

[AS PASSED BY THE MAJLIS-E-SHOORA (PARLIAMENT)]

A

BILL

further to amend the Pakistan Penal Code, 1860, the Code of Criminal Procedure, 1898 and the Qanun-e-Shahadat, 1984

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898) and the Qanun-e-Shahadat, 1984 (X of 1984) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act may be called the Criminal Law (Amendment) (Offences Relating to Rape) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 55, Act XLV of 1860.- In the Pakistan Penal Code, 1860 (XLV of 1860), hereinafter referred to as Penal Code, in section 55, in the proviso, for the "full stop" at the end, a "colon" shall be substituted and thereafter the following new proviso shall be added, namely:-

"Provided further that in a case in which the sentence of imprisonment for life has been passed against an offender convicted for an offence punishable under sections 354A, 376, 376A, 377 or 377B, or where the principle of *fasad-fil-arz* is attracted, such punishment shall not be commuted."

3. Amendment of section 166, Act XLV of 1860.- In the Penal Code, in section 166, the existing provision shall be re-numbered as sub-section (1) of that section and

after sub-section (1) re-numbered as aforesaid, the following new sub-section shall be inserted, namely:-

“(2) Whoever being a public servant, entrusted with the investigation of a case, fails to carry out the investigation properly or diligently or fails to pursue the case in any court of law properly and in breach of his duties, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”.

4. Amendment of section 186, Act XLV of 1860.- In the Penal Code, in section 186, the existing provision shall be re-numbered as sub-section (1) of that section and,-

- (a) in sub-section (1),-
 - (i) for the words “three months” the words “one year” shall be substituted; and
 - (ii) for the words “five hundred” the words “fifty thousand” shall be substituted; and
- (b) after sub-section (1), as amended hereinabove, the following new sub-section shall be added, namely:-

“(2) Whoever, intentionally hampers, misleads, jeopardizes or defeats an investigation, inquiry or prosecution, or issues a false or defective report in a case under any law for the time being in force, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.”.

5. Amendment of section 376, Act XLV of 1860.- In the Penal Code, in section 376,-

- (a) after sub-section (1), the following new sub-section (1A) shall be inserted, namely:-

“(1A) Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of this section, section 377 or section 377B, and in the course of such commission causes any hurt punishable as an offence under section 333, section 335, clauses (iv), (v) and (vi) of sub-section (3)

of section 337, section 337C, clauses (v) and (vi) of section 337F, shall be punished with death or imprisonment for life and fine.”; and

- (b) after sub-section (2), the following new sub-sections (3) and (4) shall be inserted, namely:-

“(3) Whoever commits rape of a minor or a person with mental or physical disability, shall be punished with death or imprisonment for life and fine.

(4) Whoever being a public servant, including a police officer, medical officer, or jailor, taking advantage of his official position commits rape shall be punished with death or imprisonment for life and fine.”.

6. **Insertion of new section 376A, Act XLV of 1860.-** In the Penal Code, after section 376 the following new section shall be inserted, namely:-

“376A. Disclosure of identity of the victim of rape etc.- (1) Whoever prints or publishes the name or any matter which may make known the identity of the victim, against whom an offence under sections 354A, 376, 376A, 377 and 377B is alleged or found to have been committed, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

- (2) Nothing in sub-section (1), extends to any printing or publication if it is,

- (a) by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or
- (b) by or under the order of Court; or
- (c) by or with the authorization in writing of the victim; or
- (d) by or with the authorization in writing of natural or legal guardian of the victim, where the victim is dead or a minor or of unsound mind:

Explanation.- Printing or publication of the judgment of any High Court, the Federal Shariat Court or the Supreme Court in law journals does not amount to an offence within the meaning of this section.”

7. **Insertion of new section 53A, Act V of 1898.**- In the Code of Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the Code, after section 53, the following new section shall be inserted, namely:-

“53A. Examination of person accused of rape, etc. by medical practitioner.–

(1) When a person is arrested on a charge of committing an offence of rape, unnatural offence or sexual abuse or an attempt to commit rape, unnatural offence or sexual abuse under section 376, section 377 and section 377B respectively and there are reasonable grounds for believing that an examination of this person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority to make such an examination of the arrested person and to use such force as is reasonably necessary for that purpose.

(2) The registered medical practitioner conducting such examination shall, without delay, examine such person and prepare a report of his examination giving the following particulars, namely:-

- (a) the name and address of the accused and of the person by whom he was brought;
- (b) the age of the accused;
- (c) marks of injury, if any, on the person of the accused;
- (d) the description of material taken from the person of the accused for DNA profiling; and
- (e) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The exact time of commencement and completion of the examination shall also be noted in the report. The registered medical practitioner shall, without delay, forward the report to the investigating officer, who shall forward it to the Magistrate through Public Prosecutor referred to in section 173 as part of the report referred to in that section.”.

8. **Amendment of section 154, Act V of 1898.**- In the Code, in section 154, for the “full stop” at the end, a “colon” shall be substituted and thereafter the following provisos shall be added, namely:-

“Provided that if the information is given by the woman against whom an offence under section 336B, section 354, section 354A, section 376 or section 509 of the Pakistan Penal Code, 1860, (Act XLV of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by an investigating Officer in the presence of a female police officer or a female family member or any other person with the consent of the complainant, as the case may be:

Provided further that if the information is given by the woman against whom an offence under section 336B, section 354, section 354A, section 376 or section 509 of the Pakistan Penal Code, 1860 (Act XLV of 1860), is alleged to have been committed or attempted, is distressed, such information shall be recorded by an investigating Officer, at the residence of the complainant or at a convenient place of the complainant's choice, in the presence of a police officer, or family member or any other person with the consent of complainant, as the case may be.”.

9. **Amendment of section 161, Act V of 1898.**- In the Code, in section 161, in sub-section (1), for the “full stop” at the end, a “colon” shall be substituted and thereafter the following provisos shall be added, namely:-

“Provided that a statement of a woman against whom an offence under section 336B, section 354, section 354A, section 376, or section 509 of the Pakistan Penal Code, 1860 (Act XLV of 1860), is alleged to have been committed or attempted, shall be recorded by an Investigating Officer, in the presence of a female police officer or a female family member or other person of her choice.”.