

AS
[TO BE INTRODUCED IN SENATE]

A

BILL*further to amend the Pakistan Penal Code, 1860*

Whereas it is expedient further to amend the Pakistan Penal Code, 1860 (XLV of 1860) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act may be called the Pakistan Penal Code (Amendment) Act, 2024.

(2) It shall come into force at once.

2. Amendment of section 377, Act XLV of 1860 - In the Pakistan Penal Code, 1860 (XLV of 1860) in section 377, after the word "woman" a comma and words ", dead body" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Many countries respect the dignity of the dead and hence have criminalized Necrophilia/rape with a corpse. However, different countries follow different legal practices related to Necrophilia. In UK, Necrophilia is criminalized under Section 70 of the Sexual Offences Act, of 2003. In the U.S.A., the individual states have exercised their right to penalise this crime. For instance, In Florida, it is a second- degree felony and in Alaska, it is penalised as a class a misdemeanour. Similarly, New Zealand, cover necrophilia under Section 150 of the New Zealand Crimes Act, 1961 as "Misconduct in respect of human remains". Furthermore, there are many international laws dealing with the rights of dead persons, in the context of war crimes. This inculcate Article 16 of the Geneva Convention, 1986, the UK Military Manual (1956) and the US Naval Hand book (1995) protecting the dead bodies from being mutilated or mal-treatment.

In Islam, special sanctity is granted to the dead body, according to The Prophet salallahu alaihi wasallam "To break the bone of a deceased person is similar to breaking the bone of a living person." Based on the above hadhith, a group of scholars are of the opinion that a dead person also experiences pain caused by mishandling his body. And Allah Ta'ala Knows Best. Similarly, as per its definition, the crime of Necrophilia comes not only under the ambit of Zina but also Hudd crime, meaning a violation of Divine Law also. Hence it must be penalized through country's laws.

It is true that the deceased cannot speak, but their family members are left with an emotional attachment to their loved one. It is truly appalling and disheartening that even after death, women and girls cannot be protected from criminals who view them as mere objects. Women were previously confined to the confines of their homes, and now the situation has worsened to the point that they are confined in their own graves, or perhaps, in the future, they may need to be protected by their guardians within the walls of their homes, even after they have passed away. There is a need of specific law to deal with this issues.

The rise of necrophilia cases in Pakistan is a disturbing trend and societal concern. Several cases have emerged in the last few years, where men have allegedly dug up female corpses from graveyards and sexually assaulted them, leading to families installing metal bars and locks on their daughters' graves to prevent post-mortem rape. Pakistan is experiencing a sharp increase in rape cases, with statistics indicating a rape occurs every.

Sexual gratification by having sexual intercourse with the dead and is known to be one of the weirdest, most bizarre and revolting practices of abnormal and perverse sensuality. Section 377 of PPC 1860 contains provisions for penalizing unnatural offences. Unnatural offences are those offences whereby a person voluntarily engages in carnal intercourse against the ordinary course of nature between man, woman and animal. Though a necrophilia activity i.e., sexual intercourse with a corpse should be integrated into this definition. However, as of now, this definition of unnatural offences does not explicitly include carnal intercourse between the man and the dead body due to which a necrophilia is often left unpunished thereby serving as a loophole in Pakistan's criminal law.

Similarly, other sections such as Section 376 PPC and its corresponding sections in the Code of Criminal Procedure, 1898, which defines rape and provide for severe punishments in certain circumstances in their definition are not inclusive of non-consensual sexual activity against a dead body. Rather, they emphasize the commitment of such an offence against a human or a living being. In this regard, necrophilia/rape with a dead body is an offence that should be penalized under any of the relevant sections of criminal laws. However, such a sight as of now is absent, while raising its concern over no clear provision on Necrophilia to punish the wrongdoer for his barbarity urges the lawmakers to provide for a clear legal stance. The bill has been designed to achieve the aforementioned purpose.

**SENATOR SAMINA MUMTAZ ZEHRI
MEMBER-IN-CHARGE**