



House of the Federation

**SENATE SECRETARIAT**

**REPORT OF THE  
SENATE STANDING COMMITTEE ON INTERIOR**

**“THE PAKISTAN PENAL CODE (AMENDMENT) BILL, 2021”  
MOVED BY SENATOR SAADIA ABBASI IN THE SENATE SITTING  
HELD ON 12<sup>TH</sup> JULY, 2021**

**PRESENTED BY**

**SENATOR MOHSIN AZIZ  
Chairman  
Standing Committee on Interior**

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## **REPORT 19 OF 2021**

### **SENATE SECRETARIAT**

#### **Report of Senate Standing Committee on "The Pakistan Penal Code(Amendment) Bill, 2021" moved by Senator Saadia Abbasi in the Senate sitting held on 12<sup>th</sup> July, 2021.**

I, Chairman of Senate Standing Committee on Interior, have the Honour to present report on "The Pakistan Penal Code(Amendment) Bill, 2021" moved by Senator SaadiaAbbasi in the Senate sitting held on 12<sup>th</sup> July, 2021.

2. The Bill, upon introduction in the Senate, was referred to the Standing Committee for consideration and report back to the House under Rule-98 of the Rules of Procedure and Conduct of Business in the Senate, 2012.

3. The composition of the Standing Committee on Interior is as under: -

1.	<b>Senator Mohsin Aziz</b>	<b>Chairman</b>
2.	Senator Syed Yousaf Raza Gillani (Leader of the Opposition)	Member
3.	Senator Samina Mumtaz Zehri	Member
4.	Senator Azam Nazeer Tarar	Member
5.	Senator Moula Bux Chandio	Member
6.	Senator Saifullah Abro	Member
7.	Senator Rana Maqbool Ahmad	Member
8.	Senator Faisal SaleemRahman	Member
9.	Senator Shahadat Awan	Member
10.	Senator Muhammad Talha Mahmood	Member
11.	Senator Fawzia Arshad	Member
12.	Senator Syed Faisal Ali Subzwari	Member
13.	Senator Sarfraz Ahmed Bugti	Member
14.	Senator Dilawar Khan	Member
15.	Minister for Interior	Ex-Officio Member

4. The Committee considered and discussed the Bill in its meetings held on 18<sup>th</sup> August, 2021, 08<sup>th</sup> September, 2021, 30<sup>th</sup> September, 2021 and 09<sup>th</sup> December, 2021. The last meeting was attended by the following Members: -

1.	<b>Senator Mohsin Aziz</b>	<b>Chairman</b>
2.	Senator Moula Bux Chandio	Member
3.	Senator Saifullah Abro	Member
4.	Senator Samina Mumtaz Zehri	Member
5.	Senator Shahadat Awan	Member
6.	Senator Fawzia Arshad	Member
7.	Senator Syed Faisal Ali Subzwari	Member
8.	Senator Saadia Abbasi	Mover

5. Senator Saadia Abbasi, Mover, briefed the Committee that Custodial torture and deaths" is a world-wide phenomenon inflicted upon individuals irrespective of gender, religion, financial status, or health conditions. The type of violation of human rights is alarming in Pakistan where brutal atrocities are perpetuated by police and other law enforcement agencies. Pakistan needs to make torture and custodial deaths criminal offenses as an important step in stemming widespread abuse and exploitation. The existing provisions of Pakistan Penal code (PPC) stipulate penalties for certain acts of torture under related offences such as "causing hurt to extort confession or to compel restoration of property",

"wrongful confinement to extort confession or compel restoration of property", or provisions governing "criminal force and assault". However, these provisions are either vague or not comprehensive enough to be used for criminalizing torture, or custodial deaths. This amendment in the PPC provides definition for "Torture", "Custody", and "Custodial Deaths" inflicted by any person, police, or law enforcement agency. Moreover, the custodial deaths are proposed to be dealt under the offence of Qatl-i-amd (Section 300 of PPC).

6. Chairman Committee stated that the Committee has already discussed various aspects of the Bill in its meetings held on 08-09-2021 and 30-11-2021.

7. Chairman Committee informed that the District Administration ICT, Islamabad is of the view that the existing Section 300 of PPC, 1860 (Qatl-i-Amd) is appropriate and requires no amendment. A death may naturally occur during custody or accidentally or any other circumstances, every death during custody cannot indiscriminately be declared as custodial death. The Punjab Law & Parliamentary Affairs Department states that the proposed amendment is highly contradictory in nature. The amendment is against the very spirit of CCRP, 1898, PPC, 1860 and Anti-Terrorism Act, 1997. Section 176 CRPC provides a Magistrate is empowered to conduct inquiry into the cause of death of any person who dies in the custody of the police. The Ministry of Interior has also informed that a government Bill titled as "Torture and Custodial Death (Prevention and Punishment) Bill, 2021 has been presented in the National Assembly and referred to the Committee which has forwarded the same to the Ministry of Law & Justice for comments. So, we may not endorse the Bill on the same subject already sent to the Law Division.


8. The Committee discussed all aspects of the Bill. However in the light of discussion made in the Committee Senator Saadia Abbasi also expressed her willingness to withdraw the bill.

**RECOMMENDATIONS:-**

The Committee recommended that the Senate may not pass "The Pakistan Penal Code (Amendment) Bill, 2021" moved by Senator Saadia Abbasi in the Senate sitting held on 12th July, 2021 in its present form.

9. In view of the above, the Committee recommends that the Senate may not pass "The Pakistan Penal Code (Amendments) Bill, 2021" in its present form. (Copy of the Bill is enclosed).

  
( TANVIR AHMED )  
D.G. / Secretary Committee

  
( SENATOR MOHSIN AZIZ )  
Chairman  
Senate Standing Committee on Interior

**Islamabad, the**  
**09<sup>th</sup> December, 2021**

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

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*further to amend the Pakistan Penal Code, 1860*

**WHEREAS**, Pakistan has in 2008 signed, and ratified in 2010, the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishments 1984;

**AND WHEREAS** Article 2 (1) and Article 4 of the Convention requires the State party acceding to it to enact domestic legislation to establish an act of torture, cruel, inhuman and degrading punishment and treatment as a crime in the country;

**AND FURTHER WHEREAS**, Article 14(2) of the Constitution of the Islamic Republic of Pakistan provides for and guarantees the dignity of man and precludes a person from being subjected to torture for the purpose of extracting evidence;

**AND WHEREAS**, it is expedient further to amend the Pakistan Penal Code 1860, (XIV of 1860) in order to prevent the torture, and custodial killings, in Pakistan which victimize and claim the lives of hundreds of persons every year;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Pakistan Penal Code (Amendment) Act, 2021.

(2) It shall come into force at once.

2. **Amendment of section 6, XIV of 1860.**- In the Pakistan Penal Code, 1860 (XIV of 1860), hereinafter referred to as the Penal Code, in section 6,-

(i) after clause 52A, the following new clauses shall be inserted, namely:-

"52B. "Custody" includes all situations where a person is detained by the way of judicial custody or for search and proceedings of seizure and deprived of his liberty by any person including a public servant, irrespective of legality, nature and place of such detention;

52C. "Custodial death" means death of a person occurring during custody directly or indirectly caused by and substantially inflicted upon the deceased while in custody. It includes death occurring in police stations, private or medical premises, in a public place, in a police station, in any vehicle, in jail or in detention centre of any kind. It also includes death occurring while a person is being arrested, or taken into detention, or being questioned;

52D. "Torture" means an act committed by any person, including a public servant, at the instigation of, or with the acquiescence of any other person, with specific intent to inflict physical or mental pain or suffering, not incidental to lawful sanctions, upon another person within his custody, for the purpose of;

- (i) confession or obtaining information from that person; or
- (ii) punishing that person for an act he or his partner or a third person have committed or suspected to have committed; or
- (iii) intimidating or coercing that person or a third person; or
- (iv) for any other reason based on discrimination of any kind; or
- (v) harassing, molesting or causing harm whether physical or mental for any of the above purposes."

**3. Amendment of section 300, Act XLV of 1860.-** In the Penal Code, in section 300,-

- (i) after the phrases "by doing an act" , and " or with the knowledge that his act", the phrase "or torture", shall be inserted; and
- (ii) for the full stop at the end, a colon ":" shall be substituted and thereafter the following proviso shall be inserted, namely:-

"Provided that any injury or punishment or torture leading to custodial death shall be included in the definition of *qatl-e-amd*."



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### **STATEMENT OF OBJECTS AND REASON**

"Custodial torture and deaths" is a world-wide phenomenon inflicted upon individuals irrespective of gender, religion, financial status, or health conditions. This type of violation of human rights is alarming in Pakistan where brutal atrocities are perpetuated by police and other law enforcement agencies. Pakistan needs to make torture and custodial deaths criminal offenses as an important step in stemming widespread abuse and exploitation. The existing provisions of Pakistan Penal Code (PPC) stipulate penalties for certain acts of torture under related offences such as **"causing hurt to extort confession or to compel restoration of property"**, **"wrongful confinement to extort confession or compel restoration of property"**, or provisions governing **"criminal force and assault."** However, these provisions are either vague or not comprehensive enough to be used for criminalizing torture, or custodial deaths. This amendment in the PPC provides definition for "Torture", "Custody", and "Custodial Deaths" inflicted by any person, police, or law enforcement agency. Moreover, the custodial deaths are proposed to be dealt under the offence of *Qatl e amd* (Section 300 of PPC).

**SENATOR SAADIA ABBASI**  
**Member in charge**