



صوبائی کمیشن برائے وقار نسواں
خیبر پختون خواہ

Khyber Pakhtunkhwa Commission on the Status of Women (KPCSW)

A Compendium of Pro-Women Laws in Khyber Pakhtunkhwa

An Insight into the Legal Regime of
Women Rights, 2020

INTRODUCTION

Gender equality, women's empowerment, women's rights and protection are the expressions that have been the focal point of a number of research studies and discussions across the global. These expressions or terminologies refer to the process where a woman is treated at par with men in all walks of social life, enabling the womenfolk to have independence and control over their own affairs, protect the women from all forms of discrimination and violence and to have equal opportunities of development.

The Constitution of the Islamic Republic of Pakistan which is the *ground norm* of the country embodies ample provisions wherein the concept of gender equality, human rights, women's empowerment and the elimination of all forms of discrimination is enshrined. Article 25 of the Constitution provides that all citizens shall be equal before law and entitled to equal protection of Law. It further provides that there shall be no discrimination on the basis of sex alone. Clause (3) of Article 25 allows the state to make special provision for women and children. Similarly, Article 34 ensures full participation of women in all spheres of National life.

Apart from the above-mentioned constitutional provisions, Pakistan has also made commitments at a global level for the elimination of discrimination against women, women's rights and women's empowerment. Some of these global commitments include-

- (i) The United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).
- (ii) The SAARC Convention on Prevention and Combating of Trafficking in Women and Girls for Prostitution.
- (iii) Convention on the Rights of the Child and Sale of Children, Child Prostitution and Child Pornography.
- (iv) Vision 2030 on Sustainable Development Goals (SDGs). Goal 5 of the SDGs is specific to gender equality and women empowerment.

In view of the constitutional guarantees and the responsibilities the Constitution assigns to the State with regards to the protection of women and human rights and more so the commitment of Pakistan at the international level on gender equality and elimination of all kinds of discrimination against women, the Government of Khyber Pakhtunkhwa has undertaken some concerted efforts to bring women into the mainstream of public life and the development process.

In this connection the Government of Khyber Pakhtunkhwa has undertaken many pro-women legislations aiming at the protection of women, ensuring gender equality and women's empowerment. Some important pro-women legislation includes the Khyber Pakhtunkhwa Elimination of the Custom of Ghag Act, 2013, the Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016, the Khyber Pakhtunkhwa Enforcement of Women Property Rights Act, 2019. The Government of

Khyber Pakhtunkhwa has also adopted the Protection of Women against Harassment at Workplace, 2010 which is an important legislation on the protection of women against any kind of harassment at workplace. Apart from this, the Khyber Pakhtunkhwa Lissail-e-Wal Mahroom Foundation Act, 2015 has been enacted to support destitute women and special persons.

It is very unfortunate that despite the existence of such important pro-women legislations the womenfolk in the Province of Khyber Pakhtunkhwa have limited or no knowledge of such pro-women laws. Due to lack of knowledge or ignorance of these pro-women laws, the women in Khyber Pakhtunkhwa cannot assert their legal rights effectively. It thus becomes important to compile the pro-women laws in a single document in an easy to understand language for the awareness of women and other relevant stakeholders in Khyber Pakhtunkhwa.

The Compendium has been designed to include certain important pro-women laws outlining their objective, implementation mechanism and the procedures for the information of general public, womenfolk in particular and the public office holders. The compendium will particularly serve as guideline for women to have knowledge of their legal rights and the manner in which their rights can be enforced. It will also facilitate women of the Khyber Pakhtunkhwa to have easy access to justice and help to bring them into the mainstream of public life.

The Compendium consists of the text of the above-mentioned Laws and a brief and easy to understand outline of each law. It brings out the scheme of each law, the procedural mechanism involved in the law and a stepwise legal course for women under these laws.

The Compendium also highlights the nature of offences and their punishments under these laws, the authorities to be approached for redressal and the procedure of enforcing women's rights.

The Compendium of pro-women laws will be handy not only for policy makers, women in general and women activists but will also serve as a handbook for government officers at sub-provincial levels. It will help disseminate information on the important pro-women laws and the rights they guarantee to the womenfolk in Khyber Pakhtunkhwa.

This work has been the result of arduous and untiring efforts of the consultants. However, this has become possible only with the support of all relevant stakeholders, the Khyber Pakhtunkhwa Commission on the Status of Women and the Government of Canada, in particular.

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

The Protection of Women (Criminal Laws Amendment) Act, 2006 was passed by the Parliament and received assent of the President of Pakistan on 1st December, 2006.

1. Objectives:

The Protection of Women (Criminal Laws Amendment) Act, 2006 is an overriding law with the aim to provide relief and protection to women against misuse and abuse of law and to prevent their exploitation. Keeping in view the constitutional guarantees under Articles 14, 25 and 37 of the Constitution it was necessary to bring wholesale reforms in the criminal laws which otherwise were not sufficient to give effective protection and relief to women. In order to achieve the above-mentioned objectives, the Protection of Women (Criminal Laws Amendment) Act, 2006, amends the following criminal laws:

- (a) The Pakistan Penal Code, 1860.
- (b) The Code of Criminal Procedure, 1898.
- (c) The Dissolution of Muslim Marriage Act, 1939.
- (d) The Offence of Zina (Enforcement of Hudood) Ordinance, 1979.
- (e) The Offence of Qazf (Enforcement of Hadd) Ordinance, 1979.

What type of pro-women provisions have been inserted by the Protection of Women (Criminal Laws Amendment) Act, 2006, in the Pakistan Penal Code?

The Protection of Women (Criminal Laws Amendment) Act, 2006, adds the following pro-women provisions to the Pakistan Penal Code, 1860 relating to offences against women:

S. No	Offence	Section of Law	Punishment
1.	Kidnapping, abducting or inducing women to compel for marriage etc.	365-B	Imprisonment for life and the offender shall also be liable to fine.
2.	Kidnapping or abducting in order to subject person to un-natural lust.	367-A	(i) Punishment with death; or (ii) Rigorous imprisonment for a term which may extend to twenty-five years; and (iii) The offender shall also be liable to fine.
3.	Selling persons for purposes of prostitution, etc.	371-A	(i) Imprisonment which may extend to twenty-five years; and (ii) The offender shall also be liable to fine.
4.	Buying person for purposes of prostitution, etc.	371-B	(i) Imprisonment which may extend to twenty-five years; and (ii) The offender shall also be liable to fine.
5.	Rape	376	(i) Punishment with death; or (ii) Imprisonment of either description for a term which shall not be less than ten years; and

			(iii) The offender shall also be liable to fine.
6.	Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.	493-A	(i) Rigorous imprisonment which may extend to twenty-five years; and (ii) The offender shall also be liable to fine.
7.	Enticing or taking away or detaining with criminal intent a woman to have illicit intercourse with that woman.	496-A	(i) Imprisonment of either description which may extend to seven years; and (ii) The offender shall also be liable to fine.
8.	Fornication (A man and women having willful sexual intercourse).	496-A	(i) Imprisonment for a term which may extend to five years; and (ii) The offender shall also be liable to fine.
9.	False accusation of fornication.	496-C	(i) Imprisonment for a term which may extend to five years; and (ii) The offender shall also be liable to fine.

Is there any other pro-women provision in the Pakistan Penal Code, 1860?

Yes, apart from the above-mentioned offences the Pakistan Penal Code, 1860 has the following other provisions relating to women:

S. No	Offence	Section of Law	Punishment
1.	Assault or criminal force to woman with intent to outrage her modesty.	354	Imprisonment of either description which may extend to two years or with fine or with both.
2.	Assault or use of criminal force to woman and stripping her of her clothes.	354-A	(i) Punishment with death; or (ii) imprisonment for life; and (iii) The offender shall also be liable to fine.
3.	Molestation with sexual motive.	354-B	Imprisonment of either description which may extend to seven years or with fine or with both.
4.	Insulting modesty or causing sexual harassment.	371-B	(i) Imprisonment which may extend to five years; or (ii) Fine which may extend up to five hundred thousand rupees; or (iii) With both.

What amendments have been made in Code of Criminal Procedure, 1908 by the Protection of Women (Criminal Laws Amendment) Act, 2006?

The Protection of Women (Criminal Laws Amendment) Act, 2006, has amended the Code of Criminal Procedure, 1908 in order to give complaint procedure for the offences of zina, qazf and fornication and also to include the newly inserted offences in the Pakistan Penal Code, 1860 in Schedule-II.

What is the procedure for complaint of Zina?

The following procedure is given for complaints in cases of zina:

- (i) No court shall take cognizance of an offence under section 5 of the offences of Zina (Enforcement of Haddood) Ordinance, 1979 except on a complaint in court of competent jurisdiction.
- (ii) The court shall at once examine the complaint and four male adult Muslim eye witnesses on oath keeping in view the requirements of tazkiyate-u-shuhood.
- (iii) The substance of examination of the complainant any witness shall be reduced into writing and signed by the complainants the witnesses and the presiding officer of court.
- (iv) If there are sufficient grounds and the court is satisfied that complaint is well founded, it will proceed with the case and issue summons to the respondents.
- (v) If there are no sufficient grounds or substance in the complaint the court may dismiss the complaint.

What is the procedure for complaint of Qazf?

The following procedure is given for complaints in cases of Qazf:

- (i) Subject to section 6(2) of the offence of Qazf (Enforcement of Hadd) Ordinance, 1979, no court shall take cognizance of an offence under section 7 of the said Ordinance except on a complaint to the court of competent jurisdiction.
- (ii) The court shall at once examine the complaint and four male adult Muslim eye witnesses on oath keeping in view the requirements of tazkiyate-u-shuhood.
- (iii) The substance of examination of the complainant any witness shall be reduced into writing and signed by the complainants the witnesses and the presiding officer of court.
- (ii) If there are sufficient grounds and the court is satisfied that complaint is well founded, it will proceed with the case and issue summons to the respondents.
- (iii) If there are no sufficient grounds or substance in the complaint the court may dismiss the complaint.

What is the procedure for complaint of fornication?

The following procedure is given for complaints in cases of fornication:

- (i) The court shall take cognizance of an offence under section 496-B of the Pakistan Penal Code.
- (ii) The court shall at once examine the complaint and four male adult Muslim eye witnesses on oath keeping in view the requirements of tazkiyate-u-shuhood.
- (iii) The substance of examination of the complainant any witness shall reduced into writing and signed by the complainants the witnesses and the presiding officer of court.
- (iv) If there are sufficient grounds and the court is satisfied that complaint is well founded, it will proceed with the case and issue summons to the respondents.
- (v) If there are no sufficient grounds or substance in the complaint the court may dismiss the complaint.

No complaint can be made against a person under this section. If a complaint against him is already pending under section 203-A in offence of Zina under section 5 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979.

What amendments has the Protection of Women (Criminal Laws Amendment) Act, 2006 brought in the Offence of Zina (Enforcement of Hudood) Ordinance, 1979?

The Protection of Women (Criminal Laws Amendment) Act, 2006 deleted section 3 of the Ordinance *ibid* which gave an overriding effect to the Ordinance over all other Laws.

Furthermore, the following offences have been omitted from the Ordinance *ibid*:

S. No.	Offence	Section of Law	Punishment
1.	Definition of Zina-bil-Jabar.	6	Deleted. The same being incorporated in the Pakistan Penal Code.
2.	Punishment for Zina-al-jabar.	7	Deleted. The same being incorporated in the Pakistan Penal Code.
3.	Zina bil Jarar.	10	Deleted. The same being incorporated in the Pakistan Penal Code.
4.	Kidnapping abducting or inducing women to compel for marriage.	11	Deleted. The same being incorporated in the Pakistan Penal Code.
5.	Kidnapping or abducting in order to subject person to unnatural lust.	12	Deleted. The same being incorporated in the Pakistan Penal Code.

6.	Selling of person for the purpose of prostitution.	13	Deleted. The same being incorporated in the Pakistan Penal Code.
7.	Buying persons for the purpose of prostitution.	14	Deleted. The same being incorporated in the Pakistan Penal Code.
8.	Cohabitation caused by a man deceitfully incusing a belief of lawful marriage.	15	Deleted. The same being incorporated in the Pakistan Penal Code.
9.	Enticing or taking away or detaining with criminal intent a women to have illicit intercourse with that women.	16	Deleted. The same being incorporated in the Pakistan Penal Code.
10.	Punishment for attempt to commit an offence.	18	Attempt to commit is already punishable under the Pakistan Penal Code.
11.	Application of certain provisions of the Pakistan Penal Code	19	Redundant. Offences relating to zina, fornication, rape and other allied matters have been incorporated in the Pakistan Penal Code.

THE PROTECTION AGAINST HARASSMENT OF WOMEN AT WORKPLACE ACT, 2010

The Protection against Harassment of Women at Workplace Act, 2010 was passed in the year 2010 by the Parliament and received assent of the President on 9th of March 2010.

Objectives:

The Constitution of the Islamic Republic of Pakistan recognizes the fundamental rights of citizens to dignity of person. Article 9 of the Constitution provides that the dignity of person is inviolable. Furthermore, it is also important to protect women from harassment particularly at workplace. The Act was passed with the aim to protect women at workplace against all sorts of harassment and such acts of harassment have been penalized.

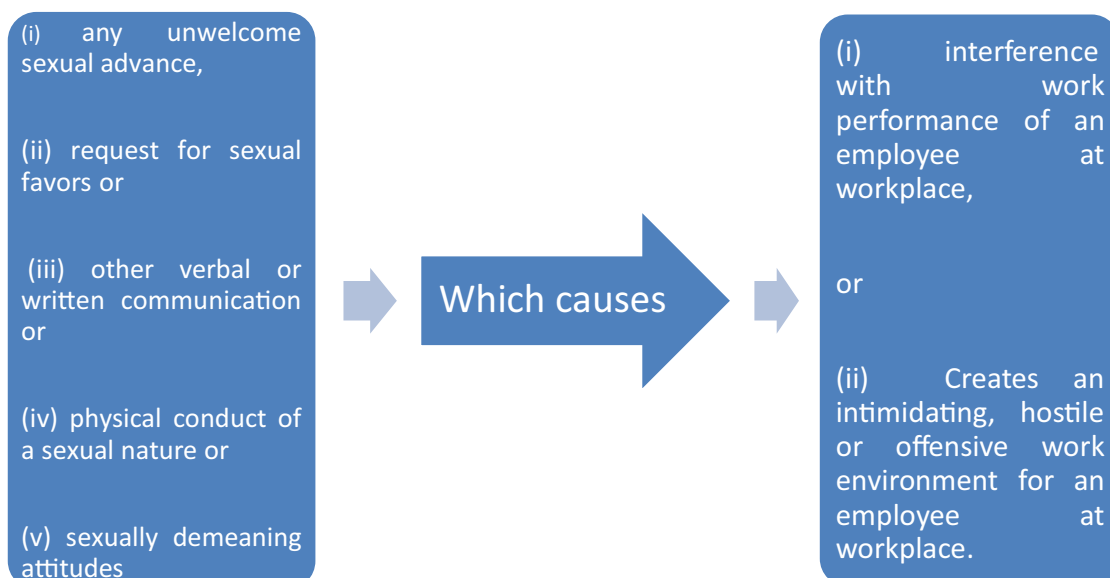
Meaning of Harassment at workplace:

Harassment at workplace include (i) any unwelcome sexual advance, (ii) request for sexual favors, (iii) other verbal or written communication, (iv) physical conduct of a sexual nature, or (v) sexually demeaning attitudes, which-

- (i) Causes interference with work performance of an employee at workplace,
- or
- (ii) Creates an intimidating, hostile or offensive work environment for an employee at workplace.

Harassment at workplace also includes an attempt to punish the complainant for refusal to comply with such a request or is made a condition for employment.

Harassment under the Act



Who can be a complainant of harassment at workplace?

Any employee of any level in any type of organization or workplace can be a complainant of harassment at workplace. It may in many cases be a woman and even a man can also be a complainant of harassment at workplace.

The complainant of harassment at workplace may be a regular or a contractual employee whether employed on daily, weekly, monthly or hourly basis. It also includes an intern or an apprentice in any organization or workplace.

Who can be an offender of harassment at workplace?

The offender of harassment at workplace under the Act may be the employer, subordinate staff of the organization or workplace or any of the colleagues of the victim at workplace.

An employer under the Act means any person or body of persons whether incorporated or otherwise which employs workers in an organization. Employer covers employer of public sector organizations like Government Departments, institutions of any type, private sector organizations, companies and corporations.

What is an offence under the Act?

Any of the acts coming within the purview of the meaning of harassment at workplace is an offence under the Act.

What punishments are available for harassment?

The Act prescribes the following punishments for the offender of harassment at workplace who may be an employer, a subordinate staff of the organization, or colleagues of the complainant:

Minor Penalties:

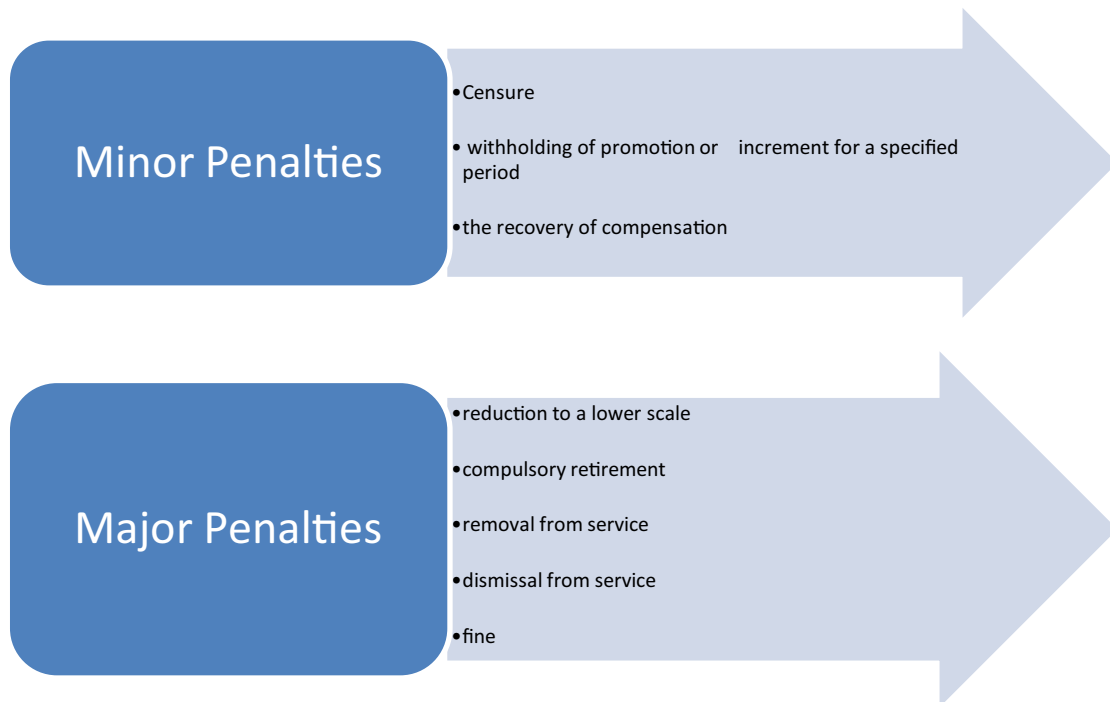
Minor penalties include censure, withholding of promotion or increment for a specified period or the recovery of compensation.

Major Penalties:

Major penalties include reduction to a lower scale, compulsory retirement, removal from service, dismissal from service and fine.

The above-mentioned penalties are in addition to the other penalties prescribed for harassment under the Pakistan Penal Code, 1898 or any other law for the time being in force.

Penalties for Harassment



What legal course is provided in the Act for complainants of harassment at workplace?

The Act lays down the following legal course for the complainants of harassment at workplace:

- (i) A complainant of harassment may file a complaint to the Inquiry Committee of the organization or workplace.
- (ii) The complainant may in his/her discretion file the complaint directly to the Ombudsperson.
- (iii) The complaint may either be oral or in writing, however it is better to have the complaint in writing.
- (iv) The complaint may be filed by the complainant himself or through any other person.
- (v) The complaint must explain the facts and circumstances of harassment at workplace in sufficient detail.
- (vi) The complaint procedure is simple and straight and no extra legal or codal formalities are required.

What procedure is given for dealing with complaints under the Act?

The Act lays down the following procedure to be adopted by the Inquiry Committee or the Ombudsperson:

Procedure for Inquiry Committee:

If a complaint is made to the Inquiry Committee, it shall follow the following procedure:

- (i) The Inquiry Committee on receipt of a complaint of harassment at workplace from any person shall examine the complaint and initiate an inquiry into the alleged act of harassment so as to dig out the facts and circumstances of the case.
- (ii) It shall, within three days of receipt of the complaint, communicate to the accused the charges and statement of allegations leveled against him.
- (iii) The Inquiry Committee shall require the accused to submit a written defense within seven days from the day the charge is communicated to him. In case the accused fails to submit written defense within the prescribed timeline without reasonable cause, the Committee will proceed ex-parte.
- (iv) For the purpose of inquiry, the Committee may summon any person examine such persons on oath.
- (v) The Inquiry Committee may, if necessary, require the discovery and production of documents, receive evidence on affidavit and even record evidence.
- (vi) The statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (vii) An officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (viii) The Inquiry Committee while in enquiring into the charge may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.
- (ix) At the conclusion of inquiry, if harassment is proved, the Inquiry Committee shall recommend to the Competent Authority one or more minor or major penalties under the Act.

Procedure for Ombudsperson:

If a complaint is made to the Ombudsperson directly, he/she shall follow the following procedure:

- (i) The Ombudsperson on receipt of a complaint of harassment for any victim shall examine the complaint and shall issue show cause notice to the accused within three days of the receipt of the complaint.
- (ii) The Accused after the receipt of written notice shall submit written defense to the Ombudsperson within five days.
- (iii) In case the accused fails to submit written reply within the prescribed timeline, the Ombudsperson may proceed ex-parte. Both the parties can represent themselves before the Ombudsperson.
- (iv) The Ombudsperson shall initiate an inquiry into the alleged act of harassment so as to dig out the facts and circumstances of the case.

- (v) The Ombudsperson for the purposes of an investigation under this Act, the Ombudsperson may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the Ombudsperson is relevant and helpful in the conduct of the investigation.
- (vi) For the purpose of inquiry, the Ombudsperson may summon any person or persons and examine such persons on oath.
- (vii) The Ombudsperson may, if necessary, require the discovery and production of documents or information, receive evidence on affidavit and even record evidence.
- (viii) At the conclusion of inquiry, if harassment is proved, the Ombudsperson shall recommend to the Competent Authority one or more minor or major penalties under the Act.
- (ix) The Ombudsperson shall record their decision and inform both parties and the management of the concerned organization for implementation of the orders.

Can any adverse action be taken against the complainant by the employer?

No. Adverse action shall not be taken against the complainant or the witnesses. The Inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize them from freely pursuing their complaint.

What Scheme the Act gives for its implementation?

In order to effectively implement the provisions of the Act and to ensure protection of women against harassment at workplace, the Act envisages the following scheme or institutional arrangement:

(i) Inquiry Committee:

The Act requires that each Organization shall constitute an Inquiry Committee to enquire into complaints of harassment at workplace under the Act. Under section 11 of the Act, every employer is bound to constitute the Inquiry Committee in his Organization.

Composition of the inquiry committee:

The Inquiry Committee is to consist of three members out of which at least one shall be a woman. One member shall be from the senior management and one shall be a senior representative of workers or a senior employee where there is no Collective Bargaining Agent (CBA).

Powers of the inquiry committee:

The Inquiry Committee under the provisions of the Act has the following powers:

- (a) Conduct inquiries into the complaints of harassment.

- (b) Summon any person and examine such persons on oath.
- (c) Require the discovery and production of documents.
- (d) Receive evidence on affidavit and even record evidence.
- (e) Recommend appropriate penalties in case the act of harassment is proved.

(ii) The Ombudsperson:

Under section 7 of the Act the Government shall appoint an Ombudsperson for the purposes of the Act from amongst the retired judges of the High Court, retired civil servants of known integrity or persons who have been working with a well reputed Civil Society Organization with 15 years' post qualification experience.

Powers of the Ombudsperson:

Under the provisions of the Act, the Ombudsperson has the following powers:

- (a) To enquire into the complaints of harassment at workplace and give his decision thereon.
- (b) Summon any person or persons and examine them on oath.
- (c) Require the production of any document or information.
- (d) Hear appeals against the decision of Competent Authority made on the recommendations of the Inquiry Committee.

(iii) Code of conduct:

Under section 11 of the Act the employers are also bound to devise a Code of Conduct in line with the provisions of the Act for the protection of female workers/staff from harassment at workplace/organization.

Whether the Act has overriding effect?

No, the Act has no overriding effect. The Act shall be in addition to and not in derogation of any other law for the time being in force.

THE ELIMINATION OF CUSTOM OF GHAG ACT, 2013.

The Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2010 was passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8th January, 2013 and received assent of the Governor on 17th of January, 2013.

Objectives:

The social evil called “Ghag” or “noom” amongst other hateful customs was predominant in the society. Ghag is basically a custom whereby a person forcibly demands the hand of a woman without her consent or consent of her parents/guardian. This tradition is also violative of the principles and injunction of Islamic Sharia which allows a woman contract a valid marriage with her free will. The Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2010 Act, 2010 was enacted with the objective to discourage and eliminate the unlawful tradition of “Ghag” and prescribed stringent punishment for the same.

Meaning of “Ghag”:

The term “Ghag” under the Act has been defined to mean (i) a custom, (ii) usage, (iii) tradition or (iv) a practice whereby a person forcibly demands or claims the hand of a woman, without her own or her parents' or wali's will and free consent.

How is the offence of Ghag committed?

Ghag is committed by making an open declaration either by (i) words spoken or written or (ii) by visible representation or (iii) by an imputation, innuendo, or insinuation, directly or indirectly in a locality or before public in general threatening her parents and other relatives to refrain from giving her hand in marriage to any other person and that-

- (i) the woman shall stand engaged to him or any other particular man; and
- (ii) that no other man shall make a marriage proposal to her or marry her.

Ghag also includes obstructing the marriage of such woman in any other manner pursuant to such declaration.

For the purpose of definition of “Ghag” it shall also include “Noom”, “Awaz” or any other words or phrase denoting the meaning of “Ghag”.

“Meaning of woman” woman has been defined to include female human being of any age.

Against whom may the offence of Ghag be committed?

The offence of Ghag may be committed against any female of any age whereby she is forcibly demanded by a man to marry her without consent or her guardians consent.

“Ghag” is declared an offence:

Section 3 of the Act prohibits the custom of Ghag and as such declares it as an offence.

Which legal course is provided for a victim of “Ghag”?

The following legal course is available for the victims of the offence of Ghag:

- (i) The victim of the offence of Ghag may lodge an FIR (First Information Report) in the Police Station against the accused.
- (ii) On lodging of FIR the police may arrest the accused without a warrant and initiate investigation in the case.
- (iii) After completion of investigation, the Investigation Officer shall submit complete challan of investigation to the Court of Sessions through the Public Prosecutor.
- (iv) The court of submission of challan shall frame charge against the accused and start with the trial of the offence.

Which court has jurisdiction in the offence of Ghag?

Under section 6 of the Act, the Court of sessions will take cognizance of the offence under the Act. Accordingly, the court of sessions will try the offence under the Act.

What punishment is prescribed for the offence of Ghag?

The following punishment for the offence of Ghag has been provided in section 4 of the Act:

- (a) Imprisonment of either description which may extend to seven year but shall not be less than three years; and
- (b) The offender shall also be liable to fine up to five hundred thousand rupees.

Whether bail can be granted in the offence of Ghag?

No. Bail cannot be granted in the offence of Ghag as the same has been declared non-bailable by the Act.

Whether the offence of Ghag can be compounded?

No. the offence of Ghag cannot be compounded nor can it be patched up by the parties. The Act has declared the offence of Ghag as non-compoundable.

Whether the police can arrest an accused of the offence of Ghag?

Yes. The police may arrest the accused of Ghag without a warrant from a court of law. The Act declares the Offence of Ghag and cognizable.

How may the offence of Ghag be abetted?

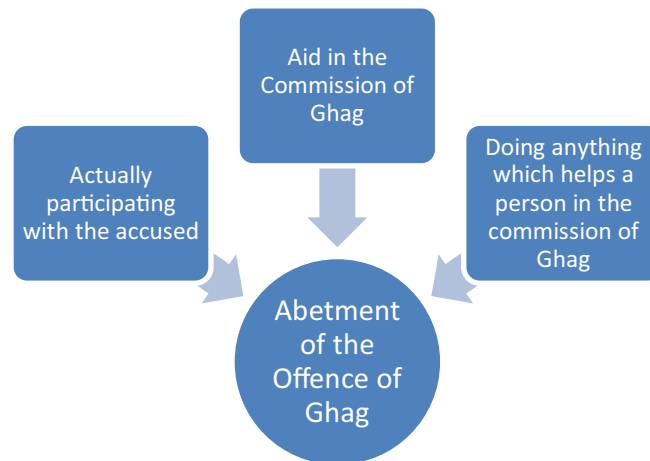
Abetment of the offence of Ghag may be committed in any of the following ways:

- (a) Actually participating with the offender in the commission of “Ghag”;
- (b) Aid in the Commission of Ghag; and

- (c) Doing any act preparatory to or in furtherance of the Commission of Ghag.

The Act also penalizes the abetment of the offence of “Ghag”. Accordingly, if any person abets the marriage of a woman by way of “Ghag” shall also be liable to the same punishment provided in section 4 of the Act.

Abetment of the Offence of Ghag



Offence under the Act to be cognizable, bailable and non-compoundable:

The act declares the offence of “Ghag” to cognizable, non-bailable and non-compoundable. This means that-

- (a) The police can arrest the offender without warrant from the court.
- (b) No bail can be granted to the offender by the court.
- (c) No compromise or private settlement can be made in the offence.

Procedural matters under the Act are dealt with?

For the purpose of procedural matters under the Act such as procedure of trial, arrest and reporting of the offence, etc. the provisions of the Code of Criminal Procedure, 1898 (Act No. V of 1898) have been *mutatis mutandis* applied. The Code of Criminal Procedure contains detailed provisions regarding reporting of offence, their trial and other connected matters.

Does the Act have overriding effect over other laws?

Yes. The Act has been given overriding effect over other laws in force for the time being. It means that in case any of the provisions of the Act comes in conflict with any other law, the provision of the Act shall have precedence. This being done for the reason that the Act is a special law.

**THE KHYBER PAKHTUNKHWA COMMISSION ON THE
STATUS OF WOMEN ACT, 2016.**

Objective:

The objective of the Act is to establish an independent and autonomous Commission with powers to provide effective services for the promotion of women rights and to eliminate all forms of discrimination against women in the Province of Khyber Pakhtunkhwa.

Does the Law provide for any penalties or offences?

No. The law does not provide any offences or penalties. The Law establishes an autonomous provincial level Commission with the mandate to provide policy guidelines and recommendations to the Government, its department or any Governmental organization with regards to pro-women laws and policies and to recommend that the existing laws be modified so as to ensure gender equality and ensure protection of women against harassment.

What implementation mechanism is provided under the Act?

In order to ensure an effective implementation of its provisions, the Act envisages the following institutional arrangement.

(i) The Commission on the Status of Women:

The Commission on the status of women is the top tier in the pyramid as an autonomous provincial level entity. It consists of 15 official and non-official members with mandate to give an overall policy guideline on pro-women laws under the Act.

(ii) The Executive Committee:

The Executive Committee is high level single Committee consisting of the Chairperson, the Secretary of the Commission and three other members to be elected by the Commission.

The Executive Committee is responsible for overseeing the implementation of the decisions and recommendations of the Commission.

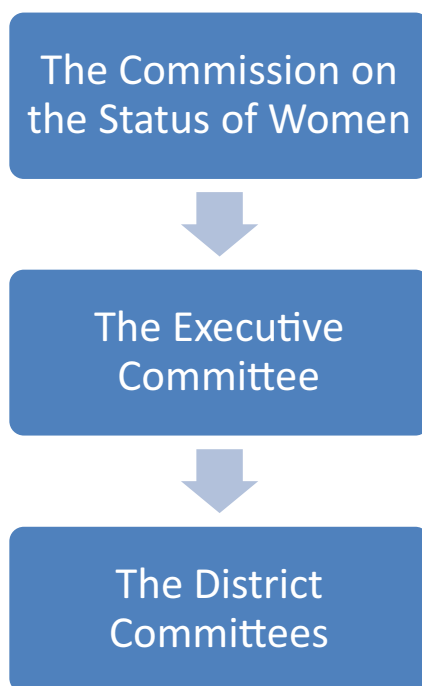
(iii) District Committee:

In order to have an effective outreach at district level, the Commission is empowered to constitute District Committees with the approval of Government. The District Committee shall have female majority and shall also be headed by a female.

The mandate of the District Committee is to examine, and review policies/programs and plans for each office in the district and to ensure that they address gender concerns adequately.

The District Committees are also responsible to give periodic reports on the implementation status to the Commission

The Institutional Arrangements/Implementation Mechanisms under the Act



What is the Composition of Commission on the Status of Women?

- (i) The Commission on the Status of Women as per section 4 (2) of the Act consists of 15 official and non-official members to be appointed by Government.
- (ii) The provision of the Act requires that the Chairperson and at least 8 non-official members shall be female and at least one member shall be from minorities.
- (iii) The Act further provides that official members shall also include two female members of the Provincial Assembly, one each nominated by the treasury and the opposition benches, respectively.

What is the term of office of Chairperson and non-official members?

The Chairperson and non-official member are appointed for a period of 3 years subject to the conditions/ineligibility criteria as laid down in Section 4(10) of the Act.

What is the meeting procedure of the Commission?

Meetings of the Commission are to be conducted in accordance with such procedure as may prescribe in regulations.

The Commission is required to meet at least once in a quarter of a year. Apart from these mandatory meetings the Commission may meet as and when required.

What are the powers of the Commission with regards to women protection?

The Commission has been given vast powers by the Act in connection with the promotion of women rights, protection of women, ensuring gender equality and

elimination of all forms of discrimination against women. Some particular powers of the Commission in this regard are outlined, below:

- (a) Examine the policy, programs, projects and other measures taken by Government, for women development and gender equality, to assess implementation and make suitable recommendations to the concerned authorities, where considered necessary for effective impact;
- (b) Review all provincial laws, rules and regulations affecting the status and rights of women and suggest repeal, amendments or new legislations essential to eliminate discrimination, safeguard and promote the interests of women and achieve gender equality in accordance with the Constitution of the Islamic Republic of Pakistan and obligations under International Covenants and commitments;
- (c) Monitor the mechanism and institutional procedures for redress of violation of women's rights, individual grievances and facilities for social care, and undertake initiative for better management and efficient provision of justice and social services through the concerned forums and authorities;
- (d) Examine and review policies/programs and plans of each department to ensure that they address gender concerns adequately;
- (e) Establish and constitute in consultation with the Government, District Committees, consisting of such number of members with female majority to examine and review policies/programs and plans for each office in the district and to ensure that they address gender concerns adequately;
- (f) Provide guidelines to a District Committee for implementation and receive periodic reports on the implementation status to the Commission.

Where is the head office of the Commission on the Status of Women?

The permanent Secretariat of the Commission on the Status of Women is in Peshawar and each of the District Committees are located at the District level.

How are financial matters of the Commission on the Status of Women dealt with?

The Commission has a dedicated Fund known as "the Commission on Status of Women Fund". The Fund consists of grants from Provincial and Federal Governments and donations from private individuals and National or International Agencies. The Commission enjoys autonomy in the allocation and expenditure of the Fund.

Does the Act have overriding effect over other laws?

No. the Law does not have an overriding effect over other Laws. It implies that the law operates in addition to the laws in force for the time being.

**THE KHYBER PAKHTUNKHWA ENFORCEMENT OF WOMEN'S
PROPERTY RIGHTS ACT, 2019.**

1. Objectives:

The objective of the Act is to provide protection to the rights of ownership and possession of properties owned by women and to ensure that such rights are not violated by means of harassment, coercion, force or forward.

Who can be a complainant under the Act?

Any woman who has been deprived of her ownership or possession of property by anyone can be a complainant under the Act.

Who can file a complaint under the Act?

- (i) The woman who has been deprived of the ownership or possession of her property by any means may herself file a complaint under the Act; or
- (ii) Any other person on behalf of such women; or
- (iii) A non-Governmental Organization (NGO) may file a complaint on behalf of such woman; or
- (iv) The Ombudsperson may of his own motion take cognizance of the case.

Who is empowered to hear complaints under the Act?

For the purpose of women property rights under the Act, the Ombudsperson appointed under section 7 of the Protection of Harassment of Women at Workplace Act, 2010, has been given full powers to hear complaints under the Act.

What legal procedure is given in the Act for filing complaints of women property rights?

The following procedure is provided for complaints under the Act

- (i) A woman deprived of the ownership or possession of her property by any means may herself or through any other person or an NGO file a complaint to the Ombudsperson.
- (ii) The Ombudsperson may of its own motion take cognizance of the violation of a woman property rights.
- (iii) The procedure for complaint is simple and extra codal or legal formalities are required. The complaint may be given writing on a plain paper.
- (iv) After receipt of the complaint the Ombudsperson shall make a preliminary assessment of the matter.
- (v) If the Ombudsperson considers that the matter requires further probe or inquiry, they shall refer the matter the Deputy Commissioner concerned.

- (vi) The Deputy Commissioner after conducting a detailed probe, shall report to the Ombudsperson within Fifteen days.
- (vii) If the matter does not require further probe and is clear on the face of it, the Ombudsperson shall not refer the matter to the Deputy Commissioner and shall pass order under section 5 of the Act directing the Deputy Commissioner concerned, any other state functionary or the private individual, as the case may be, to restore possession or title of property to the complainant woman who has been deprived of her property.
- (viii) If a complaint is referred to the Deputy Commissioner for further probe, the Ombudsperson after receipt of report from the Deputy Commissioner, will call both the parties and may make such summary inquiry and call for such record as they may deem fit. After hearing the objection of the parties, the Ombudsperson shall make an order accordingly for restoration of possession or title of the property to the complainant.

What are the powers of Ombudsperson under the Act in connection with restoration of women property rights?

For the purpose of women property rights under the Act, the Ombudsperson appointed under section 7 of the Protection of Harassment of Women at Workplace Act, 2010, has been given full powers.

In this connection, section 4 of the Act states that in addition to the powers conferred under this Act, the Ombudsperson shall have the same powers, functions and authority as are vested in the Ombudsperson under the Protection against Harassment of Women at Work Place Act, 2010.

Some of the key functions vested in the Ombudsperson under the Act are as follows:

- (i) Receiving and hearing complaints of violation of women property rights.
- (ii) Refer a complaint to the Deputy Commissioner concerned for further probe.
- (iii) Pass orders directing the Deputy Commissioner or other state functionary or a private individual to take steps so as to restore possession or title of the property to the complainant.
- (iv) Give necessary directions to officer-in-charge of a Police Station for the purpose implementation of its order.
- (v) Refer a case to the court if it requires proper adjudication of a court.

When will the Ombudsperson refer the complaint to the Deputy Commissioner?

If the Ombudsperson considers that the matter requires further probe or inquiry, they shall refer the matter to the Deputy Commissioner concerned for necessary enquiries in the matter.

The Deputy Commissioner will conduct an enquiry into the matter by checking all revenue record.

The Deputy Commissioner after conducting a detailed probe shall report to the Ombudsperson within Fifteen days.

What procedure will the Ombudsperson follow after receiving report from the Deputy Commissioner?

If a complaint is referred to the Deputy Commissioner for further probe, the Ombudsperson after receipt of report from the Deputy Commissioner, will call both the parties and may make such summary inquiry and call for such record as they may deem fit.

After hearing the objection of the parties, the Ombudsperson shall make an order accordingly for restoration of possession or title of the property to the complainant.

Can the Ombudsperson refer a complaint to a court of Law?

Yes. If upon preliminary assessment of the complaint or on receiving report from the Deputy Commissioner concerned, the Ombudsperson is of the view that the matter requires in-depth inquiry, investigation or detailed recording of evidence, they may refer the matter to a civil court of competent jurisdiction for adjudication.

How will the Ombudsperson refer the case to a Court of Law?

If the Ombudsperson decides to refer the case to a civil court for regular detailed adjudication, they will formulate a proper reference.

The reference shall be accompanied by all reports and documents collected during the proceedings of enquiry conducted by the Ombudsperson or the Deputy Commissioner, as the case may be, and send the same to the court.

The reference filed by the Ombudsperson shall be deemed as a civil suit.

Can the Ombudsperson take cognizance of a Complaint where proceedings are pending in the Court and under what procedure?

Yes, the Ombudsperson may take cognizance of an issue in relation to ownership and possession of property owned by a woman even if the same is sub-judice in a court of Law. The following procedure is given in the Act in such like cases:

- (i) When a complaint is filed with the Ombudsperson in relation to an issue of a woman's ownership or possession of property which is sub-judice in a court, the Ombudsperson will hear both the complainant and the adversaries.
- (ii) If after hearing both the complainant and the adversaries the Ombudsperson decides to take cognizance of the matter, they shall file a report in the court where the case is sub-judice and request the court to terminate the proceedings unconditionally and the Ombudsperson be permitted to take further proceedings under the Act.
- (iii) If the Ombudsperson decided not to file a report in the court, they will direct the complainant to pursue the case in the court.

What mechanism is given in the Act for implementation of its provisions?

- (i) Section 5 and 10 of the Act empowers the Ombudsperson to direct any state functionary to execute their orders in letter and spirit.
- (ii) The Ombudsperson may direct the Deputy Commissioner to take steps for restoration of a woman's possession or ownership of her property.
- (iii) The Ombudsperson may also direct the Officer-In-Charge of a police Station for the restoration of possession of woman's property.
- (iv) For carrying out the object and purpose of this Act, the Government shall appoint such officers as may be required, on such terms and conditions as prescribed in the rules under the Act.

Can a person file an appeal against the orders of Ombudsperson?

Yes, a person may file an appeal against the orders of Ombudsperson to the High Court within 45 days of the passing of such order.

Can proceedings before the Ombudsperson be questioned in any court or Authority?

No. Except appeal to the High Court, no authority or court can question the validity of proceedings before the Ombudsperson or any action taken by the ombudsperson under the Act.

Can any court stay or grant an injunction in the proceedings before the Ombudsperson?

No court or authority can grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsperson.

Can the Ombudsperson pass orders in relation to the loss of rent by an affected woman?

Yes, on completion of proceedings under section 5, the Ombudsperson may direct the person who has deprived the complainant woman of the use of the her property, to pay to such complainant the amount equivalent to the rent that the property would fetch at the prevalent market rate, for the duration for which the complainant was deprived of the use of such property.

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

ACT No. VI of 2006

*An Act further to amend the Pakistan Penal Code, the code of Criminal Procedure
and other laws*

WHEREAS it is necessary to provide relief and protection to women against
misuse and abuse of law and to prevent their exploitation;

AND WHEREAS Article 14 of the Constitution ensures that dignity of man
and, subject to law, the privacy of home, shall be inviolable;

AND WHEREAS Article 25 of the Constitution guarantees that there shall be
no discrimination on the basis of sex alone and that the State shall make provisions for
the protection of women;

AND WHEREAS Article 37 of the Constitution encourages promotion of
social justice and eradication of social evils;

AND WHEREAS the objective of this Bill is to bring in particular the laws
relating to zina and qazf in conformity with the stated objectives of the Constitution
and the injunctions of Islam,

AND WHEREAS it is expedient for the aforesaid objectives further to amend
the Pakistan Penal Code (Act XLV of 1860), the Code of Criminal Procedure, 1898
(Act V of 1898, the Dissolution of Muslim Marriages Act, 1939 (VIII of 1939), the
Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), and the
Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (VIII of 1979) and for the
purposes hereinafter appearing,

It is hereby enacted as follows:—

1. Short title and commencement.---(1) This Act may be called the Protection of
Women (Criminal Laws Amendment) Act, 2006.

(1) It shall come into force at once.

"365B. 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
shall also be liable to fine; and whoever by means of criminal intimidation
as defined in this 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."

2. Insertion of new section, Act XLV of 1860. In the Pakistan Penal Code (Act XLV or 1860), hereinafter referred to as the said "Code", after section 365A, the following new section shall be inserted, namely:

3. Insertion of new section, Act XLV of 1860. following new section shall be inserted, namely:—

In the said Code, after section 367, the

"367A. 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."

4. Insertion of new sections, Act XLV of 1860. In the said Code, after section 371, the following new sections shall be inserted, namely:—

"371A. Selling person for purposes of prostitution, etc. Whoever sells, lets to hire, or otherwise disposes of any person with intent that such a 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 shall at any time be employed or used for any such, purpose, shall be punished with imprisonment which may extend to twentyfive years, and shall also be liable to fine.

Explanations: (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 371B, "illicit intercourse" means sexual intercourse between persons not united by marriage.

371B. 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 which may extend to twentyfive years, 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."

5. Insertion of new sections, Act XLV of 1860. In the said Code, after section 374, the following new sections 375 and 376 under subheading "Rape", shall be inserted, namely:

"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, 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

(iv) 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 twentyfive 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."

6. Insertion of new section, Act XLV of 1860. new section shall be inserted, namely:

In the said Code, in Chapter XX, the following

"493A. Cohabitation caused by a man deceitfully inducing a belief of lawful

marriage. Every man who deceitfully 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 twentyfive years and shall also be liable to fine."

7. Insertion of new sections, Act XLV of 1860. In the said Code, after section 496, the following new sections shall be inserted, namely:

"496A. 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 that intent any woman, shall be punished with imprisonment of either

description for a term which may extend to seven years, and shall also be liable to fine.

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."

8. Insertion of new sections, Act V of 1898. In the Code of Criminal Procedure, 1898 (Act V of 1898), after section 203, the following new sections shall be inserted, namely:

"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, on oath, the complainant and at least four Muslim, adult male eye witnesses, about whom the Court is satisfied having regard to the requirement of tazkiyah alshahood, that, they are truthful persons and abstain from major sins (kabair), of the act of penetration necessary to the offence.

Provided that, if the accused is a non-Muslim, the eyewitnesses may be non-Muslims.

Explanation: In this section "tazkiyah alshahood" means the mode of inquiry adopted by a Court to satisfy itself as to the credibility of a witness.

(3) The substance of the examination of the complainant and the eyewitnesses shall be reduced to writing and shall be signed by the complainant and the eyewitnesses, 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 four or more eyewitnesses 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 subsection (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 eyewitnesses 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."

9. Amendment of Schedule II, Act V of 1898. 1898), in Schedule II, In the Code of Criminal Procedure, 1898 (Act V of

(i) after section 365A in column 1 and entries relating thereto in columns 2 to 8, the following shall be inserted, namely:

1	2	3	4	5	6	7	8
365B	Kidnapping or abducting or inducing woman to compel for marriage etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment for life and fine.	Ditto.

(ii) after section 367 in columns 1 and entries relating thereto in columns 2 to 8, the following shall be inserted, namely:

1	2	3	4	5	6	7	8
367A	Kidnapping or abducting in order to subject person to unnatural lust.	Ditto	Ditto	Ditto	Ditto	Death or rigorous imprisonment which may extend to twentyfive years and fine.	Ditto.

(iii) after section 371 in column 1 and entries relating thereto in columns 2 to 8, the following shall be inserted, namely:

1	2	3	4	5	6	7	8
371A	Selling person for purposes of prostitution , etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment which may extend to twentyfive years and fine.	Ditto.
371B	Buying person for purposes of prostitution , etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment which may extend to twentyfive years and fine.	Ditto;

(iv) after section 374 the subheading “Of Rape” shall be inserted;

(v) for the existing entries relating to section 376 in columns 1 to 8, the following shall be substituted, namely :

1	2	3	4	5	6	7	8
376	Rape	May arrest without warrant	Warrant	Not bailable.	Not compoundable.	Death or imprisonment not less than ten years or more than twentyfive years and fine.	Court of Sessions;
						Death or imprisonment for life, if the offence committed by two or more persons in furtherance of common intention.	

(vi) after section 493 in column 1 and entries relating thereto in columns 2 to 8, the following shall be inserted, namely:

1	2	3	4	5	6	7	8
493A	Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.	May arrest without warrant	Warrant	Not bailable.	Not compoundable.	Rigorous imprisonment which may extend to twentyfive years and fine.	Ditto;

(vii) in section 494 in column 1, in column 3, for the word “Ditto” the words “shall not arrest without warrant” shall be substituted;

(viii) after section 496 in column 1 and entries relating thereto in columns 2 to 8, the following shall be inserted, namely:

1	2	3	4	5	6	7	8
496A	Enticing or taking away or detaining with	May arrest without warrant	Ditto	Not bailable.	Ditto	Imprisonment of either description which may extend to	Court of Sessions or Magistrate of the first

	criminal intent a woman.					seven years and fine.	class;
496B	Fornicatio n	Shall not arrest without warrant.	Summon s	Bailabl e	Not compoundabl e	Imprisonme nt which may extend to five years and fine not exceeding ten thousand rupees.	Magistrat e of the first class;
496C	False accusation of Fornicatio n	Shall not arrest without warrant.	Summon s	Bailabl e	Not compoundabl e	Imprisonme nt which may extend to five years and fine not exceeding ten thousand rupees.	Magistrat e of the first class; and

(ix) under the heading, “OFFENCES AGAINST OTHER LAWS” after the last entry in column 1 and entries relating thereto in columns 2 to 8, the following shall be added, namely:

1	2	3	4	5	6	7	8
Section 5 of Ordinance VII of 1979	Zina	Shall not arrest without warrant.	Summon s	Bailabl e	Not compoundabl e.	Stoning to death in case of Muhsan and if not Muhsan whipping not exceeding one hundred stripes.	Court of Sessions
Section 7 of Ordinance VIII of 1979	Qazf	Shall not arrest without warrant.	Summon s	Bailabl e	Not compoundabl e	Whipping numbering eighty stripes.	Court of Sessions.

10. Amendment of section 2, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979), in section 2:

(i) after clause (a), the following new clause (aa) shall be inserted, namely:

"(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 203A of the Code of Criminal Procedure, 1898 (Act V of 1898)."; and

(ii) clauses (c) and (e) shall be omitted.

11. Omission of section 3, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance 1979 (Ordinance No. VII of 1979), section 3 shall be omitted.

12. Amendment of section 4, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No VII of 1979), in section 4, the word "validly" and the explanation at the end of the section shall be omitted.

12A. Insertion of new, section, Ordinance VII of 1979: In the Offence of Zina (Enforcement of Hudood Ordinance, 1979 (Ordinance No. VII of 1979), after section 5, the following new section shall be inserted, namely:

"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, 1989 and no case where an allegation of rape is made shall at any stage be converted into a complaint of fornication under section 496A 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."

13. Omission of sections 6 and 7, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979), sections 6 and 7 shall be omitted.

14. Amendment of section 8, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979), in section 8,

(i) the words and comma "or zinabiljabr" shall be omitted; and

(ii) in the marginal note, the words "or zinabiljabr" shall be omitted.

15. Amendment of section 9, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979), in section 9,

(i) the words "or zinabiljabr" shall be omitted;

(ii) in subsection (2) the words "or zinabiljabr" shall be omitted; and

(iii) subsections (3) and (4) shall be omitted.

16. Omission of sections 10 to 16, 18 and 19, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979), sections 10 to 16 and 18 and 19 shall be omitted.

17. Amendment of section 17, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hooded) Ordinance, 1979 (Ordinance No. VII of 1979), in section 17, the words and figure "or section 6" shall be omitted.

18. Amendment of section 20, Ordinance VII of 1979. In the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979), in section 20,

(i) in subsection (1), the first proviso shall be omitted and in the second proviso, the word "further" shall be omitted;

(ii) subsection (3) shall be omitted; and

(iii) subsection (5) shall be omitted.

19. Amendment of section 2, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), for clause (a) the following shall be substituted, namely:

"(a) "adult", "hadd" and "zina" have the same meaning as in the Offence of Zina (Enforcement of Hudood) Ordinance, 1979; and".

20. Amendment of section 4, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), section 4 shall be omitted.

21. Amendment of section 6, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (VIII of 1979), section 6, shall be renumbered as subsection (1) thereof and after subsection (1) renumbered as aforesaid, the following new subsection (2) shall be added, namely:

"(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 5 of the Offense 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.".

22. Amendment of section 8, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), in section 8, the words, "a report made to the police or" shall be omitted.

23. Amendment of section 9, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), in section 9, for subsection (2), the following shall be substituted, namely:

"(2) In a case 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.".

24. Amendment of sections 10 to 13 and 15, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), sections 10 to 13 and 15 shall be omitted.

25. Amendment of section 14, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), in section 14, subsections (3) and (4) shall be omitted.

26. Omission of section 16, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hand) Ordinance, 1979 (Ordinance No. VIII of 1979), section 16 shall be omitted.

27. Amendment of section 17, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), in section 17,

(i) the first proviso shall be omitted;

(ii) for the second proviso, the following shall be substituted, namely:

"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."

28. Omission of section 19, Ordinance VIII of 1979. In the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979 (Ordinance No. VIII of 1979), section 19 shall be omitted.

29. Insertion of new section, Dissolution of Muslim Marriages Act, 1939 (VIII of 1939). 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"

THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT 2010

AN ACT

*to make provisions for the protection against harassment
of women at the workplace*

WHEREAS the constitution recognizes the fundamental rights of citizens to dignity of person;

AND WHEREAS it is expedient to make this provision for the protection of women from harassment at the workplace;

It is hereby enacted as follows:

1. Short title and commencement.---(1) This Act may be called the Protection against Harassment of women at the Workplace Act, 2009.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,—

- (a) **“accused”** means an employee or employer of an organization against whom complaint has been made under this Act;
- (b) **“CBA”** means Collective Bargain Agent as provided in the Industrial Relations Act 2008, or any other law for the time being in force.
- (c) **“Code”** means the Code of Conduct as mentioned in the Schedule to this Act;
- (d) **“Competent Authority”** the authority as may be designated by the management for the purposes of this Act;
- (e) **“Complainant”** means a woman & men who has made a complaint to the Ombudsman or to the Inquiry Committee on being aggrieved by an act of harassment;
- (f) **“Employee”** means a regular or contractual employee whether employed on daily, weekly, or monthly or hourly basis, and includes an intern or an apprentice;

- (g) **“Employer”** in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment and includes –
- (i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;
 - (ii) any person responsible for the direction, administration, management and control of the management;
 - (iii) the authority, in relation of an organization or a group of organization run by or under the authority of any Ministry or department of the Federal Government or a Provincial government, appointed in this behalf or, where no authority is appointed, the head of the Ministry or department as the case may be;
 - (iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;
 - (v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof.
 - (vi) A contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and
 - (vii) office bearers of a department of a Division of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;
- (h) **“harassment”** 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;
- (i) **“Inquiry Committee”** means the Inquiry Committee established under sub-section (1) of section 3;

- (j) **“management”** means a person or body of persons responsible for the management of the affairs of an organization and includes an employer;
- (k) **“Ombudsman”** means the Ombudsman appointed under section 7;
- (l) **“organization”** means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semiautonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government 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 and includes any other registered private sector organization or institution;
- (m) **“Schedule”** means Schedule annexed to this Act;
- (n) **“workplace”** means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office; and

3. Inquiry Committee.---(1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority

4. Procedure for holding inquiry.---(1) The Inquiry Committee, within three days of receipt of a written complaint, shall–

- (a) communicate formal written receipt of which will be given to the accused the charges and statement of allegations leveled against him;
- (b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his

failure to do so without reasonable cause, the Committee shall proceed ex-parte;

- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

(3) The following provisions inter alia shall be followed by the Committee in relation to inquiry:

- (a) The statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) An officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (c) Both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;
- (d) Adverse action shall not be taken against the complainant or the witnesses;
- (e) The inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and
- (f) The Inquiry Committee shall give its findings in writing by recording reasons thereof.

(4) 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;

- (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; and
- (d) dismissal from service.
- (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.

(5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the inquiry committee.

(6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.

(7) In case the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee.---(1) The Inquiry Committee shall have power—

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically

examined by authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to Ombudsman for appropriate action against the complainant if allegations leveled against the accused found to be false and made with mala fide intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

6. Appeal against minor and major penalties.---(1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an Ombudsman established under section 7 .

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the Ombudsman.

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(4) 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 and the provisions of sub-sections (1) to (3) shall mutatis mutandis apply.

(5) On the appointment of Ombudsman all appeals pending before the District Court shall stand transferred to Ombudsman who may proceed with the case from the stage at which it was pending immediately before such transfer.

7. Ombudsman.---¹[(1) For the purposes of this Act, Government shall appoint an Ombudsperson, who shall not be more than sixty five (65) years and not less than forty five (45) years of age and who shall be -

- (a) a person, who is, or has been, or is qualified to be a judge of the High Court; or
- (b) a retired civil servant of known integrity having law background with at least fifteen (15) years service; or
- (c) a person, who is or has been working with a well reputed civil society organization or a social welfare organization having at least Bachelor's or equivalent degree in law from a recognized national or international university with at least fifteen (15) years post qualification experience.”.]

¹ Substituted vide KP Act No. VII of 2020.

¹[(1A) Notwithstanding anything contained contrary in any judgement, decree or order of any Court or judicial proceedings, the existing Ombudsperson already appointed before the commencement of the Khyber Pakhtunkhwa Protection against Harassment of Women at the Workplace (Amendment) Act, 2019, shall deemed to be validly appointed.”.]

(2) A person shall be qualified to be appointed as an Ombudsman who has been a judge of high court or qualified to be appointed as a judge of high court. The Ombudsman may recruit such staff as required to achieve the purposes of this Act and the finances will be provided by the respective Governments.

²[7A. **Acting Ombudsperson.**--- If at any time the office of the Ombudsperson is vacant or he is unable to perform duties due to any cause, the Governor of the Province of the Khyber Pakhtunkhwa shall appoint an acting Ombudsperson who shall perform functions and exercise powers as are vested in the Ombudsperson and shall be entitled to all privilege as are admissible to Ombudsperson.

7B. Oath of office.--- An Ombudsperson shall take oath before the Governor of the Province of the Khyber Pakhtunkhwa before he enters upon his office as prescribed in the SCHEDULE-II.]

8. Ombudsman to enquire into complaint.---(1) Any employee shall have the option to prefer a complaint either to the Ombudsman or the Inquiry Committee.

(2) The Ombudsman shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The Accused after the receipt of written notice shall submit written defense to the Ombudsman within five days and his failure to do so without reasonable cause the Ombudsman may proceed ex parte. Both the parties can represent themselves before the Ombudsman.

(3) The Ombudsman shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the Ombudsman deems proper.

(4) For the purposes of an investigation under this Act, the Ombudsman may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the Ombudsman is relevant and helpful in the conduct of the investigation.

(5) The Ombudsman shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

9. Representation to President or Governor.---Any person aggrieved by a decision of Ombudsman under sub- section (5) of section 8, may, within thirty days of decision, would like a representation to the President or Governor, as the case may be, who may pass such order thereon as he may deem fit.

¹ Inserted vide KP Act No. VII of 2020.

² Inserted vide KP Act No. VII of 2020.

10. Powers of the Ombudsman.---(1) The Ombudsman shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908), in respect of the following matters, namely:

- i. Summoning and enforcing the attendance of any person and examining him on oath;
- ii. Compelling the production of evidence;
- iii. Receiving evidence on affidavits;
- iv. Issuing commission for the examination of witnesses;
- v. Entering any premises for the purpose of making any inspection or investigation, enter any premises where the Ombudsman has a reason to believe that any information relevant to the case may be found; and
- vi. The Ombudsman shall have the same powers as the High Court has to punish any person for its contempt.

(2) Ombudsman shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub- section (4) of section 4.

11. Responsibility of employer.---(1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection against harassment at the workplace as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file a petition before the District Court and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

12. Provisions of the Act in addition to and not in derogation of any other law.---The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13. Power to make rules.---The Federal Government may make rules to carry out the purposes of this Act.

¹[SCHEDULE-I]

¹ Schedule re-numbered vide KP Act No. VII of 2020.

(See section 2(b) and l)

CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE

WHEREAS it is expedient to make the Code of Conduct at the Workplace etc to provide protection and safety to women against harassment it is hereby provided as under:

- (i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;
- (ii) **“Harassment”** 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; The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation: There are three significant manifestations of harassment in the work environment:

(a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment.

The typical “hostile environment” claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the

employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis.
- (iv) A complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (v) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (viii) The complainant may make formal complaint through her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge (over and above their contract) which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;
- (xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;

- (xii) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

**¹[SCHEDULE-II
(see section 7B)
PART-A
(FOR NON MUSLIM)**

1..... do solemnly swear that I will bear true faith and allegiance to Pakistan,

That as..... Ombudsperson, I will discharge my duties and perform my functions honestly, to the best my ability, faithfully in accordance with the laws of the Islamic Republic Pakistan, and without fear or favour, affection or ill will;

That I will not allow my personal interest to influence my official conduct or my official decisions;

And that I will directly or indirectly communicate, or removal to any person any matter which shall be brought under my consideration, or shall become known to me, as Ombudsperson, except as may be required for the due discharge of my duties as Ombudsperson.

May Allah Almighty help and guide me (Ameen).”.

**PART-B
(FOR MUSLIM)**

(In the name of Allah, the most Beneficent, the most Merciful)

I.....do solemnly swear that I am a Muslim and believe in the Unity and Oneness of Almighty Allah, the Books of Allah, the Holy Quran being the last of them, the Prophet hood of Muhammad (peace be upon him) as the last of the prophet and there can be no Prophet after him, the Day of Judgment, and all the requirements and teachings of the Holy Quran and Sunnah.

That I will bear true faith and allegiance to Pakistan:

That as an Ombudsperson, I will discharge my duties and perform my functions honestly, trustworthily and faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the Law:

That in al circumstances, I will do right to all manner of people according to law, without fear or favour affection or ill-well;

That I will never allow my personal interests to influence my official conduct or official decisions:

And that I will not directly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me, as an Ombudsperson, except as may be required for the due discharge of my duties as an Ombudsman.

My Allah Almighty help and guide me. (A “meen”).]

¹ Added vide KP Act No. VII of 2020.

STATEMENT OF OBJECTS AND REASONS

The objective of this Act is to create a safe working environment for women, which is free of harassment, abuse and intimidation with a view toward fulfillment of their right to work with dignity. It will also enable higher productivity and a better quality of life at work. Harassment is one of the biggest hurdles faced by working women preventing many who want to work to get themselves and their families out of poverty.

This Act will open the path for women to participate more fully in the development of this country at all levels.

This Act builds on the principles of equal opportunity for men and women and their right to earn a livelihood without fear of discrimination as stipulated in the Constitution. This Act complies with the Government's commitment to high international labour standards and empowerment of women. It also adheres to the Human Rights Declaration, the United Nation's Convention for Elimination of all forms of Discrimination against Women and ILO's convention 100 and 111 on workers' rights. It adheres to the principles of Islam and all other religions in our country which assure women's dignity.

This Act requires all public and private organizations to adopt an internal Code of Conduct and a complain/appeals mechanism aimed at establishing a safe working environment, free of intimidation and abuse, for all working women. It shall also establish an Ombudsman at Federal and provincial levels.

**MINISTER-IN-CHARGE
YOUSAF RAZA GILLANI
PRIME MINISTER**

**THE KHYBER PAKHTUNKHWA ELIMINATION OF
CUSTOM OF GHAG ACT, 2013.**

(KHYBER PAKHTUNKHWA ACT NO. II OF 2013)

[First published after having received the assent of the Governor of the Khyber
Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary),
dated the 21th January, 2013].

**AN
ACT**

to eradicate a social evil called “Ghag”.

WHEREAS the Constitution of the Islamic Republic of Pakistan provides that the dignity of man, and subject to law, the privacy of home, shall be inviolable and the State shall protect the marriage and the family;

AND WHEREAS the Constitution of the Islamic Republic of Pakistan ordains that steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam, and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah;

AND WHEREAS the Shariah gives right to women to enter into valid marriage with their free consent;

AND WHEREAS the Constitution of Islamic Republic of Pakistan enjoins upon the State to promote social justice and eradicate social evils;

AND WHEREAS it is expedient to take steps to eliminate such evil practices;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires:

(a) “Code” means Code of Criminal Procedure, 1898 (Act V of 1898);

(b) “Ghag” means a custom, usage, tradition or practice whereby a person forcibly demands or claims the hand of a woman, without her own or her parents' or wali's will and free consent, by making

an open declaration either by words spoken or written or by visible representation or by an imputation, innuendo, or insinuation, directly or indirectly, in a locality or before public in general that the woman shall stand engaged to him or any other particular man and that no other man shall make a marriage proposal to her or marry her, threatening her parents and other relatives to refrain from giving her hand in marriage to any other person, and shall also include obstructing the marriage of such woman in any other manner pursuant to such declaration; and

Explanation:-For the purpose of this definition, ghag shall also include “awaz”, “noom” or any word or phrase, denoting such declaration.

(c) “woman” denotes a female human being of any age.

(2) The words and expressions used herein but not defined shall have the same meaning as are assigned to them in the relevant laws for the time being in force.

3. Prohibition of Ghag.---No one shall demand the hand of a woman in marriage by way of Ghag.

4. Punishment.---Whoever contravenes the provisions of section 3 shall be punishable with imprisonment of either description for a term which may extend to seven years, but shall not be less than three years, and shall also be liable to fine upto five hundred thousand rupees or both.

5. Abetment.---Any person who knowingly and willfully abets the commission of or who aids to commit or does any act preparatory to or in furtherance of the commission of an offence under section 3 of this Act, shall be guilty of that offence and shall be liable on conviction to the punishment provided for the offence under section 4.

6. Jurisdiction.---Offences under this Act shall be triable by the Court of Sessions established under the Code.

7. Offence to be cognizable, non-bailable and non-compoundable.---(1) The offence under this Act shall be cognizable, non-bailable and non-compoundable.

(2) The provisions of Code shall mutatis mutandis apply to all the proceedings under this Act.

8. Act to override other laws, etc.---This Act shall have effect notwithstanding anything contained in any other law for the time being in force.

9. Repeal.---The Khyber Pakhtunkhwa Elimination of Custom of Ghag Ordinance, 2012 (Khyber Pakhtunkhwa Ord. No. VI of 2012) is hereby repealed.

**THE KHYBER PAKHTUNKHWA COMMISSION ON THE STATUS OF
WOMEN ACT, 2016.**

(KHYBER PAKHTUNKHWA ACT NO. XXVIII OF 2016)

*[First published after having received the assent of the Governor of the Khyber
Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary),
dated the 3 rd November, 2016].*

**AN
ACT**

*to reconstitute and reorganize the Commission on the Status of Women
in the Province of the Khyber Pakhtunkhwa*

WHEREAS it is expedient to reconstitute and reorganize the Commission on the Status of Women in the Province of the Khyber Pakhtunkhwa and to give it an autonomous status for effective and improve performance, efficiency and responsive to provide effective services for promoting women rights and eliminate all forms of discrimination against women and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:

1. Short title and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016.

(2) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant to the subject or context,-

- (a) **“Chairperson”** means the Chairperson of the Commission;
- (b) **“Commission”** means the Khyber Pakhtunkhwa Commission on the Status of Women reconstituted under section 3;
- (c) **“District Committee”** means a District Committee on the status of women; (d) **“Government”** means the Government of the Khyber Pakhtunkhwa;
- (e) **“member”** means the member of the Commission;
- (f) **“prescribed”** means prescribed by rules or regulations; and
- (g) **“rules”** means rules made under this Act;
- (h) **“regulations”** means regulations made under this Act;

- (i) **“repealed Act”** means the Khyber Pakhtunkhwa Establishment of a Commission on the Status of Women Act, 2009 (Khyber Pakhtunkhwa Act No. XIX of 2009), as repealed under section 23 of this Act; and
- (j) **“Secretary”** means the Secretary of the Commission.

3. Re-constitution of the Commission.---(1) As soon as may be, after the commencement of this Act, Government shall, by notification in the official Gazette, reconstitute the Commission on the Status of Women established under section 4 of the repealed Act and shall be known as the "Khyber Pakhtunkhwa Commission on the Status of Women".

(2) The Commission shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued.

(3) The Commission shall have a permanent Secretariat at Peshawar and shall have its District Committees at district level.

4. Constitution of the Commission.---(1) The Commission established and constituted under section 4 of the repealed Act shall continue their functions under this Act, till the expiration of the tenure of the existing Chairperson and members of the Commission under the repealed Act or till the constitution of the new Commission under this Act whichever may be earlier.

(2) After the expiration of the tenure of the Chairperson and members of the Commission constituted under the repealed Act, the Commission shall be reconstituted as that it shall consist of fifteen (15) official and non-official members including Chairperson to be appointed and notified by Government: Provided that Chairperson shall be a female and at least eight (8) non-official members shall also be female and at least one member shall be from the minorities of the Province of the Khyber Pakhtunkhwa.

(3) The official members shall include two (02) female members of the Provincial Assembly, one each nominated by the Government and Leader of Opposition in the Provincial Assembly and Secretary to Government, Zakat, Ushr and Social Welfare Department or his representative not below BS-19.

(4) The non-official members including Chairperson shall be persons of integrity, good standing and repute having the knowledge of laws related to women and fully apprehend social, economic and legal problems faced by women and may have such other qualifications as Government may prescribe; provided that they shall not be less than thirty (30) years of age.

(5) The non-official members and Chairperson shall be appointed by Government on the recommendation of a Search and Scrutiny Committee constituted under section 8.

(6) The term of office of a non-official member including Chairperson shall be three (03) years which may be extended for a further period of three (03) years, unless he/she resigns earlier or becomes ineligible or is disqualified from holding such office under this Act.

(7) Chairperson of the Commission shall give policy vision to the Commission for achieving the purposes under this Act and shall have executive authority over the management of the affairs of the Commission. (8) The membership of non-official members shall cease and fall vacant if, he resigns, or fails to attend three consecutive meetings without sufficient cause or for any other reasons which incapacitate him/her to remain as member. Any such vacancy shall be filled in within one month and the new member shall hold office for the remainder of the term of his/her predecessor.

(9) Any vacancy caused due to death, resignation or removal of the Chairperson or member, shall be filled in by Government. The new Chairperson or member shall hold office for the remainder of the term of his/her predecessor.

(10) No person shall be appointed or remain as a member of the Commission, if he/she-

- (a) is of unsound mind;
- (b) has applied to be adjudicated as an insolvent and his/her application is pending;
- (c) is an un-discharged insolvent;
- (d) has been convicted by a Court of law for an offence involving moral turpitude;
- (e) has been debarred from holding any office under any provisions of law for the time being in force; or
- (f) has conflict of interest with such position:

Provided that no person shall be removed under this clause until he/she has been given a reasonable opportunity of being heard.

Explanation:-For the purpose of this clause, conflict of interest means the financial benefit or a liability accruing to the public office holder or his family due to his official position.

5. Terms and conditions as applicable to Chairperson and members.---(1) The salary and other allowances payable to and terms and conditions of service of members and Chairperson, shall be such as prescribed by the Government.

(2) The Chairperson of the Commission shall have a status equal to BPS-21 officer of Government.

6. Meetings of the Commission.---(1) Meetings of the Commission shall be regulated in accordance with procedure as may be prescribed by regulations.

(2) Meetings of the Commission shall be held as and when required, but once at least in a quarter, at the time and place as the Chairperson may determine.

(3) The Chairperson shall preside over the meetings of the Commission and in case of his/her absence, the Chairperson may nominate a Commission member as acting Chairperson or if he/she has not done so, the members present shall elect an acting Chairperson for that meeting.

(4) Presence of seven (07) members of the Commission shall constitute the quorum for a meeting; provided that such number shall include at least one official member.

(5) The decisions of the Commission shall be taken by the majority of the members present and, in case of a tie, the person presiding over the meeting shall have a casting vote. All orders, determinations and decisions of the Commission shall be reduced to writing together with a record of the discussions held in the meeting.

(6) The Commission may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Commission, who may take part in discussion, but shall not be entitled to vote for or against the matter under discussion.

(7) The Commission may invite a representative of any Government Department, as it deems necessary to a meeting of the Commission provided that such a participant shall not have any right to vote.

(8) No act or proceedings of the Commission shall be invalid merely by reason of any vacancy in or defect in the constitution of the Commission.

7. Secretary of the Commission.---(1) Government shall post a Government Officer of the rank of BS-19, to act as the Secretary of the Commission for a term not exceeding three (03) years.

(2) Notwithstanding a change in the term of his office by an order of the Government, the Secretary shall continue to hold office till his successor enters upon his office.

(3) The Secretary shall perform such functions and exercise such powers as may be prescribed by regulation or delegated to him by the Commission and shall-

(a) be whole time officer of the Commission;

(b) act as the Principal Accounting Officer of the Commission and District Committees; and

- (c) delegate all or any of his powers under this Act or rules made thereunder to any officer of the Commission or District Committee for a specific purpose.

(4) The Secretary while acting with reference to conducting meetings of the Commission shall be responsible for:

- (a) convening of meetings of the Commission with the approval of Chairperson;
- (b) the preparation of the agenda, working paper and its distribution among the members of Commission;
- (c) recording the minutes of each meeting of the Commission and its prompt dispatch to the concerned quarters;
- (d) implement decisions of the Commission; and
- (e) proper follow-up of all matters connected with or arising out of a meeting of the Commission.

(5) Without prejudice to the generality of the foregoing, the Secretary shall function under the supervision and control of the Commission and shall undertake responsibilities and duties as are entrusted to him by the Commission for purposes of this Act.

8. Functions of the Commission.---The Commission shall,-

- (a) examine the policy, programs, projects and other measures taken by Government, for women development and gender equality, to assess implementation and make suitable recommendations to the concerned authorities, where considered necessary for effective impact;
- (b) review all provincial laws, rules and regulations affecting the status and rights of women and suggest repeal, amendments or new legislations essential to eliminate discrimination, safeguard and promote the interests of women and achieve gender equality in accordance with the Constitution of the Islamic Republic of Pakistan and obligations under International Covenants and commitments;
- (c) monitor the mechanism and institutional procedures for redress of violation of women's rights, individual grievances and facilities for social care, and undertake initiative for better management and efficient provision of justice and social services through the concerned forums and authorities;
- (d) examine and review policies/programs and plans of each department to ensure that they address gender concerns adequately;

- (e) establish and constitute in consultation with the Government, District Committees, consisting of such number of members with female majority and to be headed by a female Chairperson on such terms and conditions and for such a period as may be prescribed through regulations to examine and review policies/programs and plans for each office in the district and to ensure that they address gender concerns adequately; provided that two female members of district council shall be added to the District Committee and meetings and quorum of the District Committee shall be such as prescribed by regulations;
- (f) provide guidelines to a District Committee for implementation and receive periodic reports on the implementation status to the Commission;
- (g) approve annual budget of the Commission and of the District Committees;
- (h) approve regulations required to be made under this Act;
- (i) delegate such of their powers and functions to the officers of the Commission, as it may consider necessary for the efficient implementation of this Act;
- (j) prescribe procedure for appointment, terms and conditions of service, disciplinary matters and other service matters for the employees of Commission or the District Committees, as the case may be;
- (k) creation, re-designation or abolition of posts; provided that while creating posts the financial implications do not exceed the approved annual budget;
- (l) constitute sub-committees consisting of such of its members as it may deem fit and may refer to them any matter for consideration and report; and
- (m) perform any other function which may be assigned to it by Government.

9. Executive Committee.---There shall be an executive committee of the Commission consisting of the Chairperson, Secretary and three other members to be elected by the Commission, which shall be responsible for overseeing the implementation of the decisions and recommendations of the Commission.

10. Appointment of officers and other employees.---(1) The Commission may, appoint such officers, advisors, experts, consultants and employees, as it considers necessary, for the efficient performance of its functions on such terms and conditions as may be prescribed by regulations.

(2) The Commission may associate with it, in such manner, on such terms and for such purpose as it may deem fit, any person whose assistance or advice it may require in carrying out its functions under this Act.

(3) Notwithstanding anything contained in any law or rules, all the employees appointed in the Commission before the commencement of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the commencement of this Act, having the same qualification and experience for the said posts and their seniority shall be settled from the date of their appointment in a manner as may be prescribed.

11. Commission Fund.---(1) There shall be established by the Government a Fund to be known as the Commission on the Status of Women Fund, hereinafter referred to as “Commission Fund”, which shall consist of:

- (a) grants paid by Government for running the affairs of the Commission and of the District Committees;
- (b) all grants, if any, made by the Federal Government, Provincial Governments or local bodies for the Commission and District Committees; and
- (c) donations, if any, made by private individuals, national and international agencies for Commission and District Committees.

(2) Subject to the general supervision of Government, the Commission Fund shall be administered by the Commission, which shall make such allocation for specific activities as it thinks necessary.

(3) The Commission Fund shall be utilized for-

- (a) performing functions of the Commission and of the District Committees;
- (b) the establishment charges; and
- (c) the welfare and empowerment of women.

12. Custody and investment of funds.---The Commission may keep money in any treasury, sub-treasury or a bank as may be prescribed.

13. Budget and Accounts.---(1) The Secretary shall, in respect of each fiscal year, submit for approval of the Commission, by such date and in such manner as may be prescribed, a statement showing the estimated receipts, the current and developmental expenditures and the sum required as grant-in-aid from the Federal Government and Government and shall be submitted to Government by the prescribed date; provided that the Government may modify the said estimates to the extent of any Government fund or grant as it may consider necessary.

(2) Accounts of the receipts and expenditure of the Commission shall be kept in such form as may be prescribed.

(3) The Commission shall, on the close of each financial year, place before Government the annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the preceding financial year.

14. Audit of accounts.---The accounts of the Commission shall be audited annually by the Auditor General of Pakistan.

15. Annual report.---(1) The Commission shall, within four (04) months after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year. The Commission shall also, no later than four (04) months prior to the end of its financial year, finalise and present to Government annual development plan and budget for the next ensuing financial year:

Provided that the reports of the Commission relating to its activities shall be submitted to the Chief Minister, Khyber Pakhtunkhwa.

(2) The District Committee shall, after the end of every financial year, submit an annual report to the Commission on the conduct of its affairs for that year. The District Committee shall also, prior to the end of its financial year, finalize and present to the Commission annual development plan and budget for the next ensuing financial year:

Provided that the reports relating to the activities of a District Committee shall be submitted to Nazim, District Government.

16. Removal of difficulties.---If any difficulty arises in giving effect to any provision of this Act, Government may, in consultation with the Commission, issue orders, not inconsistent with the provisions of this Act, or the rules made thereunder, for the removal of the difficulty:

Provided that this power shall be available for a period of one year from the date of commencement of this Act.

17. Chairperson, members and other staff of the Commission and District Committee, to be public servants.---The Chairperson, members, officers and other employees of the Commission and a District Committees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

18. Power to make rules.---Government may by notification in the official Gazette, make rules for carrying out the purposes of this Act.

19. Power to make regulations.---Government may by notification in the official Gazette, make regulations for carrying out the purposes of this Act.

20. Repeal and saving.---(1)The Khyber Pakhtunkhwa Establishment of a Commission on the Status of Women Act, 2009, is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done; taken, made or issued, under this Act, and shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

THE KHYBER PAKHTUNKHWA ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT, 2019

(KHYBER PAKHTUNKHWA ACT NO. XLIV OF 2019)

(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa
(Extraordinary), dated the 21st October, 2019).

AN
ACT

*to protect and secure the rights of ownership of women in the property in
the Province of the Khyber Pakhtunkhwa.*

WHEREAS, it is expedient to provide for the protection of the rights of ownership and possession of properties owned by women, ensuring that such rights are not violated by means of harassment, coercion, force or fraud and for the matters connected therewith or incidental thereto;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

- (a) **“complainant”** means a woman who files a complaint or for whom proceedings are initiated in respect of the title or possession of her property;
- (b) **“Government”** means the Government of the Khyber Pakhtunkhwa;
- (c) **“Ombudsperson”** means the Ombudsperson appointed under section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010);
- (d) **“prescribed”** means prescribed by rules;
- (e) **“property”** includes any moveable and immovable property; and
- (f) **“rules”** mean rules made under this Act.

3. Powers of the Ombudsperson.---In addition to the powers, functions and authority under this Act and rules made thereunder, the Ombudsperson, for the purpose of this Act, shall have the same powers, functions and authority as are vested in the Ombudsperson for the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

4. Complaint to the Ombudsperson in case no proceedings in a Court of law are pending.--- (1) Any woman deprived of ownership or possession of her property by any means, may file a complaint to the Ombudsperson if no proceedings in a court of law are pending regarding that property:

Provided that the Ombudsperson, on its own motion or on a complaint filed by any person including a non-governmental organization, may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, if no proceedings are pending in a Court in respect of that property.

(2) The Ombudsperson shall make a preliminary assessment of the complaint filed under sub-section (1) whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant and her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsperson.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsperson may, after calling any record, if deemed necessary, pass orders under section 5.

(4) The Ombudsperson upon receiving the report under sub-section (2), may further conduct such summary enquiry and call for such record as he may deem fit.

(5) The Ombudsperson after confronting the report of the concerned Deputy Commissioner and the conclusion and findings of his own enquiry, shall call upon the complainant and her adversaries to submit objections, whereafter he may conduct a hearing, and pass orders under section 5, preferably within sixty days of receipt of the complaint under sub-section (1).

5. Delivery of possession and transfer of ownership of property to women etc.---(1) On conclusion of the proceedings under section 4, if the Ombudsperson finds that the complainant has been illegally deprived of ownership or possession of her property, he shall direct the Deputy Commissioner or a state functionary or any private person to take steps so as to restore or confer possession or title of the property to the complainant, including measures to perfect such title.

(2) The Ombudsperson may, where deemed fit, direct the officer-in-charge of a police station for such assistance as may be required for the purposes of implementing the orders passed under sub-section (1).

(3) The concerned Deputy Commissioner shall submit a compliance report within seven days to the Ombudsperson in respect of implementation of his orders.

6. Reference to the Court.---(1) Notwithstanding anything contained in section 4 and 5, if upon preliminary assessment, or upon receiving the report of the Deputy Commissioner or upon conducting further summary enquiries by the Ombudsperson himself, he comes to the conclusion that the matter requires in-depth enquiry, investigation or detailed recording of evidence or intricate adjudication, he shall formulate a reference along with all the reports and material collected and submit the same to the Civil Court of competent jurisdiction preferably within sixty days of receipt of the complaint under sub-section (1) of section 4.

(2) Notwithstanding anything contained in any other law, the Civil Court shall entertain the reference under sub-section (1), as a civil suit and proceed further in terms of the Code of Civil Procedure, 1908 (Act V of 1908) and the relevant rules.

7. Complaint to the Ombudsperson in case proceedings in a Court of law are pending.---(1) Where proceedings in a Court of law are pending in relation to the ownership or possession of any property claimed to be owned by a woman, she may file a complaint under this sub-section to the Ombudsperson:

Provided that the Ombudsperson, on its own motion or on a complaint filed by any person including a non-governmental organization may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, even if proceedings are pending in a Court in respect of that property.

(2) The Ombudsperson shall make a preliminary assessment of the complaint under sub-section (1), whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant and her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsperson.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsperson may, after calling any record, if deemed necessary, may file a report in the Court of law, in which the case is pending, recommending that the proceedings in the Court may be terminated or put in abeyance unconditionally or subject to any Court order and the Ombudsperson be permitted by the Court to take further proceedings under this Act.

(4) Before filing of the report under sub-section (3), the Ombudsperson shall call upon the complainant and her adversaries to submit objections, and conduct a hearing and pass order, preferably within thirty days of the hearing, as to whether the Ombudsperson may or may not file a report under sub-section (3).

(5) In case the Ombudsperson passes an order of not filing a report under sub-section (3), he may advise the complainant to pursue the proceedings in the Court of law and terminate the complaint.

(6) The Ombudsperson upon receiving the report under sub-section (2), may further conduct such summary inquiry and call for such record as he may deem fit.

8. Appeal.--- Any person who is aggrieved from an order of Ombudsperson may, within forty five (45) days of the order, prefer an appeal to the Peshawar High Court.

9. Loss of rent.--- On culmination of proceedings under section 5, the Ombudsperson may also direct the complainant to be paid by the person depriving the said complainant of the use of the property, the amount equivalent to the rent that the property would fetch at the prevalent market rate, for the duration for which the complainant was deprived of the use of such property.

10. Execution of orders.--- The Ombudsperson may direct any executive state functionary including the concerned Deputy Commissioner where the property of the complainant is situated, to execute the orders in letter and spirit.

11. Appointment of officer, etc.--- For carrying out the object and purpose of this Act, the Government shall appoint such officers as may be required, on such terms and conditions as prescribed.

12. Bar of jurisdiction.--- No Court or other authority shall have jurisdiction-

- (a) to question the validity of any action taken, or intended to be taken, or order made, or anything or purporting to have been taken, made or done under this Act; or
- (b) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsperson.

13. Power to make rules.--- Government may, by notification in the official Gazette, make rules to carry out the purpose of this Act.



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