

[AS PASSED BY THE SENATE]

A
BILL

further to amend the Prevention of Smuggling of Migrants Act, 2018

WHEREAS it is expedient further to amend the Prevention of Smuggling of Migrants Act, 2018 (XXVIII of 2018) for the purposes hereinafter appearing;

It is hereby enacted as follows: -

1. Short title and commencement. - (1) This Act may be called the Prevention of Smuggling of Migrants (Amendment) Act, 202~~5~~.

(2) It shall come into force at once.

2. Amendment of section 2, Act XXVIII of 2018. - In the Prevention of Smuggling of Migrants Act, 2018 (XXVIII of 2018), hereinafter referred to as the said Act, in section 2, in paragraph (j), for the expression "or 7", the expression ", 7, 7A, 7B, 7C, 7D or 7E" shall be substituted.

3. Amendment of section 3, Act XXVIII of 2018. - In the said Act, in section 3,-

- (i) for the expression "to five years" occurring in the third line, the expression "for life" shall be substituted;
- (ii) for the expression "three years" occurring in the fourth line, the expression "fifteen years" shall be substituted; and
- (iii) for the expression "one million rupees" occurring at the end, the expression "ten million rupees" shall be substituted.

4. Amendment of section 4, Act XXVIII of 2018. - In the said Act, in section 4, in sub-section (2),-

- (i) for the expression "three years" occurring in the third line, the expression, "fifteen years" shall be substituted;
- (ii) for the expression "one year" occurring in the fourth line, the expression "seven years" shall be substituted; and
- (iii) for the expression "one million rupees" occurring at the end, the expression "five million rupees" shall be substituted.

5. Amendment of section 5, Act XXVIII of 2018. - In the said Act, in section 5,-

- (i) for the expression "three years" occurring in the fifth line, the expression "fifteen years" shall be substituted;
- (ii) for the expression "one year" occurring in the sixth line, the expression "seven years" shall be substituted; and
- (iii) for the expression "one million rupees" occurring at the end, the expression "five million rupees" shall be substituted.

6. Amendment of section 6, Act XXVIII of 2018. - In the said Act, in section 6,-

- (i) for the expression "to fourteen years" occurring in the second line, the expression "for life" shall be substituted;
- (ii) for the expression "five years" occurring in the third line, the expression "fifteen years" shall be substituted; and
- (iii) for the expression "two million rupee" occurring in the third line, the expression "ten million rupees" shall be substituted.

7. Substitution of section 7, Act XXVIII of 2018, - In the said Act, for section 7, the following new section, shall be substituted, namely;

"7. Providing facilities in support of smuggling of migrants. - Any person, being—

- (a) the owner, occupier, lessee or person in charge of any premises, room or place, knowingly permits a meeting of persons to be held in that premises, room or place; or
- (b) the owner, lessee or person in charge of any equipment or facility that allows for recording, conferences or meetings via technology, knowingly permits that equipment or facility to be used, for the purpose of committing an offence under this Act, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding ten years, and shall also be liable to fine, or to both.

7A. Providing services for purposes of smuggling of migrants. - (1) Any person who, directly or indirectly, provides or makes available financial services or facilities—

- (a) intending that the services or facilities be used, or knowing or having reasonable grounds to believe that the services or facilities will be used, in whole or in part, for the purpose of committing or facilitating the commission of an act of smuggling of migrants, or for the purpose of benefiting any person who is committing or facilitating the commission of an act of smuggling of migrants; or the owner, occupier, lessee or person in charge of any premises, room or place, knowingly permits a meeting of persons to be held in that premises, room or place; or

- (b) knowing or having reasonable grounds to believe that, in whole or in part, the services or facilities will be used by or will benefit any person involved in an act of smuggling of migrants, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding ten years, and shall also be liable to fine, or to both.

(2) For the purpose of sub-section (1), "financial services or facilities" include the services and facilities offered by lawyers or accountants acting as nominees or agents for their clients.

7B. Concealing or harboring smuggled migrants and migrant smugglers. - (1) Any person who conceals or harbours, or prevents, hinders or interferes with the arrest of any person knowing or having reason to believe that such person is—

- (a) a smuggled migrant: or
- (b) a person who has committed or is planning or is likely to commit an act of smuggling of migrants, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding ten years, and shall also be liable to fine, or to both.

(2) In this section, "harbour" includes supplying a person with shelter, food, drink, money or clothes, arms, ammunition or means of conveyance, or assisting a person in any way to evade apprehension.

7C. Supporting offence of smuggling of migrants. - (1) Any person who provides material support or resources to another person and the support and resources aid the receiver or any other person to engage in conduct constituting the offence of smuggling of migrants commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to fine, or to both.

(2) For the avoidance of doubt, a person commits an offence under sub-section (1) even if the offence of smuggling of migrants is not committed.

7D. Offence of conveyance of smuggled migrants. -

Any person being the owner, operator or master of any conveyance who engages in the conveyance of smuggled migrants commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding seven years and shall also be liable to a fine not exceeding five million, or to both.

7E. Obligation of owner, etc. of conveyance. - (1)

Any person being the owner, operator or master of any conveyance that engages in the conveyance of goods or people for commercial gain shall ensure that every person travelling on board is in possession of travel documents for the lawful entry of that person into the receiving country or transit country and if not, shall refuse to convey such person.

(2) Any person who contravenes sub-section (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five million rupees or to imprisonment for a term not exceeding seven years, or to both."

8. Amendment of section 8, Act XXVIII of 2018, - In the said Act, in section 8, for the expression "or 7", the expression ", 7, 7A, 7B, 7C, 7D or 7E" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Every year, thousands of young Pakistanis embark on perilous journeys attempting to enter Europe without proper documents in search of a better life. Human trafficking seems to be going on with impunity in our country. Between 30,000 to 40,000 Pakistanis annually, attempt illegal passage to Europe as well as Turkey, Russia, and the Middle Eastern countries through land route as well as by air. In a recent Greece Boat Drowning tragedy being one of the worst disaster of this year, apparently nearly 400 people on board in a boat carrying refugees to Greece were from Pakistan with more than 298 reported dead. The appalling conditions in which people were transported, resulting in the tragic loss of life of men, women and children on board this boat is macabre and shocking.

2. This is an unfortunate and bitter reality that criminals as well as their perpetrators involved in such a heinous crime against human lives are often get off scot-free during trials in such cases and even those who are proceeded against in court and convicted, seldom face anything more punitive than a fine. As per the FIA's own record, until October 2017, out of a total of 1,898 individuals convicted for human smuggling, 1,245 — or 65 per cent — were only fined, and that too meagre amounts. Of the remaining 653, a whopping 97pc, were sentenced to imprisonment for less than a year. In fact, for the last several months, there has not been a single individual convicted of human smuggling behind bars in the region's four jails.

3. Keeping in view of this dismal state of affairs, offences under the existing laws, for example, when the process of smuggling endangers life and limb, or "is committed as part of the activity of an organized criminal group", need to be countered with more punitive sanctions and exemplary punishments.

4. The Bill has been designed to achieve the aforementioned purpose.

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