

[AS LAID IN THE NATIONAL ASSEMBLY]

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ORDINANCE NO. VI OF 2019

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ORDINANCE

further to amend the Pakistan Penal Code, 1860

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860), for the purposes hereinafter appearing;

AND WHEREAS the Senate and National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**— (1) This Ordinance may be called the Pakistan Penal Code (Amendment) Ordinance, 2019.

(2) It shall come into force at once.

2. **Amendment of section 3, Act XLV of 1860.**—In the Pakistan Penal Code, 1860 (Act XLV of 1860) in section 3, for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that where the accused has been extradited into Pakistan or brought into Pakistan under any arrangement with a foreign country or authority other than extradition or where against an accused any evidence is used in court which has been obtained from a foreign country, the court, upon conviction, may punish such accused with any punishment provided for that offence except punishment of death.”

STATEMENT OF OBJECTS AND REASONS

THE PAKISTAN PENAL CODE (AMENDMENT) BILL, 2019.

"The Pakistan Penal Code (Amendment) Bill, 2019", is aimed to wage war against terrorism and transnational organized crimes. Many of these crimes have their origin, basis or linkages in other countries. Therefore, in most of the cases, it is imperative that evidence available in Pakistan or other countries can be collected so that justice could be done without delay. To achieve this objective, one mode is mutual legal assistance requests. Pakistan is working on standalone mutual legal assistance law but till then information is sought on the basis of available mediums. At times our requests are not entertained on the basis that the material required should not be used in criminal proceeding to apply for a sentence of death for any person charged in this matter. This means the evidence received cannot be used in trial of offence wherein punishment of death can be awarded. Similarly, while seeking extradition of individuals involved in serious crimes, Pakistan faces opposition from some countries on the ground that, if convicted, such persons may be awarded punishment of death.

2. There is ongoing debate on elimination of death penalty as well and lots of human rights stakeholders are propagating for elimination of death penalty. Elimination of death penalty has religious contours as well. It cannot be done away with in *hadood* cases but there is no such compulsion in *fazeer* cases.

3. In view of getting benefit from abundant evidence available in other countries, it is imperative that Pakistan Penal Code, 1860 may be amended to the effect that when conviction is based upon the evidence obtained from foreign country or where extradition is requested for, death penalty shall not be awarded by the Court.

4. The issue calls for immediate attention as numerous mutual legal assistance and related requests may be imminent. Hence the amendment is imperative to solve the issues.

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Minister for Interior