

ORDINANCE No. XVI OF 2020

AN

ORDINANCE

*to ensure expeditious redressal of rape and sexual abuse crimes in respect of women and children through special investigation teams and special Courts providing for efficacious procedures, speedy trial, evidence and matters connected therewith or incidental thereto;*

AND WHEREAS the Senate and the 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, extent, and commencement.**—(1) This Ordinance may be called the Anti-Rape (Investigation and Trial) Ordinance, 2020.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may appoint.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “Special Court” means the Court established under section 3 of this Ordinance;

(b) “Special Committee” means the Committee set up under section 15 of this Ordinance;

(c) “child” means any male or female, who has not attained the age of eighteen years;

(d) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);

(e) “Anti-rape Crisis Cell” is a Cell appointed under section 4 of this Ordinance;

(f) “Government” means the Federal Government;

(g) “Independent Support Adviser” means a person appointed, enlisted or recognized as such under section 11 of this Ordinance;

(h) “sex offender” means and includes any person convicted under sections 292A, 292B, 292C, 371A, 371B, 375, 375A, 376, 376B, 377, 377A, 377B of the Pakistan Penal Code, 1860 (XLV of 1860) or sections 21 and 22 of the Prevention of Electronic Crimes Act, 2016 (Act XL of 2016);

(i) “victim” means a woman or child who has been subjected to scheduled offences;

- (j) "Schedule" means a Schedule annexed to this Ordinance; and
- (k) "Scheduled offences" means offences as set out in the Schedules against a "victim" or a "child" as defined in this Ordinance.

*Explanation.*—It is clarified that where the Scheduled offences are committed against persons who do not qualify to be categorized as "victim" or "child" as defined under this Ordinance, the offences shall be tried through procedure, rules of evidence and courts, functioning prior to this Ordinance coming into effect.

(2) All other terms and expressions used but not defined in this Ordinance, shall have the same meaning as are assigned to them in the Pakistan Penal Code, 1860 (Act XLV of 1860) or in the Code of Criminal Procedure, 1898 (Act V of 1898), or the Qanoon-e-Shahadat Order, 1984 (P.O. No. X of 1984).

3. **Establishment of Special Courts etc.**—(1) The President, in consultation with the Chief Justice of Pakistan, shall establish as many Special Courts throughout the country, as he may deem necessary, to try the scheduled offences.

(2) The President, in consultation with the Chief Justice of Pakistan, shall appoint any person as a Judge of the Special Court, who is or has been a Sessions Judge or Additional Sessions Judge, or has been an advocate of the High Court for a period of not less than ten years, and is not more than seventy years of age at the time of appointment.

(3) In addition to or in lieu of the establishment of Special Courts under sub-section (1), the President may, in consultation with the Chief Justice of Pakistan, designate, throughout the country, as many Courts of Sessions Judges or Additional Sessions Judges as Special Courts, as he may deem fit.

(4) A Judge of the Special Court shall have the same powers and jurisdiction as the Court of Sessions, provided under the Code.

(5) A Judge of the Special Court shall be appointed for a period of three (3) years on such terms and conditions as may be determined by the President.

(6) A Judge of a Special Court shall only be removable before the expiry of his tenure if he is found guilty of misconduct.

(7) The disciplinary proceedings against a Judge of a Special Court shall be conducted in the same manner and under the same legal provisions and rules as prescribed for a District and Sessions Judge.

(8) During his tenure, a Judge of a Special Court may be transferred to another Special Court within the same Province, by the President, in consultation with the Chief Justice of Pakistan.

(9) Subject to sub-section (10), the trial of Scheduled offences shall ordinarily be conducted in the Special Court within whose territorial jurisdiction the offences are committed.

(10) In exceptional circumstances, which may include the protection of the victim, his or her family, witnesses, or other practicable reasons, the President, on his own or upon application, in consultation with the Chief Justice of Pakistan, may transfer the trial and proceedings of a case to any Special Court anywhere in the country, as he may deem fit.

4. **Anti-Rape Crisis Cells.**—(1) The Prime Minister shall establish or designate as many Anti-Rape Crisis Cells throughout the country in relation to offences mentioned in Schedule-II, in such public hospitals with adequate medical facilities, as he may deem fit.

(2) The Anti-Rape Crisis Cells shall be headed by the concerned Commissioner or Deputy Commissioner of the area, as deemed fit by the Prime Minister, and shall also comprise the Medical Superintendent of the public hospital designated under sub-section (1), at least one Independent Support Adviser, and the District Police Officer of the concerned District or a Police Officer heading a Division, as deemed fit by the Prime Minister:

Provided that at least one member of the Anti-Rape Crisis Cell shall preferably be a woman.

5. **Power, duties and functions etc. of the Anti-Rape Crisis Cell.**—  
(1) As soon as an Anti-Rape Crisis Cell receives information from any source, on its own accord or upon application by any person, orally or in writing, of an offence mentioned in Schedule II, it shall without any delay ensure the following:—

- (a) conduct of a medico-legal examination without any delay, preferably not later than six (6) hours from the time of receipt of information;
- (b) securing, collection and gathering of such evidence as may be expedient;
- (c) conduct of a forensic analysis/examination;
- (d) registration of an FIR by the Police; and
- (e) performing of any other action as may be necessary.