

THE WEST PAKISTAN SUPPRESSION OF PROSTITUTION ORINANCE, 1961.

(W.P. ORD NO.II OF 1961).

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THE WEST PAKISTAN SUPPRESSION OF PROSTITUTION
ORDINANCE, 1961.

(WEST PAKISTAN ODINANCE NO. II OF 1961)

[7 January, 1961.]

AN
ORDINANCE

to amend and consolidate the law relating to the suppression of prostitution in the Province of West Pakistan.

WHEREAS it is expedient to amend and consolidate the law relating to the Preamble, suppression of prostitution in the Province of West Pakistan;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance.—

1. (1) This Ordinance may be called the West Pakistan Suppression of Short title and Prostitution Ordinance, 1961. extent.

'1(2) It extends to the whole of the *[Province of Khyber Pakhtunkhwa]
except the Tribal Areas].

2. In this Ordinance unless the context otherwise requires, the following expressions to them that is to say—

Definitions.

3[(a) "brothel" means any house, part of a house, room or place in which a prostitute resides or carries on prostitution or any place or institution where facilities are known to be available for prostitution.]

(b) "place of public amusement" shall mean any place enclosure, building, tent, booth or other erection whether permanent or temporary, where music, singing, dancing, or any diversion or game or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money or with the intention that money may be collected from those

"Subs, by W. P. Ord. XXXVI of 1963.

?_ In section 1, sub-section (2) the words "Province of West Pakistan", the words "North-West Frontier Province" substituted by Khyber Pakhtunkhwa Adaptation of laws order, 1970 and then substituted by the word "Khyber Pakhtunkhwa", vide Khyber Pakhtunkhwa Act No.IV of 2011.

3. Subs by W.P. Act No. I of 1968.

admitted; and shall include a race course, circus, theatre, music hall, billiard-room, bagatelle-room, gymnasium or fencing school;

(c) "place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place, and shall include a refreshment-room, eating-house, coffeehouse, liquor house, boarding-house, lodging-house, hotel, serai or tavern, or wine, beer, spirit, arrack, toddy, bhang or opium shop;

(d) "prostitution" means promiscuous sexual intercourse for hire, whether in money or kind;

(e)

~V~

"prostitute" means any female available or known to be available for purposes of prostitution;

(f) "public place" includes site of any hut, bazar, mela, exhibition, any river bank, dock, jetty or ware house to which the public have access, every public building, garden or monument and the precincts there of, every place of public amusement or entertainment, and every place accessible to the public for drawing water, washing or bathing or for purposes of recreation.

3. (1) Whoever—

(a) keeps or manages or acts or knowingly finances or takes part in the financing of, or assists in, the management of a brothel, or

(b) being a tenant, lessee, occupier or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel, or

(c) being a lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge, that it is intended to be used as a brothel.

shall be punished with imprisonment of either description for a term which may extend to two years, [and] with fine, which may extend to one thousand rupees, "[

(2) Where, in any prosecution of a tenant, lessee, occupier or person in charge of any premises under this section, it is found that such premises or any part thereof have been used as a brothel, it shall be presumed, unless the contrary is proved, that he knowingly permitted such use.

¹ In section-6. in sub-section (1) after the words "two years", the word "or", the word "and", subs. by W. P. Act II of 1968. ² in the same sub-section, after the words "One thousand rupees", the words "or with both", omitted Act. ibid .

brothel or
allowing any
place to be used
as a brothel.

4. Whoever in any street or public place or place of public resort or within sight of and in such manner as to be seen or heard from any street or public place, whether from within any house or building or not,—

(a) by words, gestures, wilful and indecent exposure of her person or otherwise attracts or endeavours to attract attention for the purpose of prostitution, or

(b) solicits or molests any person or loiters for the purpose of prostitution, shall for a first offence be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both, and for a subsequent offence with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

5. Whoever being the keeper of any place of public amusement or entertainment, knowingly permits prostitutes, for the purposes of their trade, to enter or remain in such place, shall be punished with fine which may extend to five hundred rupees.

6. (1) Whoever being above the age of eighteen years—

(a) knowingly lives, wholly or in part, on the earnings of another's prostitution, or

(b) exploits the prostitution of another person, whether with or without that person's consent,

shall be punished with imprisonment of either description for a term which may extend to two years, [and] with fine which may extend to one thousand rupees, [* * *] and if the person convicted is a male he may be punished with whipping in lieu of or in addition to any other punishment provided in this sub-section.

(2) Where any person is proved to be living with, or to be habitually in the company of, a prostitute or is proved to have directed or exercised control or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting, compelling or exploiting her prostitution with any other person or generally, or to be keeping or managing or assisting in the management of a brothel, it shall be presumed, until the contrary is proved, that he is knowingly living on the

¹ In section-3, in sub-section (1) after the words "two years" the word "or" the word "and", substituted by W.P. Act. II of 1968

?_ In the same sub-section (1), the words "or with both", omitted. Vide Act ibid-

Punishment for
soliciting.

Punishment for
permitting
prostitution in
places of public
amusement.

Punishment for
living on
earnings of
prostitution.

Presumption .

7. If any person having custody, charge or care of any girl under the age of sixteen years, causes or encourages or abets the seduction or prostitution of that girl, he shall be punished with rigorous imprisonment for a term which may extend to three years, [and] with fine which may extend to one thousand rupees, and if the person convicted is a male, shall also be liable to whipping.

8. Whoever procures or entices or leads away or attempts to procure, entice or lead away any woman or girl for the purposes of prostitution, whether with or without her consent, or who with intent that she may for the purposes of prostitution become the inmate of or frequent a brothel, persuades a woman or girl to leave her usual place of abode, *[shall be punished with rigorous imprisonment for a term which may extend to twenty five years and shall also be liable to fine and whipping not exceeding thirty stripes.]

9. Whoever brings or attempts to bring into the Province any woman or girl with a view to her becoming a prostitute *[shall be punished with rigorous imprisonment for a term which may extend to twenty five years and shall also be liable to fine and whipping not exceeding thirty stripes.]

10. (1) Whoever—

(a) keeps any woman or girl in a brothel, or

(b) detains any woman or girl, against her will, in any place with intent that she may have sexual intercourse with any man other than her lawful husband,

[shall be punished with death or rigorous imprisonment for a term which may extend to twenty five years and shall also be liable to fine and whipping not exceeding thirty stripes.]

(2) A person shall be presumed to detain a woman or girl in any place for the purpose referred to in clause (b) of sub-section (1), if such person, with intent to compel or induce her to remain there—

(a) withholds from her any jewellery, clothing or other property belonging to her, or

(b) threatens her with legal proceedings if she takes away with her any jewelry or clothing lent or supplied to her by or under the direction of such

. Subs by W.P. Act No. II of 1968.

. Subs by Khyber Pakhtunkhwa Ordinance- No, III of 1985. s. 2. read with the Schedule.
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Punishment for
causing,
encouraging or
abetting
prostitution of a
girl under

sixteen.

Punishment for
procuration.

Punishment for
importing any
woman or girl
for prostitution.

Punishment for
keeping any
woman or girl
for prostitution.

Presumption.

person.

(3) No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such clothing as was necessary to enable her to leave such premises or brothel.

11. (1) Whoever having been convicted of an offence punishable under section 3, is convicted of a subsequent offence punishable under the same section, may, in addition to the punishment provided under that section, be required by the Court to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Court may direct, and in default of executing such bond, may be imprisoned for a period not exceeding six months in addition to any punishment awarded in respect of his offence.

(2) The provisions of Chapters VIII and XLII of the Code of Criminal Procedure, 1898, shall apply to orders made for the execution of bonds under this section.

12. (1) On conviction of any tenant, lessee or occupier of an offence under sub-section (1) of section 3, the Court shall give notice thereof in writing to the landlord or lessor of such person, who shall then be entitled to require the person so convicted to assign the lease or other contract, under which the said premises are held by him, to some person approved by the landlord or lessor which approval shall not be unreasonably withheld, and in the event of the person so convicted failing within three months to assign the lease or contract, as aforesaid, the landlord or lessor shall, notwithstanding any law, contract, decree or order of a Court to the contrary, be entitled to determine the lease or other contract, but without prejudice to the rights or remedies of any party to such lease or contract accruing before the date of such determination.

(2) If the landlord or lessor determines a lease or contract of tenancy under the provisions of sub-section (1), the Court which has convicted the tenant, lessee or occupier may make an order for delivery of possession to the landlord or lessor within such time not being less than seven days as the Court may direct; and the orders shall be served on the person against whom it is made in the manner provided in the Code of Criminal Procedure, 1898, for the service of summons.

(3) Whoever fails to comply with an order under the last preceding sub-section shall be punished with imprisonment of either description which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(4) If the landlord or lessor, after he has received notice in writing of such conviction, fails to exercise his rights under sub-section (1), and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have abetted that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

Bar of certain
legal
proceedings.

Subsequent
offence under
section 3.

Determination of
tenancy of
premises on
conviction for
permitting use as
a brothel or for
purposes of
habitual
prostitution.

(5) Where a landlord or lessor determines a lease or other contract under this section, and subsequently grants another lease or enters into another contract of tenancy to, with, or for the benefit of the same person, without causing to be inserted in such lease or contract all reasonable provisions for the prevention of a recurrence of any such offence, he shall be deemed to have failed to exercise his rights under the provisions of this section, and any such offence committed during the subsistence of the subsequent lease or contract shall be deemed, for the purpose of this section, to have been committed during the subsistence of the previous lease or contract.

'113. If complaint is made to any Gazetted Police Officer about the commission of any offence punishable under sections 3, 4, 5, 6'[or], 7, *[* * *] or if any such offence is committed in the view of any Police Officer not below the rank of Superintendent of Police, such officer may arrest, without warrant, any person accused of the commission of such offence.]

14. The Superintendent of Police, or any gazetted police officer specially authorised in writing in this behalf by the District Magistrate, may enter any place

and remove to the prescribed place any girl who appears to be under the age of eighteen years, if he has reason to believe. —

(a) that an offence punishable under section 3 has been or is being committed in respect of the place; or

(b) that a woman or girl in respect of whom an offence under this

Ordinance has been committed, is to be found therein.

15. No offence under this Ordinance shall be tried summarily, or by a Magistrate below the rank of a Magistrate of the first class.

16. The Provincial Government may make rules for carrying into effect the provisions of this Ordinance.

17. (1) The following enactments are hereby repealed:—

'TL, I, IV, V]

' Section 13 substituted by W.P. Act No. II of 1968.

2. Subs by Khyber Pakhtunkhwa Ord. No. III of 1985.

. Omitted by Khyber Pakhtunkhwa. Ord. III of 1985 read, with Schedule 4 Clauses I, II, IV, V omitted by Khyber Pakhtunkhwa. A.L.O. 1975.

Power to arrest
without
warrant.

Power to enter
without warrant
and removal of
minor girls.

Offences triable
by certain
Magistrates
only.

Power to make
rules.

Repeal and
savings.

(iii) the N.W.F.P. Antiprostitution and suppression of Brothels Act 1937.

(2) Notwithstanding the repeal of the enactments mentioned in sub-section (1), everything done, action taken, obligation liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorized, jurisdiction or power conferred, rule made and order issued under any of the provisions of the said enactments shall, if not inconsistent with the provisions of this Ordinance, be continued and, so far as may be, be deemed to have been respectively done, taken, incurred, commenced, appointed, authorized, conferred, made or issued under this Ordinance.