

Repeal of Public Gambling Act 1867.

In Pakistan the gambling laws have a very chequered history; on the subject very first enactment was made in the year 1867 under the title of Public Gambling Act 1867. The object of this enactment was to provide punishment for public gambling and keeping common gaming houses. Subsequently, the Act was gradually declared to be in force in the Provinces of Punjab, Balochistan and N.W.F.P. by various enactments and Notifications.

A similar Act was passed and promulgated by the Governor of Bombay in Council under title "The Bombay Prevention of Gambling Act 1887". As the province of Sindh was annexed with the Bombay Presidency, therefore, the same was made applicable to the areas of the Sindh. After Independence, the said Act was adapted by the Sindh Adaptation of Laws Act 1951. This Act was remained in force in the province of Sindh till 1955, however, vide Sindh Laws Adaptation, Revision, Repeal and Declaration Ordinance 1955 the word Bombay in the Bombay Prevention of Gambling Act 1887 was substituted by the word "Sindh" and thereafter the said Act was known as The Sindh Prevention of Gambling Act 1887.

Both the above Acts remained in force in their territorial limits till 1961, when the laws relating to Prevention of Gambling were amended and consolidated by the West Pakistan Prevention of Gambling Ordinance 1961. As per section 2 of the said Ordinance, its application was extended to the whole of the Province of the then West Pakistan except the Federal Territory of Karachi and the Special Areas. It is note worthy to mention here that vide Section 12, the Sindh Prevention of Gambling Act, 1887 was repealed. However, nothing was provided about the fate of the Public Gambling Act 1867.

After disintegration of One Unit, the Prevention of Gambling Ordinance 1961 was adapted by the provinces with certain amendments and exceptions. However, on 21 May 1977, the Prevention of Gambling Act, 1977 was enacted with its application to the whole of Pakistan. The provisions of said Act were given an overriding effect on other laws for the time being in force.

In the year 1978, despite enactment of Prevention of Gambling Act 1977 by the Federal Government, the Provincial

Governments enacted provincial Acts with the following titles by repealing adapted West Pakistan Prevention of Gambling Ordinance 1961 which had already been repealed:-

- The Balochistan Prevention of Gambling Ordinance 1978
- The Punjab Prevention of Gambling Ordinance 1978
- The NWFP Prevention of Gambling Ordinance 1978
- The Sindh Prevention of Gambling Ordinance 1978

It is pertinent to mention here that in 1981 the Public Gambling Act 1867 was repealed to the extent of Islamabad Capital Territory vide Ordinance 27 of 1981, whereas, the Public Gambling (repeal) Act 1985 repealed its application to the extent of Punjab. However, the said Act is still enforced in the provinces of Balochistan and NWFP.

Comparative study of the Act of 1977 with Public Gambling Act 1867 reveals that the latest enactment is exhaustive in nature and covers all types of gaming even in tent, vehicle or Vessel which was not an offence under the Public Gambling Act 1867. Besides, defining gaming, the latest enactment provides bit harsh punishment for owing, keeping common gaming Houses and gaming in private places. Even otherwise by virtue of section 12, the provisions of Prevention of Gambling Act 1977 have given overriding effect over all the laws on the subject which reads as under:-

12. ***This Act shall have effect notwithstanding any thing contained in any other law for the time being in force.***

In view of the above, now all cases relating to gambling should be dealt with in accordance with the provisions of the Prevention of Gambling Act 1977. After having gone through the provisions of the Act, it could be concluded that latest enactment has wide scope of application than the old one.

It is, therefore suggested that since the Public Gambling Act 1867 has lost its application as such is required to be repealed. Accordingly, it is submitted that the Law and Justice Commission of Pakistan may recommend that the said Act may be repealed being an obsolete law.

Commission's Deliberations on 05 December, 2009

The Commission considered the proposal for repealing of Public Gambling Act 1867 and approved the same as the Act had already been repealed by some provinces but retained in the Provinces of NWFP and Balochistan. At present, the cases relating to gambling are dealt with in accordance with the provisions of provincial gambling statutes which are fairly modern and more comprehensive in scope/operation.