



LEGISLATIVE WATCH

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EDITORIAL

The Hudood Ordinances are a set of five Ordinances promulgated by General Zia-ul-Haq in 1979 during his military rule, under the pretext of bringing the laws of Pakistan in conformity with Islam. These Ordinances were never debated in the Parliament and are perceived to have been hastily enforced as a politically expedient measure on the part of the then martial law regime for justifying its unlawful continuance in power.

They have been severely criticized since soon after their inception as being highly discriminatory and oppressive, especially to women and other marginalized sections of society. Different segments of society, especially women and human rights organizations and leading jurists, members of intelligentsia, journalists and academicians, have opposed these laws as being unjust and un-Islamic. Even on an official level, the Commission for the Inquiry of Women, 1997 and the Special Committee of the National Commission on the Status of Women, 2003, set up to review the situation of women, recommended their repeal unanimously, or with a very heavy majority. Even three mainstream political parties (PPPP, MQM and ANP), leading members of PML-Q and a number of smaller parties, have favoured the repeal of these ordinances. Comprehensive studies made by prominent Islamic scholars also hold the view that these are un-Islamic.

However, these laws were considered un-touchable for 27 years due to the 'Islamic' label attached to them. They were used as tools of oppression and injustice throughout this time period unabated until 2006, when parliamentary and media campaigns were launched on this issue and finally an official Bill was introduced by the ruling coalition, the PML-Q and its allies, amending the

Hudood Ordinances. The Protection of Women (Criminal Laws Amendment) Act was finally passed in 2006, making several amendments in two of the Hudood Ordinances, the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 and the Offence of Qazf (Enforcement of Hudood) Ordinance, 1979. The other two equally discriminatory laws, i.e., the Offences Against Property (Enforcement of Hudood) Ordinance, 1979 and Prohibition (Enforcement of Hadd) Ordinance, 1979 were not touched by the Act.

Despite the intention to 'protect' women as is stated in the preamble of the Act, the changes made to the Zina and Qazf Ordinances are likely to have little effect, except for the separation of offences of rape and zina (fornication) and the eradication of the overriding effect of the ordinances. This is simply because the entire conceptual framework of Hudood Ordinances rests on the control of the powerful over the weak, particularly the patriarchal hold of gender status quo. Stringent punishments hardly serve the purpose when social justice is not available to citizens and an effective criminal justice is not in place.

There have been amendments in the Zina and Qazf Ordinances but there remain a number of existing lacunas which are beyond remedy, as evidenced by the large amount of official and unofficial studies. Though, the Protection of Women (Criminal Laws Amendment) Act 2006 is one step forward, it does not end inherent discriminations in the Hudood Ordinances. In order to provide actual protection to all the citizens of the country without discrimination - especially to women, as the amended act claims to do - it is a necessity to repeal the Hudood Ordinances and return to a pre-1979 position.

Reform is not enough - Repeal the Hudood Ordinances

The demand to get the Hudood Ordinances gains more legitimacy under the present political dispensation as the ruling party, the PPPP, and two of its close allies, ANP and MQM, have always held a principled position, manifested through public commitments and election manifestos, to do away with these discriminatory laws. This is time to act for the incumbents in power to erase these laws from the statute and seal the dark era of legal tyranny against women and non-Muslim, which started nearly 30 years back. Women are waiting since long for a positive and caring legislative action to see that equality provisions in the Constitution of Pakistan are not simple letters, but they do have a meaning.

In 2006, an official Bill to amend the Hudood Ordinances was introduced by the coalition government led by PML-Q. During the build up to the passing of the Bill, there were several drafts presented that had a number of more detailed amendments and comprehensive provisions. The recommendations that have been given by official and unofficial bodies also covered a larger span of problems than identified and targeted by the current Act. The original draft of the Bill, based on a number of these recommendations, was far more encompassing and thorough but through compromising and negotiating with the conservative political parties and religious factions who opposed the

change, it was the water-downed version that was introduced and finally passed by the parliament, resulting in it being not so effective piece of legislation.

Before its passage, the official Bill was referred to a Select Committee of the National Assembly amid an uproar staged by the Mutahida Majlis Amal (MMA). The PML-Q and its coalition partners including the MQM, as well as, the main opposition party PPPP, participated in the Select Committee deliberations, whereas the MMA and the PML-N boycotted its proceedings. The Select Committee discussed the Bill for about two weeks and presented its report to the National Assembly on 4 September 2006. The MMA, at this stage, threatened to resign from the Assemblies, if the Bill was passed.

Civil society organizations, while articulating their long-standing demand for the total repeal of the Hudood Ordinances, said that they would accept the Bill passed by the Select Committee with strong reservations. They termed the Bill as inadequate and still discriminatory in several areas. The Bill was finally brought on the agenda of the National Assembly on 15 November, 2006, and was approved through a voice vote the same day, with the ruling party and its coalition partner, as well as, the PPPP and the PKMAP voting for it and

none against it; the MMA boycotted the proceedings and the PML-N abstained from voting. The Bill also got passed by the Senate on 23 November, 2006, and the President gave his assent on 1 December, 2006, making it a law, immediately enforceable.

The Protection of Women (Criminal Laws Amendment) Bill, 2006, passed by the Parliament has left untouched a number of serious lacunas and discriminations in the Hudood Ordinances and; carries a number of deficiencies in the provisions of the Bill, e.g. the definition of rape does not include 'custodial rape' and 'marital rape' etc. The deficiencies present in the Pakistan Penal Code can be removed through amendments, but the anomalies, lacunas and flaws in the Hudood Ordinances can only be removed through its repeal.

The Present Issue of the Legislative Watch has tried to provide basic information to its readers about what does the Protection of Women (Criminal Laws Amendment) Bill, 2006, offer and what it does not. A comprehensive critique of the law is not part of the discussion nor does anything about what its impact might have been on women during the last two years. This we intend to cover in our future newsletters, publications or studies. - *The Editorial Board*

Salient features

Protection of Women (Criminal Laws Amendment) Act 2006

By Naeem Mirza and Maliha Zia

The Protection of Women (Criminal Laws Amendment) Bill, 2006 (as passed by National Assembly and the Senate, and also given assent by the president) carries 29 Amendments in the Offence of Zina (Enforcement of Huddod) Ordinance, 1979, the Offence of Qazf (Enforcement of Huddod) Ordinance, 1979, the Pakistan Penal Code, the Code of Criminal Procedure and the Dissolution of Muslim Marriages Act, 1939. The Bill amends only two of the four Hudood Ordinances (the Offences of Zina and Qazf Ordinances), and does not touch the other two Ordinances (the Offences against Property and Prohibition Ordinances).

The Bill has made the following important changes:

Hadd and Tazir offences separated

One of the major changes made by the Act was to separate the Hadd and Tazir offences. Sections 10 to 16, 18 and 19 of the Zina Ordinance are omitted through Amendment 16 and; new sections (365B, 367A, 371A, 371B, 493A, 496A) are inserted in the PPC as tazir offences with tazir punishments. This means that the evidentiary criteria and requirement of proof needed will be the same as any other crime, thereby allowing admission of evidence such as circumstantial evidence etc. These are:

365B. Kidnapping, abducting or inducing woman to compel for marriage etc. (previously section 11 in the Zina Ordinance);

367A. Kidnapping, or abducting in order to subject person to unnatural lust. (previously section 12 in the Zina Ordinance);

371A. Selling person for purposes of prostitution, etc. (previously section 13 in the Zina Ordinance);

371B. Buying person for purposes of prostitution, etc. (previously section 14 in the Zina Ordinance);

493A. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage. (previously section 15 in the Zina Ordinance);

496A. Enticing or taking away or detaining with criminal intent a woman. (previously section 16 in the Zina Ordinance).

Rape separated from fornication/adultery

Rape and the punishment for rape have been removed from the Zina Ordinance and placed in the PPC as sections 375 ad 376 as tazir offences. The definition of rape has been amended and, as mentioned above, the evidentiary criteria will be that of all other crimes.

The punishment for rape is death or imprisonment not less than 10 years or more than twenty-five years and fine. For gang-rape, each of persons shall be punished with death or imprisonment for life.

Fornication introduced in the PPC as Tazir offence

Fornication (all sex outside marriage) has been

inserted in the PPC as tazir offences as separate sections (496B & 496C) with imprisonment up to five years and fine up to ten thousands rupees. The complaint procedure is through the Session Court with two eyewitnesses. The failure to prove the offence will result in forthwith sentence (same as for the offence) of complainants and eye-witnesses.

Procedure for complaint of zina & qazf changed

Zina and qazf remain offences liable to hadd in the Zina and Qazf Ordinance with the same proof of evidence and punishments. However, the complaint procedure has been changed in the Cr.P.C. In order to lodge a complaint of zina or qazf, the application has to be made directly to the Sessions Court as opposed as a FIR to the police. The statements of the complainants and eye-witnesses are recorded in front of the presiding judge who has to discretion to allow the complaint to be judged. Only once the judge officially lodges the complaint will the police have any authority to make any arrests etc. the offence has also been made bailable.

Convertability of case disallowed

Through Amendment 12A, this has been ensued that no complaint of zina liable to hadd, in the Zina Ordinance or any case of the allegation of rape will be converted into a complaint of fornication under PPC and vice versa at any stage.

Simultaneous imposition of Qazf made 'possible'

The failure to prove the offence of zina will automatically result in a simultaneous conviction of qazf. It will be at the discretion of the judge to immediately charge and convict the complaint on the offence of qazf. It will not be dependent on initiation of new legal proceedings.

Overriding nature of Ordinances done away

One of the fundamental changes made is to omit the over-riding effect of the Zina and Qazf Ordinances.

Changes in definition of zina made

Through Amendment 12 in section 4 of the Zina Ordinance, the word "validly" deleted from the words "validly married" in the definition of zina; the explanation to the definition of Zina also removed.

Lian introduced as a ground for divorce

Lian, a form of dissolution of marriage, which is part of the Qazf Ordinance, has now been introduced also as a ground for divorce under the Dissolution of Muslim Marriages Act, 1939, through Amendment 29.

The proposed amendments in the Zina and Qazf Ordinances basically make four main changes i.e. separation of hadd and tazir punishments; separation of rape and zina; changes in the complaint procedure to eliminate the role of the police; and the eradication of the overriding effect of the two ordinances. These are practical changes made to directly challenge the injustices that had become part of the system when dealing with such cases.

What the PWA does not offer!

There have been amendments in the Zina and Qazf Ordinances but there remain a number of discriminatory provisions in them which are beyond remedy and which have not been dealt with, for example:

- **Two of the Hudood Ordinances are not touched:** The amendments do not touch the other two Hudood Ordinances, i.e. the Offences Against Property (Enforcement of Hudood) Ordinance, 1979, and the Prohibition (Enforcement of Hadd) Ordinance, 1979, which are equally discriminatory and defective.
- **The age of adulthood in the Zina Ordinance is not touched:** The existing age of adulthood "18 years for a male or 16 years for a female or puberty" in the Zina ordinance has not been touched. This is discriminatory to female children, who will remain under threat of being booked and convicted for zina liable to Hadd under the law.
- **Testimonies of women and minorities still denied in Hadd cases:** Women and non-Muslims testimonies are still denied in Hadd crimes in the Zina Ordinance. This creates discrimination on the basis of sex and religion.
- **The definitions of Hadd offences, Zina and Qazf remain defective:** Hadd offences and punishments remain there with an obscurantist interpretation of Islam: e.g. the punishment of Rajm; the distinction between 'married' or 'non-married' in the case of zina; the Hadd punishment for the use of alcoholic beverage; the incompatibility of the value of theft with the crime of gang robberies and; the extremely defective definition of Qazf, etc.
- **Wide discretion of the judge:** There is a possible problem of conflicting judgments while leaving the decision to lodge a complaint of zina or the simultaneous imposition of qazf entirely to the discretion of the presiding officers, as the judges may depend or use their own interpretation from a 'specific' point of view. Furthermore, the complainant is able to withdraw the allegation of qazf, which makes its imposition even more difficult as it is susceptible to blackmail, being used as a threat etc.
- **The discrimination on the basis of religion:** Non-Muslim cannot be presiding officer of the court if the accused is Muslim. This is denial of fundamental rights to non-Muslims as guaranteed by the Constitution; similarly, the application of Hudood on minorities remains a major problem.

The myth is shattered but the discrimination lingers on

Although the myth that the so-called 'divine' laws cannot be touched has been shaken, nevertheless, there remains an 'Islamic' label attached to the remaining existing version of the Zina and Qazf Ordinances, as well as to the other two Hudood Ordinances. This makes this law a tool in the hands of the clergy who acquire the 'sole' right to interpret things according to their understanding of Islam and vested interests; in a semi-feudal, semi-tribal and highly patriarchal society. This leverage

becomes too oppressive and disadvantageous to women and other marginalized sections of society. They are still discriminatory and likely to cause grave injustice to women and minorities. They are violative of the basic principles of justice, equality and human rights. They are hastily and badly constructed laws and despite the amendments of the Protection of Women Act, 2006, there remain serious lacunas and anomalies and; they have demonstrably failed to serve their purpose.

Amendments in the PPC

The following new sections have been inserted in the Pakistan Penal Court (Act XLV of 1860) through various sections of PWA, 2006:

365B. Kidnapping, abducting or inducing woman to compel for marriage etc. (previously section 11 in the Zina Ordinance);

367A. Kidnapping, or abducting in order to subject person to unnatural lust. (previously section 12 in the Zina Ordinance);

371A. Selling person for purposes of prostitution, etc. (previously section 13 in the Zina Ordinance);

371B. Buying person for purposes of prostitution, etc. (previously section 14 in the Zina Ordinance);

375. Rape.- A man is said to commit rape who has sexual intercourse with a woman under circumstances falling under any of the five following descriptions,

- (i) against her will,
- (ii) without her consent,
- (iii) with her consent, when the consent has been obtained by putting her in fear of death or of hurt,
- (iv) with her consent, when the man knows that he is not married to her and that the consent is given because she believes that the man is another person to whom she is or believes herself to be married; or
- (v) with or without her consent when she is under sixteen years of age.

Explanation:- Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

376. Punishment for rape.-

(1) Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more than twenty-five years and shall also be liable to fine.

(2) When rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life.

493A. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage. (previously section 15 in the Zina Ordinance);

496A. Enticing or taking away or detaining with criminal intent a woman. (previously section 16 in the Zina Ordinance).

496B: Fornication.

(1) A man and a woman not married to each other are said to commit fornication if they willfully have sexual intercourse with one another.

(2) Whoever commits fornication shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine not exceeding ten thousand rupees.

496C: Punishment for false accusation of fornication.

Whoever brings or levels or gives evidence of false charge of fornication against any person, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine not exceeding ten thousand rupees.

Provided that a Presiding Officer of a Court dismissing a complaint under section 203C of the Code of Criminal Procedure, 1898 and after providing the accused an opportunity to show cause if satisfied that an offence under this section has been committed shall not require any further proof and shall forthwith proceed to pass the sentence.

In the Dissolution of Muslim Marriages Act, 1939 (VIII of 1939), in section 2, after clause (vii), the following new clause shall be inserted, namely:- (viiia) Lian

Explanation: Lian means where the husband has accused his wife of zina and the wife does not accept the accusation as true".

Complaint procedure in cases of Zina, Qazf and fornication changed

The following new sections 203A, 203B and 203C have been inserted after section 203 in the Code of Criminal Procedure, 1898 (Act V of 1898) through section 8 of PWA, 2006:

"203A. Complaint in case of Zina.-

(1) No court shall take cognizance of an offence under section 5 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), except on a complaint lodged in a Court of competent jurisdiction.

(2) The Presiding Officer of a Court taking cognizance of an offence on a complaint shall at once examine the complainant and at least four adult eye-witnesses, upon oath, of the act of zina necessary to the offence.

(3) The substance of the examination of the complainant and the eye-witnesses shall be reduced to writing and shall be signed by the complainant and the eye-witnesses and also by the Presiding Officer of the Court.

(4) If in the opinion of the Presiding Officer of a Court, there is sufficient ground for proceeding the Court shall issue a summons for the personal attendance of the accused.

(5) The Presiding Officer of a Court before whom a complaint is made or to whom it has been transferred may dismiss the complaint, if, after considering the statements on oath of the complainant and the four or more eye-witnesses there is, in his judgment, no sufficient ground for proceeding and in such case he shall record his reasons for so doing.

203B. Complaint in case of Qazf:-

(1) Subject to sub-section (2) of section 6 of the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (VIII of 1979), no Court shall take cognizance of an offence under section 7 of the said Ordinance, except on a complaint lodged in a Court of competent jurisdiction.

(2) The Presiding Officer of a Court taking cognizance of an offence on a complaint shall at once examine on oath the complainant and the witnesses as mentioned in section 6 of the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (VIII of 1979) of the act of Qazf necessary to the offence.

(3) The substance of the examination of the complainant and the witnesses shall be reduced to writing and shall be signed by the complainant and the witnesses, as the case may be, and also by the Presiding Officer of the Court.

(4) If in the opinion of the Presiding Officer of

a Court, there is sufficient ground for proceeding the Court shall issue summons for the personal attendance of the accused.

(5) The Presiding Officer of a Court before whom a complaint is made or to whom it has been transferred may dismiss the complaint, if, after considering the statements on oath of the complainant and the witnesses there is, in his judgment, no sufficient ground for proceeding and in such case he shall record his reasons for so doing.

203C. Complaint in case of fornication.

(1) No court shall take cognizance of an offence under section 496A of the Pakistan Penal Code, except on a complaint lodged in a Court of competent Jurisdiction.

(2) The Presiding Officer of a Court taking cognizance of an offence shall at once examine on oath the complainant and at least two eyewitnesses to the act of fornication.

(3) The substance of the examination of the complainant and the eye-witnesses shall be reduced to writing and shall be signed by the complainant and the witnesses, as the case may be, and also by the Presiding Officer of the Court.

(4) If in the opinion of the Presiding Officer of a Court, there is sufficient ground for proceeding the Court shall issue a summons for the personal attendance of the accused:

Provided that the Presiding Officer of a Court shall not require the accused to furnish any security except a personal bond, without sureties, to ensure attendance before the Court in further proceedings.

(5) The Presiding Officer of a Court before whom a complaint is made or to whom it has been transferred may dismiss the complaint, if, after considering the statements on oath of the complainant and the witnesses there is, in his judgment, no sufficient ground for proceeding and in such case he shall record his reasons for so doing.

(6) Notwithstanding the foregoing provisions, or anything contained in any other law for the time being in force no complaint under this section shall be entertained against any person who is accused of zina under section 5 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979) and against whom a complaint under section 203A of this Code is pending or has been dismissed or who has been acquitted or against any person who is a complainant or a victim in a case of rape, under any circumstances whatsoever."

The Hudood Ordinances and WPA Amendments: At a Glance	
The Offences Against Property (Enforcement of Hudood) Ordinance, 1979.	No change. The WPA, 2006 does not touch it
The Offence of Zina (Enforcement of Hudood) Ordinance, 1979.	A number of amendments made in this law through WPA, 2006 (see page 4-5); however, the offence of zina liable to Hadd remains in the law; Procedure of complaint for zina changed
The Offence of Qazf (Enforcement of Hudood) Ordinance, 1979.	A number of amendments made in the law through WPA, 2006 (see page 6-7); however, definitions/exceptions of qazf remain as before; the procedure of complaint for qazf changed
Prohibition (Enforcement of Hadd) Ordinance, 1979.	No change. The WPA, 2006 does not touch it
Execution of the Punishment of Whipping Ordinance, 1979.	No change. The WPA, 2006 does not touch it

Amendments in the Offence of Zina Ordinance

The Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979)	Amendments in the Zina Ordinance, 1979 through the Protection of Women Act, 2006
<p>sections, words omitted from the Zina Ordinance are highlighted in light orange colour</p> <p>sections, words omitted from the Zina Ordinance and shifted to PPC are highlighted in light green colour</p> <p>sections added in the Zina Ordinance are highlighted in light magenta colour</p>	
<p>1. Short title extent and commencement.</p> <p>(1) This Ordinance may be called the Offence of Zina (Enforcement of Hudood) Ordinance, 1979</p> <p>(2) It extends to the whole of Pakistan</p> <p>(3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.</p>	No change has been made in Section 1
<p>2. Definitions: In this Ordinance, unless there is anything repugnant in the subject of context.</p> <p>(a) "adult" means a person who has attained, being a male, the age of eighteen years or, being a female, the age of sixteen years, or has attained puberty;</p> <p>(b) "hadd" means punishment ordained by the Holy Quran or Sunnah;</p> <p>(c) "marriage" means marriage which is not void according to the personal law of the parties, and "married" shall be construed accordingly;</p> <p>(d) "Muhsan" means.</p> <p>(i) a Muslim adult man who is not insane and has had sexual inter-course with a Muslim adult woman who, at the time he had sexual intercourse with her, was married to him and was not insane; or</p> <p>(ii) a Muslim adult woman who is not insane and has sexual intercourse with a Muslim adult man who, at the time she had sexual intercourse with him, was married to her and was not insane; and</p> <p>(e) "tazir" means any punishment other than hadd, and all other terms and expressions not defined in this Ordinance shall have the same meaning as the Pakistan penal Code, or the Code of Criminal Procedure, 1898.</p>	<p>New clause (aa) has been inserted in the Zina Ordinance after 2 (a) by section 10 of the PWA 2006, which is as follows:</p> <p>(aa) "confession" means, notwithstanding any judgement of any court to the contrary, an oral statement, explicitly admitting the commission of the offence of zina, voluntarily made by the accused before a court of sessions having jurisdiction in the matter or on receipt of a summons under section 203-A of the Code of Criminal Procedure, 1898 (Act V of 1898);</p> <p>(c) and (e) omitted by section 10 of the PWA 2006</p>
<p>3. Ordinance to override other laws:- The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.</p>	Section 3 has been omitted by section 11 of the PWA 2006
<p>4. Zina.- A man and a woman are said to commit 'Zina' if they wilfully have sexual intercourse without being validly married to each other.</p> <p>Explanation: Penetration is sufficient to constitute the sexual inter-course necessary to the offence of zina.</p>	<p>The word 'validly' has been omitted by section 12 of PWA 2006</p> <p>Explanation has been omitted by section 12 of the PWA 2006</p>
<p>5. Zina liable to hadd</p> <p>(1) Zina is liable to hadd if:-</p> <p>(a) it is committed by a man who is an adult and is not insane with a woman to whom he is not, and does not suspect himself to be married, or</p> <p>(b) it is committed by a woman who is an adult and is not insane with a man to whom she is not, and does not suspect herself to be married.</p> <p>(2) Whoever is guilty of Zina liable to hadd shall, subject to the provisions of this Ordinance:-</p> <p>(a) if he or she is a muhsan, be stoned to death at a public place; or</p> <p>(b) if he or she is not muhsan, be punished, at a public place, with whipping numbering one hundred stripes.</p> <p>(3) No punishment under sub-section (2) shall be executed until it has been confirmed by the Court to which an appeal from the order of conviction lies; and if the punishment be of whipping, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.</p>	<p>A new section 5A has been inserted after section 5 in the Zina Ordinance by section 12A of the PWA 2006, which is as follows:</p> <p>"5A. No case to be converted, lodged or registered under certain provisions. — No complaint of zina under section 5 read with section 203A of the Code of Criminal Procedure, 1898 and no case where an allegation of rape is made shall at any stage be converted into a complaint of fornication under section 496B of the Pakistan Penal Code (Act XLV of 1860) and no complaint of fornication shall at any stage be converted into a complaint of zina under section 5 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979) or an offence of similar nature under any other law for the time being in force".</p>
<p>6. Zina-bil-jabr:</p> <p>(1) A person is said to commit zina-bil-jabr if he or she has sexual intercourse with a woman or man, as the case may be, to whom he or she is not validly married, in any of the following circumstances, namely:-</p> <p>(a) against the will of the victim,</p> <p>(b) without the consent of the victim.</p> <p>(c) with the consent of the victim, when the consent has been obtained by putting the victim in fear of death or of hurt, or</p> <p>(d) with the consent of the victim, when the offender knows that the offender is not validly married to the victim and that the consent is given because the victim believes that the offender is another person to whom the victim is or believes herself or himself to be validly married.</p> <p>Explanation: Penetration is sufficient to constitute the sexual intercourse necessary to the offence of zina-bil-jabr.</p> <p>(2) Zina-bil-jabr is zina-bil-jabr liable to hadd if it is committed in the circumstances specified in sub-section (1) of section 5.</p> <p>(3) Whoever is guilty of zina-bil-jabr liable to hadd shall subject to the provisions of this ordinance:-</p> <p>(a) if he or she is a muhsan, be stoned to death at a public place; or</p> <p>(b) if he or she is not muhsan, be punished with whipping numbering one hundred stripes, at a public place, and with such other punishment, including the sentence of death, as the Court may deem fit having regard to the circumstances of the case.</p> <p>(4) No punishment under sub-section (3) shall be executed until it has been confirmed by the Court to which an appeal from the order of conviction lies; and if the punishment be of whipping until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.</p> <p>Section 6 of the Zina Ordinance has been omitted by section 13 of the PWA 2006</p>	Section 6 of the Zina Ordinance has been omitted by section 13 of the PWA 2006
<p>7. Punishment for Zina or Zina bil Jabr where convict is not an adult: A person guilty of zina or zina-bil-jabr shall, if he is not an adult, be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. Provided that, in the case of zina-bil-jabr, if the offender is not under the age of fifteen years, the punishment of whipping shall be awarded with or without any other punishment.</p>	Section 7 of the Zina Ordinance has been omitted by section 13 of the PWA 2006
<p>8. Proof of zina or zina-bil-jabr liable to hadd: Proof of zina or zina-bil-jabr liable to hadd shall be in one of the following forms, namely:-</p> <p>(a) the accused makes before a Court of competent jurisdiction a confession of the commission of the offence; or</p> <p>(b) at least four Muslim adult male witnesses, about whom the Court is satisfied, having regard to the requirements of tazkiyah al-shuhood, that they are truthful persons and abstain from major sins (kabair), give evidence as eye-witnesses of the act of penetration necessary to the offence:</p> <p>Provided that, if the accused is a non-Muslim, the eye-witnesses may be non-Muslims.</p> <p>Explanation: In this section "tazkiyah al-shuhood" means the mode of inquiry adopted by a court to satisfy itself as to the credibility of a witness.</p>	The words "or zina-bil-jabr" in section 8 in the heading and the text have been omitted by section 14 of the PWA 2006
<p>9. Case in which hadd shall not be enforced</p> <p>(1) In a case in which the offence of zina or zina-bil-jabr is proved by the confession of the convict, hadd, or such part of it as is yet to be enforced, shall not be enforced if the convict retracts his confession before the hadd or such part is enforced.</p> <p>(2) In a case in which the offence of zina or zina-bil-jabr is proved only by testimony, hadd or such part of it as is yet to be enforced, shall not be enforced if any witness resiles from his testimony before hadd or such part is enforced, so as to reduce the number of eye-witnesses to less than four.</p> <p>(3) In the case mentioned in sub-section (1), the court may order retrial.</p> <p>(4) In the case mentioned in sub-section (2), the court may award tazir on the basis of the evidence on record.</p>	<p>The words "or zina-bil-jabr" have been omitted in section 9 (1) and (2) by section 15 of the PWA 2006</p> <p>Sub sections 3 and 4 have also been omitted by section 15 of the PWA 2006</p>
<p>10. Zina or zina-bil-jabr liable to tazir:</p> <p>(1) Subject to the provisions of section 7, whoever commits zina or zina-bil-jabr- which is not liable to hadd, or for which proof in either of the forms mentioned in section 8 is not available and the punishment of qazf liable to hadd has not been awarded to the complainant, or for which hadd may not be enforced under this Ordinance, shall be liable to tazir.</p> <p>(2) Whoever commits zina liable to tazir shall be punished with rigorous imprisonment for a term which may extend to ten years and with whipping numbering thirty stripes, and shall also be liable to fine.</p> <p>(3) Subject to sub-section (4), whoever commits zina-bil-jabr liable to tazir shall be punished with imprisonment for a term which shall not be less than four years nor more than twenty-five years and shall also be awarded the punishment of whipping numbering thirty stripes</p>	Section 10 has been omitted by section 16 of the PWA

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Amendments in the Offence of Zina Ordinance

(4) When zina-bil-jabr liable to tazir is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death.	
11. Kidnapping, abducting or inducing woman to compel for marriage etc. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine; and whoever by means of criminal intimidation as defined in the Pakistan Penal Code, or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.	Section 11 has been omitted by section 16 of the PWA 2006 and; The same section (11) has been re-inserted in the Pakistan Penal code (PPC) as section 365-B, without the punishment of whipping, by section 2 of the PWA 2006.
12. Kidnapping or abducting in order to subject person to unnatural lust. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with death or rigorous imprisonment for a term which may extend to twenty-five years, and shall also be liable to fine, and, if the punishment be one of imprisonment, shall also be awarded the punishment of whipping not exceeding thirty stripes.	Section 12 has been omitted by section 16 of the PWA 2006 and; The same section (12) has been re-inserted in the Pakistan Penal code (PPC) as section 367A, without the punishment of whipping, by section 3 of the PWA 2006
13. Selling person for purposes of prostitution, etc. Whoever sells, lets to hire, or otherwise disposes of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine. Explanation: (a) When a female is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution. (b) For the purposes of this section and section 14 "illicit intercourse" means sexual intercourse between persons not united by marriage.	Section 13 has been omitted by section 16 of the PWA 2006 and; The same section (13) has been re-inserted in the Pakistan Penal code (PPC) as section 371A, without the punishment of whipping, by section 4 of the PWA 2006
14. Buying person for purposes of prostitution, etc. Whoever buys, hires or otherwise obtains possession of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine. Explanation: Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.	Section 14 has been omitted by section 16 of the PWA 2006 and; The same section (14) has been re-inserted in the Pakistan Penal code (PPC) as section 371B, without the punishment of whipping, by section 4 of the PWA 2006
15. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief, shall be punished with rigorous imprisonment for a term which may extend to twenty-five years and with whipping not exceeding thirty stripes, and shall also be liable to fine.	Section 15 has been omitted by section 16 of the PWA 2006 and; the same section (15) has been re-inserted in the Pakistan Penal code (PPC) as section 493A, without the punishment of whipping, by section 6 of the PWA 2006
16. Enticing or taking away or detaining with criminal intent a woman. Whoever takes or entices away any woman with intent that she may have illicit intercourse with any person, or conceals or detains with intent any woman, shall be punished with imprisonment of either description for a term which may extend to seven years and with whipping not exceeding thirty stripes, and shall also be liable to fine.	Section 16 has been omitted by section 16 of the PWA 2006 and; the same section (16) has been re-inserted in the Pakistan Penal code (PPC) as section 496A, without the punishment of whipping, by section 7 of the PWA 2006
17. Mode of execution of punishment of stoning to death. The punishment of stoning to death awarded under section 5 or section 6 shall be executed in the following manner, namely:- Such of the witnesses who deposed against the convict as may be available shall start stoning him and, while stoning is being carried on, he may be shot dead, whereupon stoning and shooting shall be stopped.	The words and figure "or section 6" have been omitted by section 17 of the PWA
18. Punishment for attempting to commit an offence: Whoever attempts to commit an offence punishable under this Ordinance with imprisonment or whipping, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment for a term which may extend to one-half of the longest term provided for that offence, or with whipping not exceeding thirty stripes, or with such fine as is provided for the offence, or with any two of, or all, the punishments.	Section 18 has been omitted by section 16 of the PWA 2006.
19. Application of certain provisions of Pakistan Penal Code and amendment. (1) Unless otherwise expressly provided in this Ordinance, the provisions of sections 34 to 38 of Chapter II, section 63 to 72 of Chapter III and Chapters V and VA of the Pakistan Penal Code, shall apply, mutatis mutandis, in respect of offences under this Ordinance. (2) Whoever is guilty of the abetment of an offence liable to hadd under this Ordinance shall be liable to the punishment provided for such offence as tazir. (3) In the Pakistan Penal Code (a) Section 366 section 372, section 373, section 375 and section 376 of Chapter XVI and section 493, section 497 and section 498 of Chapter XX shall stand repealed; and (b) in section 367, the words and comma or to the unnatural lust of any person, "shall be omitted".	Section 19 has been omitted by section 16 of the PWA 2006.
20. Application of Code of Criminal Procedure 1898 and amendment. (1) The provisions of the Code of Criminal Procedure, 1898, hereafter in this section referred to as the Code, shall apply, mutatis mutandis in respect of cases under this Ordinance: Provided that, if it appears in evidence that the offender has committed a different offence under any other law, he may, if the Court is competent to try that offence and award punishment therefore, be convicted and punished for that offence. [Provided further that an offence punishable under this ordinance shall be triable by a court of session and not by a Magistrate authorized under section 30 of the said Code and an appeal from an order of the court of session shall lie to the Federal Shariat Court:-- Provided further that a trial by a Court of Session under this Ordinance shall ordinarily be held at the headquarters of the Tehsil in which the offence is alleged to have been committed. (2) The provisions of the Code relating to the confirmation of the sentence of death shall apply, mutatis mutandis, to confirmation of sentences under this ordinance. (3) The provisions of section 198, section 199, section 199A or section 199B of the Code shall not apply to the cognizance of an offence punishable under section 15 or section 16 of this Ordinance. (4) The provision of sub-section (3) of section 391 or section 393 of the Code shall not apply in respect of the punishment of whipping awarded under this Ordinance. (5) The provisions of Chapter XXIX of the Code shall not apply in respect of punishments awarded under section 5 or section 6 of this ordinance. (6) In the Code, section 561 shall stand repealed.	First proviso, sub-section 3 and sub-section 5 have been omitted by section 18 of the PWA 2006
21. Presiding officer of court to be Muslim. The Presiding Officer of the Court by which case is tried, or an appeal is heard, under this Ordinance shall be a Muslim. Provided that, if the accused is a non-Muslim, the Presiding Officer may be a non-Muslim.	No change has been made in Section 21
22. Saving: Nothing in this Ordinance shall be deemed to apply to the cases pending before any court immediately before the commencement of this Ordinance, or to offences committed before such commencement.	No change has been made in Section 22

Amendments in the Offence of Qazf Ordinance

The Offence of Qazf (Enforcement of Hudood) Ordinance, 1979 (VII of 1979) ■ sections, words omitted from the Qazf Ordinance are highlighted in light orange colour ■ sections added in the Qazf Ordinance are highlighted in light magenta colour	Amendments in the Qazf Ordinance, 1979 through the Protection of Women Act, 2006
1. Short title, extent and Commencement.- (1) This Ordinance may be called the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979. (2) It extends to the whole of Pakistan. (3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.	No change has been made in Section 1
2. Definitions.- In this Ordinance, unless there is anything repugnant in the subject or context; (a) 'adult', 'hadd', 'tazir', 'zina' and 'zina-biljabar' have the same meaning as in the Offence of Zina (Enforcement of Hudood) Ordinance, 1979; and (b) all other terms and expressions not defined in this Ordinance shall have the same meaning as in the Pakistan Penal Code or the Code of Criminal Procedure, 1898.	Clause a of section 2 has been substituted by section 19 of the PWA 2006, namely (a) 'adult', 'hadd', 'zina' have the same meaning as in the Offence of Zina (Enforcement of Hudood) Ordinance, 1979; and
3 Qazf.- Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes an imputation of zina concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation, or hurt the feelings, of such person, is said, except in the cases hereinafter excepted, to commit qazf. Explanation 1.- It may amount to qazf to impute zina to a deceased person, if the imputation would harm the reputation or hurt the feelings, of that person if living, and is hurtful to the feelings of his family or other near relatives. Explanation 2.- An imputation in the form of an alternative or expressed ironically, may amount to qazf. First Exception (Imputation of truth which public good requires to be made or published). It is not qazf to impute zina to any person if the imputation be true and made or published for the public good. Whether or not it is for the public good, is a question of fact. Second Exception (Accusation preferred in good faith to authorized person). Save in the cases hereinafter mentioned, it is not qazf to prefer in good faith an accusation of zina against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation. (a) A complainant makes an accusation of zina against another person in a Court, but fails to produce four witnesses in support thereof before the Court. (b) According to the finding of the Court, a Witness has given false evidence of the commission of zina or zina-bil-Jabr. (c) According to the finding of the Court, complainant has made a false accusation of zina-bil-jabr.	No change has been made in Section 3
4. Two kinds of Qazf.- Qazf may either be qazf liable to hadd or qazf liable to tazir.	Section 4 has been omitted by section 20 of the PWA 2006
5. Qazf liable to hadd.- Whoever, being an adult, intentionally and without ambiguity commits qazf of zina liable to hadd against a particular person who is a muhsan and capable of performing sexual inter course is, subject to the provisions of this Ordinance, said to commit qazf liable to hadd. Explanation 1.- In this section, "muhsan" means a sane and adult Muslim who either has had no sexual inter course or has had such inter course only with his or her lawfully wedded spouse. Explanation 2.- If a person makes in respect of another person the imputation that such other person is an illegitimate child, or refuses to recognize such person to be a legitimate child, he shall be deemed to have committed qazf liable to hadd in respect of the mother of that person.	No change has been made in Section 5
6. Proof of qazf liable to hadd:- Proof of qazf liable to hadd shall be in one of the following forms namely: (a) the accused makes before Court of competent jurisdiction a confession of the commission of the offence; (b) the accused commits qazf in the presence of the Court; and (c) at least two Muslim adult male witnesses, other than the victim of the qazf, about whom the Court is satisfied, having regard to the requirements of tazkiyah al-shuhood, that they are truthful persons and abstain from major sins (Kabair), give direct evidence of the commission of qazf. Provided that, if the accused is a non-Muslim, the witnesses may be non-Muslims. Provided further that the statement of the complainant or the person authorized by him shall be recorded before the statements of the witnesses are recorded.	Section 6 has been renumbered as sub-section (1), and after sub-section (1), renumbered as aforesaid, the following new sub-section (2) has been added by the section 21 of PWA 2006: (2) "The Presiding Officer of a Court dismissing a complaint under section 203A of the Code of Criminal Procedure, 1898 or acquitting an accused under section 7 of the offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance VII of 1979), if satisfied that the offence of qazf liable to hadd has been committed, shall not require any proof of qazf and shall proceed to pass sentence under section 7."
7. Punishment of qazf liable to hadd:- (1) Whoever commits qazf liable to hadd shall be punished with whipping numbering eighty stripes. (2) After a person has been convicted for the offence of qazf liable to hadd, his evidence shall not be admissible in any Court of law. (3) A punishment awarded under sub-section (1) shall not be executed until it has been confirmed by the Court to which an appeal from the Court awarding the punishment lies; and, until the punishment is confirmed and executed, the convict shall, subject to the provisions of the Code of Criminal Procedure, 1898, relating to the grant of bail or suspension of sentence, be dealt with in the same manner as if sentenced to simple imprisonment.	No change has been made in Section 7
8. Who can file a complaint:- No proceedings under this Ordinance shall be initiated except on a report made to the police or a complaint lodged in a Court by the following, namely:- (a) if the person in respect of whom the qazf has been committed be alive, that person, or any person authorized by him; or (b) if the person in respect of whom the qazf has been committed be deceased, any of the ascendants or descendants of that person.	The words "a report made to the police" have been omitted in section 8 by section 22 of the PWA 2006.
9. Cases in which hadd shall not be imposed or enforced:- (1) Hadd shall not be imposed for qazf in any of the following cases, namely:- (a) When a person has committed qazf against any of his descendants; (b) When the person in respect of whom qazf has been committed and who is a complainant has died during the pendency of the proceedings; and (c) When the imputation has been proved to be true. (2) In a case in which, before the execution of hadd, the complainant withdraws his allegation of qazf, or states that the accused had made a false confession or that any of the witnesses had deposed falsely and the number of witnesses is thereby reduced to less than two, hadd shall not be enforced, but the Court may order retrial or award tazir on the basis of the evidence on record.	Sub-section (2) of Section 9 has been substituted by section 23 of the PWA 2006, as under: (2) In a case in which, before the execution of hadd, the complainant withdraws his allegation of qazf, or states that the accused had made a false confession or that any of the witnesses had deposed falsely, hadd shall not be enforced.
10. Qazf liable to tazir.- Whoever commits qazf which is not liable to hadd, or for which proof in any of the forms mentioned in section 6 is not available, or for which hadd may not be imposed or enforced under section 9, is said to commit qazf liable to tazir	Section 10 has been omitted by section 24 of the PWA 2006.
11. Punishment for qazf liable to tazir.- Whoever commits qazf liable to tazir shall be punished with imprisonment of either description for a term which may extend to two years and with whipping not exceeding forty stripes and shall also be liable to fine.	Section 11 has been omitted by section 24 of the PWA 2006.
12. Printing or engraving matter known to be of the nature referred to in section 3.- Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is of the nature referred to in section 3, shall be punished with imprisonment of either description for a term which may extend to two years, or with whipping not exceeding thirty stripes, or with fine, with any two of, or all, the punishments.	Section 12 has been omitted by section 24 of the PWA 2006.
13. Sale of printed or engraved substance containing matter of the nature referred to in section 3.- Whoever sells or offers for sale any printed or engraved substance containing matter of the nature referred to in section 3 knowing that it contains such matter, shall be punished with imprisonment of either description for a term which may extend to two years, or with whipping not exceeding thirty stripes or with fine, or with any two of, or all, the punishments.	Section 13 has been omitted by section 24 of the WPA 2006.
14. Lian:- (1) When a husband accuses before a Court his wife who is muhsan within the meaning of section 5, of the zina and the wife does not accept the accusation as true, the following procedure of lian shall apply, namely:-	Continued on next page

Amendments in the Offence of Qazf Ordinance

<p>(a) the husband shall say upon oath before the Court: "I swear by Allah the Almighty and say I am surely truthful in my accusation of zina against my wife (name of wife);" and, after he has said so four times, he shall say: "Allah's curse be upon me if I am a liar in my accusation of zina against my wife (name of wife)"; and</p> <p>(b) the wife shall, in reply to the husband's statement made in accordance with clause (a), say upon oath before the Court: "I swear by Allah the Almighty that my husband is surely a liar in his accusation of zina against me"; and, after she has said so four times, she shall say: "Allah's wrath be upon me if he is truthful in his accusation of zina against me."</p> <p>(2) When the procedure specified in sub-section (1) has been completed, the Court shall pass an order dissolving the marriage between the husband and wife, which shall operate as a decree for dissolution of marriage and no appeal shall lie against it.</p> <p>(3) Where the husband or the wife refuses to go through the procedure specified in sub-section (1), he or, as the case may be, she shall be imprisoned until-</p> <p>(a) in the case of the husband, he has agreed to go through the aforesaid procedure; or</p> <p>(b) in the case of the wife, she has either agreed to go through the aforesaid procedure or accepted the husband's accusation as true.</p> <p>(4) A wife who has accepted the husband's accusation as true shall be awarded the punishment for the offence of zina liable to hadd under the Offence of Zina (Enforcement of Hood) Ordinance, 1979.</p>	Sub-section (3) and (4) of section 14 have been omitted by section 25 of the PWA 2006.
<p>15. Punishment for attempt to commit offence punishable under this ordinance.- Whoever attempts to commit an offence punishable under this Ordinance or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment for a term which may extend to one-half of the longest term provided for the offence, or with such whipping or fine as is provided for the offence, or with any two of, or all, the punishments.</p>	Section 15 has been omitted by section 24 of the PWA 2006.
<p>16. Application of certain provisions of Pakistan Penal Code:- (1) Unless otherwise expressly provided in this Ordinance, the provisions of sections 34 to 38 of Chapter II, sections 63 to 72 of Chapter III and Chapters V and VA of the Pakistan Penal Code, shall apply mutatis mutandis, in respect of offences under this Ordinance.</p> <p>(2) Whoever is guilty of the abetment of an offence liable to hadd under this Ordinance shall be liable to the punishment provided for such offence as tazir.</p>	Section 16 has been omitted by section 26 of the PWA 2006.
<p>17. Application of the Code of Criminal Procedure, 1898:- (1) Unless otherwise expressly provided in the Ordinance, the provisions of the Code of Criminal Procedure, 1898, hereinafter referred to as the said Code, shall apply mutatis mutandis, in respect of cases under this Ordinance.</p> <p>Provided that, if it appears in evidence that the offender has committed a different offence under any other law, he may, if the Court is competent to try that offence and award punishment therefore, be convicted and punished for that offence.</p> <p>Provided further that an offence punishable under section 7 or sub-section (4) of section 14, shall be triable by, and proceedings under sub-section (1) and (2) of the latter section shall be held before, a Court of Session and not by or before a Magistrate authorized under section 30 of the said Code and an appeal from an order of the Court of Session shall lie to the Federal Shariat Court.</p> <p>Provided further that a trial by, or proceedings before, the Court of Session under this Ordinance shall ordinarily be held at the headquarters of the Tehsil in which the offence is alleged to have been committed or, as the case may be, the husband who has made the accusation ordinarily resides.</p> <p>(2) The provisions of the said Code relating to the confirmation of the sentence of death shall apply, mutatis mutandis, to the confirmation of a sentence under this Ordinance.</p> <p>(3) The provisions of sub-section (3) of section 391 or section 393 of the said Code shall not apply in respect of the punishment of whipping awarded under this Ordinance.</p> <p>(4) The provisions of Chapter XXIX of the said Code shall not apply in respect of a punishment awarded under section 7 of this Ordinance.</p>	The first proviso of section 17 has been omitted and for the second proviso, the following has been substituted by section 27 of the PWA 2006:- Provided that an offence punishable under section 7 shall be triable by a court of sessions and not by or before a magistrate authorized under section 30 of the said code and an appeal from an order of the court of sessions shall lie to the Federal Shariat Court.
<p>18. Presiding Officer of Court to be a Muslim:- The Presiding Officer, of the Court by which a case is tried, or an appeal is heard, under this Ordinance, shall be a Muslim</p>	No change has been made in Section 18
<p>19. Ordinance to override other laws.- The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.</p>	Section 19 has been omitted by section 28 of the PWA 2006.
<p>20. Saving.- Nothing in this Ordinance shall be deemed to apply to cases pending before any Court immediately before the commencement of this Ordinance or to offence committed before such commencement.</p>	No change has been made in Section 20

Incidents of violence against women during second quarter of 2008

The National Quarterly report (April 1st to 30th June 2008) of the Aurat Foundation shows that a total number of 1705 incidents of violence against women occurred, in which 1794 women were subjected to violence throughout Pakistan. There were 828 cases in Punjab, 301 in Sindh, 278 in NWFP, 233 in Balochistan and 65 in Islamabad between April 1st and 30th June 2008. The report is a collection and compilation of statistics on the incidents of violence against women during the second quarter.

Out of a total of 1705 cases of violence against women in Pakistan, there were 356 cases of murder (132 in Punjab; 70 in Sindh; 102 in NWFP; 46 in Balochistan; 6 in Islamabad) making (20.9%) of the total percentage; 135 cases of 'honour' killings (35 in Punjab; 55 in Sindh; 13 in NWFP; 31 in Balochistan; Islamabad 1) making (7.9%); 17 cases of attempt to murder (3 in Sindh; 1 in NWFP; 13 in Balochistan) making (1.0%); 356 cases of abduction (247 in Punjab; 48 in Sindh; 16 in NWFP; 19 in Balochistan; 26 in Islamabad) making (20.9%); 205 cases of hurt and body injury (52 in Punjab; 21 in Sindh; 55 in NWFP; 75 in Balochistan; 2 in Islamabad) making (11.4%); 64 cases of domestic violence (19 in Punjab; 15 in Sindh; 22 in NWFP; 4 in Balochistan; 4 in Islamabad) making (3.6%); 126 cases of suicide (74 in Punjab; 33 in Sindh; 12 in NWFP; 6 in Balochistan; 1 in Islamabad) making (7%); 24 cases of attempted suicide (12 in Punjab;

12 in Balochistan) making (1.3%); 107 cases of rape (77 in Punjab; 7 in Sindh; 18 in NWFP; 4 in Balochistan; 1 in Islamabad) making (6%); 66 cases of gang-rape (42 in Punjab; 19 in Sindh; 1 in NWFP; 2 in Balochistan; 2 in Islamabad) making (3.7%); 42 cases of sexual assault (30 in Punjab; 11 in Sindh; 1 in Islamabad) making (2.3%); 24 cases of custodial violence (11 in Punjab; 11 in Sindh; 2 in Islamabad) making (1.3%); 20 cases of burning (12 in Punjab; 3 in Sindh; 5 in Balochistan) making (1.1%); 6 cases of acid throwing (4 in Punjab; 1 in Sindh; 1 in Islamabad) making (0.3%); 4 cases of trafficking (2 in Sindh; 2 in NWFP) making (0.2%); 56 cases of torture (50 in Punjab; 6 in Islamabad) making (3.1%) and; 97 cases of violence of miscellaneous nature were reported in the four provinces and Islamabad making (5.4%) of the total percentage.

The numbers of cases have increased from 1321 during the first quarter to 1705 during the second quarter. The most alarming increase has occurred in the rate of suicides increasing from 66 during the first quarter to 126 during the second quarter. Similarly number of 'honour' Killings have increased from 90 to 135, in Punjab only the increase is from 11 to 35. The numbers of Abductions (Kidnaps) have increased from 246 to 355. The rape cases have also increased from 60 to 107 whereas the gang rape cases have increased from 19 to 66.

Why the Hudood Ordinances Must be Repealed

(For reference see the following publications)

The Hudood Ordinances: A Divine Sanction? By Asma Jahangir and Hina Jilani, a study first published in 1988, reprinted in 2003

Legislative Watch Newsletter Issue No. 2-3 on the Hudood Ordinances, by Aurat Foundation, 1997

The Report of the Commission of Inquiry for Women, Pakistan, 1997

"Why the Hudood Ordinances Must be Repealed", a booklet by Aurat Foundation, 2003

Hudood Ordinances and Qisas aur Diyat ka Quran aur Sunnat ki Roshni mein jaiza, by Dr. Mohammed Farooq Khan, published by Aurat Foundation, 2003

Why the Hudood Ordinances must be repealed' a booklet by Shirkat Gah, 2003

Report on Hudood Ordinances 1979, by the National Commission on the Status of Women, 2003

"Hudood Ordinance: Kitab aur Sunnat ki Roshni mein" (Hudood Ordinances - in the Light of Quran and Sunnah) by Dr. Mohammed Tufail Hashmi, a book published by Aurat Foundation, 2004

Hudood, Hudood Ordinances and Women, by Dr. Mohammad Farooq Khan, a book published by Organisation for Research and Education, 2004

"A Critique of the Zina Ordinance", by Justice (R) Dr. Javid Iqbal, a booklet published by Aurat Foundation, 2006

"Hudood Ordinance ko mansooh hona chahiya", a pamphlet on the Hudood Ordinances by Aurat Foundation, 2006

"Opinions of Eminent Jurists on the Hudood Ordinances", a book published by Aurat Foundation, 2006

"Hudood Ordinance kay barey mein danishwar tabaq kee raaye" a book published by Aurat Foundation, 2006

Hudood Ordinance 1979: A Critical Report, by the Council of Islamic Ideology, Government of Pakistan, 2007

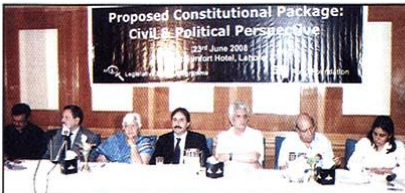
Omar Asghar Khan remembered

The family members, friends and admirers of Omar Asghar Khan gathered in Islamabad on 25 June, 2008, to remember him on the sixth anniversary of his death.



Various speakers while recalling memories about Omar's life said that Omar achieved so much in his short life and the fruits of his endeavors could be seen today. They said that Omar stood for justice, peace and rights of the downtrodden. They said that the process of democracy which he embarked upon should be continued until his mission was accomplished and people of Pakistan get their due rights and share in resources.

Constitutional Package under fire



Lahore: Speakers including Dr. Rubina Saigol, Mr. I.A. Rehman, Mr. Hamid Khan, Advocate, Mr. S.M. Masood Advocate, Mr. Awais Ahmed Advocate, Dr. Saeed Elahi, MPA (PML-N), Mr. Sarfraz Cheema, Advocate, Ms. Mumtaz Mughal from AF and Mr. Abdullah Malik, Advocate, at a seminar on the theme of "Overview of Proposed Constitutional Package: Political and Civil Society Perspective", held on 23 June 2008.

The proposed constitutional package was subjected to heavy criticism from legal experts, political and civil society activists at the nationwide seminars organized by Aurat Foundation in June 2008.

Speakers at these seminars included political figures, legal and constitutional experts as well as representatives of civil society including I.A. Rehman and Dr. Rubina Saigol.

Speakers from the PPP stated that the Constitutional Package was necessary to fix the damage done to the Constitution and country done by Musharraf's regime and to avoid power struggles among the higher designators. The members of PML-N stated that they were in the process of negotiation with the PPP on the substantive issues in the Constitutional Package.

Mr. Athar Minallah, Advocate, speaking at the Islamabad seminar, said the Constitutional Package had targeted the courageous judges who had openly supported the lawyer's movement. The package was also felt to be contradictory, on one hand giving powers to the prime minister and on the other, proposes the president can indemnify any act he wanted.

Dr. Rubina Saigol was of the view that the constitutional package was person, time and condition oriented, all of which a constitution should not be! It should be applicable for all times not just for a certain situation.

[For detail review see Aurat Foundation Publication "The Proposed Constitutional Package 2008 - A Critical Appraisal" by Dr Rubina Saigol.]

Long March for restoration of deposed Judges

Lawyers, political workers and civil society activists participated along with hundreds of people from all spheres of life in the momentous Long March at various points from Karachi, from where it started on 9 June 2008, to Islamabad where it culminated in a huge demonstration outside the Supreme Court of Pakistan building in the early hours of 13th June 2008.

In Karachi, the deposed Sindh High Court Chief Justice Sabihuddin Ahmad, Rasheed A. Rizvi, President of the Sindh High Court Bar Association and Fakhurddin G. Ibrahim spoke for independence of judiciary and restoration of the deposed judges.

The caravan traveled by coaches, buses, vans and motorcycles, passing through towns and cities while heading towards Islamabad. Along the way thousands joined the March, while hundreds of others welcomed the caravan and showed their solidarity by showering flowers and distribution of water bottles, lunch boxes and many other things.

At Islamabad, the long march culminated in a demonstration and was addressed by leaders of the lawyers' movement, including Aitazaz Ahsan, the president of the SCBA, and several political parties heads, who resolved that they would continue their movement until the restoration of the non-functional Chief Justice and other illegally deposed judges.



Karachi: Civil society activists and common citizens outside the Sindh High Court on 9 June 2008.



Islamabad: A scene of a reception camp set up by civil society activists to welcome the participants of long march on 12 June 2008.

Seminars on Budget 2008

With the budget being announced in June 2008, Aurat Foundation conducted pre and post budget consultations in Lahore, Karachi, Peshawar and Quetta. The consultations focused on a gender perspective of the budget and hearing views of the women MPAs and Ministers, especially those who have recently come into the Assemblies in the February 2008 elections.

In the consultation meetings, an overview was given on the components of a budget, focusing on the bridging of the gap between revenue and expenditure, and repayment of government loans. The speakers focused also on the allocation of resources for women and their needs. The representatives of the provincial assemblies were encouraged by the growth in the allocated resources.



Peshawar: Ms. Sitaray Ayaz, Provincial Minister for Social Welfare and Women's Development in NWFP addressing a pre-budget seminar at a local hotel on 27 June. Mr. Mohammad Hamayun Khan, Provincial Minister for Finance and Ms. Rukhshanda Naz, Chief Operating Officer AF are also present.



Karachi: Ms. Anis Haroon, Resident Director AF, Karachi, is presenting the first quarterly report on violence against women to the Provincial Minister for Women's Development, Ms. Toqeer Fatima Bhutto on 19 May. Ms. Farheen Mughal, MPA, Ms. Kausar S. Khan of WAF and Ms. Hina Tabassum of AF are also present.



Quetta: Ms. Rubina Irfan, Provincial Minister for Law and Parliamentary Affairs, Prof. Farkhanda Aurangzaib, Chairperson Gender Department, University of Balochistan, at the launching ceremony of VAW report on 22 May. Saima Durrani of AF is also present.

LEGISLATIVE WATCH

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