

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

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BILL

further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860), and the Code of Criminal Procedure, 1898 (Act V of 1898), to provide for scientific basis for investigation which is in accordance with Fundamental Rights as provided in Chapter I of Part II of the Constitution of the Islamic Republic of Pakistan as well as Universal Declaration of Human Rights in this regard;

AND WHEREAS it is also expedient to provide for punishments for conducting false or dishonest investigation to absolve someone who might had committed or involved in commission of any offence from criminal liability or to involve someone innocent in some offence;

AND WHEREAS it is also necessary to provide for establishment of an independent investigation service within existing Police organization consisting of scientifically trained and educationally qualified persons having knowledge and skills for conduct of investigation on scientific basis by using psychological and other modern techniques of information technology and forensic sciences for investigation purposes to save the persons under investigation from existing inhuman, tortuous and cruel methods including physical torture which is sometimes leading to deaths of under investigation persons due to such third degree investigative measures;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Criminal Law (Amendment) Act, 2013.

(2) It shall come into force at once.

2. **Insertion of new section, Act XLV of 1860.**- In the Pakistan Penal Code, 1860 (XLV of 1860), after section 166, the following new sections shall be inserted, namely:-

“166A. False or dishonest first information report.- (1) Whoever, being a police officer or public officer knowingly and falsely files or registers and first information report for some alleged offence reported to him wherein such officer has reason to believe that no such offence has been committed shall be punished with imprisonment of either

description for a term which shall not be less than ten years and more than fourteen years and with fine which shall not be less than rupees ten hundred thousand.

Explanation I.- The court while concluding a trial of any offence will also clearly give findings whether first information report was bona fide or with some pre-planned motive on behalf of the person reported for registration of such first information report in collusion and collaboration with concerned officer of the police.

Explanation II.- Where a court of trial will conclude in its findings that first information reports was false or dishonest, the court shall also award punishment under sub-section (1) to such persons if there is no further need of evidence to prove such offence or direct for registration of first information report so that requirements of law be fulfilled by formal investigations for determination of liability of each and every person and for their trial for punishment under sub-section (1).

(2) Notwithstanding anything contained in any other law for the time being in force, half of the amount imposed as a fine under sub-section (1) shall be paid to the aggrieved person as compensation.

(3) Imposition and payment of fine under sub-section (2) shall not limit the right of any aggrieved person for damages by initiating necessary legal proceedings in a civil court.

(4) Notwithstanding anything contained in sub-section (1), (2) or (3), the officer shall also be liable to disciplinary proceedings under relevant efficiency and discipline rules for performance of his official functions if such person is a civil or public servant.

166B. Dishonest or false investigation, etc.- (1) Whoever, being a police officer or public officer responsible for conduct of dishonest or false investigation of any offence shall be punished with imprisonment of either description for a term which shall not be less than ten years and more than fourteen years and with fine which shall not be less than rupees ten hundred thousand.

Explanation I.- The court while concluding a trial of any offence will also clearly give findings whether investigation proceedings was conducted honestly and fairly in accordance with law fulfilling all legal and procedural requirements necessary for such investigations or not.

Explanation II.- Where a court of trial will conclude in its findings that investigation proceedings was not honest and fair under the relevant law, the court shall also award punishment under sub-section (1) to such investigating officers if there is no need of further evidence to prove such offence or direct for registration of first information report so that

requirements of law be fulfilled by formal investigations for determination of liability of each and every person and for their trial for punishment under sub-section (1).

(2) Notwithstanding anything contained in any other law for the time being in force, half of the amount imposed as a fine under sub-section (1) shall be paid to the aggrieved person as compensation.

(3) Imposition and payment of fine under sub-section (2) shall not limit the right of any aggrieved person for damages by initiating necessary legal proceedings in a civil court.

(4) Notwithstanding anything contained in sub-section (1), (2) or (3), the officer shall also be liable to disciplinary proceedings under relevant efficiency and discipline rules for performance of his official functions if such person is a civil or public servant.”

3. **Insertion of new Chapter, Act V of 1898.**- In the Code of Criminal Procedure, 1898 (V of 1898), in Part V, after Chapter XIV, the following new CHAPTER XIVA shall be inserted, namely:-

“CHAPTER XIVA INVESTIGATION OF OFFENCES

176A. Establishment of Investigation Police.- (1) Upon the commencement of this Chapter, the Provincial Government shall establish Investigation the Police under the administrative control of the Inspector General of Police who shall be only administrative head of the Investigation Police.

(2) Investigation Police shall consist of such other officers, officials and persons having specialized educational qualifications in the fields of psychology and such other specialized subjects which will be helpful for just, fair and scientific investigations of offences as well as other forensic sciences and information technology which are helpful for conducting of criminal investigations and inquiries in accordance with Fundamental Rights as provided in Chapter 1 of Part II of the Constitution of the Islamic Republic of Pakistan and universally accepted standards of human rights.

(3) Investigation Police may collaborate with police organizations of other advanced countries to learn and enhance their capacity, learning and investigative skills.

(4) Persons having only Masters degrees in relevant field of expertise shall be appointed in Investigation Police after following due process of law regarding transparent, competent and merit based appointments in a competitive manner.

(5) No person from existing Police Service of Pakistan or Police hierarchy of the Provincial Government shall be transferred or absorbed in Investigation Police.

(6) There shall be an independent unit of Investigation Police in each and every Police Station equipped with state of the art modern facilities and gadgets for investigation of offences under the supervision of hierarchy of Investigation Police in a district free from any interference ordinary Police hierarchy.

176B. Functions and powers of Investigation Police.- (1) Immediately after an offence will be reported to the police and after the recording of such information relating to the commission of a cognizable or non-cognizable offences, the reporting officer shall provide the copy of such information to the in-charge of Investigation Police in the said police area who shall take necessary steps for investigation of such cognizable offence under the law without further reference to reporting officer:

Provided that Investigation Police may seek assistance of the concerned Police Officer for conducting raids and other necessary matters where it is deemed necessary and appropriate:

Provided further that the police of the concerned area shall transfer all persons, accused of any cognizable offence for necessary investigation to the Investigation Police without undue delay after their arrest or jointing of investigation.

(2) The Investigation Police shall perform following functions and exercise powers as under:-

- (a) to investigate all offences unless any offence is particularly excluded from such investigative functions and entrusted to some other investigating agency;
- (b) collect data and evidence relating to a commission of crime on scientific lines by using modern forensic and scientific techniques and information technology;
- (c) to assist the Prosecution Branch of the Police in completion of all formalities for commencement of a trial of an offence within due period of time as provided in the law by providing all information, documents and other forensic evidence which is necessary in this regard;
- (d) to assist the trial and other courts regarding different offences, as and when required;
- (e) to establish all facilities which are necessary for investigation of crimes on scientific basis;

(3) Notwithstanding anything contained in any other law for the time being in force, no information, document or any forensic report shall be disclosed until it is allowed by the competent court:

Provided that the accused person or his advocate or any other advocate may request for certified copies of such information, documents or forensic reports which will be provided after fulfilling necessary legal formalities in this regard and all such certified copies will be admissible as evidence under the Qanun-e-Shahadat, 1948.

176C. Methods of Investigation of offences.- (1) Notwithstanding anything contained in any other law for the time being in force, the Investigation Police shall investigate persons alleged in commission of an offence by use of modern scientific, psychological and forensic techniques and methodologies with the help of modern equipments, information technology and investigation techniques without resorting to any coercion or physical torture or injury while giving due care to physical and mental health of such person.

(2) Immediately after completion of investigation proceedings and process, the officer in-charge of concerned Investigation Unit shall provide a copy of final Investigation Report to the person so investigated, or an Interim Investigation Report, as the case may be.

(3) As soon as investigation proceedings and process shall be completed, the Officer In-charge of the Investigation Unit or any other officer on his behalf shall produce the person so investigated to the nearest Superintendent of Tehsil or District Hospital who shall medically examine such person and furnish a Medical Report about physical and mental condition of such person immediately after completion of necessary clinical or other formalities and a copy thereof shall also be provided to the person so medically examined or his legal heirs or authorized persons, if so authorized or the advocate.

176D. Limitation of Investigation Officer.- (1) No Investigating Officer shall ask questions of following nature, namely:-

- (a) asking any question which will cause religious, sectarian, racial, regional, linguistic or parochial annoyance;
- (b) asking questions about personal life or relations between husband and wife unless the investigation is under charge wherein personal or matrimonial life is directly the subject of the offence;
- (c) asking questions regarding private life unless private life is the subject of investigation due to any offence;
- (d) asking questions regarding matrimonial or family life and relations i.e. relations between husband and wife during marriage, unless such relations are the subject of investigation; or

(e) asking questions regarding personal integrity unless such matters are directly the subject matter of offence.

(2) Right of silence shall be respected:

Provided that the accused person shall not claim advantage of such silence during the trial and all matters wherein such person preferred to keep silence shall be presumed implied proved unless formally rebutted before the trial court with the help of necessary evidence.

176E. No discrimination during investigations, etc.- (1) There shall be no discrimination during investigation process to any person so investigated on the basis of following:-

- (a) sex, race, religion, caste, creed or colour;
- (b) regionalism or provincialism; and
- (c) nationality or citizenship.

(2) Subject to provisions of any other law in force, the female shall be investigated by a female Investigation Officer and in the absence of any female Investigation officer, it shall be ensured that a female officer or official of the Investigation Police be present during such investigation process who shall duly certify in Final Investigation Report that no such question or behavior has been meted out which was against the respect, integrity or modesty of such female person under investigation:

Provided that in the absence of any female Investigating Officer or such other officer or official, any female or male relative of the female accused be allowed to be present during the investigation proceedings and process in such a manner that he or she can directly hear the questions so asked or see the behaviour and attitude of the Investigating Officer during the investigation proceedings and process and at the conclusion of investigation and in the Final Investigation Report such female or male relative shall certify that there was no annoying or immoral question or inhuman behaviour meted out to such female person so investigated.

176F. Accused person shall be informed before investigation about purpose of investigation and offences alleged for such offences and legal implication of the outcome of such investigation.- Every accused person shall be informed before the commencement of investigation proceedings and process about the purpose of investigation and offences alleged for such investigation and about legal implication of the outcome of such investigation and shall sign a certificate in this regard which shall be sufficient evidence

before the trial court that cooperation or non-cooperation on the part of the accused person investigated was after clear understanding and information of such investigations.

176G. Placing necessary information about investigation proceedings on website of the Investigation Police.- (1) The Investigation Police shall provide all necessary information about the rights of accused persons during the investigation proceedings and process on the website of Investigation Police.

(2) Information mentioned in sub-section (1) shall be updated and revised from time to time communicating all changes or new information or instructions in this regard immediately after coming into force of such rules, regulations or instructions, etc., for the information of general public.

(3) The provisions of this Chapter shall also be publicized for the information and benefit of general public through national press and electronic media.

176H. Enforcement of provisions of this Chapter.- (1) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Chapter shall come into force as soon as the Provincial Government shall establish the Investigation Police after making all other necessary arrangements but not later than six months after the commencement of this Act.

(2) Notwithstanding anything contained in sub-section (1), any action taken, any investigation proceedings or processes carried out or any other action in this regarding taken after a period of six months not in accordance with provisions of this Chapter shall be illegal and of no evidentiary value in trial proceedings.”.

4. Amendment of Schedule II, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898), in Schedule II, after section 166, in column 1 and the entries relating thereto in columns 2 to 8, the following new section and the entries relating thereto shall be inserted, namely:-

"166A.	False or dishonest first information report.	May arrest without warrant.	Warrant.	Not bailable.	Ditto	Imprisonment of either description for a term which shall not be less than ten years and more than fourteen	Court of Session.
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166B.	Dishonest or false investigation, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for a term which shall not be less than ten years and more than fourteen years and with fine which shall not be less than rupees ten hundred thousand.	Ditto."

STATEMENT OF OBJECTS AND REASONS

Reporting of crime, investigation of such reported crimes and thereafter different using of third degree methods during the investigation proceedings and processes are not only making the entire system of criminal justice vulnerable but forcing the general public for lack of trust on such cruel investigation and system of criminal administration of modern nations which require immediate change. Humanity, protection of Fundamental Rights and Human Rights universally recognized rate any State in community of nations about its stature and quality of living and it cannot be achieved unless rotten system of crime reporting and investigation is changed with major steps.

2. The Bill seeks to achieve the above objectives.

Sd/-

**Ms. Kishwer Zehra, Ms. Saman Sultana Jafri,
Shaikh Salahuddin, Mr. Abdul Waseem,
Mr. Sufyan Yusuf Member, National Assembly**