificate. (1) The Provincial Government if dissatisfied with the condition, rules, management or superintendence of a certified school may at any time by notice served on the managers of the school declare that the certificate of the school is withdrawn as from a date specified in the notice and on such date the withdrawal of the certificate shall take effect and the school shall cease to be a certified school.

(2) The Provincial Government may, instead of withdrawing a certificate under subsection (1), by notice served on the managers of the school, prohibit the admission of children or youthful offenders to the school for such time as may be specified in the notice or until the notice is revoked:

Provided that before the issue of a notice under subsection (1) or (2), a reasonable opportunity shall be given to the managers of the school to show cause why the certificate may not be withdrawn or admission to the school may not be prohibited, as the case may be.

32. **Resignation of Certificate by Managers.** The managers of a certified school, may on giving six months' notice in writing to the Provincial Government through the Chief Inspector of Certified Schools¹⁸ of their intention so to do, resign the certificate of school and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the resignation of the certificate shall effect, and the school shall cease to be a certified school.

33. **Effect of Withdrawal or Resignation of Certificate.** A child or youthful offender shall not be received into a certified school under this Act after the date of receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate:

Provided that the obligation of the managers to teach, train, lodge, clothe and feed any children or youthful offenders detained in the school at the respective dates aforesaid shall, except so far as the Provincial Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

- .18. The word "Schools" substituted the word "School", by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

34. Disposal of Inmates on Withdrawal or Resignation.

When a school ceases to be a certified school, the children or youthful offenders¹⁹ detained therein shall be either discharged absolutely or on such conditions as the Provincial Government may impose or may be transferred by order of the Chief Inspector of Certified Schools to some other certified school in accordance with the provisions of this Act relating to discharge and transfer.

35. Inspection of Voluntary Homes. (1) The Provincial Government may cause any voluntary home to be visited and inspected from time to time at all reasonable hours by the Chief Inspector of Certified Schools or any member of the inspection staff for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(2) The Chief Inspector of Certified Schools or any member of his inspection staff shall have power to enter a voluntary home at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purposes.

(3) Where any voluntary home is for the reception of girls, the inspection shall, where practicable, be conducted by a woman authorized or appointed by the Chief Inspector of Certified Schools.

(4) If the Provincial Government is satisfied that the management of any voluntary home, or the accommodation for, or the treatment of, the children therein is unsatisfactory, it may cause to be served upon the person responsible for the management of the voluntary home such general or specific direction with respect to the matters aforesaid or any of them as it thinks expedient for the welfare of the children in the institution.

(5) 19. The word “offenders” substituted the word “effender”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.* A direction under the foregoing subsection may be varied by a subsequent direction or withdrawn by the Provincial Government.

(6) Where any such direction is not complied with, the District Magistrate may, on the complaint of any person appointed for the purpose by the Provincial Government, cause a summons to be served upon the person in charge of the voluntary home and upon such other person as he may think fit, and upon hearing the person summoned, may if he thinks fit make an order for the removal of all or any specified number of children from the voluntary home.

(7) Any order for the removal of children from such voluntary home shall operate as an authority to any person named in the order and to any police officer not below the rank of Inspector to enter the voluntary home and to remove the children to a place of safety.

(8) Where the order has been made for the removal of children from such voluntary home, the home shall not be used for the reception of children without the consent of the Provincial Government.

36. Inspection of Certified Schools and Recognized Institutions. Every certified school and recognized institution shall be liable to inspection at all times and in all its departments by the Chief Inspector, Inspector or Assistant Inspector of Certified Schools and shall be so inspected at least once in every year:

Provided that where any such certified school is for the reception of girls mainly and such inspections or visit is not made by the Chief Inspector, the visitor shall, wherever practicable, be a woman authorized by the Chief Inspector in that behalf.

IV - Officers, their Powers and Duties

.37. Appointment of Officers. (1) The Provincial Government may for the purposes of this Act appoint the following officers:

- (a) The Chief Inspector of Certified Schools.
- (b) Inspectors and Assistant Inspectors of Certified Schools.
- (c) Probation officers.
- (d) Such other officers as may be necessary.

(2) Any society recognized in this behalf by the Provincial Government may also appoint a Probation Officer.

(3) Notwithstanding anything contained in subsection (1) or (2), a Juvenile Court or any Court empowered under section 8 to exercise the powers of a Juvenile Court may, for the purposes of any particular case or proceeding appoint any other person as a Probation Officer, if in its opinion such appointment is expedient or necessary.

38. Supervision and Control of Probation Officers.

(1) A

Probation Officer in the performance of his duties under this Act shall be an officer of the Court, and shall be under the supervision and guidance of the Juvenile Court, where such Court exists and elsewhere of the District Magistrate of the district in which the Court which passes any order under this Act in respect of the child is situated.

(2) Nothing in this section shall derogate from the powers of supervision of the District Magistrate and the Chief Inspector of Certified Schools.

39. Powers and Duties of Probation Officers and Inspectors. The powers and duties of the Chief Inspector, Inspectors and Assistant Inspectors of Certified Schools and of Probation Officers shall be as those provided under the

provision of this Act and the rules made thereunder and in accordance with the general or special orders which the Provincial Government or any officers authorized in this behalf may make for the purpose of carrying out the provisions of this Act.

V - Measures for the Care and Protection of Destitute and Neglected Children

40. Children Found Homeless Destitute. Any police officer, or other person authorized in this behalf in accordance with the rules made by the Provincial Government may bring:

(i) before a Juvenile Court if such Court is established for the area and is sitting; or

(ii) if a Juvenile Court is not established for the area or if it is not sitting, before a Magistrate empowered under section 8 with the powers of a Juvenile Court, any person who in his opinion is a child and who:

(a) has no home, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the wellbeing of the child; or

is destitute or illegitimate and has no means of subsistence, other

is known to associate or live with any prostitute or person or persons of criminal or drunken habits; or

(d) is lodging or residing in or frequently going to a place or places used for the purposes of prostitution, drinking or gambling; or

(e) is otherwise likely to fall into bad association or to be exposed to moral danger, or to enter upon a life of crime.

41. Procedure when Magistrate is not Empowered to Pass Order under this Act. When any Magistrate not empowered to exercise the powers of a Juvenile Court is of opinion that a person brought before him is a child, he shall record such opinion and submit the proceedings and forward the child to the nearest Juvenile Court having jurisdiction in the case or where such Court does not exist, to the District

Magistrate or Sub-Divisional Magistrate to whom he is subordinate.

42. Police Officer to Make Report if Child has Parent. If

the child requiring care and protection on any of the grounds mentioned in clauses (a) to (e) of section 40, has a parent or guardian who has the actual charge of, or control over, the child, police officer or other person authorized under section 40 shall, in the first instance make a report to the Juvenile Court established for the area or if one has not been established, to the nearest Magistrate empowered under section 8 to exercise the powers of a Juvenile Court.

Court or Magistrate may Direct Production of Child by Parent or Guardian. The Juvenile Court or Magistrate to which or whom a report is made under section 42, may call upon such parent or guardian to produce the child before it or him in order to show cause why the said child should not, during the pendency of the proceedings, be removed from his care; and may on suitable sureties being offered for the safety of such child and for his being brought before it or him, permit the child to remain in the actual charge or control of his parent or guardian, or may immediately order his removal, if necessary, by issuing a search warrant for the immediate production of the child to a place of safety, if it appears to the Court or Magistrate that the child is likely to be removed from the jurisdiction of the Court to be concealed.

44. Examination of Police Officer or Person Producing or Reporting. (1) The Court before which a child is brought under sections²¹ 40 or 41 shall examine the police officer or the authorized person who brought the child or made the report and recorded²² the substance of such examination and may send the child to a remand home for further enquiries.

(2) On the date fixed for the production of the child or for the enquiry or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order committing the child to a certified school or to the care of a fit person should not be passed and make any further enquiry it thinks fit.

45. Committal of Child to Certified School or to Fit Person. (1) If a Court is satisfied on the enquiry that such person is a child as is described within the provisions of section 40 and that it is expedient so to deal with him, the Court may order him to be committed to a certified school or to the care of a fit person named by the Court until such child attains the age of 18 years, or in exceptional cases for a shorter period, the reasons for such shorter period to be stated in writing.

(2) The Court which makes an order committing a child to the care of a relative or other fit person may, when making such

order, require such relative or other person to execute a bond, with or without sureties, as the Court may require, to be responsible for the good behavior and well-being of the

21. **The original text says “section”.**

22. **The original text says “record”.**

child and for the observance of such other conditions as the Court may impose for securing that the child may lead an honest, virtuous and industrious life.

(3) The Court which makes an order committing a child to the care of a relative or other fit person under this section may in addition order that he be placed under supervision for any period not exceeding three years:

Provided that when the Court thinks fit, it may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under supervision, on such parent or guardian executing a bond with or without sureties in the prescribed form, and the Court may from time to time during the supervision period adjourn the case and compel the production of the child in the Court to satisfy itself that the conditions of the said bond are being carried out:

Provided further that if it appears to the Court on receiving a report from a Probation Officer or otherwise, that there has been a breach of the supervision order, it may after making such enquiries as it deems fit, order the child in respect of whom the supervision order has been made, to be detained in a certified school or committed to the care of a fit person.

46. **Sending of Child having Place of Residence outside Jurisdiction.** (1) In the case of a child whose ordinary place of residence lies outside the jurisdiction of the Court before which it is brought the Court may, if satisfied after due enquiry that it is expedient so to do, send the child on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper

care and control of him.

(2) Any breach of the said bond shall render the child liable to be committed to certified school or to the care of another fit person.

Uncontrollable Children. (1) Where the parent or guardian of a child complains to the Juvenile Court, or if a Juvenile Court is not established for the area to a Courtempowered under section 8 to exercise the powers of a Juvenile Court, that he is not able to control his child, the Court, if satisfied on enquiry that the case appears to be one of which cognizance should be taken, shall remand the child for observation or treatment and any further enquiries necessary.

(2) If the Court is satisfied that it is expedient so to deal with the child under this Act, it may order the child to be committed to a certified school, or a recognized institution.

(3) The Court may also, if satisfied that home conditions are satisfactory and what is needed is supervision, commit the child to the care of the parent, guardian or relative or any other proper person under a bond with or without sureties, and place him under supervision for a period not exceeding three years.

VI - Special Offenses in Respect of Children

48. Punishment for Cruelty to Children. (1) Whoever having the actual charge of, or control over a child willfully assaults, ill-treats, neglects, abandons, or exposes him or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed or negligently fails to provide adequate food, clothes, or medical aid or lodging for a child in a manner likely to cause such child unnecessary mental and physical suffering shall, on conviction, be punished with imprisonment of either description for a term not exceeding two years or with fine which may extend to Rs 1,000 or with both:

Provided that in the case of married juveniles the Court trying the offense under this section may permit it to be compounded for²³ reasons to be recorded in writing.

The word “for” substituted the word “or”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*(2) The infliction of reasonable punishment on a child for a proper reason shall not be deemed to be an offense under this section.

49. **Employing Children for Begging.** Whoever employs any child for the purposes of begging or causes any child to beg or whoever having the custody, charge or care of a child connives at or encourages its employment for the purpose of begging and whoever uses a child as an exhibit for the purpose of begging shall, on conviction be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to Rs 300 or with both.

50. **Penalty for Being Drunk while in Charge of Child, etc.** If any person is found drunk in any public street or other public place, whether a building or not while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall, on conviction, be punished with fine which may extend to Rs 200.

51. **Penalty for Giving Intoxicating Liquor or Dangerous Drug to Child.** Whoever in any public street or other public place, whether a building or not, gives or causes to be given to any child any intoxicating liquor or dangerous drug except upon the order of a duly qualified medical practitioner in case of sickness or other urgent cause shall, on conviction be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to Rs 500.

52. **Penalty for Permitting Child to Enter Places where Liquor or Dangerous Drugs are Sold.** Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold, or²⁴ being the proprietor owner or a person in charge of such place, permits a child to enter such place or whoever causes or procures a child to go to such place shall,

.24. The word “or” substituted the word “whoever”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

on conviction, be punished with fine which may extend to Rs 500.

53. **Inciting Child to Bet or Borrow.** Whoever by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites a child to borrow money or to enter into any transaction, involving the borrowing of money shall, on conviction, be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to Rs 200 or with both.

54. **Taking on Pledge or Purchasing Articles from Child.** Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person shall, on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to Rs 500 or with both.

55. **Allowing or Permitting Child to be in Brothel.** Whoever allows or permits a child over the age of four years to reside in or frequently to go to a brothel shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to Rs 1,000 or with both.

56. **Causing or Encouraging Seduction etc. (1)** Whoever having the actual charge of, or control over, a girl under the age of 18 years causes or encourages the seduction (which shall include inducement to indulge in immoral behavior) or prostitution of that girl or causes or encourages any one other than her husband provided his wife has attained the age of 14 years, to have sexual intercourse with her shall, on conviction be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to Rs 1,000 or with both.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction of a girl or to

have induced her to behave immorally if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute, or person of known immoral character.

57. Seduction or Outrage of Modesty. Whoever seduces or indulges in immoral behavior with a girl under the age of 18 years shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to Rs 1,000 or with both.

58. Young Girls Exposed to Risk of Seduction of, etc. If it appears to a Court on the complaint of any person that a girl under the age of 18 years is, with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the Court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

59. Exploitation of Child Employees. (1) Whoever secures a child ostensibly for the purpose of menial employment or for labor in a factory or other establishment, but in fact exploits the child for his own ends, withholds or lives on his earnings, shall, on conviction, be punished with fine which may extend to Rs 1,000.

(2) Whoever secures a child ostensibly for any of the purposes mentioned in subsection (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions, shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to Rs 1,000 or with both.

(3) Any person who avails himself of the labor of a child exploited in the manner referred to in subsection (1) or (2) or for whose immoral gratification such child is used shall be liable as an abettor.

60. Penalty for Abetting Escape of Child or Youthful Offender. Whoever:

(a) knowingly assists or induces, directly or indirectly, a child detained in a certified school to escape from the school or from any person with whom he has been placed out on license or any child to escape from the person to whose care he has been committed under the provisions of this Act; or

(b) knowingly harbors, conceals, connives at or prevents from returning to school or to any person with whom he is placed out on license or to whose care he is committed under this Act, a child who has so escaped, or knowingly assists or connives at so doing, shall on conviction, be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to Rs 500 or with both.

61. Penalty for use of Voluntary Home in Contravention of Section 35. Whoever uses or knowingly permits to be used any voluntary home in contravention of the provisions of section 35 shall, on conviction, be punished with fine which may extend to Rs 500 and to a further fine not exceeding Rs 50 in respect of each day during which the institution is so used or permitted to be used after the conviction.

62. Penalty for Publication of Report or Pictures Relating to Child. Whoever publishes any report or picture in contravention of the provisions of section 23 shall, on conviction, be punished with imprisonment of either description for a term not exceeding two months or with fine which may extend to Rs 500 or with both.

Offenses under this Part Cognizable. All Offenses under this part other than an offense under section 61 shall be cognizable. *Child Rights in Pakistan / 301*

VII - Youthful Offenders

64. **Bail of Children Arrested.** Where a boy or girl apparently under the age of 16 years is arrested on a charge of a non-bailable offense and cannot be brought forthwith before a Court, competent²⁵ to try the case, the officer in charge of the police station to which such boy or girl is brought, may release the child on bail, if sufficient security is forthcoming, but shall not do so where the release of the child shall bring him into association with any reputed criminal or expose him to moral danger or where his release would defeat the ends of justice.

65. **Custody of Children not Enlarged on Bail. (1)**

Whereas a boy or girl apparently under the age of 16 years having been arrested is not released under section 64 or otherwise, the officer in charge of the police station shall cause him or her to be detained in the prescribed manner until he or she can be brought before a Juvenile Court or a Court empowered under section 8 to exercise the powers of a Juvenile Court.

(2) A Court, on remanding for trial a child who is not released on bail, shall order him to be detained in the prescribed manner.

66. **Submission of Information to Probation Officer and Officer in Charge of Remand Home by Police after Arrest.** Immediately after the arrest of a child, it shall be the duty of the police officer, or any other person effecting²⁶ the arrest to inform the Probation Officer and officer in charge of the remand home if any, of such arrest in order to enable the said Probation officer and officer in charge of the remand home to proceed forthwith in obtaining information regarding his antecedents and family history and other

.25. The words "man this Act" omitted by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, section 6, Schedule II, *op. cit.*

The original text says “affecting” material circumstances likely to assist the Court in making its final order.

67. **Attendance of Parent or Guardian.** Where the child is arrested, the officer in charge of the police station to which he is brought shall cause the parent or guardian of the child, if he can be found, to be summoned at the Court before which the child will appear.

68. **Sentences that may not be Passed on Child. (1)**

Notwithstanding anything to the contrary contained in any law, no youthful offender shall be sentenced to death or transportation or imprisonment.

(2) When a child is found to have committed an offense of so serious a nature that the Court is of opinion that no punishment, which under the provisions of this Act it is authorized to inflict, is sufficient or when the Court is satisfied that the child is of so unruly or of so depraved a character that he cannot be committed to a certified school or detained in a place of Safety and that none of the other methods in which the case may be legally dealt with is suitable, the Court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Provincial Government.

69. **Expressions “Conviction” and “Sentences” not to be Used in Relation to Children.** Save as provided in this Act, the words “conviction” and “sentence” shall cease to be used in relation to children dealt with under this Act and any reference in any enactment to a person convicted, a conviction or a sentence shall in the case of a child be construed as a reference to a person found guilty of an offense, a finding of guilty or an order made upon such a finding, as the case may be.

70. **No Proceedings under Chapter VIII of Code of Criminal Procedure Against Child.** Notwithstanding anything to the contrary contained in the Code no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

71. **Commitment of Child to Certified School or Recognized Institution.** Where a child is found to have committed an offense, the Court, if satisfied on enquiry that it is expedient so to deal with the child, may order him to be committed to a certified school or recognized institution for such period of detention as will not, subject to the provisions of section 5, extend beyond the time when the child will attain the age of 18 years or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing.

72. **Other Orders of the Court.** A Court may, if it shall think fit instead of directing any youthful offender to be detained in a certified school or recognized institution under section 71:

(i) order him to be discharged after due admonition;

(ii) without passing any final order, direct that he be released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behavior and well-being of the youthful offender for any period not exceeding three years and for the observance of such other conditions as the Court may impose for securing that the youthful offender may lead an honest virtuous and industrious life;

(iii) if the offense committed by the youthful offender is punishable with fine and the youthful offender himself is over the age of 14 years, order the offender to pay a fine.

73. **Repatriation.** (1) In the case of a youthful offender whose ordinary place of residence lies outside the jurisdiction of the

74.

Court before which he is brought, if the Court is satisfied after due enquiry that it is expedient so to do, it may send the youthful offender on his own bond back to a relative or a fit person, who is fit and willing to receive him at his native place and exercise proper care and control of him, notwithstanding the fact that the youthful offender has to be⁹⁷ sent to a place outside the Province.

(2) Any breach of the said bond shall render the youthful offender if found at any time at any place within the Province,²⁸ liable to be committed to a certified school or to the care of another fit person.

75. Power to Order Parent to Pay Fine, etc. Instead of Child. (1) Where the offense committed is punishable with fine and if the youthful offender is under 14 years of age, the Court shall order that the fine be paid by the parent or guardian of the child, unless the Court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offense by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code.

76. Release of Youthful Offenders under Supervision.

The Court shall wherever possible order that the youthful offender released under section 72 be placed under supervision:

.27. The words "the Province" substituted the word "Sindh", by the Sindh Amendment Act 1975, *op. cit.*, section 14.

Ibid. Provided that if it appears to the Court on receiving a report from the probation officer or otherwise, that the youthful offender has not been of good behavior during the period of supervision, it may proceed to pass such final order as it would have done had it not placed the youthful offender on probation of good conduct.

76. **Postponement Sine Die.** Notwithstanding anything contained in the foregoing provisions the Court may adjourn the case of a youthful offender sine die, and may re-open it at that stage of the proceedings at which it was left when adjourned, on additional grounds or material being placed before the Court.

77. **Court Empowered to Exercise Powers under One or More of Preceding Provisions.** In passing an order in respect of youthful offender under this Part, it shall be lawful to the Court to exercise its powers under any one or more of the foregoing provisions at the same time, if it is necessary and expedient to do so in the interest²⁹ of the offender.

VIII - Measures for Detention etc., of Children and Youthful Offenders

78. **Detention of Child in Place of Safety.** (1) Any police officer, not below the rank of Assistant Sub-Inspector, or a police officer or a person authorized in this behalf in accordance with rules made by the Provincial Government may take to a place of safety any child in respect of whom there is reason to believe an offense has been, or is likely to be committed.

(2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before the Court:

29. The word "interest" substituted the word "interests", by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

30. The word “not” substituted the word “now”, *ibid*. Provided that such detention shall not in the absence of a special order of the Court exceed a period of 24 hours exclusive of the time necessary for the journey from the place of detention to the Court.

(3) The Court may thereupon make such order as hereinafter provided.

79. Court’s Powers for Care and Detention of Child.

Where it appears to the Court that there is reason to believe that an offense as stated in section 78 has been committed or is likely to be committed in respect of any child who is brought before it, and that it is expedient in the interest³¹ of the child that action should be taken under this Act, the Court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offense in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(2) The order of detention made under subsection (1) shall remain in force until such time as the proceedings instituted against any person for an offense referred to in subsection (1) terminate in either conviction, discharge or acquittal:

Provided that if the proceedings terminate in conviction of the person, the order of detention shall remain in force for a further period of one month.

(3) An order passed under this section shall be given effect to, notwithstanding that any person claims the custody of the child.

80. Victimized Child to be Sent to Juvenile Court or District Magistrate. Any Court by which a person is convicted of having committed an offense in respect of a child, before which a person is brought for trial for any such

offense or by which a person is bound over to keep the peace towards a child shall direct that the child against whom the offense has been committed, or in relation to the alleged offense against whom the trial is in progress, or in relation to keeping the peace towards whom the person³² concerned has been bound over, shall be produced before a Juvenile Court with a view to that Court making such interim and final orders as may be proper, provided that in an area where no Juvenile Court has been established, the Court shall submit its proceedings and forward the child to District Magistrate or Sub-Divisional Magistrate to whom it is subordinate.

81. Order for Committal of Victimized Children. The

Court before which a child is produced in accordance with section 79 may order the child in the prescribed manner:

(a) to be committed to a certified school or recognized institution until such child attains the age of 18 or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing; or

(b) to be committed to the care of a relative or other fit person, on such bond, with or without surety as the Court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and observing such other conditions, including, where necessary, supervision for any period not exceeding three years, as the Court may impose in the interest of the child:

Provided that, if the child has a parent or guardian, fit and capable, in the opinion of the Court of exercising proper care, control and protection, the Court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in a prescribed form and for the observance of such conditions as the Court may impose in the interest of the child.

82. The word "person" substituted the word "audit", *ibid.* **Supervision of Victimized Children.** The Court which makes an order committing child to the care of his parent, guardian or other fit person under the foregoing provisions may in addition order that he be placed under supervision.

83. **Breach of Supervision.** If it appears to the Court on receiving a report from the Probation Officer or otherwise, that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may after making such enquiries as it deems fit, order the child to be detained in a certified school or committed to the care of a fit person.

84. **Repatriation of Victimized Child.** In the case of a child, the ordinary place of whose residence is outside the jurisdiction of the Court before which he is produced, if the Court is satisfied after due enquiry that it is expedient so to deal with the child, the Court may order the child to be sent on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him notwithstanding the fact that the place of residence of such child may be at any place outside the Province.³³

85. **Reasons to be Recorded for Order under Sections**

81 to 84. The reasons for every order made under sections 81 to 84 shall be recorded in writing and may be made by the Court in the absence of the Child.

86. **Order under Sections 81 to 84 to be Enforced even if Conviction of Alleged Victimization is set Aside.**

Where an order is made under sections 81 to 84 and the conviction order binding the person to keep the peace is set aside or the person is acquitted, the order made under the said sections shall remain in force but it shall be open to the person so acquitted, or discharged from his bond to keep the peace to apply for a reconsideration of the said order in consequence of the altered circumstances. -

87. Warrant to Search for Child. (1) If it appears to a Juvenile Court or any other Court duly empowered under this Act from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interest³⁴ of the child, that there is reasonable cause to suspect that an offense has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the Court may issue a warrant authorizing any police officer named therein to search for such child and if it is found that he has been or is being willfully ill-treated or neglected in manner aforesaid or that any offense has been or is being committed in respect of the child to take him to and detain him in a place of safety until he can be brought before it and the Court before whom the child is brought may in the first instance remand him in the prescribed manner to a place of safety.

(2) The Court issuing a warrant under this section may in its discretion³⁵ by the same warrant direct that any person accused of any offense in respect of the child be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the Magistrate at a specified time and thereafter until otherwise directed by the Magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires³⁶, and may also, if the Magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

32. The word "interest" substituted the word "interests", by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

33. The word "discretion" substituted the word "description", *ibid.*

34. The word "desires" substituted the word "desire", *ibid.*

Provided further that where special circumstances exist and the interest of the child so demands, it shall be open to the Court for reasons to be recorded in writing, to pass an order for a shorter period of detention.

90. Contribution of Parents. (1) The Court which makes an order for the detention of a child or youthful offender in a certified school or recognized institution or for the committal of a child or youthful offender to the care of a relative or the fit person may make an order on the parent or other person liable to maintain the child, or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(2) The Court before making any order under subsection (1) shall inquire into circumstances of the parent or other person liable to maintain the youthful offender or child and shall record evidence, if any, in⁴¹ the presence of the parent or such other person as the case may be.

(3) Any order made under this section may be varied by the Court on an application made to it by the party liable or otherwise.

(4) The person liable to maintain a child or youthful offender shall for the purpose of subsection (1) include in the case of illegitimacy State⁴²:

Provided that where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code the Court shall not ordinarily make an order for contribution against the State⁴³ but may

38. The word "in" substituted the word "if", *ibid.*

39. The word "State" substituted the words "putative father", by the Sindh Children (Amendment) Ordinance 1984, *op. cit.*, section 3.

The word "his" substituted the word "has", by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

1 / The Sindh Children Act ^{The word "State" substituted the words "putative father", by the Sindh Children (Amendment) Ordinance 1984, *op. cit.*, section 3.}

order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender.

(5) Any order under this section may be enforced in the same manner as an order under section 488 of the Code.

91. **Provision as to Religion.** (1) In determining the certified school or recognized institution fit person or other person to whose custody a child is to be committed or entrusted under this Act, the Court shall ascertain the religious denomination of the child and shall, if possible, in selecting such certified school, recognized institution or fit person have regard to the facilities which are afforded for instruction in his religion.

(2) When a child is committed to the care of a certified school or recognized institution in which facilities for instruction in his religion are not afforded, or is entrusted to the care of a fit person under circumstances in which it appears that no special facilities for the bringing up of the child in his religion exist, the authorities of such certified school or recognized institution or such fit person shall not bring the child up in any religion other than his own.

(3) Where it is brought to the notice of the Chief Inspector of Certified Schools that a breach of subsection (2) has been committed, it shall be open to the Chief Inspector to transfer the child from the custody of such institution or person.

92. **Placing out on License.** (1) Subject to the prescribed conditions, the Chief Inspector of Certified School may, at any time after the expiration of six months from the commencement of the detention of a child in a certified school or recognized institution, on the recommendation of the visitors or Managers of the certified school or recognized institution, or an application by a parent, relation⁴⁴ or guardian, supported by local enquiries made through the

probation and After-Care Association, or otherwise, release such child from the school or institution and grant him a written license in the prescribed form and on the prescribed condition permitting him to live under the supervision and authority of such responsible person or society willing to take charge of the child and approved by the Chief Inspector.

(2) Any license granted under subsection (1) shall be in force until revoked or forfeited for⁴⁵ the breach of any of the conditions on which it was granted.

(3) The Chief Inspector may at any time by order in writing revoke any license and order the child to return to the certified school or institution and shall do so at the desire of the person or society with whom or under whose supervision he is licensed to live. If the child refuses or fails to return to the school or institution, the Chief Inspector may, if necessary, call for the papers and deal with the case himself making such order as he thinks fit in the interest of the child or he may by order in writing direct the officer in charge of the police station having jurisdiction to secure the child and cause him to be placed before the Court or taken to the school or institution.

(4) When a license has been revoked or forfeited and the child or youthful offender, refusing or failing to return to the school or institution, has been secured and placed before the Court under the provisions of subsection (3) the Court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or youthful offender, issue a summons⁴⁶ requiring the parent or guardian to attend at the Court on such day as may be specified in the summons, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, on conviction, be punished with fine which may extend to Rs 50.

40. The word "for" substituted the word "by", *ibid.*

41. The word "summons" substituted the word "summon", *ibid.*

141 *The Sindh Children Act*

314/The Sindh Children Act

(5) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code.

(6) The time, during which a child is absent from a certified school or institution in pursuance of a license granted under this section, shall be deemed to be part of the time of his detention in the school or institution:⁴

Provided that, where a child has failed to return to the school or institution on the license being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school or institution.

93. Action by Police with Escaped Children. (1)

Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may arrest without warrant a child who has escaped from a certified school or a Precognized institution or from the supervision of a society or a person under whose supervision he was directed to remain, and shall send the child back to the certified school, institution, society or the person without registering any offense or prosecuting the child, and the said child shall not be deemed to have committed any offense by reason of the institution concerned in such manner as they think fit.

(2) When a child absconding from a certified school or institution has been arrested,⁴⁸ he shall be detained in a place of safety pending his removal to the certified school or institution.

47. The colon (:) substituted the semicolon (;) in the original text.

48. The words “at a different place” omitted by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*, section 6, Schedule II. *Child Rights in Pakistan* / 315

18 / The Sindh Children Act

X - Appeals

94. **Appeals.** (1) Any person aggrieved by a final order may appeal to the Courts hereinafter mentioned:

(2) If a final order is passed:

(a) by a Juvenile Court, an appeal shall lie to the District Magistrate;

(b) by a Magistrate empowered under section 8 to exercise the powers of a Juvenile Court, an appeal shall lie to the Court of Session;

(c) by a Court of Session, an appeal shall lie to the High Court⁴⁹ of Sindh.

(3) Except as provided in this section no appeal shall lie from any order passed under this Act by a Juvenile Court or any other Court empowered to exercise the powers of a Juvenile Court under section 8.

95. **Application of Criminal Procedure Code to Appeals.** The provisions of sections 419 to 431 (both inclusive) of the Code shall *mutatis mutandis* apply to appeals against final orders, as if the said orders were the orders of conviction and sentence passed by a Criminal Court.

96. **Period of Limitation of Appeals.** (1) The period of limitation for an appeal against a final order shall be 30 days in the case of appeals to Court other than High Court⁵⁰ and 60 days in the case of an appeal to the High Court⁵¹ of Sindh from the date of the order appealed against.

.49. The words “High Court” substituted the words “Chief Court of Sindh”, by the Sindh Amendment Act 1975, *op. cit.*, section 13.

.50. The words “High Court” substituted the words “Chief Court of Sindh”

51. , *ibid.*

100.

316/ The Sindh Children Act

(2) The provisions of sections 5, 7 and 12 of the Limitation Act 1908, shall apply to the filing of such appeal.

XI - Miscellaneous

97. Discharge and Transfer. (1) The Provincial Government may at any time order a child or youthful offender to be discharged from a certified school or institution, either absolutely or on such conditions as the Provincial Government approves.

(2) The Provincial Government may order:

(a) a youthful offender who has attained the age of 16 years to be' detained in a certified school or a recognized institution; or

(b) any boy over the age of 16 years, who has been released on license and who has committed a breach of any⁵⁴ condition of the license and whom it is not advisable to send back to his own school or institution to be left to a Borstal School established under the Sindh Borstal Schools Act 1955:⁵⁵

Provided that the whole period of the detention of the child or youthful offender shall not be increased by the transfer.

(3) Upon the transfer of a child or youthful offender to a Borstal School under subsection (2) the provisions of the

.52. The words "to be" inserted by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

.53. The words "or a" substituted the word "of", *ibid.*

.54. The words "any condition" substituted the words "any conditions", *ibid.*

.55. The word "1955" substituted the word "1929", by the Sindh Laws (Amending & Repealing) Act 1993 (No II), section 6(ii).

Sindh Borstal Schools Act 1955⁵⁶ shall apply to such offender as if he has been originally ordered to be detained in a Borstal School under that Act.

/ The Sindh Children Act

(4) The Provincial Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the Provincial Government approves.

98. Transfers between Institutions and Those of like Nature in Different Parts of Pakistan. (1) The

Provincial Government may in consultation with the Managers of any certified school or recognized institution, consent to the transfer to that school or institution of any child or youthful offender in respect of whom an order has been made by a competent authority in any part of Pakistan of the nature of an order under this Act directing him to be sent to a certified or reformatory school or institution of a like nature, and upon such transfer the provisions of this Act shall apply to such child or youthful offender.

(2) The Provincial Government may direct any child or youthful offender to be transferred from any certified or reformatory school or institution to any school or institution of a like nature in any other part of Pakistan in respect of which provision similar to that in the Province of Sindh is made by the Government of that part under any law in force therein.⁵⁷

Provided that no such child or youthful offender shall be transferred under this section to any Province without the consent of the Government concerned.^{co}

.56. The words "the Sindh Borstal Schools Act 1955" substituted the words "the Sindh Borstal Schools Act 1929", by the Sindh Amendment Act 1975, *op. cit.*, section 15.

.57. The words "or State" omitted by the Sindh Amendment Act 1975, *op. cit.*, section 16.

.58. Section 99 omitted by the Sindh Laws (Amending & Repealing) Act 1993 (No II), section 6 (iii). The omitted section read as follows:

318/ The Sindh Children Act

100. **99. Transfer of Children of Unsound Mind or Suffering from Leprosy.** (1) Where it appears to the Provincial Government that any child detained in a certified school or institution under any order of a Court is of unsound mind or a leper the Provincial Government may, by an order setting forth the grounds of belief that the child is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, there to be kept⁵⁸ and treated as the Provincial Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the child that he should be further detained under medical care or treatment then until he is discharged according to law.

(2) Where it appears to the Provincial Government that the child has become of sound mind, or is cured of⁶⁸ leprosy, the Provincial Government shall, by an order directed to the person having charge of the child if still liable to be kept in custody, send him to the certified school or institution from which he was removed, or if the child is no longer liable to be kept in custody, order him to be discharged.

(3) Subject to the provisions of subsection (2), the provisions of section 31 of the Lunacy Act 1912, or section 20 of the Sindh Lepers Act 1947,⁵⁸ shall apply to every child confined in a mental hospital or leper asylum under subsection (1) after the expiration of the period for which he was ordered to be detained; and the time during which a child is confined in a mental hospital or leper asylum under that subsection be reckoned as part of the period for which he may have been ordered by the Court to be detained:

Provided that where the removal of a child due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the child is detained to apply to a Court having jurisdiction under the Lunacy Act 1912, or the Sindh Lepers Act 1947,⁵⁸ as the case may be, for an immediate order of committal to a mental hospital or a leper asylum until such time as the orders of the Provincial Government can be obtained in the matter.

From the omitted section 99 (1), the word “as” omitted by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.* **Transfer from One Institution to Another.** The Chief Inspector of Certified Schools⁵⁹ may direct any child or youthful offender to be transferred from one certified school or recognized institution to another:⁶⁰

101.

Provided that the total period of detention of the child or youthful offender shall not be increased by such transfer.

Compensation for False and Frivolous or Vexatious Information. (1) If in any case in which information has been laid by any person under the provisions of section 87, the Magistrate after such enquiry as he may deem necessary is of opinion that such information is false and either frivolous or vexatious, the Magistrate may for reasons to be recorded in writing direct that compensation to such an amount not exceeding Rs 100 as he may determine He paid by such informer to the person against whom the information was laid.⁶¹

From the omitted section 99 (2) the word “of” inserted by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

. 1

From the omitted section 99 (3) the words “Subject to the provisions of subsection (2), the provisions of section 31 of the Lunacy Act 1912, or section 20 of the Sindh Lepers Act 1947” substituted the words “the provisions of section 31 of the Lunacy Act 1912 or subject to the provisions of subsection (2) of section 14 of the Lepers Act 1898”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

59

And the words “the Sindh Lepers Act 1947” substituted the words “the Lepers Act 1898”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

60

The word “School” substituted the word “Schools”, by the Sindh Laws (Adaptation, Revision, Repeal & Declaration) Ordinance 1955, *op. cit.*

61

The words “certified school or recognized institution to another” substituted the words “institution to another whether, a certified school or

recognized institution”, *ibid.*

The words “was laid” substituted the words “has laid”, *ibid.*

(2) Before making any order for the payment of the compensation, the Magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(3) The Magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding 30 days.

(4) When any person is imprisoned under subsection (3), the provisions of sections 68 and 69 of the Pakistan Penal Code shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

(6) When an order for the payment of compensation is made under subsection (1), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of an appeal has expired.

102. Removal of Disqualification Attaching to Convictions. When a youthful offender is found to have committed any offense, the fact that he has been so found shall not have any effect under section 75 of the Pakistan Penal Code or section 565 of the Code or operate as a disqualification for any office, or employment or election under any law.

103. Powers to Amend Orders. Without prejudice to the powers of Courts of appeal and revision any custody order, supervision order or probation order may be amended by the Court, which made such order in respect of the person named as custodian, supervisor or Probation Officer and such other details as may be deemed necessary, provided that in the case of an order committing a child to an institution no such order shall, subject to the proviso hereinbelow, be amended except in relation to the period of duration, such amendment being by way of extension of the period only:

Provided that in case of emergency and for immediate necessity a committal order may be varied by way of change in the institution to which the order relates.

104. Control over Custodian of Child. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the Court notwithstanding that he is claimed by his parent or any other person.

105. Power to Authorities to Send Children to Remand Homes or Voluntary Homes instead of to Certified School or Recognized Institutions. Wherever under the provisions of this Act it is provided that a child shall be committed to a certified school or recognized institution, it shall be lawful for the authority concerned to order such child to be sent to a remand home or a voluntary home instead, if, in the opinion of such authority, such be in the interest of the child.

106. Bonds Taken under the Act. The provision of Chapter XLII of the Code shall so far as may be, apply to bonds taken under this Act.

107. Probation Officers, Chief Inspector and Inspectors and Persons Authorized to be Deemed Public Servants. The Probation Officers, Inspector of Certified Schools including the Chief Inspector of Certified Schools and all other persons authorized or entitled to act under any of the provisions of this Act shall be deemed to be

Child Rights in Pakistan / 2

public servants within the meaning of section 21 of the Pakistan Penal Code 1860.

Act **Protection of Action Taken under this Act.** No suit, prosecution or other legal proceeding shall be instituted³²²/The Sindh Children Act

against any person for anything which is in good faith done or intended to be done under this Act.

109. Rules. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely:

(a) The procedure to be followed by Juvenile Courts and other Courts empowered to exercise the powers of Juvenile Courts under section 8 in the trial of cases and the conduct of proceedings under the Act;

(b) the places at which, days on which and the manner in which a Juvenile Court shall hold its sitting under subsection (1) of section 12;

(c) the conditions subject to which institutions and associations shall be recognized as approved places for the purpose of subsection (1) of section 20;

(d) the establishment or certification, management, maintenance, records and accounts of certified schools; the education and industrial training of inmates in such institutions, and their leave of absence; the appointment of visitors and their tenure of office; the inspection of such certified schools and other institutions for the reception of poor children; and the internal management and discipline of schools either established or certified by the Provincial Government and release on license of inmates therein.

- (e) the conditions subject to which institutions, associations and societies shall be recognized under section 27; the powers and duties of Chief Inspectors, Inspectors and Assistant Inspectors of Certified Schools and Probation Officers under section 39;
- (f) the recruitment and training of personnel responsible for work under the Act;
- (g) the conditions in which societies may be recognized by the Provincial Government for providing Probation Officers, their employment and matters incidental to their appointment, authorization, resignation and removal, and the remuneration and expenses payable to them.
- (h) the manner of authorizing persons for the purposes of sections 40 and 78;
- (i) the manner in which a child or youthful offender shall be sent back to his native place under sections 46 and 73;
- (j) the manner in which children shall be detained in custody by officers in charge of police stations under section 40, and the manner in which children shall be ordered to be detained by Courts under subsection (2) of section 65;
- (k) the manner in which a child shall be ordered to be committed to a certified school or institution or to the care of a relative or other fit person under clauses (a) and (b) of section 81⁶² and the form of bond under the proviso thereto⁶³;

62. The words "section 81" inserted, *ibid.*

(l) 63. The word “thereto” substituted the words “to section 81”, *ibid.* the manner in which a child shall be remanded under subsection (1) of section 87;

(m) the manner in which contribution for the maintenance of a child may be ordered to be paid under subsection (1) of section 90;

(n) the conditions under which a child may be released from a certified school or on license and the form and conditions of such license under subsection (1) of section 92;

(o) the conditions subject to which children may be committed to the care of persons under this Act and the obligations of such persons towards the children so committed;

(p) any other matter which is or may be prescribed under the Act.

(3) The power to make rules under this Act shall be subject to the condition of previous publication.

(4) The rules made under this Act shall be published in the official Gazette and on such publication shall have effect as if enacted in this Act.

110. Repeal of Sindh Act XIII of 1924. The Bombay Children Act 1924, as applicable to Karachi and the Sindh Children Act 1924, are⁶⁴ hereby repealed:

Provided that:

(a) Juvenile Courts established under the repealed Acts⁶⁵ shall be deemed to be Juvenile Courts established under this Act;

.64. The words “the Bombay Children Act 1924, as applicable to Karachi and the Sindh Children Act 1924, are” substituted by the words “the Sindh Children Act 1924 (No XIII) is”, by the Sindh Amendment Act 1975, *op. cit.*, section 17.

- (b) .65. The words “repealed Acts” substituted the words “repealed Act”, *ibid.* certified schools, established or recognized institution, remand homes, approved places and voluntary homes recognized under the repealed Acts⁶⁶ shall be deemed to be recognized under this Act;
- (c) all licenses and certificates granted and transfers made under the repealed Acts⁶⁷ shall be deemed to be granted or made under this Act;
- (d) all cases, proceedings and appeals pending before any Court under the repealed Acts⁶⁸ shall be continued and disposed of by the said Court notwithstanding anything in this Act as if they were cases, proceedings and appeals under this Act;
- (e) all appeals against orders of Courts appointed under the repealed Acts⁶⁹ which would have been⁷⁰ laid under those Acts⁷¹ shall be deemed to be appeals from orders made by Courts under this Act and shall be presented to the Courts empowered to hear appeals under this Act and shall be disposed of accordingly;
- (f) any appointment, notification, notice, order, rule or form made or issued under the repealed Acts⁷² shall continue to be in force and be deemed to have been made or issued under the provisions-of this Act, in so

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66. *Ibid.*

67

67. *Ibid.*

68

68. *Ibid.*

69

69 *Ibid.*

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70. The original text does not contain the word “been”.

71

71. The words “those Acts” substituted the words “that Act”, by the Sindh Amendment Act 1975, *op. cit.*, section 17.

72

3 / *The Sindh Children*

Act

72.

See Footnote No. 65.326/The Sindh Children Act

far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act.