

[AS PASSED BY 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 further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898);

It is hereby enacted as follows: -

1. Short title and commencement. — (1) This Act shall be called the Criminal Laws (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Insertion of new section 52B, Act XLV of 1860. — In the Pakistan Penal Code, 1860 (Act XLV of 1860) hereinafter referred to as the Penal Code, after section 52A, the following new section 52B shall be inserted, namely: -

“52B. Enforced disappearance.- The term enforced disappearance relates to illegal and without lawful authority arrest, detention, abduction or any other form of deprivation of liberty by an agent of the State or by person or group of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Explanation.- There are three constitutive elements required to be present in order for an act to be classified as an enforced or involuntary disappearances and include:

- (a) an unlawful or illegal deprivation of liberty, or a deprivation of liberty that was legal but no longer is;
- (b) an act allegedly carried out by agents of the State or by person or group of persons acting with the support, authorization or acquiescence of the State; and
- (c) refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the disappeared person.”.

3. Insertion of new sections 512, 513 and 514 (Act XLV of 1860). — In the said Penal Code, after section 511, the following new sections shall be added, namely: -

“512. Forcible or involuntary disappearances.- Whoever illegally and without lawful authority commits, orders, solicits or induces the commission of attempts to commit, is an accomplice to or participation in the forcible or involuntary disappearances of a person or group of persons is said to cause forcible or involuntary disappearances of that person.

513. Punishment for forcible or involuntary disappearances.- Whoever illegally and without lawful authority causes forcible or involuntary disappearance of any person from Pakistan or within Pakistan shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to a fine.

514. That allegation or complaint in respect of Enforced Disappearance etc.- Whoever files a complaint or gives information that proves to be false he or another person has been subjected to Enforced, Forcible or Involuntary Disappearance, or an attempt has been made in this regard, he shall be guilty of an offence punishable up to five years imprisonment and fine up to Rupees One hundred thousand.”.

4. Amendment of Schedule II, Act V of 1898. — In the Code of Criminal Procedure, 1898 (Act V of 1898), in Schedule II, after section 511, in column 1 and the corresponding entries relating thereto in columns 2 to 8, the following shall be added, namely: -

512	Forcible or involuntary disappearance	May arrest without warrant	Ditto	Not bailable	Not compoundable	Imprisonment of either description for a term which may extend to ten years and fine	Court of Session
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STATEMENT OF OBJECTS AND REASONS

It is the rule of law, specifically adherence to Rule of Law that is the hallmark of any democratic society. The practice of enforced disappearances is a particularly heinous crime not only because it removes human rights from the protection of the law but also due to the inherent cruelty inflicted upon families as a consequence of denial of information concerning the disappeared person. Enforced disappearance is specifically against the Constitution and international commitments made by Pakistan through ratification of the ICCPR.

Additionally, the United Nations General Assembly, in its resolutions 477/133 of 18th December, 1992 has emphasized that enforced disappearances undermine the "deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms."

The objects of this bill is to criminalize the heinous crime of enforced disappearance with impunity that surrounds the practice of enforced disappearances and bring the perpetrators of these crimes to justice so as to provide closure to the families who are in immense pain owing to the fact that the fate and whereabouts of their loved ones are still unknown.

In order to carry out the mandate of the law, the draft bill has been prepared to achieve the above said objects.

(Sheikh Rashid Ahmed)
Minister for Interior