

## NATIONAL ASSEMBLY SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON THE ANTI-RAPE (INVESTIGATION AND TRIAL) ORDINANCE, 2020

1, Chairman of the Standing Committee on Law and Justice, have the honour to present this report on the Bill to effectually tackle the pervading instances of rape and sexual abuse in respect of women and children through changes in the substantive law [Anti-Rape (Investigation and Trial) Bill, 2020] (Government's Bill) referred to the Committee on 1<sup>st</sup> February, 2021.

2. The Committee comprises the following:-

1. Mr. Riaz Fatyana	Chairman
2. Mr. Atta Ullah	Member
3. Mr. Lal Chand	Member
4. Mr. Muhammad Farooq Azam Malik	Member
5. Ms. Kishwer Zehra	Member
6. Ms. Maleeka Ali Bokhari	Member
7. Mr. Muhammad Sana Ullah Khan Masti Khel	Member
8. Malik Muhammad Ehsan Ullah Tiwana	Member
9. Agha Hassan Baloch	Member
10. Mr. Junaid Akbar	Member
11. Ms. Shunila Ruth	Member
12. Mr. Mohsin Nawaz Ranjha	Member
13. Rana Sana Ullah Khan	Member
14. Ch. Mehmood Bashir Virk	Member
15. Mr. Usman Ibrahim	Member
16. Khawaja Saad Rafique	Member
17. Syed Hussain Tariq	Member
18. Syed Naveed Qamar	Member
19. Dr. Nafisa Shah	Member
20. Ms. Aliya Kamran	Member
21. Barrister Dr. Muhammad Farogh Naseem Minister for Law and Justice	Ex-officio Member

3. The Committee considered the Bill as introduced in the National Assembly placed at **(Annex-A)**, in its meetings held on 17<sup>th</sup> March 2021, 6<sup>th</sup> May 2021, 3<sup>rd</sup> June 2021, and recommended with majority, that the Bill placed at **(Annex-B)**, may be passed by the National Assembly. However, Dissent Note of Ms. Nafeesa Shah, Syed Naveed Qamar, Syed Hussain Tariq, MNAs is **Annex-C**, whereas Dissent Note of Ms. Aliya Kamran and Usman Ibrahim MNAs is placed as **Annex-D**.

Sd/-  
**TAHIR HUSSAIN**  
Secretary  
Islamabad, the 9<sup>th</sup> June, 2021

Sd/-  
**(RIAZ FATYANA)**  
Chairman

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.