

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

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;

It is hereby enacted as follows: -

1. Short title, extent, and commencement. — (1) This Act may be called the Anti-Rape (Investigation and Trial) Act, 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 Act, unless there is anything repugnant in the subject or context, -

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

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

(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 Act;

(f) “Government” means the Federal Government;

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

(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 Act; and

(k) “Scheduled offences” means offences as set out in the Schedules against a “victim” or a “child” as defined in this Act.

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 Act, the offences shall be tried through procedure, rules of evidence and courts, functioning prior to this Act coming into effect.

(2) All other terms and expressions used but not defined in this Act, 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.

(2) The actions mentioned in sub-section (1) may be taken without any preferred order, however, all the said actions are required to be taken up expeditiously.

(3) As soon as an officer-in-charge of a Police Station receives any information with regard to the commission of an offence mentioned in Schedule-II, he shall, without any delay, transmit such information to the Anti-Rape Crisis Cell.

(4) The Prime Minister may from time to time, upon recommendations of the Special Committee, issue guidelines for the Anti-Rape Crisis Cells to efficaciously carry out their powers, duties and functions.

6. Legal assistance. — (1) The Legal Aid and Justice Authority established under the Legal Aid and Justice Authority Act, 2020 (Act XVI of 2020) shall provide legal assistance to victims of Scheduled offences. In addition, the Fund established under this Act shall also be utilized for legal assistance under this Act.

(2) In addition to the legal assistance under sub-section (1), the Special Committee shall in consultation with the Ministry of Human Rights, approve panels of advocates and volunteers in each district or, if necessary, in any tehsil, for the provision of legal, financial or other assistance either on *pro bono* or on fee basis, for which the Fund under this Act and under the Legal Aid and Justice Authority Act, 2020 (Act XVI of 2020) will be utilized.

7. Prosecutor General and Special Prosecutors. — (1) The Ministry of Law and Justice may designate or appoint a Prosecutor General and Special Prosecutors in a manner as may be prescribed by rules notified by the Prime Minister.

(2) The Prosecutor General and Special Prosecutors shall prosecute the Scheduled offences.

8. Victim and witness protection. — (1) A victim and witness protection system shall be established as prescribed by the Prime Minister through rules notified by him and shall, with a view to carry out the propose of this Act and without generality of the aforesaid, include the following: -

- (i) special security arrangements for witnesses and victims;
- (ii) concealment of identity;
- (iii) distance recording of testimonies through video-conferencing, audio-video links and by the use of modern devices;
- (iv) re-location of victims and witnesses;
- (v) provision of reasonable financial assistance;
- (vi) compensation to legal heirs of protected victims and witnesses;
- (vii) safe-houses, dar-ul-amans etc.;
- (viii) such other measures as may be necessary and ancillary.

(2) Till such time the rules envisaged in sub-section (1) are prescribed, the witness protection system and benefits prescribed under the Witness Protection, Security and Benefit Act, 2017 (Act XXI of 2017) shall be applicable to both victims and witnesses under this Act, *mutatis mutandis*.

9. Investigation in respect of Scheduled offences. — (1) The investigation in respect of offences mentioned in Schedule-I shall be carried out by a police officer not below the grade of BPS-17, who preferably shall be a female police officer.

(2) The investigation in respect of offences mentioned in Schedule-II shall be carried out by a special Joint Investigation Team (JIT) comprising the following, out of which at least one shall preferably be a woman: -

- (a) the District Police Officer (DPO) as the Head;
- (b) one Superintendent of Police (Investigation);
- (c) one Deputy Superintendent of Police;
- (d) one Station House Officer.

(3) The officers of the JIT shall ordinarily be from the relevant area in which the occurrence of the offence has taken place; however, in exceptional circumstances, where the dictates of fair investigation warrant otherwise, the concerned Inspector General of Police (IGP) may depute in the JIT, officers from areas other than the area of occurrence.

(4) Upon completion of investigation, the JIT shall, through the Prosecutor General or Special Prosecutors, submit a report before the Special Court: