

[AS PASSED BY THE SENATE]

A
BILL

further to amend the Child Marriage Restraint Act, 1929

Whereas it is expedient further to amend the Child Marriage Restraint Act, 1929 (*XIX of 1929*) for purposes of curbing the menace of child marriage prevalent in the country and to save women from exploitation on that account, and for matters ancillary thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be called as the Child Marriage Restraint (Amendment) Act, 2019.

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

(3) It shall come into force at once.

2. Amendment of section 2, Act XIX of 1929.— In the Child Marriage Restraint Act, 1929 (*XIX of 1929*), hereinafter referred to as the said Act, in section 2, for paragraph (a), the following shall be substituted, namely:-

“(a) “child” means a person who is under eighteen years of age;”

3. Amendment of section 4, Act XIX of 1929.— In the said Act, in section 4, for the phrase “simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both” the phrase “rigorous imprisonment which may extend to three years but shall not be less than two years and a fine which may extend to two hundred thousand rupees but shall not be less than one hundred thousand rupees” shall be substituted.

4. Amendment of section 5, Act XIX of 1929.— In the said Act, in section 5, for the phrase “simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both” the phrase “rigorous imprisonment which may extend to three years but shall not be less than two years and a fine which may extend to two hundred thousand rupees but shall not be less than one hundred thousand rupees” shall be substituted.

5. Amendment of section 6, Act XIX of 1929.— In the said Act, in section 6, for the phrase “simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both” the phrase “rigorous imprisonment which may extend to three years but shall not be less than two years and a fine which may extend to two hundred thousand rupees but shall not be less than one hundred thousand rupees” shall be substituted.

6. Substitution of section 8, Act XIX of 1929.— In the said Act, for section 8, the following shall be substituted, namely:-

“8. Jurisdiction under this Act.— The Family Court, established under section 3 of the West Pakistan Family Court Act, 1964 (*XXXV of 1964*) shall exercise jurisdiction under this Act and may take cognizance of an offence in the manner provided by section 190 of the Code of Criminal Procedure, 1898 (*V of 1898*).”

7. Substitution of section 9, Act XIX of 1929.- In the said Act, for section 9, the following shall be substituted, namely:-

“9. Offences under this Act shall be cognizable.- All offences under this Act shall be cognizable; such cognizance shall in no case be taken after the expiry of one year from the date on which the offence is alleged to have been committed.”

8. Substitution of section 12, Act XIX of 1929.- In the said Act, for section 12, the following shall be substituted, namely:-

“12. Power to issue injunction prohibiting marriage.-

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

(2) Whoever, knowing that an injunction has been issued against him under sub-section (1) of this section, disobeys such injunction, shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one hundred thousand rupees, or with both.”

STATEMENT OF OBJECTS AND REASONS

Poverty, illiteracy, anti-human rights social and cultural practices are factors cited for the prevalence of child marriage. An early marriage leads to early conception, which ultimately affects the health of the teenage girl. Typically enormous pressure to bear children is put on child brides. In developing countries, the leading cause of death for young girls between the age of 15 and 18 is early pregnancy. A child according to the UN Convention on the Rights of the Child is any person under the age of 18. Unfortunately the practice of child marriage is common in all parts of Pakistan particularly in the poor urban and rural areas but the act of solemnizing child marriage is not cognizable and the police cannot take actions against the offenders. The amendment is intended to serve as a deterrent and to remove the existing gender disparity in age.

2. Moreover, Committee on the Rights of the Child in its concluding observations on the fifth periodic report of Pakistan commented “The Committee reiterates its previous recommendation that the State party ensure the full harmonization of its legislation as regards the definition of a child so as to define a child as every human being below the age of 18 years. In particular, it recommends the amendment of the Zina and Hadood Ordinances (1979) as well as the Child Marriages Restraint Acts in all its provinces in order to align the age of marriage of boys and girls by raising the minimum age of marriage for girls to 18 years.” Thus it also becomes our obligation to align this Act according to the provisions of UNCRC.