

[AS PASSED BY THE SENATE]

A

Bill

further to amend the Pakistan Penal Code, 1860

Whereas it is expedient further to amend the Pakistan Penal Code, 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 323, Act XLV of 1860.- In the Pakistan Penal Code, 1860 (XLV of 1860), hereinafter referred to as the said Act, in section 323,-

- i. in sub-section (1) for the expression "thirty thousand six hundred and thirty six grams of silver." the expression "**forty five thousand gram of silver or one fourth of the total estate and resource of the convict:**" shall be substituted;
- ii. after sub-section (1) as amended as aforesaid the following proviso shall be inserted, namely:-

"Provided that for the purposes of fixing the amount of Diyat that is equivalent to the value of **silver** as provided in sub-section (1) keeping in view the financial position of the convict, the court shall, generally or in particular state of non-availability of sufficient evidence on behalf of parties, shall embark upon inquiry about estate and resources of the defendant or convict as defined under sections 11 and 39 of the Income Tax Ordinance, 2001, and in this regard summon the relevant documentary evidence from Federal Board of Revenue and any organization public or private, body or authority to determine the estate and resources of the defendant."

3. Amendment of section 330, Act XLV of 1860 - In the said Act, in section 330, for the existing proviso the following proviso and explanation shall be substituted, namely:-

"Provided that where an heir or some of the heirs or all the heirs forego his or their share, the diyat shall be deposited in account specified by the government or the controlling department or authority constituted or designated to disburse blood money for who is unable to pay to protect shedding blood."

Explanation: To carry out the purpose of this section the federal government or the controlling department or authority constituted or designated to disburse blood money shall open and maintain an account for the sole purpose of diyat amount."

4. **Amendment of section 331, Act XLV of 1860.**- In the said Act, in section 331, in sub-section (1) for the words "five years" the words "one year" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The issue of blood money (diyyah) has toppled the concern of both jurists and the judiciary because of its great importance in people's daily lives. As we know the Shariah did not specify any type of money in paying blood money (diyyah), but it was estimated with different categories in order to ease hardship for someone who gets one type but did not get another type, and the reason for specifying camel was just to evaluate other types with its price, because of its circulation and availability in that environment between urban and rural areas, and stability in its value was more than others; but the camel became rare after people became more civilized and its price greatly increased and also sheep and cows and gold have become the most important commodity in an era of inflation of paper currencies to some extent affected by the global financial market in terms of price rise and its decline, and it is not possible for us to estimate blood money (diyyah) on the value of one hundred camels or the value of a thousand weight of gold in our time because it is very difficult for an ordinary person, and price of silver became low to a large degree and it does not play a role in the global market as it was in the past, and also ornaments; thus, to pay blood money (diyyah) with them would be as negligence in the right of victim and his family. Blood money (diyyah) is paid from six types: (Camel, gold, silver, cow, sheep and ornaments) and is for the convenience of people in the payment, but it is not the intention of the Shariah to restrict the payment to a particular type among the six types, but today it is more important to estimate blood money (diyyah) on the estimate of the six types for the fulfillments of the needs in the period of the Prophet (SAW) and after Him and to be taken as origin in the estimation of blood money (diyyah) by estimating with local currencies in different times and places. In the foregoing context it is inevitable that the authorities to enact laws of estimating blood money (diyyah) based on the financial value of camel/gold taking into account the interest of the offender and his *Aqilah* who help him, and also the interest of the victim and his family who have suffered damage. Among the good attributes advocated by Islam are cooperation and collaboration on righteousness, and that is the aim of principle of *Aqilah*, thus, the governments and charity organizations need to allocate funds for the payment of blood money for the one who is unable to pay to protect shedding blood and to avoid remaining of the offender in prison for long time, and it is permissible to pay blood money (diyyah) from the share of debtors in alms (Zakat).

2. The bill has been designed to achieve the aforementioned purpose.

SENATOR SAMINA MUMTAZ ZEHRI
MEMBER-IN-CHARGE