

~~AS~~
~~[TO BE INTRODUCED IN THE SENATE]~~

A

BILL

further to amend the Muslim Family Laws Ordinance, 1961

WHEREAS it is expedient further to amend the Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII of 1961), in its application to the Islamabad Capital Territory, for the purposes appearing hereinafter and for matters ancillary thereto;

AND WHEREAS the wife, upon divorce, is entitled, as compensation for her contribution during her marriage, to share in the fruits of the economic activity undertaken during the marriage;

It is hereby enacted as follows:-

1. Short title, extent and commencement. -(1) This Act shall be called the Muslim Family Laws (Amendment) Act, 2024.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Amendment of section 2, Ordinance VII of 1961 .- In the Muslim Family Laws Ordinance, 1961 (Ordinance VIII of 1961), hereinafter referred to as the said Ordinance, in section 2,-

(i) after clause (b) the following new clauses shall be inserted, namely:-

"(ba) **"Court"** means family court as defined in the Family Courts Act, 1964 (Act XXXV of 1964);

(bb) **"Husband's Asset"** means any property, movable or immovable, owned by the husband which has been acquired by the husband before marriage and includes any property which has been acquired by the husband by inheritance or gift;

(bc) **"Matrimonial Asset"** means any property, movable or immovable, owned by the husband which has been acquired by the husband during the marriage and includes Matrimonial Building but does not include a Husband's Asset;

(bd) **"Matrimonial Building"** means any building which has been built by the husband or wife during the marriage on a Husband's Asset but does not include the Husband's Asset upon which the building is built;"

(ii) after clause (e) the following new clause shall be added namely:-

"(f) **"Wife's Asset"** means any property, movable or immovable, owned by the wife which has been acquired by the wife before and during marriage, and includes any property which has been acquired by the wife by inheritance or gift before and during marriage."

3. Insertion of Section 10A, Ordinance VII of 1961 .- In the said Ordinance after section 10, the following new section shall be inserted, namely:-

"10A. Ownership of Matrimonial Asset. (1) Decree by Court Notwithstanding any law to the contrary, upon termination or dissolution of marriage by Talaq or otherwise under section 7 or 8, as the case may be, the Court shall pass a decree in such form and in such manner as may be prescribed, determining and declaring that the Matrimonial Asset for the acquisition of which the wife has contributed during the marriage shall be owned jointly in equal share by husband and wife.

(2) **Proceeds of Sale.** If the husband and wife, before passing of a decree under sub section 1 of Section 10A, come to an agreement in respect of sharing or disposition of any Matrimonial Asset, then the Court shall pass an order implementing any such agreement and give such directions as are necessary in this regard; however if the husband and wife cannot come to an agreement in respect of sharing or disposition of any Matrimonial Asset before passing of a decree under sub section 1 of Section 10A, the Court shall pass an order that the Matrimonial Asset be disposed off and the proceeds of sale be shared and divided equally amongst the husband and wife.

(3) **Wife's contribution during the marriage.** If the wife has been making efforts and providing services during the marriage as (i) spouse or (ii) parent or (iii) wage earner or (iv) home maker, it shall be presumed that she has contributed for the acquisition of the Matrimonial Asset for the purposes of this Section 10A.

(4) **Husband's Asset and Wife's Asset.** The Husband's Asset and Wife's Asset shall continue to remain in exclusive ownership of husband and wife respectively upon termination or dissolution of marriage by Talaq or otherwise under section 7 or 8.

(5) **Agreement with respect to the sharing or disposition.** The Court shall aid the husband and wife to arrive at an agreement with respect to the sharing or disposition of Matrimonial Assets and shall hold such hearings for this purpose as may be necessary. However, if the husband or wife inform the Court that the attempt at arriving any such agreement has failed, then the Court shall proceed with the case forthwith:

Provided however the husband and wife may enter into any such agreement on their own prior to passing of a decree under Section 10A.

(6) **Disposal and distribution of the proceeds of Matrimonial Asset.** In case there are more than one Matrimonial Asset to be disposed of, the Court may distribute the Matrimonial Assets and proceeds of sale, if any, amongst the husband and wife in such a manner that the husband and wife each receives Matrimonial Assets and proceeds of sale, if any, as the case may be, which are equal in value and, in doing so, the Court in its discretion, may make such orders to facilitate and effectuate the equal distribution of the Matrimonial Assets and proceeds of sale, if any, as it deems fit for this purpose.

(7) **Wife's claim in the share.** The right of the wife to claim the share in the Matrimonial Assets and all rights granted under section 10A shall be in addition to the wife's right to maintenance (under section 9) and dower (under section 10)."

STATEMENT OF OBJECTS AND REASONS

In Pakistan usually after dissolution of a marriage, even after a lifetime of service to her family, a wife has no right to claim a share in the assets acquired during marriage.

Pakistan needs to enact laws for wife's right to matrimonial property. This will help reduce women's financial vulnerability and the practice of arbitrary divorces based often on whims of the husband. Furthermore, the wife, upon divorce, shall be entitled, in justice, by way of gift and compensation for her contribution, to share in the fruits of the economic activity undertaken during the marriage. The situation in Pakistan is ripe to introduce the said Bill.

**SENATOR SYED ALI ZAFAR
MEMBER-IN-CHARGE**