

THE BALOCHISTAN VAGRANCY ORDINANCE, 1958

(W.P. Ordinance XX of 1958)

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'THE ?[BALOCHISTAN?] VAGRANCY ORDINANCE, 1958

Preamble.

Short title, extent
and
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t.

Definitions.

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(W.P. Ord. XX of 1958)

LJ" October, 1958]

An Ordinance to amend and consolidate the law relating
to vagrancy in the Province of [Balochistan].

WHEREAS it is expedient to amend and consolidate the
law relating to vagrancy in the Province of *[Balochistan] in the
manner hereinafter appearing;

AND, WHEREAS, the Provincial Assembly of West
Pakistan is not in session and the Governor of West Pakistan is
satisfied that circumstances exist which render immediate
action necessary;

NOW, THEREFORE, in exercise of the powers
conferred by Article 102 of the Constitution, the Governor of
West Pakistan is pleased to make and promulgate the following
Ordinance:—

1. () This Ordinance may be called the [Balochistan]
Vagrancy Ordinance, 1958.

4[(2) It extends to the whole of the Province of
?[Balochistan] except the Tribal Areas.]

(3) It shall come into force in such area or areas and
on such date or dates as Government may, by notification,
direct.

2. In this Ordinance, unless the context otherwise requires,
the following expressions shall have the meanings hereby
respectively assigned to them, that is to say—

(a) "child" means a person under the age of
fourteen years;

(b) "Controller" means the Controller of Vagrancy,
5[Balochistan];

This Ordinance was promulgated by the Governor of W.P. on 1* October, 1958; published in the W.P. Gazette (Extraordinary) October, 1958; pages 1343-1350; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic (1962).

2 Subs. by Baln. A.O. 1975, for "West Pakistan".

3 Spelling of the word "Baluchistan", wherever it appears in this Ordinance, is corrected by insertion of letter "o" instead of "u", Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

4 Subs. by W.P. Ord. VII of 1964.

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Subs. by Baln. A.O. 1975, for "West Pakistan".

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"Government" means the Government of
'TBalochistan];

"guardian" in relation to a child, includes any person who in the opinion of the court having cognizance of any case in which a child is concerned, has for the time being the charge of or control over such child;

"prescribed" means prescribed by rules made under this Ordinance;

"public place" includes any public park, garden, railway station, ground or — vehicle to which the public for the time being have access, whether on — payment or otherwise;

"vagrant" means a person who—

(i) solicits or receives alms in a public place;

(ii) exposes or exhibits any sore, wound, injury, deformity or disease in a public place for the purpose of soliciting or receiving alms;

(iii) allows himself to be used as an exhibit for the purpose of soliciting or receiving alms;

(iv) enters on any private premises without the invitation of the occupier for the purpose of soliciting or receiving alms; but does not include a person who solicits or receives money, food or gift for a purpose authorised by rules under a prescribed certificate;

(h) "welfare home" means an_ institution established and maintained by Government for the detention, training, employ-ment and maintenance of vagrants and their dependents other than

Welfare homes.

Manager.

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manager.

those who are lepers, lunatics or suffering from contagious diseases and includes an institution notified by Government as such for the purposes of this Ordinance.

3. (i) Government shall establish and maintain one or more welfare homes at such place or places as it thinks fit for the custody and detention of vagrants.

(2) Government may, by notification, declare any existing charitable or other institution with previous consent of the controlling authority of such institution and on such conditions as may be mutually agreed upon between Government and the said authority, to be a welfare home for the purposes of this Ordinance.

4. Every welfare home shall be under the immediate charge of a manager appointed by Government and such manager shall be assisted by such medical and educational staff as Government may appoint.

5. qd) The manager of a welfare home shall, as soon as may be, get every vagrant medically examined and the report of the examination shall state, inter alia—

(a) the sex and the age of the vagrant;
(b) whether the vagrant is a leper?

(c) whether he is suffering from any other contagious disease?

(d) whether the vagrant is insane, or mentally deficient?

(e) what is the general state of health and bodily condition of the vagrant and for which, if any, of the prescribed types of work such vagrant is fit?

(2) The manager of a welfare home shall keep the following classes of vagrants separately from each other—

Voluntary
admission to
welfare homes.

Powers of police
officer to arrest
and search
vagrants and to
seize things
liable to
confiscation.

(a) children;
(b) females;

(c) lepers or persons suffering from
contagious diseases;

(d) lunatics;
(e) infirm, old or incapacitated;
(f) able bodied:

Provided that children less than seven years of age or
females may be allowed to take up residence in the same
apartment in which any male member of their family is
confined.

(3) The manager shall arrange—

(a) for the education of the children detained
in the welfare home;

(b) for such instruction of the vagrants, as
may rehabilitate them in useful
trades and make them self-supporting.

6. Any old, infirm or disabled person or a child may
present himself before the District Magistrate for being
admitted to a welfare home and if the District Magistrate is
satisfied that such person has no source of livelihood, he may
be detained in a welfare home till such time as such person
becomes possessed of means of livelihood or applies for his
release from custody.

7. (i) Any police officer may without an order from a
magistrate and without a warrant, arrest and search any person
who appears to him to be a vagrant and may seize anything
found on or about such person which he has reason to believe to
be liable to confiscation under this Ordinance.

(2) A person arrested under the last preceding sub-

section, shall be released if he furnishes bail to the satisfaction of the police officer making arrest for his appearance before the

Trial.

Sentence for
vagrancy.

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ie. Act V of 1898.

Sec. 9 subs. by Baln. Ord. II of 1983.

magistrate having jurisdiction in the area where the arrest is made.

(3) If the person arrested is not able to furnish bail to the satisfaction of the police officer making arrest, such person shall be detained in custody and shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the magistrate and no such person shall be detained in custody beyond the said period without an authority of the magistrate.

8. When the person arrested under the last preceding section appears or is brought before the magistrate, he shall be tried in accordance with the procedure prescribed for the trial of summons cases under Chapter XX of the 'Code of Criminal Procedure, 1898:

Provided that whenever any magistrate, after having heard and recorded the whole or any part of the evidence in a trial, ceases to exercise jurisdiction therein, and is succeeded by another magistrate, who has and who exercises such jurisdiction, the magistrate so succeeding may act on the evidence so recorded by his predecessor or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and recommence the enquiry or trial.

719. If the Magistrate finds that a person is a vagrant, such person who is not suffering from any physical incapacity, shall be punished with imprisonment of either description for a period not exceeding five years:

Provided that in any case in which a person who has not been previously convicted of an offence under this Ordinance, is convicted of an offence under this Ordinance, the Magistrate may instead of sentencing him to a term of imprisonment, release him after due admonition on his, or in case such vagrant is a child, on his guardian entering into a bond with or without sureties to appear and receive the sentence when called upon during such period (not exceeding five years) as the Magistrate

Punishment for
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Presumption.

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dependents.

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contribution by
persons bound
to maintain

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may direct and in the meantime to refrain from conducting
himself as a vagrant.)

10. Whoever employs or causes any person to solicit or
receive alms or uses a person as an exhibit for the purpose of
soliciting or receiving alms or being the guardian of a child
connives at or encourages the employment or the causing of the
child to solicit or receive alms shall be punished with
imprisonment of either description for a term which may extend
to '[five years or with whipping not exceeding thirty stripes, or
with both].

11. If a person has no ostensible source of subsistence and
wanders about or remains in a public place in such condition or
manner as raises a reasonable suspicion that he is there to solicit
or receive alms, it shall be presumed, unless the contrary is
proved that such person is a vagrant.

12. qd) If any vagrant sentenced under section 9 to a
term of imprisonment has a child below seven years of age or
any other person wholly dependent upon him, the magistrate
may, after making such inquiry as he thinks fit and after giving
such person an opportunity of being heard, direct that such
child or person shall be detained, in the welfare home so long as
the vagrant remains in custody:

Provided that a child of the vagrant who is below the
age of seven years shall be detained along with the vagrant until
he attains the age of seven years.

(2) Where the dependent is a child above seven
years of age, or when the child detained under the last
preceding sub-section, attains the age of seven years, the

magistrate or any other officer empowered by Government in this behalf may direct that such child be detained in any other institution approved by Government.

13. qd) If the magistrate is satisfied that a vagrant or a person bound to maintain a vagrant has sufficient means, he shall make an order directing such vagrant or the person bound to maintain such vagrant, as the case may be, to contribute in

Subs. for "one year or with fine or with both" by Baln. Ord. II of 1983.

vagrants.

Place of detection
or
imprisonment.

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vagrants from

welfare homes.

Release on
probation or
short leave.

+ Ins. by W.P. Ord. VII of 1964.

the prescribed manner towards the maintenance of such
vagrant in a welfare home:
sub-section shall be made without giving the person from

whom contribution is required the opportunity of being heard.

Provided that no order under this

(2) If any contribution directed by the magistrate
under the last preceding sub-section remains unpaid, the same
may be recovered as arrears of land revenue.

14. A vagrant arrested under this Ordinance shall remain in
custody, or, if convicted serve his term of imprisonment in the
prescribed manner, as the case may be, in the nearest welfare
home or such other place as Government may by general or
special order, direct.

15. The Controller or any other officer specially empowered
by Government in this behalf may by an order in writing direct
the transfer of a vagrant from one welfare home to another or to
any other place appointed by Government in this behalf.

16. The Controller or other officer specially empowered by
Government in this behalf may, subject to such conditions as
may be prescribed,—

(a) release any vagrant on probation after he has
served imprisonment for a period not
than one year;

less

(b) release a vagrant detained in a welfare home by

granting him a licence and, after the expiration of three months from the commencement of the release on licence, recommend to Government the unconditional release of such vagrant if he considers that there is probability of vagrant's abstaining from vagrancy;

such

(c) grant short leave of absence to any vagrant detained in a welfare home '[and the District of Karachi]:

Provided that a vagrant contravening any condition relating to his release on licence may be re-arrested under the orders of the Controller and sent to the welfare home for completing the sentence awarded to him under section 9.

Powers of
discharge of
vagrants from
welfare homes

Effect of other laws
and
enactments.

Cognizance and
bail.

Jurisdiction.

Appeal.

Persons to be
deemed to be

public servants.

Indemnity.

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ie. Act XLV of 1860.

17. The Controller or any other officer specially empowered
by Government in this behalf may discharge a vagrant from a
welfare home—

(a) if he is satisfied that a vagrant has become
possessed of an income sufficient to enable
him to support himself without resorting to

vagrancy;

(b) if a relative of such vagrant, or a, person
interested in the welfare of the vagrant, enters
into a bond with or
after and maintain such vagrant and to prevent
him from resorting to vagrancy;

without sureties to look

(c) on the certificate of the manager of the welfare
home that satisfactory employment has
been obtained for such vagrant:

(d) for any other good and sufficient reason to be
recorded in writing.

18. The provisions of this Ordinance, and any order made or action taken under this Ordinance, shall effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance, for the time being in force, and any instrument having its effect by virtue of any such enactment other than this Ordinance.

have

19. All offences under this Ordinance shall be cognizable and bailable.

20. No offence under this Ordinance shall be triable by any magistrate other than a magistrate of the first class.

21. Any person aggrieved by an order of a magistrate under this Ordinance may within thirty days of such order appeal to the District Magistrate and if such order is made by the District Magistrate, to the Sessions Court.

22. All persons empowered to perform any function under this Ordinance shall be deemed to be public servants within the meaning of section 21 of the 'Pakistan Penal Code, 1860.

23. No suit, prosecution, or other legal proceeding shall lie

Articles liable to

confiscation.

Power to make
rules.

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

24. All things and money found on or about a vagrant
except the necessary wearing apparel shall be liable to
confiscation to Government under this Ordinance.

25. (1) Government may make rules for carrying out the
purposes of this Ordinance.

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

(a) the purposes for which a person may
solicit or receive money or ask for food
or gift referred to in clause (g) of section
2 and the form of the certificate;

(b) the manner in which Controller shall
discharge his functions;

(c) the manner in which a medical officer
may examine a vagrant;

(d) the types of works for which a vagrant
may be reported fit;

(e) the types of the hard labour which is to
form the punishment;

(f) the manner in which an imprisonment
under this Ordinance may be served;

(g) the manner in which a vagrant may be
transferred from one welfare home to
another or to any other place of detention;

(h) the manner in which the manager of a
welfare home is to certify that
satisfactory employment has been
obtained for a vagrant;

(i) the place or institutions where children

detained under this Ordinance are to be confined;

Qj) the places or institutions where lepers,

lunatics and persons suffering from

contagious diseases may be confined.

(3) Every rule under this Ordinance shall be laid before the '[Balochistan] Assembly and may be amended or repealed by a resolution of the said Assembly.

Repeal. 26. The ?Sind Vagrancy Act. 1947, is hereby repealed.

1 Subs. by Baln. A.O. 1975, for "West Pakistan".

2 ive. Sind Act XVII of 1947.