

**Amendment in the Children  
(Pledging of Labour)  
Act 1933**

**Report No.55**

## **Amendment in the Children (Pledging of Labour) Act 1933**

There exist many specific injunctions of Islam on the survival, protection and welfare of children. The Holy Quran and tradition of the Holy Prophet (PBUH) order the parents, guardian and indeed society as a whole to guard the rights and interests of children and protect them against any harm or injury to their person. Female infanticide, being practiced in pre-Islamic Arabia, was prohibited. Says the Quran: -

*Slay not your children fearing a fall to poverty, We shall provide For them and for you. Lo! The slaying of them is great sin. (17:31)*

The Holy Prophet (PBUH) strictly prohibited even scolding of an orphan, to preserve his dignity as a human being. The Holy Prophet (PBUH), who himself was an orphan took keen interest in the welfare of orphaned and destitute children. He showed love and affection for children. The protection, care and welfare of children is thus strongly reflected in Islamic norms and values. The protection of life and dignity of child is a paramount obligation of society. Child is termed as the father of man, because he has to lead the humanity. The Convention on the Rights of Child 1989 adopted by the United Nations has proclaimed that children are entitled to special care and assistance for the full and harmonious development of their personality, that they should grow up in a family environment in an atmosphere of happiness, love and understanding. Children, by reason of their physical and mental immaturity, need special safeguards and care, including appropriate legal protection.

Article 18 of International Convention on Right of Child says:

“State Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibility for the upbringing and development of the child. Parents or legal guardians, have the primary responsibility for the upbringing and development of the child.”

Article 32 of Convention provides that child has the right to be protected from work that threatens his or her health, education or development. It may be relevant to mention the other legal provisions, both Constitutional and Statutory, which protect the rights of child.

Article 11 of the Constitution provides:

- Article 11      (1) -----  
                  (2)      All forms of forced labour and traffic in human beings are prohibited;  
                  (3)      No child below the age of fourteen years shall be engaged in any factory, or mine or any other hazardous employment.

Article 35 of the Constitution directs that the State shall protect “the child”. Similarly, Article 37 (e) of Constitution states that the State shall make provisions for securing just and humane conditions of work, ensuring that children are not employed in vocations unsuited to their age.

Similarly, following Section of the Employment of Children Act, 1991 specifically prohibits child labour.

**Section 3:** No child shall be employed or permitted to work in any of the occupations set forth in Part I of the Schedule or in any workshop wherein any of the process set forth in Part II of that Schedule is carried on:

The Children (Pledging of Labour) Act, 1933, in its present form, does not fully protect the child against the abuse of child labour. Section 4, 5 and 6 of the Act relate to penalties for the offence of pledging the child for labour. These penalties are for parents, guardian and employer separately. These Sections are reproduced below:

**Section 4:** Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may be extended to fifty rupees.

**Section 5:** Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledge the labour of the child shall be punished with fine which may be extended to two hundred rupee.

**Section 6:** Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.

The penalties in the above three Sections were fixed some three-quarters of a century ago. The purpose of these penalties was to discourage the people from committing such offences. With the passage of time however, these penalties appear to be too meagre and do not serve as deterrent to prevent child labour. This kind of labour is generally in vogue in some sectors such as Bhatta (brick killen), restaurants, workshops, agriculture and domestic service. It is, therefore, proposed that the existing penalties be revised. In this regard, reference can be made to the penalties prescribed in the Employment of Children Act, 1991. Section 14 of the Act, states:

**Section 14** (1) Whoever employees any child or permits any child to work in contravention of the provisions of Section 3 shall be punishable with

imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under Section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

Since both the laws i.e. Employment of Children Act, 1991 and Children (Pledging of Labour) Act, 1933 are in pari-materia, therefore, it is suggested that the quantum of punishments prescribed in the latest law i.e. Employment of Child Act 1991 should also be prescribed in Section 4, 5 and 6 of the Children (Pledging of Labour) Act 1933. The penalties of fine may be enhanced to Rs. 20,000/- and in case of second default, instead of penalty in terms of money, imprisonment should also be provided, to deter the crime. The enhancement proposed is reflected in the table below: -

**Table**

<b>EXISTING PROVISIONS</b>	<b>PROPOSED AMENDING PROVISIONS</b>
<p><b>4:</b> Penalty for parent or guardian making agreement to pledge the labour of a Child. – Whoever, being the parent or guarding of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extended to fifty rupees.</p>	<p><b>4:</b> Penalty for parent or guardian making agreement to pledge the labour of a Child. – Whoever, being the parent or guarding of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extended to <b>twenty thousand rupees</b>.</p>
<p><b>5:</b> Penalty for making with a parent or guardian an agreement to pledge the labour of a Child. – Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledge the labour of the child shall be punished with fine which may be extended to two hundred rupees.</p>	<p><b>5:</b> Penalty for making with a parent or guardian an agreement to pledge the labour of a Child. – Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledge the labour of the child shall be punished with fine which may be extended to <b>twenty thousand rupee</b>.</p>

<p>6. Penalty for employing a child whose labour has been pledged. – Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employees such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.</p>	<p>6. Penalty for employing a child whose labour has been pledged. – Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employees such child, or permits such child to be employed in any premises or place under his control, shall be punished with <b>imprisonment for a term, which shall not be less than six months but which may extend to one year, or with fine, which may extend to twenty thousand rupees or with both.</b></p>
<p>No provision.</p>	<p>7. Penalty for making Second Default. – Whoever, having been convicted of an offence under Section 4, 5 and 6, commits a like offence afterwards, shall be punished with imprisonment of either description for a term which shall not be less than six months nor more than two years or with fine of twenty thousand rupees or with both.</p>

The Commission considered the proposal in its meeting held on 11 October 2003 and approved the Draft Bill as at Annex and referred it to Federal Government for making amendments in the Children (Pledging of Labour) Act 1933.

## Bill

*to amend the Children (Pledging of Labour) Act, 1933*

**WHEREAS** it is expedient to amend the Children (Pledging of Labour) Act, 1933(II of 1933), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Children (Pledging of Labour) (Amendment) Act, 2003.

(2) It shall come into force at once.

**2. Amendment of Section 4, Act II of 1933.-** In the Children (Pledging of Labour) Act, 1933 (II of 1933), hereinafter referred to the said Act, in Section 4 , for the word “ fifty” the words “ twenty thousand” shall be substituted.

**3. Amendment of Section 5, Act II of 1933.-** In the said Act, in Section 5, for the words “two hundred” the words ”twenty thousand” shall be substituted.

**4. Amendment of Section 6, Act II of 1933.-** In the said Act, in Section 6, for the words “ fine which may extend to two hundred rupees ” the words ”imprisonment for a term which shall not be less than six months but which may extend to one year, or with fine which may extend to twenty thousand rupees or with both” shall be substituted.

**5. Addition of Section 7, Act II of 1933.-** In the said Act, after Section 6 as amended, the following new Section shall be added, namely;-

**6. Penalty for making second default.-** Whoever, having been convicted of an offence under Section 4, 5 or 6, commits a like offence afterwards, shall be punished with imprisonment of either description for a term which shall not be less than six months nor more than two years or with fine of twenty thousand rupees or with both.