

**SENATE OF PAKISTAN
HOUSE OF THE FEDERATION**

Report No.17



***Report of the Senate Standing Committee on Interior and Narcotics
Control on the issue "The Code of Criminal Procedure (Amendment)
Bill, 2017 introduced by Senator Mohammad Azam Khan Swati on
13th February, 2017***

PRESENTED BY

***SENATOR A. REHMAN MALIK
CHAIRMAN***

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON INTERIOR & NARCOTICS CONTROL

I, Chairman of the Standing Committee on Interior and Narcotics Control, have the honour to present the report on “**The Code of Criminal Procedure (Amendment) Bill, 2017**” introduced by Senator Mohammad Azam Khan Swati on 13th February, 2017 and referred by the House to the Standing Committee on Interior and Narcotics Control for consideration and report thereof.

2. The composition of the Standing Committee on Interior & Narcotics Control is as under:-

1. Senator A. Rehman Malik	Chairman
2. Senator Shahi Syed	Member
3. Senator Mir Israrullah Khan Zehri	Member
4. Senator Muhammad Saleh Shah	Member
5. Senator Muhammad Talha Mehmood	Member
6. Senator Col. (R) Syed Tahir Hussain Mashhadi	Member
7. Senator Dr. Jehanzeb Jamaldini	Member
8. Senator Chaudhary Tanvir Khan	Member
9. Senator Muhammad Javed Abbasi	Member
10. Senator Muhammad Ali Khan Saif	Member
11. Senator Mukhtiar Ahmed Dhamrah @ Aajiz	Member
12. Senator Syed Shibli Faraz	Member
13. Minister for Interior	Ex-officio Member

3. The matter was taken up in the meeting of the Standing Committee held on 13th March, 2017 and 10th April, 2017.

4. The Committee disposed of the matter on 10 April, 2017 and allowed to submit the report to the House. The following members of the Committee attended the meeting.

1. Senator A. Rehman Malik	Chairman
2. Senator Shahi Syed	Member
3. Senator Col. (R) Syed Tahir Hussain Mashhadi	Member
4. Senator Dr. Jehanzeb Jamaldini	Member
5. Senator Chaudhary Tanvir Khan	Member
6. Senator Muhammad Javed Abbasi	Member
7. Senator Muhammad Ali Khan Saif	Member
8. Senator Mian Muhammad Ateeq Shaikh	Mover
9. Senator Mohammad Azam Khan Swati	Mover



SUMMARY

The Mover while explaining the objects and reasons of the Bill explained that women in our society are not taken care of while criminal proceedings are being initiated against them. In peculiar circumstances when they have breastfeeding infants or they are pregnant, in his view, no criminal proceedings should be initiated against women. The Mover also opined that women involved in criminal activities are comparatively lesser in number than males. Sanctity and respect for the females is also propounded in the Islamic thoughts and culture. So being Muslim, the Mover emphasized on respect and care of the female gender during such criminal proceedings and regarded it as the prime responsibility of the state.


Many of the Members disagreed to the objects and reasons of the Bill regarding it a discriminatory Act. Citing Article 25 of the Constitution of Pakistan, the Members differed with the Mover and regarded it against the spirit of equality. Article 25 of the Constitution clearly enunciates:

- 1) All citizens are equal before law and are entitled to equal protection of law.
- 2) There shall be no discrimination on the basis of sex.

Besides that the Committee felt that if such a clause is entered that **“No woman shall be arrested without warrant, unless there appear reasonable grounds for believing that she has been guilty of an offence punishable with death or imprisonment for life or imprisonment for not less than ten years”**, it would open another method of crime and terrorism through females. To add, the clauses of the Bill were too sweeping, discriminatory and not in consonance with the Constitution.

RECOMMENDATION

The Committee disposed of the Bill with the recommendation that the Bill may not be passed. The Bill is annexed.


(JAVAID IQBAL)
Secretary Committee


(SENATOR A. REHMAN MALIK)
Chairman

[TO BE INTRODUCED IN THE SENATE]

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BILL

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2017.

(2) It shall come into force at once.

2. Amendment of section 46, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the said Code, in section 46, after sub-section (3), the following new sub-section shall be inserted, namely:-

"(4) Notwithstanding anything contained in this Code or any other law for the time being in force, no woman shall be arrested without warrant, unless there appear reasonable grounds for believing that she has been guilty of an offence punishable with death or imprisonment for life or imprisonment for not less than ten years:

Provided that a police officer may arrest a woman under sub-section (1) of section 57 of this Code, in the situations and for the purposes mentioned in the said sub-section."

3. Amendment of section 57, Act V of 1898.- In the said Code, in section 57, in sub-section (2), in the proviso for the full stop occurring at the end, a colon shall be substituted, and thereafter the following new proviso shall be inserted, namely:-

"Provided further that if such person is a woman, no bond shall be required from her and she shall be released forthwith."

STATEMENT OF OBJECTS AND REASONS

In the Constitution of the Islamic Republic of Pakistan, Article 14 has protected the dignity of man, woman and privacy of home. Unfortunately our law enforcement agencies and particularly police, arrest persons on petty matters and in most cases on baseless allegations of the complainants. In such circumstances, women also become victims of the police arrest. Such women include breastfeeding mothers, pregnant and others, suffering from female related problems and diseases. Islam has given very sacred status to women in the form of mother, sister, daughter and wife etc. Generally the ratio of women involvement in criminal activities is negligibly low compared to men. Therefore it is needed that the sanctity and sacred status of women be protected from the high handed and arbitrary acts of police and other law enforcement agencies.

The Bill has been designed to achieve the aforesaid objectives.

SENATOR MUHAMMAD AZAM KHAN SWATI
Member-in-Charge