

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

to provide for protection, welfare and equal rights of eunuchs who are commonly known as khawaja saras or by different other names and expressions in the country

WHEREAS it is expedient to provide for production, welfare and equal rights of eunuchs who are commonly known as Khawaja Saras or by different other names and expressions in the country and other matters relating to recognition and protection of their equal rights;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.**- (1) This Act may be called the Protection and Welfare of Khawaja Saras Rights Bill, 2012.

(2) It extends to Islamabad Capital Territory.

(3) It shall come into force at once.

2. **Definition.**- In this Act, unless there is anything repugnant in the subject or context,-

(a) **“appropriate Government”** means the Federal Government or the Provincial Government, as the case may be;

(b) **“khawaja sara”** means a child or a person by whatever other name, expression or terminology who is called or known who is eunuch, transvestite or any person whose sex is not clear or well-defined at the time of his birth or for the time being thereafter according to available medical information;

(c) **“prescribed”** means prescribed by the rules;

(d) **“rules”** means the rules made under this Act.

3. **Recognition and protection of rights of Khawaja Saras.**- (1) Notwithstanding anything contained in any other law for the time being in force, there shall be no discrimination towards any person including a khawaja sara on the basis of sex whether his or her sex is clear or well-defined for the time being or not for entitlement of rights under the Constitution of the Islamic Republic of Pakistan.

(2) The appropriate Government shall make arrangement for a medical comprehensive medical examination of each child born in any hospital under the administrative control of such appropriate Government.

(3) The medical officer incharge of labour room or gynaecology ward shall make arrangements for comprehensive medical examination of each new born child to examine its sex and in case of any child of undermined sex, eunuch or khawaja sara, the medical office shall consult with other medical officers for its surgical or other treatment at the earliest stage in consultation with parents of such child.

(4) The medical officer on finding any child undermined sex, eunuch or khawaja sara shall make arrangements for its surgical and other treatment or give a timeframe for such surgical or other treatment to the parents of the child and it shall be the responsibility of the parents to follow the instructions of the medical officer.

4. **Rights of child having no well-defined sex or khawaja sara.**- Any child or person whose sex is not clear or well-defined or is a eunuch commonly known as khawaja sara at the time of birth or thereafter shall not be discriminated in this ordinary life and shall have equal protection of the laws and under the Constitution of the Islamic Republic of Pakistan.

5. Right to be cast vote and to be elected as a public officer-holder.- (1) Notwithstanding anything contained in any other law for the time being in force, no khawaja sara shall be deprived of his right to cast vote and to be elected as a public office-holder from constituency of his choice in any electoral process for any elections.

(2) It shall be duty of Election Commission of Pakistan to register all eligible khawaja sara as voters in their areas or localities of residence in the same electoral role prepared for Ordinary

6. Right to be registered in National Registration Database as Citizen.- (1) The name of every khawaja sara shall be entered in the national registration database as a citizen at the time of his birth after fulfilling necessary requirements prescribed under the National Database and Registration Authority Ordinance , 2000 (Ordinance No. VIII of 2000).

(2) Every khawaja sara shall be entitled for a computerized National Identity Card subject to fulfilling all necessary requirements under the Ordinance No. VIII of 2000.

7. Right of Education and employment.- (1) There shall be no discrimination for taking admission in all educational institutions subject to fulfillment of their prescribed requirements.

(2) There shall be reserved one percent quota for all employments under the Federal Government and the Provincial Governments.

(3) It shall be duty of the private employers to provide employment opportunities t khawaja saras where they are fulfilling the prescribed requirements of the job available or advertised by such private employers.

Provided that every private employer employing more than one hundred employees or warders in their factory or establishment shall be bound to reserve at least two percent of vacancies of appropriate jobs for khawaja saras.

8. No discrimination in all other opportunities.- There shall be no discrimination with khawaja sara in all spheres of life in regard to provision of all such facilities and benefits guaranteed under the Constitution as Fundamental Rights.

9. Special provision for medical treatment regarding determination of true sex.-

(1) The appropriate Government shall make arrangements for medical treatment of children with no determined sex or khawaja sara keeping in view the modern research in the field genetics so that they may be treated to be member of either sex i.e. male or female, if possible with the help of surgical or other clinical treatment.

(2) The appropriate Government shall bear all expenses for treatment under sub-section (1).

10. Social security benefit.- (1) The appropriate Government shall issue social security benefit cards to all khawaja sara except who are provided any job under this Act or under any other law in force for the time being subject to verification of their credentials by appropriate methods.

(2) The amount of social security benefit shall be prescribed by the appropriate Government from time to time but it shall not be less than rupees five thousand in any case.

11. Pakistan Bait-ul-Mal and the appropriate Government to provide funds or grants.- (1)

It shall be the responsibility of the Board and Managing Director of the Pakistan Bait-ul-Mal established under the Pakistan Bait-ul-Mal established under the Pakistan Bait-ul-Mal Act, 1991 (Act

No. I of 1992), as well as of the appropriate Government to provide funds or grants for meeting the financial requirements of the social security benefit under section 10 of the Act.

(2) The Managing Director, Pakistan Bait-ul-Mal shall make arrangements for making and issuance of social security benefit cards under section 10.

12. Power to make regulations.-The Managing Director, Pakistan Bait-ul-Mal, with previous approval of the Board, shall make regulations for the purposes of this Act within six months of the commencement of the Act and such regulations shall take effect after their publication in the official Gazette.

13. Removal of difficulties.- (1) If any difficulty arises in giving effect to any provision of this Act, the appropriate Government, by notification published in the official Gazette, may make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be appropriate or necessary for the purpose of removal of such a difficulty.

(2) No power under sub-section (1) shall be exercised after two years of the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

If a child is born whose sex is not well-defined at the time of his birth or thereafter there is no fault of such child or person, however, if the society is treating him with discrimination depriving him from all constitutional and legal rights then it is a great injustice and cruelty with such child or person who, in fact, need more attention from the society as well as the State.

2. Khawaja saras being a reality and part of our society are being ignored in all respects in their social welfare and betterment and facing innumerable problems in the society. They are deprived from all rights guaranteed by the Constitution and other laws. Consequently keeping in view their this dismal and miserable condition the Supreme Court of Pakistan has taken suo motu notice and issues appropriate directions for their registration, issuance of Computerized National Identity Cards, registration as voters in electoral rolls, etc. However, it was the responsibility of the Government and the State to take all such steps and take necessary steps for their protection and welfare which had not been taken so far due to absence of any particular legal provisions although there was no need of such special provisions in the legal system for them.

3. It is noteworthy that in the western and modern society there are no eunuchs as such children are properly medically treated at the time of their birth or thereafter and their physical disabilities are removed through medical and surgical operations and treatments and that is also possible in Pakistan consultation and assistance with such hospitals and institutions of the western world if the State and the Governments take some special interest.

4. Similarly, there is need of such measure like their education, employment and other welfare measure. There is need that they should not be discriminated in educational institutions and thereafter they may also be allowed to get employment for them so that they should not be source of evil or misery in the society but should become useful and responsible citizens of the State.

5. However, keeping in view the negligent attitude of the public functionaries, Governments and the State, the present Bill proposes different protective and welfare measures in addition to end of discrimination against eunuchs in the society as a whole and it is hoped that the Parliament will realize

their miseries and play its role through this legislative proposal to provide them respectable status in the State and the society.

6. Bill seeks to achieve the above-said aims and objects.

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