

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

A

BILL

further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898) in order to deter and prevent offences in the name or pretext of honour in Pakistan, which claim the lives of hundreds of victims every year;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 299, Act XLV of 1860.- In the Pakistan Penal Code, 1860 (XLV of 1860), hereinafter referred to as the Penal Code, in section 299, after clause (e), the following new clause shall be inserted, namely:-

“(ee) **“fasad-fil-arz”** includes the past conduct of the offender, or whether he has any previous conviction, or the brutal

or shocking manner in which the offence has been committed which is outrageous to the public conscience, or if the offender is considered a potential danger to the community, or if the offence has been committed in the name or on the pretext of honour;”.

3. Amendment of section 302, Act XLV of 1860.- In the Penal Code, in section 302, in clause (c), for the full stop at the end, a colon shall be substituted and thereafter for the existing proviso, the following proviso shall be substituted, namely:-

“Provided that nothing in clause (c) shall apply where the principle of *fasad-fil-arz* is attracted and in such cases only clause (a) or clause (b) shall apply.”;

4. Amendment of section 309, Act XLV of 1860.- In the Penal Code, in section 309, in sub-section (1), in clause (b), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided further that where the principle of *fasad-fil-arz* is attracted, waiver of *qisas* shall be subject to the provisions of section 311.”.

5. Amendment of section 310, Act XLV of 1860.- In the Penal Code, in section 310, in sub-section (1), 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 where the principle of *fasad-fil-arz* is attracted, compounding of the right of *qisas* shall be subject to the provisions of section 311.”.

6. Amendment of section 311, Act XLV of 1860.- In the Penal Code, for section 311, the following shall be substituted, namely:-

"311. Ta'zir after waiver or compounding of right of qisas in qatl-i-amd.- Where all the *wali* do not waive or compound the right of *qisas*, or if the principle of *fasad-fil-arz* is attracted, the court may, having regard to the facts and circumstances of the case, punish an offender against whom the right of *qisas* has been waived or compounded with death or imprisonment for life or imprisonment of either description for a term of which may extend to fourteen years as *ta'zir* :

Provided that if the offence has been committed in the name or on the pretext of honour, the punishment shall be imprisonment for life."

7. Amendment of section 338E, Act XLV of 1860.- In the Penal Code, in section 338E, in sub-section (1),-

- (a) for the word and figure "and 310", the comma, word and figures ", **310 and 311**" shall be substituted; and
- (b) for the second proviso, the following shall be substituted, namely:-

"Provided further that where an offence under this Chapter has been committed and the principle of *fasad-fil-arz* is attracted, the court having regard to the facts and circumstances of the case shall punish an offender with imprisonment or fine as provided for that offence."

8. Amendment of section 345, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the Code, in section 345,-

(a) in sub-section (1), in the Table, against the offence *Qatl-i-amd*, in the third column, for the existing entry, the following shall be substituted namely:-

"by the heirs of the victim, subject to the provisions of section 311.";

(b) in sub-section (2), for the word "The", occurring for the first time, the expression "Subject to sub-section (7), the" shall be substituted; and

(c) for sub-section (7), the following shall be substituted, namely:-

"(7) No offence shall be waived or compounded save as provided by this section and section 311 of the Pakistan Penal Code, 1860 (Act V of 1860).".

9. Amendment of Schedule-II, Act V of 1898.- In the Code, in Schedule-II, in column (1), against section 311, for the entry in column (7), the following shall be substituted, namely:-

"Death or imprisonment for life or imprisonment of either description for a term which may extend to fourteen years as *ta'zir*, or if the offence has been committed in the name or on the pretext of honour, imprisonment for life.".

STATEMENT OF OBJECTS AND REASONS

Honour killings are common throughout Pakistan, claiming the lives of hundreds of victims every year. According to Aurat Foundation's statistics 432 women were reportedly killed in the name of honour in Pakistan in 2012, 705 in 2011, 557 in 2010, 604 in 2009 and 475 in 2008. These figures do not include unreported cases or, indeed, the number of men who are often killed alongside women in the name of honour. Addressing the loopholes and lacunae in the existing laws is essential in order to prevent these crimes from being repeatedly committed.

The Bill is designed to achieve the said objective.

SENATOR FARHATULLAH BABAR
Member-in-charge