

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

A

BILL

*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, (XLV 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, XLV of 1860.-** In the Pakistan Penal Code, 1860 (XLV 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.*"

## **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**