

Amendment in Hadood Ordinance and Addition of New Section

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Abstract:

Pakistan came into existence in the name of Islam. People of indo-pak struggle for independent motherland, where they spend their lives according to teaching of Islam. They sacrifice their lives, properties and respects. According to the constitution of Pakistan Islam is the state religion and all high officials should be Muslims. So according to the constitution's 8th amendment, The Offence of Zina (Enforcement of Hadood ordinance 1979. The offence of QAZF Enforcement of HADD) ordinance 1979 was implemented in the country. Islamic punishments are imposed by the courts and cases are registered according to these laws. But due to misuse of these laws women are punished. Now these laws are amended and addition the more section in PPC and Hadood ordinance, AQZF ordinance, and dissolution of Muslims Marriage Acts.

Keywords:Rape, Fornication, Session Court, PPC, crpc, Amendment

Introduction:

Women rights and problems are the burning issues of the world. In the developing and under developing countries faces the problems of women rights, status, etc. According to the constitution, there is no discrimination on gender basis. Pakistani society is based on tribal, zimidara and jageerdari system where the women are sold, punished, confined, raped and killed in the name of honor. These acts are done by their father, brother, husband, son and other male relatives due to the political system of Pakistan. Changing of governments are the playing politics and powers. Laws are making for betterment of the women but unfortunately used against the women. Islam given the respectful status of the women but she is killed for property and love marriage or raising voice against domestic violence. In the regime of General Zia Ul Haq, Islamic laws are imposed. According to the Quran and Sunnah, prescribed in Hadd punishment in Quran. In the Islamic word zina is used as aman and a women is said to commit zina if they willfully have sexual inter course without being married to each other. If they are adult they are punished as the Islamic way as stoning till death on public place or hundred stripes as Hadd, if accused confess the crime before a competent court or number of witness at least four male member give the evidence against the accused. In the section 10, 2, 3 Zina-bil-jaber and Zina-bil-Raza is explained. But in the PPC the word used as rape and fornication. In these laws punishments are discussed. Due to this law privacy of home and modesty of women protected but due to the system people are suffered on the lack of evidence. Men are

discharge from crime but women punished in adultery. Safia Bibi vs the state PLD 1985, FSC 120-PLD 1986. Zafran Bibi sentenced to be stoned to death.

After the implementation of Hudood Ordinance 1979, it was supposed that the crime rate will decrease but as a result it increases. Sudhir Kumar Singh quoted in his book that "After the Zia's Hudood ordinance came in force the use of medieval tool of oppression like rape has raised rapidly. Since the implementation of this ordinance in 1979 till 1995, 1 million cases were registered in this regard but there was not even a single evidence of guilty being punished in these 17 years. Only 3 lakh cases are going in courts. The ordinance made it almost impossible to prove rape"

In famous gang rape case of Veena Hayat Mazari and Mukhtaran Mae, women disrespect but men are discharge.

Hudood Ordinance Amendment and Addition of Section 2:

The Hudood Ordinance 1979 (7) has been amended and will now be done and read in this manner. Section 2 of the Adultery (to Hudood) Ordinance 1979 (7) added clause (a) which is as follows. Clause (aa) Sec 2 (aa) "(confession)" means notwithstanding any judgment of any court of the contrary, an oral statement, explicitly admitting the commission of the offense of zina voluntarily made by the accused before a court of session having jurisdiction in the matter or on receipt of a summons under section 203A of the code of criminal procedure code 1898 (act v of 1898) (55 - A) (aa).

This is a voluntary oral statement given by the court on the receipt of the case under section 203A of the Criminal Code 1898 (5 of 1898) before the Sessions Court. 12A Insertion of New Section, Ordinance VII 1979 In the Offense of Zina (Enforcement of Hudood) Ordinance 1979 (Ordinance No VII 1979) after section 5 the following new section shall be inserted namely Section 5A No case to be converted, lodged or registered under certain provisions. No complaint of Zina under section 5 read with section 203A of the code of criminal procedure 1898 and no case where an allegation of rape is made shall at any stage be converted into complaint of Zina under section 5 of the offense of

(Enforcement of Hudood ordinance 1979) or an offense of similar nature under any other Law for the time being in force. Reading 5 trees in 5 conjunction with section 203A of the Criminal Code of 1898, any case of rape at any stage of the Pakistan Penal Code (Act 45 of 1860). Will not be changed and the meaning of fornication will be criminalized even at any C stage of adultery (Section 5 of the Hudood Ordinance 1979 (7 on 1979) or any other law currently in force. Will not be changed. Adultery and fornication have been included in the Pakistan Penal Code under Rape and Fornication. The following clauses are inserted in clause (a) instead of clause (a) in section 8 of 1979 (Ordinance 8 of 1979). 9) Sec 2 - Clause (a) "Adult""hadd" and "Zina" have the same meaning.

As in the offense of Zina (Enforcement of Hudood) ordinance 1979) (56) Hadd "Adult" Section 8 of the Ordinance 8 of 1979 Ordinance will be re-enacted as V-Rule (1) of the said incident and this time after will be added as per the ground. The presiding officer of a court dismissing a complaint under section 203A of the Code of Criminal Procedure 1898 or

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acquitting an accused under section 5 of the offense of Zina (Enforcement of Hudood) ordinance 1979 (ordinance VII of 1979) if satisfied that the offense of qazf liable to hadd.

Hadd has been committed shall not require any proof of qazf and shall proceed to pass sentence under section. A court officer dismissing a complaint under section 203A of the Criminal Code of 1898 or acquitting an accused under section 7 of the Criminal Procedure Order Ordinance 1979. Crimes have been committed according to qazf announce the punishment. Amendment to Section 9 of clause 2: Case in which hadd shall not be imposed or enforced will be read this way. Sec 9 (2) In a case in which before the execution of hadd the complainant with draws his allegation of qazf or state that the accused had made a false confession or that any of the witnesses had deposed falsely hadd shall not be enforced. In a case in which the plaintiff is charged with slander before the hadd is reached. State that if the accused has confessed to the crime or any of the witnesses has given a false statement, the hadd will not apply.

Amendment to section 17 of section 8 of 1979 Sec 17. Application of the code of criminal procedure 1898. Section 17 of the Offense of Defamation Ordinance (1979) has been amended in total (1) and the second clause (11) has been amended as follows.

Provided that an offense punishable under section 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. Provided that any offense punishable under section 7 shall be admissible in the Sessions Court and not by the competent magistrate under section 30 of the Code or it will be filed in the Federal Shariah Court in person and against the knowledge of the Sessions Court. The Sessions Court has been given the power to hear these cases. An appeal will be filed in the Federal East Court on passing the order of the Sessions Court. **Case Law (NLR. 2009, SD 706)** Wisdom in Holy Quran for imposition of punishment for Qazf is that if any one alleges such a heinous allegation of adultery against any woman and does not produce four witnesses, she is defamed in society. If it is proved that the scandler committed Qazf, it is the woman right that she should be given right to sue him to safeguard her modesty

Lian means where the husband has accused his wife of Zina and the wife does not accept the accusation as true. Declaration refers to when a husband accuses his wife of adultery and the wife calls the idol. Case Law 2005 Scmr 507 (b) Relationship of husband and wife must exist between spouses while lodging a charge of unchastity in Lian against wife or husband. (62) 2. (NLR 2009 SD 706) Section 14 would not be attracted when ex-husband makes allegation of adultery against his divorced wife, such case would squarely fall under sec 6,7 (63) 3.

Lian Proceeding final medical report was that respondent lady had given birth to a child and it had been proved beyond any shadow of doubt that petitioner had levelled imputation of Zina against his wife. The trial court was legally correct to order Lian proceeding against petitioner U / S14 Revision dismissed.

Conclusion:

Laws are making for the peaceful society. Penal laws create fear for punishment but sometimes poverty and illiteracy promote the crime. Pakistan is a Islamic state and implementation of laws in Islamic way. PPC Hudood Ordinance, QAZF Ordinance, crpc and Qanoon-e-Shahdat implemented but due to the weak legal system and social classes differences create tension. Elite class and wealthy people discharge by the courts due to the lack of evidence and in Hudood cases women faces the taunting remarks of the people. Now Hudood law merge with the PPC and hearing powers are generated to the Session Court and appeal lies to the Federal Shariat Court as competent court. Laws are best but implementation is poor by the law institutions, wrong investigation laquna of weak provisions. Need to improve the system by the able and honest people.

Recommendations:

1. To improve the legal system.
2. Discourage the criminal people.
3. To train the legal institution for investigation.
4. Discourage the political interference in the cases.
5. White color crime should be banded and punished.

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