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**MAPPING OF PRO-WOMEN LAWS ON (Sexual Harassment| Sexual & Reproductive Health| Sexual Abuse & Violence| Women with Disabilities)**

**Mapping of pro-women laws**

**(Sexual Harassment| Sexual & Reproductive Health| Sexual Abuse & Violence| Women with Disabilities)**

Contents

[Laws under review at a glance 2](#_Toc91052318)

[H ARASSMENT AT WORKPLANCE: 5](#_Toc91052319)

[THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010 5](#_Toc91052320)

[THE (PUNJAB) PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010. 6](#_Toc91052321)

[THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010: 8](#_Toc91052322)

[THE BALOCHISTAN PROTECTION AGAINST HARASSMENT OF WOMEN AT WORKPLACE, 2016: 9](#_Toc91052323)

[THE PREVENTION OF ELECTRONIC CRIMES ACT, 2016 11](#_Toc91052324)

[SEXUAL AND REPRODUCTIVE HEALTH: 13](#_Toc91052325)

[THE SINDH REPRODUCTIVE HEALTHCARE RIGHTS ACT, 2019. 13](#_Toc91052326)

[THE KHYBER PAKHTUNKHWA REPRODUCTIVE HEALTH RIGHT ACT, 2020 14](#_Toc91052327)

[SEXUAL ABUSE & VIOLENCE (CIMINAL LAW AMENDMENTS): 15](#_Toc91052328)

[THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 1984 15](#_Toc91052329)

[THE PROTECTION OF WOMEN (CRIMINAL LAWS AMENDMENT) ACT, 2006 15](#_Toc91052330)

[THE CRIMINAL LAW (AMENDMENT) ACT, 2010 17](#_Toc91052331)

[THE CRIMINAL LAW (SECOND AMENDMENT) ACT, 2016 17](#_Toc91052332)

[THE CRIMINAL LAW (AMENDMENT) (OFFENCE RELATING TO RAPE) ACT, 2016 18](#_Toc91052333)

[CRMINAL LAW (AMENDMENT) ACT, 2021 23](#_Toc91052334)

[ANTI-RAPE (INVESTIGATION AND TRIAL) ACT 2021. 23](#_Toc91052335)

[DOMESTIC VIOLENCE: 24](#_Toc91052336)

[THE DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2013. 24](#_Toc91052337)

[THE BALOCHISTAN DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2014. 25](#_Toc91052338)

[THE PUNJAB PROTECTION OF WOMEN AGAINST VIOLENCE ACT, 2016. 26](#_Toc91052339)

[THE KHYBER PUKHTUNKHUWA DOMESITC VIOLENCE AGAINST WOMEN (PREVENTION AND PROTECTION) ACT 2021. 26](#_Toc91052340)

[WOMEN WITH DISABILITIES: 27](#_Toc91052341)

[THE DISABLED PERSONS (EMPLOYMENT AND REHABILITATION) ORDINANCE, 1981. 27](#_Toc91052342)

[THE PAKISTANI BAIT-UL-MAL ACT, 1991. 28](#_Toc91052343)

[THE (Punjab) MENTAL HEALTH ORDINANCE 2001. 29](#_Toc91052344)

[THE SPECIAL CITIZEN’S ACT, 2008. 30](#_Toc91052345)

[THE BALOCHISTAN PERSONS WITH DISABILITIES ACT, 2017 31](#_Toc91052346)

[THE SINDH EMPOWERMENT OF ‘PERSONS WITH DISABILITIES ACT 2018 31](#_Toc91052347)

[THE ICT RIGHTS OF PERSONS WITH DISABILITY ACT, 2020. 32](#_Toc91052348)

# Laws under review at a glance

This study for mapping of pro-women legislation against the international commitments on women’s rights, GBV and Sexual and Reproductive Health (SRH) including focus on women with disabilities is comprised of the review of 25 federal and provincial laws.

Out of 25 laws 12 laws are applicable throughout Pakistan, shown in the table below under the heading of Federal Laws. 1 Law are applicable only to the extent of Islamabad Capital Territory while the other 12 applicable to provinces, as cited under the name of the province, respectively.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Federal** | **ICT** | **Punjab** | **Sindh** | **Balochistan** | **Khyber Pakhtunkhwa** |
| **HARASSMENT AT WORKPLANCE** | THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010  THE PREVENTION OF ELECTRONIC CRIMES ACT, 2016 |  | THE (PUNJAB) PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010. |  | THE BALOCHISTAN PROTECTION AGAINST HARASSMENT OF WOMEN AT WORKPLACE, 2016 | THE (KP) PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010 |
| **SEXUAL AND REPRODUCTIVE HEALTH** |  |  |  | THE SINDH REPRODUCTIVE HEALTHCARE RIGHTS ACT, 2019 |  | THE KHYBER PAKHTUNKHWA REPRODUCTIVE HEALTH RIGHT ACT, 2020 |
| **SEXUAL ABUSE & VIOLENCE** | PAKISTAN PENAL CODE, 1860  THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 1984  THE PROTECTION OF WOMEN (CRIMINAL LAWS AMENDMENT) ACT, 2006  THE CRIMINAL LAW (AMENDMENT) ACT, 2010  THE CRIMINAL LAW (SECOND AMENDMENT) ACT, 2016  THE CRIMINAL LAW (AMENDMENT) (OFFENCE RELATING TO RAPE) ACT, 2016  CRMINAL LAW (AMENDMENT) ACT, 2021  ANTI-RAPE (INVESTIGATION AND TRIAL) ACT 2021 |  |  |  |  |  |
| **DOMESTIC VIOLENCE** |  |  | THE PUNJAB PROTECTION OF WOMEN AGAINST VIOLENCE ACT, 2016 | THE DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2013 | THE BALOCHISTAN DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2014 | THE KHYBER PUKHTUNKHUWA DOMESITC VIOLENCE AGAINST WOMEN (PREVENTION AND PROTECTION) ACT 2021 |
| **WOMEN WITH DISABILITIES** | THE DISABLED PERSONS (EMPLOYMENT AND REHABILITATION) ORDINANCE, 1981  THE PAKISTANI BAIT-UL-MAL ACT, 1991  THE SPECIAL CITIZEN’S ACT, 2008 | THE (ICT) RIGHTS OF PERSONS WITH DISABILITY ACT, 2020 | THE (Punjab) MENTAL HEALTH ORDINANCE 2001 | THE SINDH EMPOWERMENT OF ‘PERSONS WITH DISABILITIES ACT 2018 | THE BALOCHISTAN PERSONS WITH DISABILITIES ACT, 2017 |  |

# H ARASSMENT AT WORKPLANCE:

## **THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010**

1. It extends to the whole of Pakistan.
2. It provides a definition for harassment which includes any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.
3. Organizations which require to following this law includes a Federal or Provincial Government ministry, division or department, a corporation or any autonomous or semi-autonomous body including educational institutes, medical facilities established or controlled by the Federal or Provincial Governments or District Governments or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution.
4. Organizations under this Act are required to constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into the complaints.
5. A complaint woman or man may make a complaint to the Ombudsman or to the Inquiry Committee who is aggrieved by an act of harassment.
6. A convict under this Act may be provided minor and major penalties including:

**Minor penalties:**

(a) censure;

(b) withholding, for a specific period, promotion or increment;

(c) stoppage, for a specific period, at an efficiency bar in the

time-scale, otherwise than for unfitness to cross such bar; and

(d) recovery of the compensation payable to the complainant from

pay or any other source of the accused.

**Major penalties:**

(a) reduction to a lower post or time-scale, or to a lower stage in a

time-scale;

(b) compulsory retirement;

(c) removal from service;

(d) dismissal from service; and

(e) Fine. A part of the fine can be used as compensation for the victim.

1. The Ombudsman is vested with the same power for the purpose of this Act as in a Civil Court under the Code of Civil Procedure, 1908.
2. The Federal Government is empowered to make rules to carry out the purposes of this Act.

## **THE (PUNJAB) PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010**.

1. It extends to whole of the Punjab.
2. Harassment under this Act means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.
3. Organization under this Act means a Federal or Provincial Government ministry, division or department, a corporation or any autonomous or semi-autonomous body, educational institutes, medical facilities established or controlled by the Federal or Provincial Governments or District Governments or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution.
4. Under the Act, all Provincial and District Government bodies and authorities, including educational institutes and medical facilities, shall constitute Inquiry Committees for harassment at the workplace and display the Code of Conduct for Protection of Women from Harassment at the Workplace in their office premises.
5. This Act empowers the organization to constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints.
6. It provides that if the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the minor or major penalties.
7. The Inquiry Committee have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused.
8. The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:-

**(i) Minor penalties–**

(a) censure;

(b) withholding, for a specific period, promotion or increment;

(c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and

(d) recovery of the compensation payable to the complainant from pay or any other source of the accused.

**(ii) Major penalties–**

(a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;

(b) compulsory retirement;

(c) removal from service;

(d) dismissal from service; and

(e) Fine. A part of the fine can be used as compensation for the complainant.

1. The Government of Punjab is authorized to appoint the Ombudsperson on such terms and conditions as may be prescribed under this Act.
2. The Ombudsperson is vested with the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 under this Act.
3. Government is authorized to make rules to carry out the purposes of this Act.

## **THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010:**

1.  It extends to whole of the Khyber-Pakhtunkhwa.

2.  Harassment under this Act is defined as unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.

3.  Organization under this Act means a Federal or Provincial Government ministry, division or department, a corporation or any autonomous or semi-autonomous body, educational institutes, medical facilities established or controlled by the Federal or Provincial Governments or District Governments or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution.

5. This Act empowers the organization to constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints.

6. It provides that if the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the minor or major penalties.

7. The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties: -

**Minor penalties–**

               (a)  censure

           (b)  withholding, for a specific period, promotion, or increment

(c)  stoppage, for a specific period, at an efficiency bar in the timescale, otherwise than for unfitness to cross such bar; and

(d) recovery of the compensation payable to the complainant from pay or any other source of the accused.

**Major penalties–**

(a)  reduction to a lower post or timescale, or to a lower stage in a timescale.

           (b)  compulsory retirement.

           (c)  removal from service.

           (d) dismissal from service; and

(e)  Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.

9.       The Government of Khyber Pakhtunkhwa is authorized to appoint the Ombudsperson on such terms and conditions as may be prescribed under this Act.

10.   The Ombudsperson is vested with the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 under this Act.

11.   Government of Khyber Pakhtunkhwa is authorized to make rules to carry out the purposes of this Act.

## **THE BALOCHISTAN PROTECTION AGAINST HARASSMENT OF WOMEN AT WORKPLACE, 2016:**

1. It shall extend to the whole of Balochistan, except the Provincially Administrative Tribal Areas.
2. It provides the definition of harassment which includes any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, any kind of threats, blackmailing, mental and physical torture, attempt for defamation or defamation through modern techniques, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.
3. Organization means a Federal or Provincial Government ministry, division or department, a corporation or any autonomous or semi-autonomous body, educational institutes, medical facilities established or controlled by the Federal or Provincial Governments or District Governments.
4. It provides that there shall be an Inquiry Committee constituted by organization and the Committee shall consist of five members, out of whom at least two members shall be women.
5. It states that the Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry.
6. It further provides that if the Inquiry Committee finds the accused to be guilty, it shall recommend to the Competent Authority for imposing one or more of the minor or major penalties.
7. The Competent Authority under this Act is empowered to impose the penalty recommended by the Inquiry Committee under sub-section within one week of the receipt of the recommendations of the Inquiry Committee.
8. The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties;

(a) Minor penalties:

(i) Censure;

(ii) withholding, for a specific period, promotion or

increment;

(iii) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;

(iv) recovery of the compensation payable to the complainant from pay or any other source of the accused; and

(b) Major penalties:

(i) Reduction to a lower post or time-scale, or to a lower stage in a time-scale;

(ii) removal from service;

(iii) dismissal from service;

(iv) fine of rupees fifty thousand, which may extend to rupees five hundred thousand; the amount of fine or a part thereof may be paid as compensation to the complainant or the victims.

(c) The Inquiry Committee may besides them aforesaid punishments, recommend for a criminal proceeding against the accused.

1. It provides that until such a time that the Ombudsman is appointed the District Court shall have the jurisdiction to hear appeals against the decisions of Competent Authority.
2. The Ombudsperson for the purpose of this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908.
3. The Government of Balochistan may make rules to carry out the purposes of this Act.

## **THE PREVENTION OF ELECTRONIC CRIMES ACT, 2016**

1. The Act extends to the whole of Pakistan.
2. It provides to prevent unauthorized acts with respect to information systems and provides for related offences as well as mechanism for their investigation, prosecution, trial, and international cooperation.
3. The Federal Investigation Agency shall have the powers to investigate an offence under this Act.
4. This Act provides that whoever sends harmful, fraudulent, misleading, illegal, or unsolicited information to another person without their consent, or who causes any information system to show such information, commits spamming. It also provides punishment for offence of spamming is punishable by a fine not exceeding fifty thousand rupees, and each subsequent offence by a fine not less than fifty thousand rupees and up to one million rupees.
5. It also provides about the offences against dignity of a natural person as in intentionally and publicly exhibits or displays or transmits any information through any information system, which is to be false, and intimidates or harms the reputation or privacy of a natural person. It shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both.
6. The Act criminalizes the offences against modesty of a natural person and minor as in intentionally and publicly exhibits or displays or transmits any information which superimposes a photograph of the face of a natural person over any sexually explicit image or video which includes a photograph or a video of a natural person in sexually explicit conduct, intimidates a natural person with any sexual act, or any sexually explicit image or video of a natural person, cultivates, entices or induces a natural person to engage in a sexually explicit act, through an information system to harm a natural person or his reputation, or to take revenge, or to create hatred or to blackmail. It shall be punished with imprisonment for a term which may extend to five years or with fine which may extend to five million rupees or with both. Whoever commits an offence under this the said section with respect to a minor shall be punished with imprisonment for a term which may extend to seven years and with fine which may extend to five million rupees.
7. The Act also civilizes the act of child pornography and provides for its punishment which is imprisonment for a term which may extend to seven years, or with fine which may extend to five million rupees or with both.
8. It also provides about offence of cyber stalking which says that a person commits the offence of cyber stalking who, with the intent to coerce or intimidate or harass any person, uses information system, information system network, the Internet, website, electronic mail or any other similar means of communication to follow a person or contacts or attempts to contact such person to foster personal interaction repeatedly despite a clear indication of disinterest by such person, monitor the use by a person of the internet, electronic mail, text message or any other form of electronic communication, watch or spy upon a person in a manner that results in fear of violence or serious alarm or distress, in the mind of such person, take a photograph or make a video of any person and displays or distributes it without his consent in a manner that harms a person. It also provides punishment for offence of cyber stalking which is imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both. Which in case of a minor may extend to five years or with fine which may extend to ten million rupees or with both.
9. The Federal Government under this act is empowered to make rules for the purpose of this Act.

# SEXUAL AND REPRODUCTIVE HEALTH:

## **THE SINDH REPRODUCTIVE HEALTHCARE RIGHTS ACT, 2019.**

1. It shall extend to the whole of the Province of Sindh.
2. This Act aims to facilitate reproductive healthcare and promote reproductive health rights in the province.
3. The Act provides that the facilitation of reproductive health care and promotion of reproductive health care rights in the Province shall be based on following basic principles:

(a) men and women are the subject of reproductive health care and they are jointly involved and responsible for parenting and are equally entitled to access to information relating to reproductive health care and reproductive rights;

(b) there is a need for developing public awareness which prevents maternal deaths and suffering of women and children.

The Act provides that the right of reproductive healthcare information shall be promoted-

(a) by providing reproductive healthcare information, which provides awareness regarding mental and physical health and wellbeing of individuals and families, and allows the service users to make all decisions on the basis of full, free, and informed consent;

(b) through parental responsibility, which assures the right of parent as educators;

(c) by including reproductive health education in the curriculum at the secondary and higher secondary school levels as ‘life skills’.

1. The Act provides for provision of full range of integrated reproductive healthcare services including family planning which shall address the maternal mortality and morbidity
2. The Health and Population Departments has been empowered to enforce the provisions of the Act.
3. The Government shall give effect to the provisions of this Act through all concerned public sector organizations and public-CSO-private partnership and private organizations.
4. The provisions of this Act shall have effect notwithstanding anything contrary contained in any other law, for the time being in force.
5. It empowers the Government of Sindh to make rules for carrying out the purposes of this Act.

## **THE KHYBER PAKHTUNKHWA REPRODUCTIVE HEALTH RIGHT ACT, 2020**

1. It extends to whole of Khyber Pakhtunkhwa.
2. It provides for facilitating reproductive healthcare and promote reproductive health rights in province of Khyber Pakhtunkhwa.
3. The Act provides for powers and functions of the Population Welfare Department of Government for the purpose enforcement, i.e. raising public awareness on mental and physical health, prevalence and impact of morbidity and mortality and availability of medical science to prevent the human misery and ensuring the no one shall be discriminated by the provision of health services, especially women.
4. It also provides imposing penalty on any service provider, health care facility or medical practitioner who contravenes the provision of this Act. The license to license to practice or run medical facility may be suspended or cancelled in case of violations.
5. Courts which are vested with jurisdiction shall not be below court of 1st class magistrate to entertain matter under this Act.
6. Any person sentenced under this Act by the Magistrate 1st Class may prefer an appeal before the Court of Session with 30 days; and against the judgment of the Court of Session to High Court.
7. This Act also provides mechanism for investigation of case along with filling of case.
8. The Government of Khyber Pakhtunkhwa by notification in official Gazette make Rules for purposes of this Act.

# **SEXUAL ABUSE & VIOLENCE (CIMINAL LAW AMENDMENTS):**

## **THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 1984**

Stripping of women’s clothes

1. The section 354 A was inserted in the Pakistan Penal Code, 1860 (PPC) and criminalizes assault or use of criminal force against a woman -including a girl- and stripping off her clothes.
2. It provides that whoever assaults or uses criminal force to any woman or girl and strips her of her clothes and, in that condition, exposes her to public view, shall be punished with death or with imprisonment for life, and shall also be liable to pay a fine.

## **THE PROTECTION OF WOMEN (CRIMINAL LAWS AMENDMENT) ACT, 2006**

Offences relating to Zina, Qazaf, Lian, Marriage and other Sexual Exploitations:

1. This Women Protection Act was passed by the Parliament amid unprecedented – and often virulent – attacks mounted by religious political parties, then part of the opposition.
2. The law, besides other measures, separated the offences of zina (extra-marital consensual sex, fornication if the parties are unmarried and adultery when one of the parties is married) and rape, a long-standing demand of the women’s rights movement in Pakistan.
3. This Act alone has amended the Pakistan Penal Code, 1860, the Code of Criminal Procedure, 1898, the Offence of Zina (Enforcement of Hudood) Ordinance 1979, the Offence of Qazaf (Enforcement of Hadd) Ordinance, 1979 and the Dissolution of Muslim Marriages Act, 1939.
4. The basic object of the said Act was to bring the laws relating to zina and qazaf, in particular, in conformity with the stated objectives of the Islamic Republic of Pakistan and the constitutional mandate and in particular to provide relief and protection to women and girls against the misuse and abuse of law.
5. The Zina and Qazaf Ordinances have been a subject of trenchant criticism by citizens in general and scholars of Islam and women in particular.
6. The Protection of Women (Criminal Laws Amendment) Act, 2006 brought certain sexual offences under Ta’zir - which is a subject of state legislation, *inter alia*, kidnapping, abduction, selling and buying of persons for the purposes of sex, rape and cohabitation.
7. The exercise of such authority by the State is in consonance with Islamic norms which the State is authorized to both define and punish.
8. Accordingly, certain categories of sexual offences were removed from the two Hudood Ordinances and inserted as sections 365B, 367A, 371A, 375, 375A, 493A, 496A, 496B and 496C of the PPC.
9. The gender-neutral definition was replaced and punishment for rape was incorporated in the PPC in sections 375 and 376 respectively.
10. The offence of fornication under Section 496B of PPC, 375 of PPC.
11. Further, a special complaint procedure was introduced for offences of. Section 203A of the Code of Criminal Procedure, 1898 (Cr. PC) was inserted providing that ‘no court shall take cognizance of an offence under section 5 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979, except on a complaint lodged in a Court of competent jurisdiction.
12. Similarly, procedure for filing of complaints in case of Qazf and fornication was inserted through Sections 203B and 203C respectively.

## **THE CRIMINAL LAW (AMENDMENT) ACT, 2010**

Insulting Modesty or Sexual Harassment: through section 509 of the PPC.

1. A section was substituted to provide protection to women against insulting their modesty and against sexual harassment.
2. This Act criminalized intentions and acts causing insult to a woman’s modesty or causing sexual harassment to her.
3. Section 509 covers uttering offensive words, sounds or gestures, or exhibiting such objects or sexual advances or demand of sexual favors through verbal or non-verbal communications. The Act explains that such behavior might occur in a public.

## **THE CRIMINAL LAW (SECOND AMENDMENT) ACT, 2016**

Exposure to seduction: Section 292-A of the PPC provides for criminalizing the act to seduce a child including girls mainly:

1. having intention to involve the child in any sexual activity
2. exposes practically a child to obscene and sexually explicit material, document, a film, video, or a computer-generated image
3. attempts to do any of the above-mentioned acts.
4. The act by which an adult entices a child to have unlawful sexual relations with him/her by means of persuasions, solicitations, promises, or bribes without the use of physical force or violence may be called an act of seduction.
5. The use of charm, salesmanship, promises, gifts, and flattery to induce a child even without any use of force or intimidation comes under the definition of seduction.
6. The use of a child in sexual activities for remuneration or any other form of consideration can also be covered under this section which is also a criminalized act.
7. The offence of exposure to seduction is punishable with imprisonment of either description for a term which shall not be less than 1 year and may extend to 7 years or with fine which may not be less than Rs. 100,000/- and may extend to Rs. 500,000/- or with both.

Sexual abuse:

1. The term sexual abuse has been covered implicitly under various provisions in the criminal law, but it is for the first time, at national level, that the acts amounting to sexual abuse has been covered comprehensively.
2. Sexual abuse under section 377A of the PPCis defined as ‘whoever employs, uses, forces etc. any person to engage in, or assist any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or simulation of such conduct either independently or in conjunction with other acts, with or without the consent where age of person is less than eighteen years, is said to commit the offence of sexual abuse’.
3. The offence of sexual abuse shall be punished with imprisonment of either description for a term which may extend to seven years and liable to fine which shall not be less than five hundred thousand rupees or with both.
4. The offences under Sections 292A, 292C, 377B of PPC are not bailable, not compoundable and trial shall be conducted by the Court of Sessions.
5. The offence under Section 328-A of PPC is bailable, compoundable and the trial is held by a Magistrate of the First Class.

## **THE CRIMINAL LAW (AMENDMENT) (OFFENCE RELATING TO RAPE) ACT, 2016**

Offence relating to rape:

1. The Criminal Law (Amendment) Offences relating to Rape Act, 2016 was enacted to protect women against sexual violence.
2. Through the said Act, the PPC and Code of Criminal Procedure were amended.
3. The PPC was amended to provide comprehensive punishments against such a heinous offence on one hand and improve the criminal procedure for facilitating the victim of sexual violence on the other hand.
4. The following amendments in law of crimes.

Bar on Provincial Government to commute punishment:

1. Through this Act, in the Section 55 of the PPC a proviso was inserted providing 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 fasad­fil­arz is attracted, such punishment shall not be commuted.’
2. It curtailed the power of the Provincial Government to commute the punishment of the offender.

Punishment for faulty investigation:

1. Pakistan is often quoted among the countries where conviction rate is very low.
2. Accused persons often get off scot-free due to faulty investigation.
3. Section 166 of the PPC now provides that an if a public servant entrusted with the investigation of a case fails to carry out investigation properly or diligently or fails to pursue the case in any court of law properly and in breach of his duties, he/she shall be punished with imprisonment of either description for a term which may extend to three years or with a or both.

Hampering investigation, inquiry, or prosecution:

1. Under section 186 of the PPC, the punishment is provided for obstructing a public servant in discharge of public functions.
2. It provides that whoever intentionally hampers, misleads etc. 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.

Punishment for rape:

1. Section 376 was amended to the extent that it now provides separate provisions for punishing the offence of rape
2. committed against a minor or person of unsound mind
3. committed by a public servant by taking advantage of his position; that is alternatively defined as custodial rape
4. committed along with offences of hurt [under section 333, 335, 337(3)(iv)(v)(vi), 337C, 337F(v)(vi)].
5. The above-mentioned offences are punishable with death or with imprisonment for life and fine.
6. In any other case, whoever commits rape, depending on the circumstances of the cases, under subsection (1) of Section 376 shall also 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.
7. In other words, if a case does not fall within the ambit of situations provided under subsections (1A) to (4) of Section 376, even then the punishment under subsection (1) of Section 376 shall not be less than of imprisonment for ten years.

Criminalizing disclosure of identity of victim of rape:

1. If the identity of the victim is revealed without his/her informed consent and in an insensitive, voyeuristic, and uncaring manner then it can negatively impact the victim and his/her family.
2. Sexual assault is one of the most under-reported offences. Many victims or survivors do not speak out about it because of the trauma or fear of reprisal among other reasons.
3. Survivors too often suffer in silence because they fear further jeopardy, are unwilling to experience further humiliation.
4. The purpose of the legislative provisions that protect the identity of sexual assault victims is to encourage them to report offences committed against them and protect them from the harm that identification may cause, by respecting their privacy.
5. Children, especially girls, who represent a sensitive and vulnerable section of the society tend to see their case rapidly sensationalized by media in blatant violation of the child’s best interest.
6. Secondary victimization of children occurs both at the stage of newsgathering and through the publication of photographs, and other personally identifiable information, or during the trial.
7. Hence, disclosure of identity of victim of rape was barred and criminalized by inserting section 376A in the PPC.
8. Section 376A of PPC provides that whoever prints or publishes name or any matter which may make known identity of victim of an offence, [under sections 354, 376, 376A, 377 and 377B of PPC] commits a cognizable offence which shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.
9. The exceptions for publication or disclosure of identity of such a victim are provided under subsection (2) of section 376 A of PPC, e.g. disclosure of identity with the permission of the victim, parent, guardian or the court.
10. It is important to note that section 8 of the Electronic Media Programmes and Advertisements Code of Conduct, 2015 also provides that the licensee (TV channels) shall ensure that extreme caution shall be exercised in handling themes, plots or scenes that depict sex offence and violence, including rape and other sexual assaults.
11. Subsection (6) of section 8 provides that identity of any victim of rape, sexual abuse, terrorism or kidnapping or such victim’s family shall not be revealed without prior permission of the victim or victim’s guardian where the victim is a minor.

Improving the criminal procedure:

1. The Criminal Law (Amendment) Offences relating to Rape Act, 2016 also amended the Code of Criminal Procedure, 1898 [i.e., section 53A, section 154, section 161, 161A, 164B, 344A and 352].

Examination of person accused of rape:

1. With the insertion of Section 53A in Cr. PC, it has become lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority to examine an arrested person on a charge of committing an offence of under section 376, 377 and 377B respectively.
2. The registered medical practitioner conducting examination under sub-section (1) of Section 53A of Cr. PC shall, without delay, examine such person and prepare a report of his examination giving material particulars.
3. Such 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.
4. This mandatory DNA profiling of the accused person may become one of the conclusive pieces of evidence to decide the complaint.

First Information Report, statement of victim and legal aid in case of certain sexual abuse offences:

1. The insertion of proviso in Section 154 of Cr. PC provides special procedure for recording of complaint in certain sexual abuse cases.
2. It provides that if the information is given by the woman against whom an offence under section 336B, 354, 354A, 376 and 509 of the Pakistan Penal Code, 1860 then such information shall be recorded by an investigating officer in presence of a female police officer or a female family member or any other person with consent of the complainant.
3. It further provides that if the victim woman is distressed such complaint or information shall be recorded by an investigating officer at residence of the complainant or at a convenient place of the complainant's choice in presence of a police officer or family member or any other person with consent of the complainant.
4. Similarly, the statement of the victim woman before the police under Section 161 of Cr. PC shall be recorded by an investigating officer in presence of a female police officer or a female family member or other person of her choice.
5. The police officer shall inform the victim women about her right of legal representation and if the victim requires free legal aid the police officer shall provide him the list of lawyers maintained by the Provincial Bar Councils for this purpose to choose the lawyer of her choice for legal representation.

## **CRMINAL LAW (AMENDMENT) ACT, 2021**

1. It extends to whole of Pakistan.
2. Through this Criminal Law Amendment, sections 375 of PPC was amended and section 375 A was inserted in the PPC.
3. The definition of rape of expanded from traditional definition of rape which had only focused on ‘penetration’. The definition of rape provided under section 375 of PPC covered all possibility of sexual abuse that ends with various forms rape, even without ‘penetration’.
4. The law also presumes that rape may occur with any person including male, female or transgender.
5. The punishment for committing the offence of rape is imprisonment for twenty-five years or for imprisonment for the remainder period of his natural life.
6. The definition of gang rape is provided under section 375-A of PPC.
7. It provides that where a person is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be guilty of the offence of gang rape and shall be punished with death or for imprisonment for the remainder period of natural life or imprisonment for life and fine.

## **ANTI-RAPE (INVESTIGATION AND TRIAL) ACT 2021.**

1. This Act aims to 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 and evidence.
2. It extends to the whole of Pakistan.
3. It requires to establish or designate Special Court for separate trials.
4. It provides for creation of Special Committee to advice the Prime Minster for enforcing this Act.
5. It provides for establishment of Anti-rape Crisis Cell under this Act.
6. The Legal Aid and Justice Authority established under the Legal Aid and Justice Authority Act, 2020 shall provide legal assistance to victims under this Act.
7. This Act provides that trial of Scheduled offences shall be conducted in-camera.
8. It states that no person shall disclose or reveal the identity of any victim or victim’s family in respect of the scheduled offences, without prior written permission of the victim or victim’s guardian where the victim is a minor or the victim’s family.
9. Funds are established under this Act to carry out purposes of this Act.
10. The Prime Minister under this Act may prescribe rules, upon the recommendations of the Special Committee, for the purposes of carrying out the purposes of this Act.

# **DOMESTIC VIOLENCE:**

## **THE DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2013.**

1. It extends to whole of the province of Sindh.
2. It aims to expedite institutionalized measures which prevent and protect women, children, and any vulnerable person from domestic violence and for matters connected.
3. This Act empowers Government to constitute a Commission;
   1. to review of the existing provisions of the law on domestic violence and suggest amendments therein, if any;
   2. to call for specific studies or investigation into specific incidence of domestic violence;
   3. to look into complaints and take *suo moto* notice of matters relating to domestic violence and the non-implementation of the law; and
   4. to participate and advise on the planning process for securing a safe environment free of domestic violence.
4. For its enforcement, the Act provides for notification of Protection Committees and appointment of Protection Officers.
5. This Act provides mechanism for petition to court, appeal and punishments.
6. Judicial Magistrate of first class is empowered to take cognizance of any offence under this Act.
7. The Act provides that an aggrieved person or other person authorised by the aggrieved person in on his behalf or informer may present a petition to the Court of concerned jurisdiction, the Court shall fix the first date of hearing, which shall not exceed seven days from the date of the receipt of the petition by the court.
8. The Act requires that Government shall instantly launch an effective campaign, through the concerned senior police officials, Assistant Commissioners, local NGOs and those on the municipal levels, for the awareness of its content and objectives.
9. The Government of Sindh may make Rules by notification in the official Gazette for carrying out the purpose of this Act.

## **THE BALOCHISTAN DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2014.**

1. It extends to the whole of Balochistan except Tribal Areas.
2. It aims to take measure which prevent and protect women and children from domestic violence and for matters connected.
3. For the implementation of the Act, the Government shall ensure that.-
   1. this Act and the contents thereof receive wide publicity through electronic and print media in Urdu and local languages;
   2. the government officers, the police and the members of the judicial service are given periodic sensitization and awareness training on the issues addressed by this Act; and
   3. effective measures are taken by the concerned Departments to address the issue of domestic violence and that the same are periodically revised.
4. An aggrieved person or any other person authorized by the aggrieved person in writing in this behalf may present an application to the Court of Sub Divisional Magistrate having the powers of first class Magistrate within whose jurisdiction offence was Committed for seeking any relief under this Act.
5. The aggrieved person shall not be evicted from the household without consent, whether or not he or she has any right, title or beneficial interest in the same.
6. The Act empowers the court to a pass protection order, grant a monitory relief and order to take into custody for protection of the aggrieved person and issue an interim order.
7. The Act also provides for notification of Protection Committees and appointment of Protection Officers. It further provides for powers, functions and duties of the Protection Committees and the Protection Officers.
8. The Government of Balochistan may make Rules by notification in the official Gazette for carrying out the purpose of this Act.

## **THE PUNJAB PROTECTION OF WOMEN AGAINST VIOLENCE ACT, 2016.**

1. It extends to whole of Punjab.
2. It aims to establish an effective system of protection, relief, and rehabilitation for women victim of violence. It also requires establishing a protection system for effective service delivery to women victims and to create an enabling environment to encourage and facilitate women freely to play their desired role in the society.
3. The Family Courts, established under the Family Court Act, 1964, have jurisdiction to entertain matters under this Act.
4. This Act empowers the government to institute a toll-free dial-in-number, protection centres and shelter homes, appoint staff for meditation and reconciliation between parties, provide medical and legal help, and proper investigation of offence.
5. This Act also provides for appointment of District Women Protection Officer for the purpose of enforcement.
6. This Act provides for establishing Shelter Home by the Government to provide boarding, lodging and rehabilitation services to the aggrieved persons.
7. It also provides penalties for obstructing a protection officer, for filing false complaint and breach of orders issued under this Act.
8. It empowers government to establish a data base and software for timely service delivery, monitoring and evaluation and necessary reforms.
9. The Government of Punjab may make Rules by notification in the official Gazette for carrying out the purpose of this Act.

## **THE KHYBER PUKHTUNKHUWA DOMESITC VIOLENCE AGAINST WOMEN (PREVENTION AND PROTECTION) ACT 2021**.

1. Extends to whole of province Khyber Pakhtunkhwa.
2. It provides to expedite the process of prevention of Domestic Violence against women in order to protect women from sexual abuse, psychological abuse, economic abuse and talking and matters connected.
3. It requires the service providers to work for providing service under this Act to protect complaints through any means including legal, medical, financial or by providing any other assistance.
4. It also provides punishment for person who commits domestic violence; and such person shall be imprisonment for one to five years and also process for petition to the court.
5. The Act provides for constitution of District Protection Committees (DPC) headed by the Deputy Commissioner of the concerned District to enforce the rights under this Act.
6. The court of District and Session Judge or Additional District and Session Judge is have the competent jurisdiction under this Act to entertain the complaints filed by a complainant, her guardian or Secretary of the District Protection Committee.
7. The Government of Khyber Pakhtunkhwa may make Rules by notification in the official Gazette for carrying out the purpose of this Act.

# **WOMEN WITH DISABILITIES:**

## **THE DISABLED PERSONS (EMPLOYMENT AND REHABILITATION) ORDINANCE, 1981**.

1. It extends to whole of Pakistan.
2. This Ordinance provides for the employment, rehabilitation and welfare of disabled persons and for matters connected.
3. Government under this Ordinance is empowered to establish autonomous or semi-autonomous body, university, college, professional school and any organisation controlled or managed by Federal Government or Provincial Government for the purpose of enforcement of this Ordinance.
4. The Ordinance provides for establishment of National Council for Rehabilitation of Disabled Persons and of Training Centres for disabled persons.
5. The Ordinance provides for establishing a Fund to be known as the Disabled Persons Rehabilitation Fund by the Federal Government.
6. It also provides that establishment which fails to pay into the Fund shall be punishable with fine which may extend to one thousand rupees.
7. It further provides for establishing Provincial Councils for Rehabilitation of Disabled Persons.
8. There is no explicit provision for women under this Ordinance, however this ordinance implicitly applicable to every disabled person, including women.
9. Bothe the Federal Government and Provincial Governments may make rules by notification in the official Gazette for carrying out the purpose of this Act. However, the rules made by the Provincial Governments shall not be inconsistent with the rules made the Federal Government.

## **THE PAKISTANI BAIT-UL-MAL ACT, 1991.**

1. It shall extend to whole of Pakistan.
2. This Act provides for establishing a Bait-ul-Mal Fund for aiding destitute and needy widows, orphans, invalid in firms and such other persons and thereby save them from hardship and suffering and to make enable them to lead on honourable life in the society.
3. The Act provides constitution of a Bait-ul-Mal Board for the administration of the Bait-ul-Mal.
4. The Bait-ul-Mal shall be administered by the Board and the moneys in the Bait-ul-Mal shall be utilized for the following purposes, among others:-

(a) to provide financial assistance to destitute and needy widows, orphans, invalid, infirm and other needy persons;

(b) for rendering help for rehabilitation;

(c) to provide assistance to children of the persons specified in clause (a) for educational pursuits;

(d) to provide residential accommodation and necessary facilities to the needy; and

(e) to provide for free medical treatment for indigent sick persons and to set up free hospitals, poor houses and rehabilitation centers and to give financial aid to charitable institutions, including industrial homes and other educational institutions established specially for poor and needy.

1. This Act is applicable to the women who are destitute, homeless, poor or widow.
2. It also empowers Federal Government may make rules for carrying out the purpose of this Act.

## **THE (Punjab) MENTAL HEALTH ORDINANCE 2001.**

1. It extends to whole of Punjab.
2. This Ordinance aims to the treatment and care of mentally disordered persons to make better provisions for their care, treatment, management of properties and affairs and to provide for matters connected therewith as incidental thereto and to encourage community care of such mentally disordered persons and further provide for the promotion of mental health and prevention of mental disorder.
3. It provides for establishment of Punjab Mental Health Authority for enforcement of this Act.
4. Under this Ordinance, the Court of Protection means a District Court having jurisdiction under this Ordinance as designated by Government to resolve matters.
5. The Government under this Ordinance is also empowered to establish or maintain psychiatric facilities for the assessment, admission, treatment, rehabilitation, care and after care of mentally disordered patients.
6. It aims that cost of maintenance of a patient admitted in a Government owned psychiatric facility shall be borne by the Government.
7. It also provides to develop Special security forensic psychiatric facilities by the Government to house mentally disordered prisoners and offenders.
8. The Ordinance provides that the attendance and examination of the alleged mentally disordered person shall, if the alleged mentally disordered person be a woman who, according to customs of the country, ought not to be compelled to appear in public, be regulated by the law and practice for the examination of such persons in other civil cases.
9. Punishment for false statement is also provided under this Ordinance which is imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.
10. It empowers Government of Punjab to make rules by notification in Official Gazette.

## **THE SPECIAL CITIZEN’S ACT, 2008.**

1. It extends to whole of Pakistan.
2. It states about the provisions for the rights of Special Citizens.
3. “Special Citizens” under this Act means the disabled citizens of Pakistan; and “rights” means the accessibility of disabled citizens to everywhere, just like the accessibility of normal citizens of Pakistan.
4. The Act requires that the Government shall make the concerned authorities bound, before the construction of buildings in public or private sectors particularly in Educational Institutions, Banks, Hospitals, Shopping Malls, Police Stations, Airports, Railway Stations, Bus Stops, Hotels and all every public place to provide the facility of access of wheelchairs.
5. Allocation of seats for special citizens in public transport along with priority while crossing roads is also required under this Act.
6. The Act does not refer women directly, however, a special women, being special citizen, is eligible to all entitlements provided under this Act.

## **THE BALOCHISTAN PERSONS WITH DISABILITIES ACT, 2017**

1. This Act extends to the whole of Balochistan except Tribal Areas.
2. It provides to put in place legal and institutional framework to protect the rights of the Persons with Disabilities.
3. The government is required to ensure that every Person with Disability shall have a right to be respected for his individual dignity and leading a decent life with equal opportunity to participate in educational, social, economic, cultural religious and all other activities in the society without any discrimination.
4. It also provides equality before law, right to privacy, ease of access and mobility, protection from abusive, violent, and intolerant behavior, equity in education, equity in employment, health and rehabilitation services, health and rehabilitation services etc.
5. The Act provides that in view of the vulnerability of women, children and senior citizens with disabilities, the government shall take special measures to ensure that such women, children and elderly people are given full protection under law in enjoying their rights.
6. It requires to establish the Provincial Council on Rights of Persons with Disabilities.
7. Power to make rules and regulation is granted to the Government of Balochistan for its efficacious and effective implementation and for carrying out the purposes of this Act.
8. The council, established under this Act, have power to make regulations for its internal organization and operation and to lay down processes and procedures to implement this act and rules made under it.

## **THE SINDH EMPOWERMENT OF ‘PERSONS WITH DISABILITIES ACT 2018**

1. This Act extends to the whole of Sindh
2. This Act aims to put in place legal and institutional framework to protect the rights of the ‘Persons with Disabilities’ in general and particularly in line with the UN Convention on the Rights of ‘Persons with Disabilities.
3. It provides mechanism for registration of institutions for the ‘Persons with Disabilities’ and grant to such institutions.
4. It also provides equality before law, equity in education, political participation, access to justice, own property, health and medical rehabilitation service employment, freedom of movement, independent living, mobility, and reasonable accommodation etc. for disabled persons.
5. The Government under this act is empowered to establish an endowment fund for sustainably financing the projects and activities related to ensuring effective rights protection and inclusion in society of ‘Persons with Disabilities
6. It requires to establish Special Courts for the Persons with Disabilities under this Act.
7. This Act provides to constitute Provincial Advisory Council on Rights of ‘Persons with Disabilities’.
8. The Government of Sindh is empowered to make rules under this Act for its efficacious and effective implementation.

## **THE ICT RIGHTS OF PERSONS WITH DISABILITY ACT, 2020.**

1. This Act extends to whole of Islamabad Capital Territory.
2. It provides to put in place legal and institutional framework to protect the rights of persons with disabilities in general and women, children, and elderly as called by UN Convention on the Rights of Persons with Disabilities as well as other human rights treaties and Convention to which Pakistan is a state party.
3. This Act provides for equality before law, equity in education, political participation, access to justice, own property, health and medical rehabilitation service employment, freedom of movement, independent living, mobility, and reasonable accommodation etc. for disabled persons.
4. It also provides for non-discrimination of persons with disability.
5. It aims to establish Council on Rights of Persons with disabilities, constituted under this Act.
6. It protects persons with disabilities from all forms of abuse, violence, and exploitation at the hands of any person, institution, or authority.
7. The government is empowered to establish endowment fund for sustainably financing projects and activities related to ensuring effective rights protection and inclusion in society of persons with disabilities.
8. Power to make Rules under this act is granted to Council which may in consultation with Federal Government and by notification in Official Council Gazette make rules.