



# THE PAKISTAN PENAL CODE,1860

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**Of Hijacking**

- 402 A Hijacking.  
402 B Punishment for hijacking.  
402 C Punishment for harbouring, hijacker, etc.  
402 D Provincial Government not to interfere in sentences of rape.

**Of Criminal Misappropriation of Property**

- 403 Dishonest misappropriation of property.

404 Dishonest misappropriation of property possessed by deceased person at the time of his death.

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405 Criminal breach of trust.

406 Punishment for criminal breach of trust.

407 Criminal breach of trust by carrier, etc.

408 Criminal breach of trust by clerk or servant.

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#### **Of the Receiving of Stolen Property**

410 Stolen property.

411 Dishonestly receiving stolen property.

412 Dishonestly receiving property stolen in the commission of a decoity.

413 Habitually dealing in stolen property.

414 Assisting in concealment of stolen property.

#### **Of Cheating**

415 Cheating.

416 Cheating by personation.

417 Punishment for cheating.

418 Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

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420 Cheating and dishonestly inducing delivery of property.

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423 Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.

424 Dishonest or fraudulent removal or concealment of property.

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425 Mischief.

426 Punishment for mischief.

427 Mischief causing damage to the amount of fifty rupees.

428 Mischief by killing or maiming animal of the value of ten rupees.

429 Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.

430 Mischief by injury to works of irrigation or by wrongfully diverting water.

431 Mischief by injury to public road, bridge, river, or channel.

432 Mischief by causing inundation or obstruction to public drainage attended with damage.

433 Mischief by destroying, moving or rendering less useful a light-house or sea-mark.

434 Mischief by destroying or moving etc., a land-mark fixed by public authority.

435 Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.

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- 442 House-trespass.
- 443 Lurking house-trespass.
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- 453 Punishment for lurking house-trespass or house breaking.
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- 455 Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
- 456 Punishment for lurking house-trespass or house-breaking by night.
- 457 Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
- 458 Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.
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- 475 Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.
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- 477 Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
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# THE PAKISTAN PENAL CODE

<sup>1</sup>Act No. XLV of 1860

[6th October, 1860]

## CHAPTER 1

### INTRODUCTION

**Preamble.** WHEREAS it is expedient to provide a general Penal Code for <sup>2</sup>[Pakistan] ; It is enacted as follows :—

**1. Title and extent of operation of the Code.** This Act shall be called the <sup>3</sup>[Pakistan] Penal Code, and shall take effect <sup>4</sup>\* \* \* throughout <sup>5</sup>[Pakistan].

**2. Punishment of offences committed within Pakistan.** Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within <sup>6</sup>[Pakistan] <sup>7</sup>\* \* \*.

**3. Punishment of offences committed beyond, but which by law may be tried within, Pakistan.** Any persons liable, by any <sup>8</sup>[Pakistan Law], to be tried for an offence committed beyond <sup>9</sup>[Pakistan] shall be dealt with according to the provision of this Code for any act committed beyond <sup>10</sup>[Pakistan] in the same manner as if such act had been committed within <sup>10</sup>[Pakistan].

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<sup>1</sup>The Pakistan Penal Code has been declared in force in"

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications ; see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and also extended to the Excluded Area of Upper Tanawal other than Phulera by the N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area. w.e.f. 1st June, 1951, see N.W.F.P. Gazette, Ext., dated 1-6-1951.

It has been amended in its application to the N.W.F.P., see N.W.F.P. Acts 3 of 1941 and 26 of 1950.

It has also been extended to the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950); and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

It has also been extended by notification under Article 7 (1) (a) of the N.W.F.P. (Enlargement of the Area and Alteration of Boundary) Order, 1952 (G. G. O. 1 of 1952), to the added area described in the First Schedule to that Order, w.e.f. 7th February, 1952, see N.W.F.P. Government Gazette, 1952, Pt. I, p. 70.

It has also been amended in its application to the Province of West Pakistan by the Pakistan Penal Code (West Pakistan Amdt.) Act, 1963 (W.P. Act 6 of 1963), s. 2 (w.e.f. the 18th April, 1963).

It has also been amended in its application to the Province of West Pakistan by the Pakistan Penal Code (West Pakistan Amdt.) Act, 1964 (W.P. Act 32 of 1964), s. 2 (w.e.f. 27-4-1964).

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3(2) and 4, for "British India" .

<sup>3</sup>Subs. by A. O., 1949, Sch., for "Indian" .

<sup>4</sup>The words and figures "on and from the first day of May, 1861," rep. by the Amending Act, 1891 (12 of 1891).

<sup>5</sup>Certain words and figures which were previously amended by A. O., 1937, and A. O., 1949, Arts. 3(2) and 4, have now been subs. by Ord. 21 of 1960, s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), to read as above.

<sup>6</sup>The original words "the said territories" which were previously amended by A. O., 1937, and A. O., 1949, Arts. 3(2) and 4, have now been subs. by Ord. 21 of 1960, s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), to read as above.

<sup>7</sup>The words and figures "on or after the said first day of May, 1861" rep. by Act 12 of 1891.

<sup>8</sup>The original words "Law passed by the G.G. of India in C." have successively been amended by A. O., 1937 and A. O., 1949, Sch., to read as above.

<sup>9</sup>The original words "the limits of the said territories" have successively been amended by A. O., 1937, Sch., A. O., 1949, and the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch., (w.e.f. 14th October, 1955), to read as above.

<sup>10</sup>The original words "the said territories" previously amended by A. O., 1937 and A. O., 1949, Arts. 3(2) and 4, have now been subs. by Ord. 21 of 1960, s. 3 and 2nd Sch., (w.e.f. 14th October, 1955), to read as above.

<sup>1</sup>[4. **Extension of Code to extra-territorial offences.** The provisions of this Code apply also to any offence committed by—

<sup>2</sup>[(1) any citizen of Pakistan or any person in the service of Pakistan in any place without and beyond Pakistan ;];

<sup>3</sup>\* \* \* \* \*

<sup>4</sup>\* \* \* \* \*

<sup>5</sup>[(4) any person on any ship or aircraft registered <sup>6</sup>[Pakistan] wherever it may be.].

*Explanation.* In this section the word " offence" includes every act committed outside <sup>6</sup>[Pakistan] which, if committed in <sup>6</sup>[Pakistan], would be punishable under this Code.

### *Illustrations*

(a) A <sup>7</sup>[a Pakistan subject], commits a murder in Uganda. He can be tried and convicted of murder in any place in <sup>8</sup>[Pakistan] in which he may be found.

<sup>9</sup>\* \* \* \* \*

<sup>10</sup>[(c) C, a foreigner who is in the service of Pakistan commits a murder in London. He can be tried and convicted of murder at any place in Pakistan in which he may be found.]

(d) D, a British subject living in <sup>11</sup>[Junagadh], instigates E to commit a murder in <sup>12</sup>[Lahore]. D is guilty of abetting murder.]

<sup>13</sup>[5. **Certain laws not to be affected by this Act.** Nothing in this Act is intended to repeal, vary, suspend or affect any of the provisions of any Act for punishing mutiny and desertion of officers, soldiers. sailors or airmen in the service of the State or of any special or local law.].

## CHAPTER II GENERAL EXPLANATIONS

<sup>1</sup>Subs. by the Indian Penal Code Amdt. Act, 1898 (4 of 1898), s. 2, for the original section 4.

<sup>2</sup>Clause (1) which was amended by A. O., 1949, Ord. 21 of 1960 and A.O., 1961, have been subs. by Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., to read as above.

<sup>3</sup>Clause (2) as amended by A. O., 1949 Sch., has been omitted by A. O., 1961, Art. 2 and Sch., (w.e.f. 23rd March, 1956).

<sup>4</sup>Clause (3) as amended by A. O., 1949 and A. O., 1961, have been omitted by Ord. 27 of 1981, s. 3 and II Sch.

<sup>5</sup>Clause (4) ins. by the Offences on Ships and Aircraft Act, 1940 (4 of 1940), s. 2.

<sup>6</sup>Subs. by Ord. 21 of 1960, s. 3 and 2nd Sch., (w.e.f. 14-10-1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3(2) and 4, for "British India".

<sup>7</sup>Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., for "a coolie, who is a Native Indian subject".

<sup>8</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch., (w.e.f. the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3(2) and 4, for "British India".

<sup>9</sup>Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II. Sch.

<sup>10</sup>Illustration (c) which was amended by Ord. 21 of 1960 and Act 26 of 1951 have been subs. *ibid*.

<sup>11</sup>Subs. by Ord. 21 of 1960, s. 3 and 2nd Sch., (w.e.f. 14th October, 1955), for "Bahawalpur" which had been subs. by Act 26 of 1951, s. 4 and III Sch., for "Indore".

<sup>12</sup>Subs. by Act 26 of 1951, s. 4 and III Sch., for "Bombay".

<sup>13</sup>Section 5 as amended by Act 14 of 1870, Act 10 of 1927, s. 2 and Sch. I, Act 35 of 1934, s. 2 and Sch., A. O., 1937, A. O., 1949, Arts. 3 and 4, Ord. 21 of 1960, s. 3 and 2nd Sch., and A. O., 1961, have been subs. by Ordinance 27 of 1981, s. 3 and II Sch., to read as above.

**6. Definitions in the Code to be understood subject to exceptions.** Throughout this Code every definition of an offence, every penal provision and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled “General Exceptions,” though those exceptions are not repeated in such definition, penal provision or illustration.

### *Illustrations*

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences ; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police officer, without warrant, apprehends Z who has committed murder. Here A is not guilty of the offence of wrongful confinement ; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that “nothing is an offence which is done by a person who is bound by law to do it”.

**7. Sense of expression once explained.** Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

**8. Gender.** The pronoun “he” and its derivatives are used of any person, whether male or female.

**9. Number.** Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

**10. “Man” “Woman”.** The word “man” denotes a male human being of any age : the word “woman” denotes a female human being of any age.

**11. “Person”.** The word “person” includes any Company or Association, or body of persons, whether incorporated or not.

**12. “Public”.** The word “public” includes any class of the public or any community.

**13.** [*Definition of “Queen”.*] Omitted by A.O., 1961, Art. 2 and Sch. (w.e.f. the 23rd March, 1956).

<sup>1</sup>[**14. “Servant of the State”.** The words “servant of the State” denote all officers or servants continued, appointed or employed in Pakistan, by or under the authority of the <sup>2</sup>[Federal Government] or any Provincial Government.]

**15.** [*Definition of “British India”.*] Rep. by A. O., 1937.

**16.** [*Definition of “Government of India”.*] Rep. by A.O., 1937.

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<sup>1</sup>The original section 14 has successively been amended by A.O., 1937, A. O., 1949, Sch., and A. O., 1961, Art. 2 and Sch., (w.e.f. 23rd March, 1956), to read as above.

<sup>2</sup>Subs. by the Federal Adaptation of Laws Order, 1975 (P. O. No.4 of 1975), Art. 2 and Table, for “Central Government”.

**17. “Government”.** The word “Government” denotes the person or persons authorized by law to administer executive Government in <sup>1</sup>[Pakistan, or in any part thereof].

**18.** [*Definition of “Presidency”.*] *Rep. by A. O., 1937.*

**19. “Judge”.** The word “Judge” denotes not only every person who is officially designated as a Judge, but also every person,—

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of person is empowered by law to give such a judgment.

### *Illustrations*

2\* \* \* \* \*

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge.

3\* \* \* \* \*

2\* \* \* \* \*

**20. “Court of Justice”.** The words “Court of Justice” denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

4\* \* \* \* \*

**21. “Public servant”.** The words “public servant” denote a person falling under any of the descriptions hereinafter following, namely:—

5\* \* \* \* \*

*Second.*— Every Commissioned Officer in the Military <sup>6</sup>[Naval or Air] Forces of <sup>7</sup>[Pakistan] while serving under <sup>8</sup>[the <sup>9</sup>[Federal Government] or any Provincial Government];

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<sup>1</sup>The original words “any part of British India” have successively been amended by A. O., 1949, Sch., and the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), to read as above.

<sup>2</sup>Illustrations (a) and (d) omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch.

<sup>3</sup>Illustration (c) rep. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and II Sch.

<sup>4</sup>The original illustration which was previously subs. by Act 26 of 1951 s. 4 and III Sch., has been omitted by A. O., 1961, Art. 2, and Sch., (w.e.f. 23rd March, 1956).

<sup>5</sup>Clause First which was amended by A. O., 1961, have been omitted by Ordinance 27 of 1981, s. 3 and II Sch.

<sup>6</sup>Subs. by the, Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for “or Naval”.

<sup>7</sup>Subs. by A. O., 1961, Art. 2 and Sch., for “the Queen” (w.e.f. 23rd March, 1956).

<sup>8</sup>Subs. by A.O., 1949, Sch., for “any Govt. in British India or the Crown Representative”.

<sup>9</sup>See foot-note 2, on page 81, supra.

*Third.*— Every Judge ;

*Fourth.*—Every officers of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court ; and every person specially authorized by a Court of Justice to perform any of such duties ;

*Fifth.*—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant ;

*Sixth.*—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

*Seventh.*—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

*Eighth.*—Every officer of <sup>1</sup>[the Government] whose duty it is, as such officer to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

*Ninth.*—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of <sup>1</sup>[the Government], or to make any survey, assessment or contract on behalf of <sup>1</sup>[the Government], or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of <sup>1</sup>[the Government], or to make, authenticate or keep any document relating to the pecuniary interests of <sup>1</sup>[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of <sup>1</sup>[the Government], and every officer in the service or pay of <sup>1</sup>[the Government] or remunerated by fees or commission for the performance of any public duty ;

*Tenth.*—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any surveyor assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district ;

<sup>2</sup>[*Eleventh.*—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.]

### ***Illustration***

A Municipal Commissioner is a public servant.

*Explanation 1.*—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

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<sup>1</sup>The original word "Government" has successively been amended by A. O., 1937 and A. O., 1961, Art. 2 (w.e.f 23rd March, 1956), to read as above.

<sup>2</sup>Ins. by the Elections Offences and Inquiries Act, 1920 (39 of 1920), section 2.

*Explanation 2.*-Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

<sup>1</sup>[*Explanation 3.*-The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

**22. “Moveable property”.** The words “Moveable property” are intended to include corporeal property of every description, except land and thing attached to the earth or permanently fastened to anything which is attached to the earth.

**23. “Wrongful gain”.** “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled.

**“Wrongful loss”.** “Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

**Gaining wrongfully. Losing wrongfully.** A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

**24. “Dishonestly”.** Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing “dishonestly”.

**25. “Fraudulently”.** A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

**26. “Reason to believe”.** A person is said to have “reason to believe” a thing if he has sufficient cause to believe that thing but not otherwise.

**27. Property in possession of wife, clerk or servant.** When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code.

*Explanation.*-A person employed temporarily or on a particular occasion in the capacity of a clerk, or servant, is a clerk or servant within the meaning of this section.

**28. “Counterfeit”.** A person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practiced.

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<sup>1</sup>Ins. by the Elections Offences and Inquiries Act, 1920 (39 of 1920), section 2.

<sup>1</sup>[*Explanation 1.*-It is not essential to counterfeiting that the imitation should be exact.

*Explanation. 2.*-When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practice deception or knew it to be likely that deception would thereby be practiced.]

**29. “Document”.** The word “document” denotes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

*Explanation 1.*-It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

### ***Illustrations***

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A Power-of-Attorney is a document.

A map or plan which is intended to be used or which may be used as evidence is a document.

A writing containing directions or instructions is a document.

*Explanation 2.*-Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

### ***Illustration***

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature.

**30. “Valuable security”.** The words “valuable security” denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

### ***Illustration***

"A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a “valuable security”.

**31. “A will”.** The words “a will” denote any testamentary document.

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<sup>1</sup>*Subs. by the Metal Tokens Act, 1889 (1 of 1889), s.9., for the original Explanations.*

**32. Words referring to acts include illegal omissions.** In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

**33. “Act.” “Omission”.** The word “act” denotes as well a series of acts as a single act : the word “omission” denotes as well a series of omission as a single omission.

<sup>1</sup>**[34. Acts done by several persons in furtherance of common intention.** When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.]

**35. When such an act is criminal by reason of its being done with a criminal knowledge of intention.** Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

**36. Effect caused partly by act and partly by omission.** Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

#### *Illustration*

A intentionally causes Z’s death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

**37. Co-operation by doing one of several acts constituting an offence.** When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

#### *Illustrations*

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of Poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such, have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

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<sup>1</sup>Subs. by the Indian Penal Code Amdt. Act, 1870 (27 of 1870), s. 1, for the original section.

(c) A, a jailor, has the charge of Z, a prisoner. A intending to cause Z's death, illegally omits to supply Z with food ; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

**38. Persons concerned in criminal act may be guilty of different offences.** Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

#### *Illustration*

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

**39. "Voluntarily".** A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

#### *Illustration*

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act : yet, if he knew that he was likely to cause death, he has caused death voluntarily.

<sup>1</sup>[**40. "Offence."** Except in the <sup>2</sup>[chapters] and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code.

In Chapter IV, <sup>3</sup>[Chapter VA] and in the following sections, namely, sections <sup>4</sup>[64,] <sup>4</sup>[65,] <sup>4</sup>[66,] <sup>5</sup>[67,] <sup>4</sup>[71,] 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389, and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.]

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<sup>1</sup>Subs. by the Indian Penal Code Amdt. Act, 1870 (27 of 1870), s. 2, for the original section 40.

<sup>2</sup>Subs. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for "chapter".

<sup>3</sup>Ins. by the Indian Criminal Law Amdt. Act, 1913 (8 of 1913), s. 2.

<sup>4</sup>Ins. by the Indian Penal Code Amdt. Act, 1882 (8 of 1882), s. 1.

<sup>5</sup>Ins. by the Indian Criminal Law Amdt. Act, 1886 (10 of 1886), section 21(l).

**41. “Special law”** A “special law” is a law applicable to a particular subject.

**42. “Local Law”.** A “local law” is a law applicable only to a particular part of <sup>1</sup>[the territories comprised in <sup>2</sup>[Pakistan]].

**43. “Illegal.” “Legally bound, to do.”** The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action : and a person is said to be “legally bound to do” whatever it is illegal in him to omit.

**44. “Injury.”** The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

**45. “Life.”** The word “life” denotes the life of a human being, unless the contrary appears from the context.

**46. “Death.”** The word “death” denotes the death of a human being, unless the contrary appears from the context.

**47. “Animal.”** The word “animal” denotes any living creature, other than a human being.

**48. “Vessel.”** The word “vessel” denotes anything made for the conveyance by water of human beings or of property.

**49. “Year.” “Month.”** Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

**50. “Section.”** The word “section” denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.

**51. “Oath.”** The word “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.

**52. “Good faith.”** Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.

<sup>3</sup>[**52A. “Harbour.”** Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word “harbour” includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]

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<sup>1</sup>Subs. by A. O., 1949, Sch., for “British India”.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch., for “the Provinces” (w.e.f. 14th October, 1955).

<sup>3</sup>Ins. by the Indian Penal Code Amdt. Act, 1942 (8 of 1942), s. 2.

## CHAPTER III OF PUNISHMENTS

<sup>1</sup>[**53. Punishments.**— The punishments to which offenders are liable under the provisions of this Code are,—

Firstly, *Qisas* ;  
Secondly, *Diyat* ;  
Thirdly, *Arsh* ;  
Fourthly, *Daman* ;  
Fifthly, *Ta'zir* ;  
Sixthly, Death ;  
Seventhly, Imprisonment for life;  
Eighthly, Imprisonment which is of two descriptions, namely:—  
(i) Rigorous *i.e.*, with hard labour;  
(ii) Simple;  
Ninthly, Forfeiture of property;  
Tenthly, Fine.]

**54. Commutation of sentence of death.** In every case in which sentence of death shall have been passed, <sup>2</sup>[the <sup>3</sup>[Federal Government] or the Provincial Government of the Province] within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code [:]<sup>1</sup>

<sup>1</sup>[Provided that, in a case in which sentence of death shall have been passed against an offender convicted for an offence of *qatl*, such sentence shall not be commuted without the consent of the heirs of the victim.].

**55. Commutation of sentence or imprisonment for life.** In every case in which sentence of <sup>4</sup>[imprisonment] for life shall have been passed, <sup>2</sup>[the Provincial Government of the Province] within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years [:]<sup>1</sup>

<sup>1</sup>[Provided that, in a case in which sentence of imprisonment for life shall have been passed against an offender convicted for an offence punishable under Chapter XVI, such punishment shall not be commuted without the consent of the victim or, as the case may be, of his heirs.].

<sup>6</sup>[**55A. Saving for <sup>5</sup>[President] prerogative.** Nothing in section fifty-four or section fifty-five shall derogate from the right of <sup>7</sup>[the President] to grant pardons, reprieves, respites or remissions of punishment [:]

<sup>1</sup>[Provided that such right shall not, without the consent of the victim or, as the case may be, of the heirs of the victim, be exercised for any sentence awarded under Chapter XVI.].

**56.** [*Sentence of Europeans and Americans to penal servitude.*] *Rep. by the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (II of 1950), Schedule.*

**57. Fractions of terms of punishment.** In calculating fractions of terms of punishment, <sup>3</sup>[imprisonment for life] shall be reckoned as equivalent to <sup>3</sup>[imprisonment] for <sup>4</sup>[twenty-five years.]

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<sup>1</sup>Subs. by the criminal Law (Amdt.) Act, 1997 (II of 1997), s. 2, for "section 53".

<sup>2</sup>Subs. by A.O., 1937, for "the G. of I. or the Government of the place",

<sup>3</sup>Subs. by the Federal Adoption of Laws Order, 1975, (P.O. No. 4 of 1975), Art. 2 and Table, for "Central Government".

<sup>4</sup>Subs. by Ord. 12 of 1972, s. 2 and Sch., for "transportation".

<sup>5</sup>Subs. by A. O., 1961, Art. 2 and Sch., for "Royal" (w.e.f. 14<sup>th</sup> October, 1955).

<sup>6</sup>Ins. by A. O., 1937, cf. s. 295 of the G. of I. Act, 1935 (26 Geo. 5, ch. 2).

<sup>7</sup>Subs. by A.O., 1961, Art. 2 and Sch., for "His Majesty", or of the Governor-General if any such right is delegated to him by His Majesty" (w.e.f. 23<sup>rd</sup> March, 1956).

**58.** [*Offenders sentenced to transportation how dealt with until, transported.*] Omitted by the Law Reforms Ordinance, 1972 (XII of 1972), s. 2 and Sch.

**59.** [*Transportation instead of imprisonment.*] Omitted by the Law Reforms Ordinance, 1972 (XII of 1972), s. 2 and Sch.

**60. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.** In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

**61.** [*Sentence of forfeiture of property.*] Rep. by the India Penal Code (Amdt.) Act, 1921 (XVI of 1921), s. 4.

**62.** [*Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment.*] Rep. by the Indian Penal Code (Amdt.) Act, 1921 (XVI of 1921), s. 4.

**63. Amount of fine.** Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

**64. Sentence of imprisonment for non-payment of fine.** <sup>1</sup>[In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable <sup>2</sup>[with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine,]

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

**65. Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.** The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

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<sup>1</sup>Subs. by the Indian Penal Code Amdt. Act, 1882 (8 of 1882), s. 2, for "in every case in which an offender is sentenced to a fine".

<sup>2</sup>Ins. by the Indian Criminal Law Amdt. Act, 1886 (10 of 1886), s. 21(2).

**66. Description of imprisonment for non-payment of fine.** The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

**67. Imprisonment for non-payment of fine, when offence punishable with fine only.** If the offence be punishable with fine only, <sup>1</sup>[the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

**68. Imprisonment to terminate on payment of fine.** The imprisonment which is imposed in default of payment of a fine shall terminate whenever that time is either paid or levied by process of law.

**69. Termination of imprisonment on payment of proportional part of fine.** If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

### *Illustration*

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonments, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration to those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

**70. Fine leviable within six years, or during imprisonment. Death not to discharge property from liability.** The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period ; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

**71. Limit of punishment of offence made up of several offences.** Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

<sup>2</sup>[Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

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<sup>1</sup>Ins. by the Indian Penal Code Amdt. Act, 1882 (8 of 1882), s. 3

<sup>2</sup>Added *ibid*, s. 4.

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for anyone of such offences.]

### *Illustrations*

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

**72. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.** In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

**73. Solitary confinement.** Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say-

a time not exceeding one month if the term of imprisonment shall not exceed six months :

a time not exceeding two months if the term of imprisonment shall exceed six months and<sup>1</sup>[shall not exceed one] year :

a time not exceeding three months if the term of imprisonment shall exceed one year.

**74. Limit of solitary confinement.** In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the period of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

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<sup>1</sup>Subs. by the Indian Penal Code Amdt. Act, 1882 (8 of 1882), s. 5, for "be less than a".

**75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.** <sup>1</sup>[Whoever, having been convicted,—

(a) by a Court in <sup>2</sup>[Pakistan] of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, or

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shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to <sup>4</sup>[imprisonment for life], or to imprisonment of either description for a term which may extend to ten years.]

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## CHAPTER IV

### GENERAL EXCEPTIONS

**76. Act done by a person bound, or by mistake of fact believing himself bound, by law.** Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

#### *Illustrations*

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

**77. Act of Judge when acting judicially.** Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

**78. Act done pursuant to the judgment or order of Court.** Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

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<sup>1</sup>Subs. by the Indian Penal Code Amdt. Act, 1910 (3 of 1910), for the original section.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Articles, 3(2) and 4, for "British India".

<sup>3</sup>Clause (b) as amended by A. O., 1937, A. O., 1949, Ord. 21 of 1960, A.O., 1961 and F.A.O. 1975, have been omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch.

<sup>4</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

**79. Act done by a person justified, or by mistake of fact believing himself justified, by law.** Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

***Illustration***

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment, exerted in good faith of the power which the law gives to all persons of apprehending murders in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

**80. Accident in doing a lawful act.** Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

***Illustration***

A is at work with a hatchet ; the head flies off and kills a man who is standing by. Here if there was no want of proper caution on the part of A, his act is excusable and not an offence.

**81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.** Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

*Explanation.*-It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

***Illustrations***

- (a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.
- (b) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

**82. Act of child under seven years of age.** Nothing is an offence which is done by a child under <sup>1</sup>[ten] years of age.

**83. Act of a child above seven and under twelve of immature understanding.** Nothing is an offence which is done by a child above <sup>1</sup>[ten] years of age and under <sup>1</sup>[fourteen], who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

**84. Act of a person of unsound mind.** Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

**85. Act of a person incapable of judgment by reason of intoxication caused against his will.** Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

**86. Offence requiring a particular intent or knowledge committed by one who is intoxicated.** In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

**87. Act not intended and not known to be likely to cause death or grievous hurt, done. by consent.** Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death, or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm ; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

#### *Illustration*

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

**88. Act not intended to cause death, done by consent in good faith for person's benefit.** Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

#### *Illustration*

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under the painful complaint, but not intending to cause Z's death, and intending, in good faith Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

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<sup>1</sup>Subs. by Act X of 2016, ss. 2-3.

**89. Act done in good faith for benefit of child or insane person, by or by consent of guardian.** Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person :

**Provisos.** Provided—

*First.*-That this exception shall not extend to the intentional causing of death, or to the attempting to cause death ;

*Secondly.*-That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt ; or the curing of any grievous disease or infirmity ;

*Thirdly.*-That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity ;

*Fourthly.*-That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

#### ***Illustration***

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

**90. Consent known to be given under fear or misconception.** A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception ; or

**Consent of insane person.** if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or

**Consent of child.** unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

**91. Exclusion of acts which are offences independently of harm caused.** The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

### *Illustration*

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence “by reason of such harm” , and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

**92. Act done in good faith for benefit of a person without consent.** Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit :

**Proviso.** Provided—

*First.*— That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

*Secondly.*- That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity ;

*Thirdly.*-That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt ;

*Fourthly.*-That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

### *Illustrations*

- (a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A not intending Z's death but in good faith for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.
- (b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.
- (c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending in good faith, the child's benefit. A has committed no offence.
- (d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here even if the child is killed by the fall, A has committed no offence.

*Explanation.*-Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

**93. Communication made in good faith.** No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

#### *Illustration*

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

**94. Act to which a person is compelled by threats.** Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence : Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

*Explanation 1.*— A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

*Explanation 2.*-A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law ; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

**95. Act causing slight harm.** Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

#### *Of the Right of Private Defence*

**96. Things done in private defence.** Nothing is an offence which is done in the exercise of the right of private defence.

**97. Right of private defence of the body and of property.** Every person has a right, subject to the restrictions contained in section 99, to defend—

*First.*— His own body, and the body of any other person, against any offence affecting the human body ;

*Secondly.*— The property, whether moveable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

**98. Right of private defence against the act of a person of unsound mind, etc.** When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

#### *Illustrations*

- (a) Z, under the influence of madness, attempts to kill A ; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.
- (b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

**99. Acts against which there is no right of private defence.** There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

**Extent to which the right may be exercised.** The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

*Explanation 1.*-A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

*Explanation 2.*-A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

**100. When the right of private defence of the body extends to causing death.** The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :-

*First.*—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault ;

*Secondly.*—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault ;

*Thirdly.*—An assault with the intention of committing rape ;

*Fourthly.*—An assault with the intention of gratifying unnatural lust ;

*Fifthly.*—An assault with the intention of kidnapping or abducting ;

*Sixthly.*—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

**101. When such right extends to causing any harm other than death.** If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99 to the voluntary causing to the assailant of any harm other than death.

**102. Commencement and continuance of the right of private defence of the body.** The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed ; and it continues as long as such, apprehension of danger to the body continues.

**103. When the right of private defence of property extends to causing death.** The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

*First.*—Robbery ;

*Secondly.*—House-breaking by night ;

*Thirdly.*—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place for the custody of property ;

*Fourthly.*—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

**104. When such right extends to causing any harm other than death.** If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

**105. Commencement and continuance of the right of private defence of property.** The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

**106. Right of private defence against deadly assault when there is risk of harm to innocent person.** If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

#### *Illustration*

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

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## CHAPTER V

### OF ABETMENT

**107. Abetment of a thing.** A person abets the doing of a thing, who—

*First.*—Instigates any person to do that thing ; or,

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*Secondly.*-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing ; or

*Thirdly.*-Intentionally aids, by any act or illegal omission, the doing of that thing.

*Explanation 1.*-A person who, by willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

#### ***Illustration***

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, willfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

*Explanation 2.*-Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof is said to aid the doing of that act.

**108. Abettor.** A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

*Explanation 1.*-The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

*Explanation 2.*-To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

#### ***Illustrations***

(a) A instigates B to murder C, B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

*Explanation 3.*-It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor or any guilty intention or knowledge.

#### ***Illustrations***

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

- (b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby, causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.
- (c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to dwelling-house, and is liable to the punishment provided for that offence.
- (d) A intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

*Explanation 4.*-The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

#### ***Illustration***

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder ; and, as A instigated B to commit the offence, A is also liable to the same punishment.

*Explanation 5.*-It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

#### ***Illustration***

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison ; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

<sup>1</sup>[108.A. Abetment in Pakistan of offences outside it. A person abets an offence within the meaning of this Code who, in <sup>2</sup>[Pakistan], abets the commission of any act without and beyond <sup>2</sup>[Pakistan] which would constitute an offence committed in <sup>2</sup>[Pakistan].

### *Illustration*

A, in <sup>2</sup>[Pakistan], instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.]

**109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.** Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence[:]<sup>3</sup>

<sup>4</sup>[Provided that, except in case of *Ikrah-i-Tam* the abettor of an offence referred to in Chapter XVI shall be liable to punishment of *ta'zir* specified for such offence including death.]

*Explanation.*-An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

### *Illustrations*

- (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.
- (b) A instigates B to give false evidence. B, in consequence of the instigation commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.
- (c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

**110. Punishment of abetment if person abetted does act with different intention from that of abettor.** Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

**111. Liability of abettor when one act abetted and different act done.** When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it :

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<sup>1</sup>This Section was added by the Indian Penal Code Amdt. Act, 1898 (4 of 1898), s. 3.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India".

<sup>3</sup>Subs. by the criminal law (Amdt.), Act, 1997 (II of 1997), s. 6 for "full-stop".

<sup>4</sup>Proviso added *ibid*.

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

### *Illustration*

- (a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.
- (b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft ; for the theft was a distinct act, and not a probable consequence of the burning.
- (c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

**112. Abettor when liable to cumulative punishment for act abetted and for act done.** If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

### *Illustration*

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences ; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences.

**113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.** When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

### *Illustration*

A instigates B to cause grievous hurt to Z, B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death. A is liable to be punished with the punishment provided for murder.

**114. Abettor present when offence is committed.** Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

**115. Abetment of offence punishable with death or imprisonment for life if offence not committed;** Whoever abets the commission of an offence punishable with death or <sup>1</sup>[imprisonment for life], shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

**if act causing harm be done in consequence.** and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

### *Illustration*

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or imprisonment for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine ; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

**116. Abetment of offence punishable with imprisonment— if offence be not committed;** Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence ; or with such fine as is provided for that offence, or with both ;

**if abettor or person abetted be a public servant whose duty it is to prevent offence.** and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

### *Illustrations*

- (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.
- (b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

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<sup>1</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972),s.2 and Sch., for "transportation for life".

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

**117. Abetting commission of offence by the public or by more than ten persons.** Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### *Illustration*

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

**118. Concealing design to commit offence punishable with death or imprisonment for life.** Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or <sup>1</sup>[imprisonment for life],

**if offence be committed;** voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

**if offence be not committed;** shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years ; and in either case shall also be liable to fine.

#### **Illustration**

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

**119. Public servant concealing design to commit offence which it is his duty to prevent.** Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

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<sup>1</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972),s.2 and Sch., for "transportation for life".

**If offence be committed ;** shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both ;

**if offence be punishable with death, etc. ;** or if the offence be punishable with death or <sup>2</sup>[imprisonment for life], with imprisonment of either description for a term which may extend to ten years ;

**if offence be not committed.** or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

### *Illustration*

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

**120. Concealing design to commit offence punishable with imprisonment.** Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

**if offence be committed ;** voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

**if offence be not committed ;** shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

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## <sup>1</sup>[CHAPTER VA

### CRIMINAL CONSPIRACY

**120A. Definition of criminal conspiracy.** When two or more persons agree to do, or cause to be done, —

(1) an illegal act, or

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<sup>1</sup>Ch. VA ins. by the Indian Criminal Law Amdt. Act, 1913 (8 of 1913), s. 3.

<sup>2</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s.2 and Sch., for "transportation for life".

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

*Explanation.*-It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

**120B. — Punishment of criminal conspiracy.**—(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, <sup>7</sup>[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

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## CHAPTER VI

### OF OFFENCES AGAINST THE STATE

**121. Waging or attempting to wage war or abetting waging of war against Pakistan.** Whoever wages war against <sup>1</sup>[Pakistan], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or <sup>2</sup>[imprisonment for life], <sup>3</sup>[and shall also be liable to fine].

#### <sup>4</sup>[Illustration]

<sup>5</sup>\* A joins an insurrection against <sup>1</sup>[Pakistan]. A has committed the offence defined in this section.

<sup>6</sup>\* \* \* \* \*

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<sup>1</sup>Subs. by A. O., 1961, Art. 2 and Sch., for "the Queen" (w.e.f. 23<sup>rd</sup> March, 1956).

<sup>2</sup> See foot-note 4 on page 93, supra.

<sup>3</sup>Subs. by the Indian Penal Code (Amdt.) Act, 1921 (16 of 1921), s. 2, for "and shall forfeit all his property".

<sup>4</sup>Subs. by A. O., 1961, Art. 2 and Sch., for "Illustrations" (w.e.f. 23<sup>rd</sup> March, 1956).

<sup>5</sup>The brackets and letter "(a)" omitted *ibid.* (w.e.f. the 23<sup>rd</sup> March, 1956).

<sup>6</sup>Illustration (b) as amended by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., omitted by A. O., 1961, Art. 2 and Sch. (w.e.f. the 23<sup>rd</sup> March, 1956).

<sup>7</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s.2 and Sch., for "transportation for life".

<sup>1</sup>[**121A. Conspiracy to commit offences punishable by section 121.** Whoever within or without <sup>2</sup>[Pakistan] conspires to commit any of the offences punishable by section 121, or to deprive <sup>3</sup>[Pakistan of the sovereignty of her territories] <sup>4</sup>\* \* \* or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, <sup>5</sup>[the <sup>6</sup>[Federal Government] or any Provincial Government <sup>7</sup>\* \* \*], shall be punished with <sup>8</sup>[imprisonment for life], or with imprisonment of either description which may extend to ten years, <sup>9</sup>[and shall also be liable to fine].

*Explanation.*-To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.]

**122. Collecting arms, etc., with intention of waging war against Pakistan.**—Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against <sup>10</sup>[Pakistan], shall be punished with <sup>11</sup>[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, <sup>12</sup>[and shall also be liable to fine].

**123. Concealing with intent to facilities design to wage war.** Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against <sup>13</sup>[Pakistan], intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>14</sup>[**123A. — Condemnation of the creation of the State, and advocacy of abolition of its sovereignty.**—(1) Whoever, within or without Pakistan, with intent to influence, or knowing it to be likely that he will influence, any person or the whole or any section of the public, in a manner likely to be prejudicial to the safety [or ideology]<sup>15</sup> of Pakistan, or to endanger the sovereignty of Pakistan in respect of all or any of the territories lying within its borders, shall by words, spoken or written, or by signs or visible representation,[abuse Pakistan or]<sup>15</sup> condemn the creation of Pakistan by virtue of the partition of India which was effected on the fifteenth day of August, 1947, or advocate the curtailment or abolition of the sovereignty of Pakistan in respect of all or any of the territories lying within its borders, whether by amalgamation with the territories of neighboring States or otherwise, shall be punished with rigorous imprisonment which may extend to ten years and shall also be liable to fine.

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<sup>1</sup> S.121A, ins. by the Indian Penal Code Amdt. Act, 1870 (27 of 1870), s.4.

<sup>2</sup> Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), section 3 and 2nd Sch., (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3 (2) and 4, for "British India".

<sup>3</sup> The original words "the Queen of the sovereignty of British India" have successively been amended by A.O., 1949, Arts. 3(2) and 4, Ord. 21 of 1960, s. 3 and 2nd Sch., (w.e.f. 14th October, 1955), and A.O., 1961, Art. 2 and Sch., (w.e.f. 23rd March, 1956), to read as above.

<sup>4</sup> The words "of British Burma" omitted by A.O., 1949, Sch.

<sup>5</sup> Subs. by A. O., 1937, for "the G. of I. or any L.G.".

<sup>6</sup> See foot-note 2 on page 81, supra.

<sup>7</sup> The words "or the Govt. of Burma" omitted by A. O., 1949, Sch.

<sup>8</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2, and Sch., for "transportation for life or any shorter term",

<sup>9</sup> These words were ins. by Act 16 of 1921, s. 3.

<sup>10</sup> Subs. by A. O., 1961, Art. 2 and Sch., for the "the Queen" (w.e.f. 23rd March 1956).

<sup>11</sup> See foot-note 4 on page 93, supra.

<sup>12</sup> Subs. by the Indian Penal Code (Amdt.) Act, 1921 (16 of 1921), s. 2, for "and shall forfeit all his property".

<sup>13</sup> Subs. by A. O., 1961, Art. 2 and Sch., for "the Queen" (w.e.f. 23rd March 1956).

<sup>14</sup> S. 123A ins. by the Pakistan Penal Code (Amdt.) Act, 1950 (71 of 1950), section 2.

<sup>15</sup> Ins. by Act II of 1992, ss. 2 & 3.

(2) Notwithstanding anything contained in any other law for the time being in force, when any person is proceeded against under this section, it shall be lawful for any Court before which he may be produced in the course of the investigation or trial, to make such order as it may think fit in respect of his movements, of his association or communication with other persons, and of his activities in regard to dissemination of news, propagation of opinions, until such time as the case is finally decided.

(3) Any Court which is a Court of appeal or of revision in relation to the Court mentioned in sub-section (2) may also make an order under that sub-section.]

**<sup>1</sup>[123B. Defiling or unauthorisedly removing the National Flag of Pakistan from Government building, etc.—** Whoever deliberately defiles [or puts on fire]<sup>2</sup> the National Flag of Pakistan, or unauthorisedly removes it from any building, premises, vehicle or other property of Government, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

**124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.** Whoever, with the intention of inducing or compelling the <sup>3</sup>[President] of <sup>4</sup>[Pakistan], or the Governor of any <sup>5</sup>[Province], <sup>6</sup>\* \* \* <sup>7</sup>\* \* \* <sup>8</sup>\* \* \*, to exercise or refrain from exercising in any manner any of the lawful powers of <sup>9</sup>[the President], <sup>10</sup>[or Governor],

assaults, or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, <sup>9</sup>[the President], <sup>10</sup>[or Governor],

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**<sup>11</sup>[124A. Seditious.** Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, <sup>12</sup>[the <sup>13</sup>[Federal] or Provincial Government established by law shall] be punished with <sup>14</sup>[imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

*Explanation 1.*—The expression “disaffection” includes disloyalty and all feelings of enmity.

*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

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<sup>1</sup> Ins. by Ord. XLIII of 1984, s. 2.

<sup>2</sup> Ins. by Act II of 1992, ss. 2 & 3.

<sup>3</sup> Subs. by A. O., 1961, Art. 2, for “Governor-General” (w.e.f. 23rd March, 1956).

<sup>4</sup> Subs. by A. O., 1949, Sch., for “India”.

<sup>5</sup> Subs. by A. O., 1937, for “Presidency”.

<sup>6</sup> The words “or a Lieutenant-Governor” rep., *ibid.*

<sup>7</sup> The words “or a Member of the Council of the Governor-General of India” omitted by A. O., 1949, Sch.

<sup>8</sup> The words “or of the Council of any Presidency” rep. by A. O., 1937.

<sup>9</sup> Subs. by A. O., 1961, Art. 2 and Sch., for “such Governor-General” (w.e.f. 23rd March, 1956).

<sup>10</sup> The original words “Governor, Lieutenant-Governor or Member of Council” have successively been amended by A. O., 1937, and A. O., 1949, Sch., to read as above.

<sup>11</sup> Subs. by the Indian Penal Code Amdt. Act, 1898 (4 of 1898), s. 4, for the original section 124A, which was ins. by the Indian Penal Code Amdt. Act, 1870 (27 of 1870), s. 5.

<sup>12</sup> The original words “Her Majesty or the Government established by law in British India, shall” have successively been amended by A. O., 1937 A. O., 1949, Sch., the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. the 14th October, 1955) and A. O., 1961, Art. 2 and Sch. (w.e.f. 23rd March, 1956), to read as above.

<sup>13</sup> Subs. by the Federal Adaptation of Laws Order, 1975 (P.O. No. 4 of 1975), Art. 2 and Table for “Central”.

<sup>14</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life or any shorter term”.

*Explanation 3.*-Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

**125. Waging war against any <sup>1</sup>[\* \* \*] Power in alliance with Pakistan.** Whoever wages war against the Government of any <sup>1</sup>[\* \* \*] Power in alliance or at peace with <sup>2</sup>[Pakistan] or attempts to wage such war, or abets the waging of such war, shall be punished with <sup>3</sup>[imprisonment for life], to which fine maybe added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

**126. Committing depredation on territories of Power at peace with Pakistan.** Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or

at peace with <sup>2</sup>[Pakistan], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

**127. Receiving property taken by war or depredation mentioned in sections 125 and 126.** Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

**128. Public servant voluntarily allowing prisoner of State or war to escape.** Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with <sup>3</sup>[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**129. Public servant negligently suffering such prisoner to escape.** Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

**130. Aiding escape of, rescuing or harbouring such prisoner.** Whoever knowingly aids or assists any State prisoner or prison of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner shall be punished with <sup>3</sup>[ imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*-A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in <sup>4</sup>[Pakistan], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

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<sup>1</sup>Omitted by Act No. II of 1988, s. 2.

<sup>2</sup>Subs. by A.O., 1961, Art. 2 and Sch., for "the Queen" (w.e.f.23rd March, 1956).

<sup>3</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972),s.2 and Sch., for "transportation for life".

<sup>4</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960(21 of 1960), section 3 and 2nd Sch. (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3 (2) and 4, for "British India".

## CHAPTER VII

### OF OFFENCES RELATING TO THE ARMY, <sup>1</sup>[NAVY AND AIR FORCE]

#### **131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.**

Whoever abets the committing of mutiny by an officer, soldier, <sup>2</sup>[sailor or airman], in the Army, <sup>3</sup>[Navy or Air Force] of <sup>4</sup>[Pakistan], or attempts to seduce any such officer, soldier, <sup>2</sup>[sailor or airman] from his allegiance or his duty, shall be punished with <sup>5</sup>[imprisonment for life] or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>6</sup>[*Explanation.*- In this section, the words “officer”, “soldier”, “sailor” or “airman” include any person subject to the Pakistan Army Act, 1952(**XXXIX of 1952**) or the Pakistan Navy Ordinance, 1961 (**XXXV of 1961**) or the Pakistan Air Force Act, 1953 (**VI of 1953**) as the case may be.]

**132. Abetment of mutiny, if mutiny is committed in consequence thereof.** Whoever abets the committing of mutiny by an officer, soldier, <sup>2</sup>[sailor or airman], in the Army <sup>3</sup>[Navy or Air Force] of <sup>4</sup>[Pakistan], shall, if mutiny be committed in consequence of that abetment, be punished with death or with <sup>5</sup>[imprisonment for life] or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**133. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.** Whoever abets an assault by an officer, soldier, <sup>2</sup>[sailor or airman], in the Army <sup>3</sup>[Navy or Air Force] of <sup>4</sup>[Pakistan], on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**134. Abetment of such assault, if the assault is committed.** Whoever abets an assault by an officer, soldier, <sup>2</sup>[sailor or airman], in the Army <sup>3</sup>[Navy or Air Force] of <sup>4</sup>[Pakistan], on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**135. Abetment of desertion of soldier, sailor or airman.** Whoever abets the desertion of any officer, soldier, <sup>2</sup>[sailor or airman], in the Army, <sup>3</sup>[Navy or Air Force] of <sup>4</sup>[Pakistan], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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<sup>1</sup>Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch., I, for “and Navy”.

<sup>2</sup>Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch., I, for “or sailor”.

<sup>3</sup>Subs. *ibid.*, for “or Navy”.

<sup>4</sup>Subs. by A. O., 1961, Art. 2 and Sch., for “the Queen” (w.e.f. 23rd March 1956.)

<sup>5</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and sch., for “Transportation for life”.

<sup>6</sup>Explanation originally inserted by the Indian Penal Code Amdt. Act, 1870 (27 of 1870) and subsequently amended by Act 10 of 1927, 35 of 1934 and Ord. 21 of 1960, have been subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., to read as above.

**136. Harbours deserter.** Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, <sup>1</sup>[sailor or airman], in the Army, <sup>2</sup>[Navy or Air Force] of <sup>3</sup>[Pakistan], has deserted, harbours such officer, soldier, <sup>1</sup>[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Exception.-*This provision does not extend to the case in which the harbour is given by a wife to her husband.

**137. Deserter concealed on board merchant vessel through negligence of master.** The master or person in charge of a merchant vessel, on board of which any deserter from the Army, <sup>2</sup>[Navy or Air Force] of <sup>3</sup>[Pakistan] is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding <sup>4</sup>[one thousand five hundred rupees], if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

**138. Abetment of act of insubordination by soldier, sailor or airman.** Whoever abets what he knows to be an act of insubordination by an officer, soldier, <sup>1</sup>[sailor or airman], in the Army, <sup>2</sup>[Navy or Air Force] of <sup>3</sup>[Pakistan], shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**138A.** [*Application of foregoing sections to the Indian Marine Service.*] Rep. by the Amending Act, 1934 (XXXV of 1934), s. 2 and Sch.

<sup>5</sup>[**139. Persons subject to certain Acts.** No person subject to the Pakistan Army Act, 1952, (XXXIX of 1952) of the Pakistan Air Force Act, 1953, (VI of 1953) or the Pakistan Navy Ordinance, 1961 (XXXV of 1961) is subject to punishment under this Code for any of the offences defined in this Chapter.]

**140. Wearing garb or carrying token used by soldier, sailor or airman.** Whoever, not being a soldier, <sup>1</sup>[sailor or airman] in the Military, <sup>2</sup>[Naval or Air] service of <sup>3</sup>[Pakistan], wears any garb or carries any token resembling any garb or token used by such a soldier <sup>1</sup>[sailor or airman] with the intention that it may be believed that he is such a soldier, <sup>1</sup>[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to <sup>4</sup>[one thousand five hundred rupees], or with both.

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<sup>1</sup>Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch., I for "or sailor".

<sup>2</sup>Subs. *ibid.*, for "or Navy".

<sup>3</sup>Subs. by A. O., 1961, Art. 2 and Sch., for "the Queen" (w.e.f. 23rd March, 1956).

<sup>4</sup>Section 139 as amended by Act 10 of 1927, 35 of 1934, 39 of 1952, 14 of 1932, 6 of 1953 and Ordinance 21 of 1960 have been subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., to read as above.

<sup>5</sup>Subs. by ord. 86 of 2002, s. 2 and Sch. I, for "five hundred rupees".

## CHAPTER VIII

### OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

**141. Unlawful assembly.** An assembly of five or more persons is designated an “unlawful assembly,” if the common object of the persons composing that assembly is—

*First.*—To overawe by criminal force, or show of criminal force, <sup>1</sup>[the <sup>2</sup>[Federal] or any Provincial Government or Legislature], or any public servant in the exercise of the lawful power of such public servant ; or

*Second.*—To resist the execution of any law, or of any legal process ; or

*Third.*— To commit any mischief or criminal trespass, or other offence ; or

*Fourth.*—By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right ; or

*Fifth.*—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

*Explanation.*—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

**142. Being Member of unlawful assembly.** Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

**143. Punishment.** Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

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<sup>1</sup>Subs. by A. O., 1937, for “the Legislative or Executive G. of I, or the Government of any Presidency, or any Lieutenant-Governor.”

<sup>2</sup>See foot-note 5 on page 110, *supra*.

**144. Joining unlawful assembly armed with deadly weapon.** Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.** Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**146. Rioting.** Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

**147. Punishment for rioting.** Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**148. Rioting, armed with deadly weapon.** Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.** If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

**150. Hiring, or conniving at hiring, or persons to join unlawful assembly.** Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

**151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.** Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months or with fine, or with both.

*Explanation.*-If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

**152. Assaulting or obstructing public servant when suppressing riot, etc.** Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

**153. Want only giving provocation with intent to cause riot—if rioting be committed, if not committed.** Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

<sup>1</sup>[**153A. Promoting enmity between different groups, etc.** Whoever,—

- (a) by words, either spoken or written, or by signs, or by visible representations or otherwise, promotes or incites, or attempts to promote or incite, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or
- (b) commits, or incites any other person to commit, any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes, or communities or any group of persons identifiable as such on any ground whatsoever and which disturbs or is likely to disturb public tranquility; or
- (c) organizes, or incites any other person to organize, any exercise, movement, drill or other similar activity intending that the participants in any such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained to use criminal force or violence, or participates, or incites any other person to participate, in any such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community or any group of persons identifiable as such on any ground whatsoever and any such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

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<sup>1</sup>S. 153A has successively been amended by the Indian Penal Code Amdt. Act, 1898 (4 of 1898), s. 5, A. O., 1961, Art. 2 and Sch. and subs by the Criminal Law (Amdt.) Act, 1973 (6 of 1973), s. 2. (w.e.f. 28th July, 1973), to read as above.

shall be punished with imprisonment for a term which may extend to five years and with fine.

**Explanation.**-It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different religious, racial, language or regional groups or castes or communities].

<sup>1</sup>[**153B.Inducing students, etc., to take part in political activity.** Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, induce or attempts to induce any student, or any class of students, or any institution interested in or connected with students, to take part in any political activity <sup>2</sup>[which disturbs or undermines, or is likely to disturb or undermine, the public order] shall be punished with imprisonment which may extend to two years or with fine or with both.]

**154. Owner or occupier of land on which an unlawful assembly is held.** Whenever any unlawful assembly or riot takes place the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding <sup>3</sup>[three thousand rupees], if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

**155. Liability of person for whose benefit riot is committed.** Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

**156. Liability of agent of owner or occupier for whose benefit riot is committed.** Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

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<sup>1</sup>S. 153B was ins. by the Pakistan Penal Code (Second Amdt.) Ordinance, 1962 (70 of 1962), s. 2.

<sup>2</sup> Ins. by the Pakistan Penal Code (Amdt.) Act, 1965, (20 of 1965), s. 2.

<sup>3</sup>Subs. by Ord. 86 of 2002, s.2 and Sch. I, for "one Thousand rupees".

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

**157. Harbours persons hired for an unlawful assembly.** Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**158. Being hired to take part in an unlawful assembly or riot ;** Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both,

**Or to go armed.** and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**159. Affray.** When two or more persons, by fighting in a public place, disturb the public peace, they are said to “commit an affray”.

**160. Punishment for committing affray.** Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to <sup>1</sup>[three hundred rupees], or with both.

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## CHAPTER IX

### OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

**161. Public servant taking gratification other than legal remuneration in respect of an official act.** Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or for bearing to do any official act or for showing or for bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, <sup>2</sup>[with the <sup>3</sup>[Federal], or any Provincial Government or Legislature], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

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<sup>1</sup>Subs. by Ord. No. 86 of 2002, s. 2 and Sch. I, for “one Thousand rupees”.

<sup>2</sup>Subs. by A. O., 1937, for “with the Legislative or Executive G. of L, or with the Government of any Presidency, or with any Lieutenant-Governor”.

<sup>3</sup>Subs. by the Federal Adaptation of Laws Order, 1975 (P.O. No. 4 of 1975), Art. 2 and Table for “Central”.

**Explanation.**— “Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

“Gratification.” The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the <sup>1</sup>[authority by which he is employed], to accept.

“A motive or reward for doing.” A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

<sup>2</sup>[‘Public servant’. In this section and in sections 162, 163, 164, 165, 166, 167, 168, 169 and 409, ‘public servant’ includes an employee of any corporation or other body or organization set up, controlled or administered by, or under the authority of, the Federal Government.]

### **Illustrations**

- (a) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.
- (b) A, holding the office of <sup>3</sup>[Consul] at the Court of a <sup>4</sup>[Foreign] Power accepts a lakh of rupees from the Minister of that Power. It does not appear, that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the <sup>5</sup>[Government of Pakistan]. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.
- (c) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

**162. Taking gratification, in order, by corrupt or illegal means to influence public servant.** Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person <sup>6</sup>[with the <sup>7</sup>[Federal] or any Provincial Government

<sup>1</sup>Subs. by the Criminal Law Amdt. Act, 1953 (37 of 1953), s. 2, for “government, which he serves”.

<sup>2</sup>Added by the Prevention of Corruption Laws (Amdt.) Act, 1977 (13 of 1977). s. 2 and Sch.

<sup>3</sup>Subs. by A. O., 1961 Art. 2 and Sch., for “Resident” (w.e.f. 23rd March, 1956).

<sup>4</sup>Subs. *ibid.*, for “subsidiary” (w.e.f. 23rd March, 1956).

<sup>5</sup>Subs. *ibid.*, for “British Government” (w.e.f. 23rd March, 1956).

<sup>6</sup>Subs. by A. O., 1937, for “with the Legislative or Executive G. of L., or with the Govt. of any Presidency, or with any Lieutenant-Governor”.

<sup>7</sup>Subs. by the Federal Adaptation of Laws Order, 1975 (P.O. No. 4 of 1975), Art. 2 and Table for “Central”.

or Legislature], or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**163. Taking gratification, for exercise of personal influence with public servant.** Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person <sup>1</sup>[with the <sup>2</sup>[Federal] or any Provincial Government or Legislature], or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

#### *Illustration*

An advocate who receives a fee for arguing a case before a Judge ; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist ; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust,-are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

**164. Punishment for abetment by public servant of offences defined in section 162 or 163.** Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### *Illustration*

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**165. Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant.** Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be, punished with <sup>3</sup>[imprisonment of either description for a term which may extend to three years], or with fine, or with both.

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<sup>1</sup>Subs. by A. O., 1937 for "with the Legislative or Executive G. of I., or with the Govt. of any Presidency, or with any Lieutenant-Governor".

<sup>2</sup>Subs. by the Federal Adaptation of Laws Order, 1975 (P.O. No. 4 of 1975), Art. 2 and Table for "Central".

<sup>3</sup>Subs. by the Criminal Law Amdt. Act, 1953 (37 of 1953), s. 2, for "simple Imprisonment for a term which may extend to two years."

### *Illustrations*

- (a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.
- (b) A, a Judge, buys of Z, who has a case pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.
- (c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

<sup>1</sup>[**165A. Punishment for abetment of offences defined in sections 161 and 165.** Whoever abets any offence punishable under section 161 or section 165 shall, whether the offence abetted is or is not committed in consequence of the abetment, be punished with the punishment provided for the offence.]

<sup>2</sup>[**165B. Certain abettors excepted.** A person shall be deemed not to abet an offence punishable under section 161 or section 165 if he is induced, compelled, coerced, or intimidated to offer or give any such gratification as is referred to in section 161 for any of the purposes mentioned therein, or any valuable thing without consideration, or for an inadequate consideration, to any such public servant as is referred to in section 165.]

**166. Public servant disobeying law, with intent to cause injury to any person.** Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

### *Illustration*

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

**167. Public servant framing an incorrect document with intent to cause injury.** Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

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<sup>1</sup>S.165A was ins. by the Criminal Law Amdt. Act, 1953 (37 of 1953), s. 2.

<sup>2</sup>S.165B was ins. by the Pakistan Penal Code (Amdt.) Ordinance, 1962 (59 of 1962), s. 2.

**168. Public servant unlawfully engaging in trade.** Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

**169. Public servant unlawfully buying or bidding for property.** Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both ; and the property, if purchased, shall be confiscated.

**170. Personating a public servant.** Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

**171. Wearing garb or carrying token used by public servant with fraudulent intent.** Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to <sup>2</sup>[six hundred rupees], or with both.

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## <sup>1</sup>[CHAPTER IXA

### OF OFFENCES RELATING TO ELECTIONS

**171A. “Candidates” “Electoral right” defined.** For the purposes of this Chapter—

- (a) “candidate” means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat ; provided that he is subsequently nominated as a candidate at such election ;
- (b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

**171B. Bribery.—**(1) Whoever—

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right ; or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person, to exercise any such right,

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<sup>1</sup>Chapter IXA ins. by the Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 2.

<sup>2</sup>Subs. by ord. 86 of 2002, s. 2 and sch. I

commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

**171C. Undue influence at elections.**—(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

**171D. Personation at elections.** Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

**171E. Punishment for bribery.** Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

*Explanation.*- 'Treating' means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

**171F. Punishment for undue influence or personation at an election.** Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**171G. False statement in connection with an election.** Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

**171H. Illegal payments in connection with an election.** Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend <sup>1</sup>[one thousand five hundred rupees]:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate he shall be deemed to have incurred such expenses with the authority of the candidate.

**171I. Failure to keep election accounts.** Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

**[171J. <sup>2</sup>Inducing any person not to participate in any election or referendum, etc.—** Whoever by words, either spoken or written, or by visible representation, induces or, directly or indirectly, persuades or instigates, any person not to participate in, or to boycott, any election or referendum, or not to exercise his right of vote thereat, shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine which may extend to five lac rupees, or with both.]

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## CHAPTER X

### OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

**172. Absconding to avoid service of summons or other proceeding.** Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to <sup>1</sup>[one thousand rupees], or with both ;

or, if the summons or notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three thousand rupees, or with both.

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<sup>1</sup>Sub.by ord No.86 of 2002,s.2 & sch.I.

<sup>2</sup>Added by ord.LIV of 1984,s.2

**173. Preventing service of summons or other proceeding, or preventing publication thereof.** Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent as such public servant, to issue such summons, notice or order,

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order, from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to <sup>5</sup>[one thousand and] five hundred rupees, or with both ;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>5</sup>[three] thousand rupees, or with both.

**174. Non-attendance in obedience to an order from public servant.** Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to <sup>5</sup>[one thousand five hundred rupees], or with both;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>5</sup>[three] thousand rupees, or with both <sup>1</sup>[;]

<sup>2</sup>[or, if the proclamation be under section 87 of the Code of Criminal Procedure, 1898, with imprisonment which may extend to three years, or with fine, or with both.]

### *Illustrations*

(a) A, being legally bound to appear before the <sup>3</sup>[High Court of <sup>4</sup>[Sind]] in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

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<sup>1</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2, and Sch., for full stop.

<sup>2</sup>New para added *ibid*.

<sup>3</sup>Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., for "Supreme Court at Calcutta".

<sup>4</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., for "East Pakistan" which was previously subs. by A. O., 1961, Art. 2, for "East Bengal" (w.e.f. 23rd March, 1956).

<sup>5</sup>Subs. by Ord. 86 of 02, s. 2 & Sch. I.

(b) A, being legally bound to appear before a Zila Judge, as a witness, in obedience to a summons issued by that Zila Judge, intentionally omits to appear. A has committed the offence defined in this section.

**175. Omission to produce document to public servant by person legally bound to produce it.**

Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to <sup>1</sup>[one thousand five hundred rupees], or with both ;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both.

*Illustrations*

A, being legally bound to produce a document before a Zila Court, intentionally omits to produce the same. A has committed the offence defined in this section.

**176. Omission to give notice or information to public servant by person legally bound to give it.**

Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to <sup>1</sup>[one thousand] five hundred rupee], or with both;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both ;

<sup>2</sup>[or, if the notice or information required to be given is required by an order passed under sub-section (1) of section 565 of the Code of Criminal Procedure, 1898 ([V of 1898](#)) with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

**177. Furnishing false information.** Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both ;

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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<sup>1</sup> Subs. by Ord. 86 of 02, s.2 and sch. 1.

<sup>2</sup> Added by the Criminal Law Amdt. Act, 1939 (22 of 1939), s. 2.

## *Illustrations*

- (a) A, a landholder, knowing of the commission of a murder within the limits of his estate, willfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.
- (b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound, under clause 5, section VII, <sup>1</sup>Regulation III, 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police station, willfully misinforms the police-officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the later part of this section.

<sup>2</sup>[*Explanation.*—In section 176 and in this section the word “offence” includes any act committed at any place out of <sup>3</sup>[Pakistan], which, if committed in <sup>3</sup>[Pakistan], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and the word “offender” includes any person who is alleged to have guilty of any such act.]

**178. Refusing oath or affirmation when duly required by public servant to make it.** Whoever refuses to bind himself by an oath <sup>4</sup>[or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend <sup>5</sup>[three thousand rupees], or with both.

**179. Refusing to answer public servant authorised to question.** Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>5</sup>[three thousand rupees], or with both.

**180. Refusing to sign statement.** Whoever, refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to <sup>5</sup>[one thousand five hundred rupees], or with both.

**181. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.** Whoever, being legally bound by an oath <sup>4</sup>[or affirmation] to state the truth on any subject to any public servant or other person authorized by law to administer such oath <sup>4</sup>[or affirmation], makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a terms which may extend to three years, and shall also be liable to fine.

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<sup>1</sup>Rep. by Act 17 of 1862.

<sup>2</sup>Explations ins. by the Indian Criminal Law Amdt. Act, 1894 (3 of 1894), s. 5.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2<sup>nd</sup> Sch. (w.e.f. 14<sup>th</sup> October, 1955), for “the Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, Art. 3(2) and 4, for “British India”.

<sup>4</sup>Ins. by the Oaths Act, 1873 (10 of 1873), s. 15.

<sup>5</sup>Subs. by Ord. 86 of 02, s.2 and sch. 1.

<sup>1</sup>**[182. False information with intent to cause public servant to use his lawful power to the injury of another person.** Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>2</sup>[three thousand rupees], or with both.

### *Illustrations*

- (a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.
- (b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises. attended with annoyance to Z. A has committed the offence defined in this section.
- (c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of the his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.]

**183. Resistance to the taking of property by the lawful authority of a public servant.** Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>2</sup>[three thousand rupees], or with both.

**184. Obstructing sale of property offered for sale by authority of public servant.** Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to <sup>2</sup>[one thousand five hundred rupees], or with both.

**185. Illegal purchase or bid for property offered for sale by authority of public servant.** Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other,

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<sup>1</sup>Subs. by the Indian Criminal Law Amdt. Act, 1895 (3 of 1895), s. 1 for the original s. 182.

<sup>2</sup> Subs. by Ord. 86 of 02, s. 2 & Sch. I.

whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to <sup>1</sup>[six hundred rupees], or with both.

**186. Obstructing public servant in discharge of public functions.** Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to <sup>1</sup>[one thousand five hundred rupees], or with both.

**187. Omission to assist public servant when bound by law to give assistance.** Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to <sup>1</sup>[six hundred rupees], or with both ;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[one thousand five hundred rupees], or with both.

**188. Disobedience to order duly promulgated by public servant.** Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to <sup>1</sup>[six hundred rupees], or with both ;

and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both.

*Explanation.*- It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

### ***Illustration***

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

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<sup>1</sup> Subs. by Ord. 86 of 02, s. 2 & Sch. I.

**189. Threat of injury to public servant.** Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**190. Threat of injury to induce person to refrain from applying for protection to public servant.** Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

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## CHAPTER XI

### OF FALSE EVIDENCE' AND OFFENCES AGAINST PUBLIC JUSTICE

**191. Giving false evidence.** Whoever being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

*Explanation 1.*-A statement is within the meaning of this section, whether it is made verbally or otherwise.

*Explanation 2.*-A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

#### *Illustrations*

- (a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.
- (b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.
- (c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z ; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z. A has not given false evidence.

- (d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.
- (e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

**192. Fabricating false evidence.**—Whoever causes any circumstance to exist or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry of false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said" to fabricate false evidence ".

### *Illustrations*

- (a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.
- (b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.
- (c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the Police are likely to search. A has fabricated false evidence.

**193. Punishment for false evidence.**—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Explanation 1.*—A trial before a Court-martial <sup>1</sup>\* \* \* is a judicial proceeding.

*Explanation 2.*—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

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<sup>1</sup>The words "or before a Military Court of Request" were rep. by the Cantonments Act, 1889 (13 of 1889). Act 13 of 1889 was rep. by the Cantonments Act, 1910 (15 of 1910) which in turn has been rep. by the Cantonments Act, 1924 (2 of 1924).

<sup>2</sup>Illustration omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch.

*Explanation 3.*—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

### ***Illustration***

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

**194. Giving or fabricating false evidence with intent to procure conviction of capital offence;** Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital <sup>1</sup>[by any law for the time being in force], shall be punished with <sup>2</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ;

**if innocent person be thereby convicted and executed.**—and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

**195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with.** Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which <sup>1</sup>[by any law for the time being in force] is not capital, but punishable with <sup>2</sup>[imprisonment for life], or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

### ***Illustration***

<sup>3</sup>[**Imprisonment for life or for a term of seven years or upwards**]. A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is <sup>2</sup>[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to <sup>4</sup>[such imprisonment for life] or imprisonment, with or without fine.

**196. Using evidence known to be false.** Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

**197. Issuing or signing false certificate.** Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

**198. Using as true a certificate known to be false.** Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

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<sup>1</sup>The original words, "by this Code" have successively been amended by Act 27 of 1870, s. 7, Act 9 of 1890, s. 149, and A. 0., 1949, Sch., to read as above.

<sup>2</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>3</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2. and Sch., or "transportation or imprisonment",

<sup>4</sup>Subs. *ibid.* for "such transportation".

**199. False statement made in declaration which is by law receivable as evidence.** Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

**200. Using as true such declaration knowing it to be false.** Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

*Explanation.*-A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200.

**201. Causing disappearance of evidence of offence, or giving false information to screen offender— if a capital offence.** Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

**if punishable with <sup>1</sup>[imprisonment for life];** and if the offence is punishable with <sup>2</sup>[imprisonment for life], or with imprisonment which may extend to ten years shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

**if punishable with less than ten years imprisonment.** and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

### *Illustration*

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "Transportation".

<sup>2</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

**202. Intentional omission to give information of offence by person bound to inform.** Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**203. Giving false information respecting an offence committed.** Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>1</sup>[*Explanation.*-In sections 201 and 202 and in this section the word "offence" includes any act committed at any place out of <sup>2</sup>[Pakistan], which, if committed in <sup>2</sup>[Pakistan], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460.]

**204. Destruction of document to prevent its production as evidence.** Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**205. False personation for purpose of act or proceeding in suit or prosecution.** Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.** Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**207. Fraudulent claim to property to prevent its seizure as forfeited or in execution.** Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made

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<sup>1</sup>*Explanation ins. by the Indian Criminal Law Arndt. Act, 1894 (3 of 1894), s. 7.*

<sup>2</sup>*Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s. S and 2nd Sch. (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949. Arts. 3 (2) and 4, for "British India".*

by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**208. Fraudulently suffering decree for sum not due.** Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

### *Illustration*

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

**209. Dishonestly making false claim in Court.** Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

**210. Fraudulently obtaining decree for sum not due.** Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**211. False charge of offence made with intent to injure.** Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, <sup>1</sup>[imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**212. Harbours offender. if a capital offence ;** Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

and if the offence is punishable with <sup>1</sup>[imprisonment for life] or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

<sup>2</sup>["Offence" in this section includes any act committed at any place out of <sup>3</sup>[Pakistan], which, if committed in <sup>3</sup>[Pakistan], would be punishable under any of the following sections, namely, 302,304,382,392,393,394,395,396,397,398,399,402,435, 436, 449, 450, 457, 458, 459, and 460 ; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in <sup>3</sup>[Pakistan.].

*Exception.*- This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

### ***Illustration***

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to <sup>1</sup>[imprisonment for life]. A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

**213. Taking gift, etc., to screen an offender from punishment.** Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

**If a capital offence ;** shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

**If punishable with imprisonment for life, or with imprisonment.** and if the offence is punishable with <sup>1</sup>[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to

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<sup>1</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>2</sup>Ins. by the Indian Criminal Law Amdt. Act, 1894 (3 of 1894), s. 7.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. 0., 1949, Arts. 3(2) and 4. for "British India".

one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

**214. Offering gift or restoration of property in consideration of screening offender**— Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

**If a capital offence** ; shall, if the offence is punishable with death, be punished if a capital with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**If punishable with imprisonment for life, or with imprisonment.** and if the offence is punishable with <sup>1</sup>[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

<sup>2</sup>[*Exception.*-The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.]

[*Illustrations.*] *Rep. by the Code of Criminal Procedure, 1882 (X of 1882).*

**215. Taking gift to help to recover stolen property, etc.** Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**216. Harbours offender who has escaped from custody or whose apprehension has been ordered**— Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody,

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

**if a capital offence** ; if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished

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<sup>1</sup>*Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".*

<sup>2</sup>*Subs. by the Indian Penal Code Amdt. Act, 1882 (8 of 1882), s. 6, for the original Exception.*

with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**if punishable with imprisonment for life, or with imprisonment.** if the offence is punishable with <sup>1</sup>[imprisonment for life], or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence or with fine, or with both.

<sup>2</sup>["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of <sup>3</sup>[Pakistan] which, if he had been guilty of it in <sup>3</sup>[Pakistan], would have been punishable as an offence, and for which he is, under any law relating to extradition, <sup>4</sup>\* \* \* or otherwise, liable to be apprehended or detained in custody in <sup>3</sup>[Pakistan], and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in <sup>3</sup>[Pakistan].]

*Exception.*-This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

<sup>5</sup>**[216A. Penalty for harbouring robbers or dacoits.** Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*-For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without <sup>3</sup>[Pakistan].

*Exception.*-This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

**216B.** [Definition of "harbour" in sections 212, 216 and 216 A.] Omitted by the Penal Code (Amdt.) Act, 1942 (VIII of 1942), s. 3.

**217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.** Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it

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<sup>1</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>2</sup>Ins. by the Indian Criminal Law Amdt. Act, 1886 (10 of 1886), s. 23.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s.3 and 2nd Sch. (w.e.f 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3 (2) and 4, for "British India".

<sup>4</sup>The words "or under the Fugitive Offenders Act, 1881," omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch.

<sup>5</sup>Ss. 216A. and 216B were ins. by the Indian Criminal Law Arndt. Act 1894 (3 of 1894). s. 8.

to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.** Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.** Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.** Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**221. Intentional omission to apprehend on the part of public servant bound to apprehend.** Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say: —

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with

<sup>1</sup>[imprisonment for life] or imprisonment for a term which may extend to ten years ; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

**222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.** Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence <sup>2</sup>[or lawfully committed to custody], intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows that is to say :—

with <sup>1</sup>[imprisonment for life] or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to <sup>1</sup>[imprisonment for life] <sup>3</sup>\* \* \* <sup>4</sup>\* \* \* <sup>5</sup>\* \* \* or imprisonment for a term of ten years or upwards ; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years <sup>2</sup>[or if the person was lawfully committed to custody].

**223. Escape from confinement or custody negligently suffered by public servant.** Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence <sup>2</sup>[or lawfully committed to custody], negligently suffers such persons to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**224. Resistance or obstruction by a person to his lawful apprehension.** Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Explanation.*-The punishment in this section is in addition to the punishment for which the person to be apprehended or detained

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>2</sup> Ins. by the Indian Penal Code Amdt. Act, 1870 (27 of 1870), s. 8.

<sup>3</sup> The words "or penal servitude for life," omitted by the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (2 of 1950), Sch.

<sup>4</sup> The words "or to transportation" omitted by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch.

<sup>5</sup> The words "or penal servitude" omitted by Act 2 of 1950, Sch.

in custody was liable for the offence with which he was charged, or of which he was convicted.

**225. Resistance or obstruction to lawful apprehension of another person.** Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with <sup>1</sup>[imprisonment for life], or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to <sup>1</sup>[imprisonment for life] <sup>2</sup>\* \* \* <sup>3</sup>\* \* or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with <sup>1</sup>[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

<sup>4</sup>[**225A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for.** Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished —

- (a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and
- (b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>2</sup> The words "or to transportation" omitted by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch.

<sup>3</sup> The words "penal servitude," omitted by the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (2 of 1950), Sch.

<sup>4</sup> Subs. by the Indian Criminal Law Amdt. Act, 1886 (10 of 1886), s. 24(1), for the original section 225A, which was previously ins. by Act, 27 of 1870, s.9.

**225B. Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.** Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

**226.** *[Unlawful return from transportation.] Omitted by the Law Reforms Ordinance, 1972 (XII of 1972), s. 2 and Sch.*

**227. Violation of condition of remission of punishment.** Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

**228. Intentional insult or interruption to public servant sitting in judicial proceeding.** Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to <sup>3</sup>[three thousand rupees], or with both.

**229. Personation of a juror or assessor.** Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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## CHAPTER XII

### OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

**230. "Coin" defined.** <sup>1</sup>[Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.]

**"Pakistan Coin".** <sup>2</sup>[Pakistan coin is metal stamped and issued by the authority of the Government of Pakistan in order to be used as money ; and

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<sup>1</sup>Subs. by the Indian Penal Code (Amendment) Act, 1872 (19 of 1872), for the original paragraph.

<sup>2</sup>The original paragraph has successively been amended by the Indian Penal Code (Amendment) Act, 1896 (6 of 1896), s. 1(1), A. O., 1937 and A. O., 1949, Sch., and A.O. 1961, Art. 2 and Sch. (w.e.f. 23rd March, 1956), to read as above.

<sup>3</sup>Subs. by Ord. 86 of 02, s. 2 and Sch. I.

metal which has been so stamped and issued shall continue to be Pakistan coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.]

### *Illustrations*

(a) Cowries are not coin.

(b) Lumps of unstamped copper, though used as money, are not coin.

(c) Medals are not coin, inasmuch as they are not intended to be used as money.

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**231. Counterfeiting coin.** Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*-A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

**232. Counterfeiting Pakistan coin.** Whoever counterfeits, or knowingly performs any part of the process of counterfeiting <sup>2</sup>[Pakistan coin], shall be punished with <sup>3</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**233. Making or selling instrument for counterfeiting coin.** Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**234. Making or selling instrument for counterfeiting Pakistan coin.** Whoever makes or mends, or performs any part of the process of making or mending or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting <sup>2</sup>[Pakistan coin], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**235. Possession of instrument or material for the purpose of using the same for counterfeiting coin ; if Pakistan coin.** Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either

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<sup>1</sup> Illustrations (d) and (e) omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch.

<sup>2</sup> Subs. by A. O., 1951, Art. 2 and Sch., for "the Queen's coin" (w.e.f. 23rd March, 1956).

<sup>3</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

description for a term which may extend to three years, and shall also be liable to fine ;

and if the coin to be counterfeited is <sup>1</sup>[Pakistan coin], shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**236. Abetting in Pakistan the counterfeiting out of Pakistan of coin.** Whoever, being within <sup>2</sup>[Pakistan], abets the counterfeiting of coin out of <sup>2</sup>[Pakistan] shall be punished in the same manner as if he abetted the counterfeiting of such coin within <sup>2</sup>[Pakistan].

**237. Import or export of counterfeit coin.** Whoever imports into <sup>2</sup>[Pakistan], or exports therefrom, any counterfeit coin, knowingly or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**238. Import or export of counterfeits of Pakistan coin.** Whoever imports into <sup>2</sup>[Pakistan], or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of <sup>1</sup>[Pakistan coin], shall be punished with <sup>3</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**239. Delivery of coin, possessed with knowledge that it is counterfeit.** Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

**240. Delivery of Pakistan coin possessed with knowledge that it is counterfeit.** Whoever, having any counterfeit coin, which is a counterfeit of <sup>1</sup>[Pakistan coin], and which, at the time when he became possessed of it, he knew to be a counterfeit of <sup>1</sup>[Pakistan coin], fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**241. Delivery of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.** Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

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<sup>1</sup>Subs. by A. O., 1961, Art. 2 and Sch., for "the Queen's coin" (w.e.f. 23<sup>rd</sup> March, 1956).

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (w.e.f. 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3 (2) and 4, for "British India".

<sup>3</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

## *Illustration*

A, a coiner, delivers counterfeit <sup>1\*</sup> rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another, utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

**242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.** Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**243. Possession of Pakistan coin by person who knew it to be counterfeit when he became possessed thereof.** Whoever, fraudulently or with intent that fraud may be committed is in possession of counterfeit coin, which is a counterfeit of <sup>2</sup>[Pakistan coin], having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.** Whoever, being employed in any mint lawfully established in <sup>3</sup>[Pakistan], does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**245. Unlawfully taking coining instrument from mint.** Whoever, without lawful authority, takes out of any mint, lawfully established in <sup>3</sup>[Pakistan], any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

**246. Fraudulently or dishonestly diminishing weight or altering composition of coin.** Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**Explanation.**— A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

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<sup>1</sup>The word "Company's" omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch.

<sup>2</sup>Subs. by A.O., 1961, Art. 2 and Sch., for "the Queen's coin" (w.e.f. 23rd March, 1956).

<sup>3</sup>Subs. by the Central Laws (Statute Reforms) Ordinance, 1960 (21 of 1960), s.3 and 2<sup>nd</sup> Sch. (w.e.f. 14<sup>th</sup> October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A.O., 1949, Arts. 3(2) and 4, for "British India"

**247. Fraudulently or dishonestly diminishing weight or altering composition of Pakistan coin.** Whoever fraudulently or dishonestly performs on <sup>1</sup>[any Pakistan coin], any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**248. Altering appearance of coin with intent that it shall pass as coin of different description.** Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**249. Altering appearance of Pakistan coin with intent that it shall pass as coin of different description.** Whoever performs on <sup>1</sup>[any Pakistan coin] any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**250. Delivery of coin, possessed with knowledge that it is altered.** Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

**251. Delivery of Pakistan coin possessed with knowledge that it is altered.** Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**252. Possession of coin by who knew it to be altered when he became possessed thereof.** Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the section 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**253. Possession of Pakistan coin by person who knew it to be altered when he became possessed thereof.** Whoever fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the

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<sup>1</sup>Subs. by A.O., 1961, Art. 2 and Sch., for "any of the Queen's coin" (w.e.f. 23rd March, 1956).

offence defined in either of the section 247 or 249 has been committed having known at the time of becoming possessed thereof, that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

**254. Delivery of coin as genuine which, when first possessed, the deliverer did not know to be altered.** Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

**255. Counterfeiting Government stamp.** Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with <sup>1</sup>[imprisonment for life] or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*-A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

**256. Having possession of instrument or material for counterfeiting Government stamp.** Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**257. Making or selling instrument for counterfeiting Government stamp.** Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

**258. Sale of counterfeit Government stamp.** Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**259. Having possession of counterfeit Government stamp.** Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**260. Using as genuine a Government stamp known to be counterfeit.** Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**261. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.** Whoever fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**262. Using Government stamp known to have been before used.** Whoever fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**263. Erasure of mark denoting that stamp has been used.** Whoever fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

<sup>1</sup>[263A. Prohibition of fictitious stamps.—(1) Whoever—

- (a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or
- (b) has in his possession, without lawful excuse, any fictitious stamp, or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to <sup>2</sup>[Six] hundred rupees.

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<sup>1</sup>S. 263A ins. by the Indian Criminal Law (Amdt.) Act, 1895 (3 of 1895), s.2.

<sup>2</sup>subs. by or. 86 of 02, s.2 and sch. I.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

(3) In this section “fictitious stamp” means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word " Government" when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorised by law to administer executive government in any part of<sup>1</sup>[Pakistan], and also <sup>2</sup>\* \* \* in any foreign country.].

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## CHAPTER XIII

### OF OFFENCES RELATING TO WEIGHTS AND MEASURES

**264. Fraudulent use of false instrument for weighing.** Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**265. Fraudulent use of false weight or measure.** Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**266. Being in possession of false weight or measure.** Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**267. Making or selling false weight or measure.** Whoever makes, sells or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

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## CHAPTER XIV

### OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

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<sup>1</sup>Subs. by A.O., 1949, Sch., for "India".

<sup>2</sup>The words "in any part of Her Majesty's dominions or" omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II. Sch.

**268. Public nuisance.** A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

**269. Negligent act likely to spread infection of disease dangerous to life.** Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**270. Malignant act likely to spread infection of disease dangerous to life.** Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**271. Disobedience to quarantine rule.** Whoever knowingly disobeys any rule made and promulgated <sup>1</sup>[by the <sup>2</sup>[Federal] or any Provincial Government <sup>3</sup>\* \* \*] for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**272. Adulteration of food or drink intended for sale.** Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>4</sup>[three] thousand rupees or with both.

**\*273. Sale of noxious food or drink.** Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>4</sup>[three] thousand rupees, or with both.

**\*274. Adulteration of drugs.** Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to

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<sup>1</sup>Subs A. O., 1937, for "by the G. of I or by any Govt."

<sup>2</sup>Subs. by the Federal Adoption of Laws Order, 1975 (P.O. No. 4 of 1975), Art. 2 and Table for "Central".

<sup>3</sup>The words "or the Crown Representative" omitted by A.O., 1949, Sch.

<sup>4</sup>Subs by ord. 86 of 02, s.2 & sch.I

\* an offence punishable under sections 273, 274, 275 & 276 of the Pakistan Penal Code will be tried and punished by Military Court, See Notification No. 57/1 (1) 1943/AJAG/CMLA/82 dt. 16-11-82 (Ext. Gaz. IBD. Part-I, dt. 21-11-82 page, 1953).

six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**\*275. Sale of adulterated drugs.** Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**\*276. Sale of drug as a different drug or preparation.** Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**277. Fouling water of public spring or reservoir.** Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to <sup>1</sup>[one thousand and] five hundred rupees, or with both.

**278. Making atmosphere noxious to health.** Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to <sup>1</sup>[one thousand and] five hundred rupees.

**279. Rash driving or riding on a public way.** Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to <sup>2</sup>[two years] or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**280. Rash navigation of vessel.** Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**281. Exhibition of false light, mark or buoy.** Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**282. Conveying person by water for hire in unsafe or overloaded vessel.** Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of

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<sup>1</sup>Subs. by ord. 86 of 02, s.2 & sch.I

\* an offence punishable under sections 273, 274, 275 & 276 of the Pakistan Penal Code will be tried and punished by a Military Court, See Notification No. 57/1 (1) 1943/AJAG/CMLA/82 dt. 16-11-82 (Ext. Gaz. IBD. Part-I, dt. 21-11-82 page, 153).

<sup>2</sup> Subs. by the Criminal Laws (Amdt.) Ordinance, 1980 (3 of 1980), s. 2, for "six months".

that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**283. Danger or obstruction in public way or line of navigation.** Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to <sup>1</sup>[six] hundred rupees.

**284. Negligent conduct with spect to poisonous substance.** Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person,

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, which may extend to <sup>1</sup>[three thousand rupees], or with both.

**285. Negligent conduct with respect to fire or combustible matter.** Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both.

**286. Negligent conduct with respect to explosive substance.** Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both.

**287. Negligent conduct with respect to machinery.** Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

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<sup>1</sup>Subs. By ord. 86 of 02, s.2 & sch. 1.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both.

**288. Negligent conduct with respect to pulling down or repairing buildings.** Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**289. Negligent conduct with respect to animal.** Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to <sup>1</sup>[three] thousand rupees, or with both.

**290. Punishment for public nuisance in cases not otherwise provided for.** Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to <sup>1</sup>[six] hundred rupees.

**291. Continuance of nuisance after injunction to discontinue.** Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

<sup>2</sup>[292. Sale, etc., of obscene books, etc. Whoever –

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene, objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or

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<sup>1</sup>Subs. by ord. 86 of 02, s.2 & sch.I.

<sup>2</sup>Subs. by the Obscene Publications Act, 1925 (8 of 1925), s.2, for the original section 292.

offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

*Exception.*-This section does not extend to any book, pamphlet, writing, drawing or painting kept or used bona fide for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.]

<sup>1</sup>[**292A. Exposure to seduction.**—Whoever seduces a child by any means whatsoever with an intent to involve him in any sexual activity or exposes him to obscene and sexually explicit material, document, a film, video or a computer generated image or attempts to do the aforementioned act, shall be punished with imprisonment of either description for a term which shall not be less than one year and may extend upto seven years or with fine which shall not be less than one hundred thousand rupees and may extend upto five hundred thousand rupees, or with both.

**292B. Child pornography.**—(1) whoever takes, permits to be taken, with or without the consent of the child or with or without the consent of his parents or guardian, any photograph, film, video, picture or representation, portrait, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of obscene or sexually explicit conduct, where.

- (a) the production of such visual depiction involves the use of a minor boy or girl engaging in obscene or sexually explicit conduct;
- (b) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in obscene or sexually explicit conduct; or
- (c) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in obscene or sexually explicit conduct; is said to have committed an offence of child pornography.

(2)The preparation, possession or distribution of any data store on a computer disk or any other modern gadget, shall also be an offence under this section.

**292C. Punishment for child pornography.**—Whoever commits an offence of child pornography shall be punished with imprisonment of either description for a term which shall not be less than two years and may extend upto seven years, or with fine Which shall not be less than two hundred thousand rupees, and may extend upto seven hundred thousand rupees, or with both.".]

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<sup>1</sup>Ins. by Act X of 2016, s. 4.

<sup>1</sup>**[293. Sale, etc. of obscene objects to young person.** Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

<sup>2</sup>**[294. Obscene acts and songs.** Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene songs, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.]

<sup>3</sup>**[294A. Keeping lottery office.** Whoever keeps any office or place for the purpose of drawing any lottery <sup>4</sup>[not being a \*State lottery or a lottery authorized by the Provincial Government] shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery shall be punished with fine which may extend to <sup>5</sup>[three] thousand rupees.]

<sup>6</sup>**[294B. Offering of prize in connection with trade, etc.** Whoever offers, or undertakes to offer, in connection with any trade or business or sale of any commodity, any prize, reward or other similar consideration, by whatever name called, whether in money or kind, against any coupon, ticket, number of figure, or by any other device, as an inducement or encouragement to trade or business or to the buying of any commodity, or for the purpose of advertisement or popularising any commodity, and whoever publishes any such offer, shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

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<sup>1</sup>Subs. by the Obscene Publications Act, 1925 (8 of 1925), s.2, for the original section 293.

<sup>2</sup>Subs by the Indian Criminal Law Amdt. Act, 1895 (3 of 1895), s.3, for the original section 294.

<sup>3</sup>S. 294A ins. by the Indian Penal Code Amdt. Act, 1870 (27 of 1870), s. 10.

<sup>4</sup>Subs. by A.O., 1937, for "not authorized by Government".

<sup>5</sup>Subs. by the ord. 86 of 02, s.2 & sch.I.

\*cease to have effect from 30-06-92 see PLD 1992, S.C. 153

S.294B added by the Pakistan Penal Code (Amdt.) Act, 1965 (20 of 1965), s. 3.

## CHAPTER XV

### OF OFFENCES RELATING TO RELIGION

**295. Injuring or defiling place of worship, with intent to insult the religion of any class.** Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>1</sup>**[295A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.** Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of <sup>2</sup>[the citizens of Pakistan], by words, either spoken or written, or by visible representations insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to <sup>3</sup>[ten years], or with fine, or with both.]

<sup>4</sup>**[295B. Defiling, etc., of copy of Holy Quran.** Whoever wilfully defiles, damages or desecrates a copy of the Holy Quran or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.]

<sup>5</sup>**[295C. Use of derogatory remarks, etc., in respect of the Holy Prophet.—** Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, \*or imprisonment for life, and shall also be liable to fine.]

**296. Disturbing religious assembly.** Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**297. Trespassing on burial places, etc.** Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sculpture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may one year, or with fine, or with both.

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<sup>1</sup>S. 295A ins. by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 2.

<sup>2</sup>Subs. by A.O., 1961, Art. 2 and Sch., for "His Majesty's subjects" (w.e.f. 23rd March 1956).

<sup>3</sup>Subs. by Act, XVI of 1991, s. 2.

<sup>4</sup>Ins. by the Pakistan Penal Code (Amendment) Ordinance, 1982 (1 of 1982) s. 2.

<sup>5</sup>Ins. by Act. III of 1986, s. 2.

\* In S. 295-C, the words "or imprisonment for life" ceased to have effect w.e.f. 30-4-91, vide Shariat Petition No. 6/L of 1987, see PLD 1991, Vol. XLIII, FSC-10.

**298. Uttering words, etc. with deliberate intent to wound religious feelings.** Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

<sup>1</sup>[**298A. Use of derogatory remarks, etc., in respect of holy personages.** Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo or insinuation, directly or indirectly, defiles the sacred name of any wife (*Ummul-Mumineen*), or members of the family (*Ahle-bait*), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (*Khulafa-e-Raashideen*) or companions (*Sahaaba*) of the Holy Prophet (peace be upon him) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

<sup>2</sup>[**298B. Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places.**—(1) Any person of the Qadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name) who by words, either spoken or written, or by visible representation,—

- (a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as ‘*Ameer-ul-Mumineen*’, ‘*Khalifa-tul-Mumineen*’, ‘*Khalifa-tul-Muslimeen*’, ‘*Sahaabi*’ or ‘*Razi Allah Anho*’ :
- (b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him) as ‘*Ummul-Mumineen*’ :
- (c) refers to, or addresses, any person, other than a member of the family (*Ahle-bait*) of the Holy Prophet Muhammad (peace be upon him), as *Ahle-bait*; or
- (d) refers to, or names, or calls, his place of worship as ‘Masjid’ :

shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(2) Any person of the Qadiani group or Lahori group (who call themselves ‘Ahmadis’ or by any other name) who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayers followed by his faith as ‘*Azan*’ , or recites *Azan* as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**298C. Person of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith.**— Any person of the Qadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name). who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.]

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<sup>1</sup>Added by the Pakistan Penal Code (Second Amendment) Ordinance, 1980 (44 of 1980), s.2.

<sup>2</sup>Added by Ord. XX of 1984, s. 3.

<sup>1</sup>[299. **Definitions.**— In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) “adult” means a person who has attained the age of eighteen years;
- (b) “*arsh*” means the compensation specified in this Chapter to be paid to the victim or his heirs under this chapter;
- (c) “authorised medical officer” means a medical officer or a Medical Board, howsoever designated, authorised by the Provincial Government;
- (d) “daman” means the compensation determined by the court to be paid by the offender to the victim for causing hurt not liable to *arsh* ;
- (e) “*diyat*” means the compensation specified in section 323 payable to the heirs of the victim;
- (f) “Government” means the Provincial Government;
- (g) “*ikrah-e-tam*” means putting any person, his spouse or any of his blood relations within the prohibited degree of marriage in fear of instant death or instant permanent impairing of any organ of the body or instant fear of being subjected to sodomy or *zina-bil-jabr*;
- (h) “*ikrah-e-naqis*” means any form of duress which does not amount to *ikrah-i-tam*;
- (i) “minor” means a person who is not an adult;
- <sup>2</sup>[(ii) “offence committed in the name or on the pretext of honour” means an offence committed in the name or on the pretext of *karo kari*, *siyah kari* or similar other customs or practices;]
- (j) “*qatl*” means causing death of a person;
- (k) “*qisas*” means punishment by causing similar hurt at the same part of the body of the convict as he has caused to the victim or by causing his death if he has committed *qatl-i-amd*, in exercise of the right of the victim or a *wali* ;
- (l) “*ta’zir*” means punishment other than *qisas*, *diyat*, *arsh* or *daman* ; and
- (m) “*wali*” means a person entitled to claim *qisas*.

**300. *Qatl-e-amd.***— Whoever, with the intention of causing death or with the intention of causing bodily injury to a person, by doing an act which in the ordinary course of nature is likely to cause death, or with the knowledge that his act is so imminently dangerous that it must in all probability cause death, causes the death of such person, is said to commit *qatl-e-amd*.

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<sup>1</sup>Subs. By Act II & 1997, s.7

<sup>2</sup>Ins. Subs & added by Act 1 of 2005, Ss. 2&3.

**301. Causing death of person other than the person whose death was intended.** Where a person, by doing anything which he intends or knows to be likely to cause death, causes death of any person whose death he neither intends nor knows himself to be likely to cause such an act committed by the offender shall be liable for *qatl-e-amd*.

**302. Punishment of *qatl-e-amd*.**— Whoever commits *qatl-e-amd* shall, subject to the provisions of this Chapter be—

- (a) punished with death as *qisas*;
- (b) punished with death for imprisonment for life as *ta'zir* having regard to the facts and circumstances of the case, if the proof in either of the forms specified in section 304 is not available; or
- (c) punished with imprisonment of either description for a term which may extend to twenty-five years, where according to the Injunctions of Islam the punishment of *qisas* is not applicable.<sup>1</sup>[;]

<sup>1</sup>[Provided that nothing in this clause shall apply to the offence of *qatl-e-amd* if committed in the name or on the pretext of honour and the same shall fall within the ambit of clause (a) or clause (b), as the case may be.]

**303. *Qatl* committed under *ikrah-i-tam* or *ikrah-i-naqis*.**— Whoever commits *qatl*,—

- (a) under *ikrah-i-tam* shall be punished with imprisonment for a term which may extend to twenty-five years but shall not be less than ten years and the person causing *ikrah-i-tam* shall be punished for the kind of *qatl* committed as a consequence of his *ikrah-i-tam*; or
- (b) under '*ikrah-i-naqis*' shall be punished for the kind of *qatl* committed by him and the person causing '*ikrah-i-naqis*' shall be punished with imprisonment for a term which may extend to ten years.

**304. Proof of *qatl-i-amd* liable to *qisas*, etc.-** (1) Proof of *qatl-e-amd* shall be in any of the following forms, namely :

- (a) the accused makes before a court competent to try the offence a voluntary and true confession of the commission of the offence; or
- (b) by the evidence as provided in Article 17 of the Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984).

(2) The provisions of sub-section (1) shall, *mutatis mutandis*, apply to a hurt liable to *qisas*.

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<sup>1</sup>Added, Ins. by Act I of 05, s.4

**305. Wali.** In case of *qatl*, the *wali* shall be—

- (a) the heirs of the victim, according to his personal law <sup>1</sup>[but shall not include the accused or the convict in case of *qatl-i-amd* if committed in the name or on the pretext of honour]; and
- (b) the Government, if there is no heir.

**306. *Qatl-i-amd* not liable to *qisas*.** *Qatl-i-amd* shall not be liable to *qisas* in the following cases, namely:-

- (a) when an offender is a minor or insane:

Provided that, where a person liable to *qisas* associates himself in the commission of the offence with a person not liable to *qisas* with the intention of saving himself from *qisas*, he shall not be exempted from *qisas*;

- (b) when an offender causes death of his child or grandchild, how low-so-ever; and
- (c) when any *wali* of the victim is a direct descendant, how low-so-ever, of the offender.

**307. Cases in which *Qisas* for *qatl-e-amd* shall not be enforced.**-(1) *Qisas* for *qatl-i-amd* shall not be enforced in the following cases, namely:-

- (a) when the offender dies before the enforcement of *qisas* ;
- (b) when any *wali* voluntarily and without duress, to the satisfaction of the court, waives the right of *qisas* under section 309 or compounds under section 310; and
- (c) when the right of *qisas* devolves on the offender as a result of the death of the *wali* of the victim, or on the person who has no right of *qisas* against the offender.

(2) To satisfy itself that the *wali* has waived the right of *qisas* under section 309 or compounded the right of *qisas* under section 310 voluntarily and without duress the court shall take down the statement of the *wali* and such other persons as it may deem necessary on oath and record an opinion that it is satisfied that the waiver or, as the case may be, the composition, was voluntary and not the result of any duress.

### ***Illustrations***

- (i) A kills Z, the maternal uncle of his son B. Z has no other *wali* except D, the wife of A. D has the right of *qisas* from A. But if D dies, the right of *qisas* shall devolve on her son B who is also the son of the offender A. B cannot claim *qisas* against his father. Therefore, the *qisas* cannot be enforced.

(ii) B kills Z, the brother of her husband A. Z has no heir except A. Here A can claim *qisas* from his wife B. But if A dies, the right of *qisas* shall devolve on his son D who is also son of B, the *qisas* cannot be enforced against B.

**308. Punishment in *qatl-e-amd* not liable to *qisas*, etc.**-(1) Where an offender guilty of *qatl-i-amd* is not liable to *qisas* under section 306 or the *qisas* is not enforceable under clause (c) of section 307, he shall be liable to *diyat* :

Provided that, where the offender is minor or insane, *diyat* shall be payable either from his property or, by such person as may be determined by the court :

Provided further that where at the time of committing *qatl-e-amd* the offender being a minor, had attained sufficient maturity or being insane, had a lucid interval, so as to be able to realize the consequences of his act, he may also be punished with imprisonment of either description for a term which may extend twenty five years as *ta'zir*:

Provided further that, where the *qisas* is not enforceable under clause (c) of section 307, the offender shall be liable to *diyat* only if there is any wali other than offender and if there is no *wali* other than the offender, he shall be punished with imprisonment of either description for a term which may extend to twenty five years as *ta'zir*.

(2) Notwithstanding anything contained in sub-section (1), the court, having regard to the facts and circumstances of the case in addition to the punishment of *diyat*, may punish the offender with imprisonment of either description for a term which may extend to twenty five years, as *ta'zir*.

**309. Waiver-Afw of *qisas* in *qatl-i-amd*.**-(1) In the case of *qatl-i-amd*, an adult sane *wali* may, at any time and without any compensation, waive his right of *qisas*:

Provided that the right of *qisas* shall not be waived-

(a) where the Government is the *wali* ; or

(b) where the right of *qisas* vests in a minor or insane.

(2) Where a victim has more than one *wali*, anyone of them may waive his right of *qisas*:

Provided that the *wali* who does not waive the right of *qisas* shall be entitled to his share of *diyat*.

(3) Where there are more than one victim, the waiver of the right of *qisas* by the *wali* of one victim shall not affect the right of *qisas* of the *wali* of the other victim.

(4) Where there are more than one offenders, the waiver of the right of *qisas* against one offender shall not affect the right of *qisas* against the other offender.

**310. Compounding of qisas (Sulh) in qatl-i- 'amd.**—(1) In the case of *qatl-i- 'amd*, an adult sane wali may, at any time on accepting *badal-i-sulh*, compound his right of *qisas*:

<sup>1</sup>[Provided that a female shall not be given in marriage or otherwise in *badal-i-sulh*.]

(2) Where a *wali* is a minor or an insane, the *wali* of such minor or insane *wali* may compound the right of *qisas* on behalf of such minor or insane *wali*:

Provided that the value of *badal-i-sulh* shall not be less than the value of *diyat*.

(3) Where the Government is the *wali*, it may compound the right of *qisas*:

Provided that the value of *badal-i-sulh* shall not be less than the value of *diyat*.

(4) Where the *badal-i-sulh* is not determined or is a property or a right the value of which cannot be determined in terms of money under *Shari'ah* the right of *qisas* shall be deemed to have been compounded and the offender shall be liable to *diyat*.

(5) *Badal-i-sulh* may be paid or given on demand or on a deferred date as may be agreed upon between the offender and the *wali*.

*Explanation.*— In this section, *Badal-i-sulh* means the mutually agreed compensation according to *Shari'ah* to be paid or given by the offender to a *wali* in cash or in kind or in the form of moveable or immovable property.

<sup>2</sup>[**310A. Punishment for giving a female in marriage or otherwise in badla-e-sulh, wanni or swara.**— Whoever gives a female in marriage or otherwise compels her to enter into marriage, as *badla-e-sulh*, wanni, or swara or any other custom or practice under any name, in consideration of settling a civil dispute or a criminal liability, shall be punished with imprisonment of either description for a term which may extend to seven years but shall not be less than three years and shall also be liable to fine of five hundred thousand rupees.".

**311. Ta'zir after waiver or compounding of right of qisas in qatl-i- amd.**— Notwithstanding anything contained in section 309 or section 310, where all the *wali* do not waive or compound the right of *qisas*, or <sup>3</sup>[if] the principle of *fasad-fil-arz* <sup>3</sup>[is attracted] the court may, <sup>3</sup>\* \* \* having regard to the facts and circumstances of the case, punish an offender against whom the right of *qisas* has been waived or compounded with <sup>3</sup>[death or imprisonment for life or] imprisonment of either description for a term of which may extend to fourteen years as *ta'zir*.<sup>3</sup>[:]

<sup>3</sup>[Provided that if the offence have been omitted in the name or on the pretext to honour, the imprisonment shall not be less than ten years]

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<sup>1</sup>Subs. by Act 1 of 2005, s. 6.

<sup>2</sup>Subs by at 26 of 2011, s.2

<sup>3</sup>Ins, sub, omitted, added by Act 1 of 5, s.8

*Explanation.*- For the purpose of this section, the expression *fasad-fil-arz* shall include the past conduct of the offender, or whether he has any previous convictions, or the brutal or shocking manner in which the offence has been committed which is outrageous to the public conscience, or if the offender is considered a potential danger to the community.<sup>1</sup>[or if the offence has been committed in the name or on the pretext of honour]

<sup>1</sup>[Provided that if the offence has been committed in the name or on the pretext of honour, the imprisonment shall not be less than ten years]

<sup>1</sup>[or if the offence has been committed in the name or on the pretext of honour.]

**312: *Qatl-i-'amd* after waiver or compounding of *qisas*.**— Where a *wali* commits *qatl-i-'amd* of a convict against whom the right of *qisas* has been waived under section 309 or compounded under section 310, such *wali* shall be punished with-

(a) *qisas*, if he had himself waived or compounded the right of *qisas* against the convict or had knowledge of such waiver of composition by another *wali*; or

(b) *diyat*, if he had no knowledge of such waiver or composition.

**313. Right of *qisas* in *qatl-i-'amd*.**- (1) Where there is only one *wali*, he alone has the right of *qisas* in *qatl-i-'amd* but, if there are more than one, the right of *qisas* vests in each of them.

(2) If the victim—

(a) has no *wali* the Government shall have the right of *qisas*; or

(b) has no *wali* other than a minor or insane or one of the *wali* is a minor or insane, the father or if he is not alive the paternal grandfather of such *wali* shall have the right of *qisas* on his behalf:

Provided that, if the minor or insane *wali* has no father or paternal grandfather, how high-so-ever, alive and no guardian has been appointed by the court, the Government shall have the right of *qisas* on his behalf.

**314. Execution of *qisas* in *qatl-i-'amd*.**-(1) *Qisas* in *qatil-i-'amd* shall be executed by a functionary of the Government by causing death of the convict as the court may direct.

(2) *Qisas* shall not be executed until all the *wali* are present at the time of execution, either personally or through their representatives authorised by them in writing in this behalf:

Provided that where a *wali* or his representative fails to present himself on the date, time and place of execution of *qisas* after having been informed of the date, time and place as certified by the court, an officer authorised by the court shall give permission for the execution of *qisas* and the Government shall cause execution of *qisas* in the absence of such *wali*.

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<sup>1</sup>Ins, sub, omitted, added by Act 1 of 5, s.8

(3) If the convict is a woman who is pregnant, the court may, in consultation with an authorised medical officer, postpone the execution of *qisas* upto a period of two years after the birth of the child and during this period she may be released on bail on furnishing of security to the satisfaction of the court or, if she is not so released she shall be dealt with as if sentenced to simple imprisonment.

**315. *Qatl shibh-i 'amd.***— Whoever, with intent to cause harm to the body or mind of any person causes the death of that or of any other person by means of a weapon or an act which in the ordinary course of nature is not likely to cause death is said to commit *qatl-shibh-i- 'amd*.

#### ***Illustration***

A in order to cause hurt strikes Z with a stick or stone which in the ordinary course of nature is not likely to cause death. Z dies as a result of such hurt. A shall be guilty of *qatl shibh-i- 'amd*.

**316. Punishment for *qatl shibh-i- 'amd.***— Whoever commits *qatl shibh-i- 'amd* shall be liable to *diyat* and may also be punished with imprisonment of either description for a term which may extend to <sup>1</sup>[twenty five years] as *ta'zir*.

**317. Person committing *qatl* debarred from succession.**— Where a person committing *qatl-i- 'amd* or *qatl shibh-i- 'amd* is an heir or a beneficiary under a will, he shall be debarred from succeeding to the estate of the victim as an heir or a beneficiary.

**318. *Qatl-i-khata.***— Whoever, without any intention to cause death of, or cause harm to, a person causes death of such person, either by mistake of act or by mistake of fact, is said to commit *qatl-i-khata*.

#### ***Illustration***

- (a) A aims at a deer but misses the target and kills Z who is standing by A is guilty of *qatl-i-khata*.
- (b) A shoots at an object to be a boar but it turns out to be a human being. A is guilty of *qatl-i-khata*.

**319. Punishment for *qatl-i-khata.***— Whoever commits *qatl-i-khata* shall be liable to *diyat*:—

Provided that, where *qatl-i-khata* is committed by any rash or negligent act, other than rash or negligent driving, the offender may, in addition to *diyat*, also be punished with imprisonment of either description for a term which may extend to five years as *ta'zir*.

**320. Punishment for *qatl-i-khata* by rash or negligent driving.**— Whoever commits *qatl-i-khata* by rash or negligent driving shall, having regard to the facts and circumstances of the case, in addition to *diyat*, be punished with imprisonment of either description for a term which may extend to ten years.

**321. *Qatl-bis-sabab.***— Whoever, without any intention to cause death of, or cause harm to, any person, does any unlawful act which becomes a cause for the death of another person, is said to commit *qatl-bis-sabab*.

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<sup>1</sup>Subs. by Act I of 2005, s. 9 for "Fourteen Years".

### ***Illustration***

A unlawfully digs a pit in the thoroughfare, but without any intention to cause death of, or harm to, any person. B while passing from there falls in it and is killed. A has committed *qatl-bis-sabab*.

**322. Punishment for *qatl-bis-sabab*.**— Whoever commits *qatl-bis-sabab* shall be liable to *diyat*.

**323. Value of *diyat*.**—(1) The court shall, subject to the Injunctions of Islam as laid down in the Holy Quran and Sunnah and keeping in view the financial position of the convict and the heirs of the victim, fix the value of *diyat* which shall not be less than, the value of thirty thousand six hundred and thirty grams of silver.

(2) For the purpose of sub-section (1), the Federal Government shall, by <sup>2</sup>notification in the official Gazette, declare the value of silver, on the first day of July each year or on such date as it may deem fit, which shall be the value payable during a financial year.

**324. Attempt to commit *qatl-i-amd*.**—Whoever does any act with such intention or knowledge, and under such circumstances, that, if he by that act caused *qatl*, he would be guilty of *qatl-i-amd*, shall be punished with imprisonment for either description for a term which may extend to ten year <sup>1</sup>[but shall not be less than five years if the offence has been committed in the name or on the pretext of honour] and shall also be liable to fine, and, if hurt is caused to any person by such act, the offender shall, in addition to the imprisonment and fine as aforesaid, be liable to the punishment provided for the hurt caused:

Provided that, where the punishment for the hurt is *qisas* which is not executable, the offender shall be liable to *arsh* and may also be punished with imprisonment of either description for a term which may extend to seven years.

**325. Attempt to commit suicide.**— Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

**326. Thug.**—Whoever shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with *qatl*, is a *thug*.

**327. Punishment.**— Whoever is a *thug*, shall be punished with imprisonment for life and shall also be liable to fine.

**328. Exposure and abandonment of child under twelve years by parent or person having care of it.**— Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

<sup>3</sup>[**328A. Cruelty to a child.**—Whoever willfully assaults, ill-treats, neglects, abandons or does an act of omission or commission, that results in or has, potential to harm or injure the child by causing physical or psychological injury to him shall be punished with imprisonment of either description for a term which shall not be less than one year and may extend upto three years, or with fine which shall not be less than twenty-five thousand rupees and may extend upto fifty thousand rupees, or with both.]

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<sup>1</sup>Ins. by Act, I of 2005, s. 10.

<sup>2</sup>For such Notification, Please see folder of S.R.O's u/s 323 of Act XIV of 1860.

<sup>3</sup>Ins. by Act X of 2006, s. 5.

*Explanation.*- This section is not intended to prevent the trial of the offender for *qatl-i-amd* or *qatl-i-shibh-i-amd* or *qatl-bis-sabab*, as the case may be, if the child dies in consequence of the exposure.

**329. Concealment of birth by secret disposal of dead body.**— Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child dies before or after or during its birth, intentionally conceals or endeavours to conceal the birth shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**330. Disbursement of *diyat*.**— The *diyat* shall be disbursed among the heirs of the victim according to their respective shares in inheritance:

Provided that, where an heir foregoes his share, the *diyat* shall not be recovered to the extent of his share.

**331. Payment of *diyat*.**-(1) The *diyat* may be made payable in lumpsum or in instalments spread over a period of <sup>1</sup>[five years] from the date of the final judgement.

(2) Where a convict fails to pay *diyat* or any part thereof within the period specified in subsection (1), the convict may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment until the *diyat* is paid full or may be released on bail if he furnishes security <sup>1</sup>[or surety] equivalent to the amount of *diyat* to the satisfaction of the court <sup>1</sup>[or may be released on parole as may be prescribed by the rule].

(3) Where a convict dies before the payment of *diyat* or any part thereof, it shall be recovered from his estate.

**332. Hurt.**-(1) Whoever causes pain, harm, disease, infirmity or injury to any person or impairs, disables [disfigures, defaces]<sup>2</sup>or dismembers any organ of the body or part thereof of any person without causing his death, is said to cause hurt.

(2) The following are the kinds of hurt:

- (a) *Itlaf-i-udw*
- (b) *itlaf-i-salahiyyat-i-udw*
- (c) *shajjah*
- (d) *jurh* ;and
- (e) all kinds of other hurts.

<sup>2</sup>[**Explanation.**—disfigure means disfigurement to face of or disfigurement or dismemberment of any organ or any part of the organ of the human body which impairs or injures or conodes or deforms the symmetry or appearance of a person.]

**333. Itlaf-i-udw.**— Whoever dismembers, amputates, severs any limb or organ of the body of another person is said to cause *Itlaf-i-udw*.

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<sup>1</sup>Subs. by Act. XV of 2010, s. 2 (w.e.f. 3-10-2007), for "three years".

<sup>2</sup>Ins & added by Act XXV of 2011 s.2.

**334. Punishment for *itlaf-i-udw*.**— Whoever by doing any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person causes *itlaf-i-udw* of any person, shall, in consultation with the authorised medical officer, be punished with *qisas*, and if the *qisas* is not executable keeping in view the principles of equality in accordance with the Injunctions of Islam, the offender shall be liable to *arsh* and may also be punished with imprisonment of either description for a term which may extend to ten years as *ta'zir*.

**335. *Itlaf-i-salahiyyat-i-udw*.**— Whoever destroys or permanently impairs the functioning, power or capacity of an organ of the body of another person, or causes permanent disfigurement is said to cause *itlaf-i-salahiyyat-i-udw*.

**336. Punishment for *itlaf-i-salahiyyat-i-udw*.**— Whoever, by doing any act with the intention of causing hurt to any person, or with the knowledge that he is likely to cause hurt to any person, causes *itlaf-i-salahiyyat-i-udw*, of any person, shall, in consultation with the authorised medical officer, be punished with *qisas* and if the *qisas* is not executable keeping in view the principles of equality in accordance with the Injunctions of Islam, the offender shall be liable to *arsh* and may also be punished with imprisonment of either description for a term which may extend to ten years as *ta'zir*.

<sup>1</sup>[**336A. Hurt caused by corrosive substance.**— whoever with the intention or knowingly causes or attempts to cause hurt by means of corrosive substance or any substance which is deleterious to human body when it is swallowed, inhaled, comes into contact or received into human body or otherwise shall be said to cause hurt by corrosive substance:

**Explanation.**—In this sub-section, unless the context otherwise requires, “corrosive substance” means a substance which may destroy, cause hurt, deface or dismember any organ of the human body and includes every kind of acid, poison, explosive or explosive substance, heating substance, noxious thing, arsenic or any other chemical which has a corroding effect and which is deleterious to human body.

**336B. Punishment for hurt by corrosive substance.**—whoever causes hurt by corrosive substance shall be punished with imprisonment for life or imprisonment of either description which shall not be less than fourteen years and a minimum fine of one million rupees.]

**337. *Shajjah*.**-(1) Whoever causes, on the head or face of any person, any hurt which does not amount to *itlaf-i-udw* or *itlaf-i-salahiyyat-i-udw*, is said to cause *shajjah*.

(2) The following are the kinds of *shajjah*, namely:—

- (a) *Shajjah-i-Khafifah*;
- (b) *Shajjah-i-mudihah*;
- (c) *Shajjah-i-hashimah*;
- (d) *Shajjah-i-munaqqilah*;
- (e) *Shajjah-i-ammah*; and
- (f) *Shajjah-i-damighah*.

(3) Whoever causes *shajjah*,

- (i) without exposing bone of the victim, is said to cause *shajjah-i-khafifah* ;
- (ii) by exposing any bone of the victim without causing fracture, is said to cause *shajjah-i-mudihah* ;
- (iii) by fracturing the bone of the victim, without dislocating it, is said to cause

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<sup>1</sup> Ins by Act XXV of 2011 S.3

*shajjah-i-hashimah* ;

- (iv) by causing fracture of the bone of the victim and thereby the bone is dislocated, is said to cause *shajjah-i-munaqqilah* ;
- (v) by causing fracture of the skull of the victim so that the wound touches the membrane of the brain, is said to cause *shajjah-i-ammah* ; and
- (vi) by causing fracture of the skull of the victim and the wound ruptures the membrane of the brain is said to cause *shajjah-i-damighah*.

**337A. Punishment of *shajjah*.** Whoever, by doing any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, causes—

- (i) *Shajjah-i-khafifah* to any person, shall be liable to *daman* and may also be punished with imprisonment of either description for a term which may extend to two years as *ta'zir*;
- (ii) *shajjah-i-mudihah* to any person, shall, in consultation with the authorised medical officer, be punished with *qisas*, and if the *qisas* is not executable keeping in view the principles of equality in accordance with the Injunctions of Islam, the convict shall be liable to *arsh* which shall be five per cent of the *diyat* and may also be punished with imprisonment of either description for a term which may extend to five years as *ta'zir*;
- (iii) *shajjah-i-hashimah* to any person, shall be liable to *arsh* which shall be ten per cent of the *diyat* and may also be punished with imprisonment of either description for a term which may extend to ten years as *ta'zir*;
- (iv) *shajjah-i-munaqqilah* to any person, shall be liable to *arsh* which shall be fifteen per cent of the *diyat* and may also be punished with imprisonment of either description for a term which may extend to ten years as *ta'zir*;
- (v) *shajjah-i-ammah* to any person, shall be liable to *arsh* which shall be one-third of the *diyat* and may also be punished with imprisonment of either description for a term which may extend to ten years as *ta'zir* ; and
- (vi) *shajjah-i-damighah* to any person shall be liable to *arsh* which shall be one-half of *diyat* and may also be punished with imprisonment of either description for a term which may extend to fourteen years as *ta'zir*.

**337B. *Jurh*.**-(1) Whoever causes on any part of the body of a person, other than the head or face, a hurt which leaves a mark of the wound, whether temporary or permanent, is said to cause *jurh*.

(2) *Jurh* is of two kinds, namely :-

- (a) *Jaiyah* ; and
- (b) *Ghayr-jaiyah*

**337C. *Jaiyah*.**— Whoever causes *jurh* in which the injury extends to the body cavity of the trunk, is said to cause *jaiyah*.

**337D. Punishment for *jaifah*.**— Whoever by doing any act with the intention of causing hurt to a person, or with the knowledge that he is likely to cause hurt to such person, causes *jaifah* to such person, shall be liable to *arsh* which shall be one-third of the *diyat* and may also be punished with imprisonment of either description for a term which may extend to ten years as *ta'zir*.

**337E. *Ghayr-jaifah*.**— (1) Whoever causes jurh which does not amount to *jaifah*, is said to cause *ghayr-jaifah*.

(2) The following are the kinds of *ghayr-jaifah*, namely :--

- (a) *Damihah*;
- (b) *badi'ah*;
- (c) *mutalahimah*;
- (d) *mudihah*;
- (e) *hashimah*; and
- (f) *munaqqilah*;

(3) Whoever causes *ghayr-jaifah*—

- (i) in which the skin is ruptured and bleeding occurs, is said to cause *damiyah* ;
- (ii) by cutting or incising the flesh without exposing the bone, is said to cause *badi'ah* ;
- (iii) by lacerating the flesh, is said to cause *mutalahimah*;
- (iv) by exposing the bone, is said to cause *mudihah*;
- (v) by causing fracture of a bone without dislocating it, is said to cause *hashimah*; and
- (vi) by fracturing and dislocating the bone, is said to cause *munaqqilah*.

**337F. Punishment of *ghayr-jaifah*.**— Whoever by doing any act with the intention of causing hurt to any person, or with the knowledge that he is likely to cause hurt to any person, causes—

- (i) *damihah* to any person, shall be liable to *daman* and may also be punished with imprisonment of either description for a term which may extend to one year as *ta'zir*;
- (ii) *badi' ah* to any person, shall be liable to *daman* and may also be punished with imprisonment of either description for a term which may extend to three years as *ta'zir*;
- (iii) *mutalahimah* to any person, shall be liable to *daman* and may also be punished with imprisonment of either description for a term which may extend to three years as *ta'zir*;
- (iv) *mudihah* to any person, shall be liable to *daman* and may also be punished with the

imprisonment of either description for a term which may extend to five years as *ta'zir*;

(v) *hashimah* to any person, shall be liable to *daman* and may also be punished with imprisonment of either description for a term which may extend to five years ; and

(vi) *munaqqilah* to any person, shall be liable to *daman* and may also be punished with imprisonment of either description for a term which may extend to seven years as *ta'zir*.

**337G. Punishment for hurt by rash or negligent driving.**— Whoever causes hurt by rash or negligent driving shall be liable to *arsh* or *daman* specified for the kind of hurt caused and may also be punished with imprisonment of either description for a term which may extend to five years as *ta'zir*.

**337H. Punishment for hurt by rash or negligent act.**-(1) Whoever causes hurt by rash or negligent act, other than *rash* or *negligent* driving, shall be liable to *arsh* or *daman* specified for the kind of hurt caused and may also be punished with imprisonment of either description for a term which may extend to three years as *ta'zir*.

(2) Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

**337I. Punishment for causing hurt by mistake (*khata*).**— Whoever causes hurt by mistake (*Khata*) shall be liable to *arsh* or *daman* specified for the kind of hurt caused.

**337J. Causing hurt by means of a poison.**— Whoever administers to, or causes to be taken by, any person, any poison or any stupefying, intoxicating or unwholesome drug, or such other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt may, in addition to the punishment or *arsh* or *daman* provided for the kind of hurt caused, be punished, having regard to the nature of the hurt caused, with imprisonment of either description for a term which may extend to ten years.

**337K. Causing hurt to extort confession, or to compel restoration of property.**— Whoever causes hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of any offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore, or to cause the restoration of, any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security shall, in addition to the punishment of *qisas*, *arsh* or *daman*, as the case may be, provided for the kind of hurt caused, be punished, having regard to the nature of the hurt caused, with imprisonment of either description for a term which may extend to ten years as *ta'zir*.

**337L. Punishment for other hurt.**-(1) Whoever causes hurt, not mentioned hereinbefore, which endangers life or which causes the sufferer to remain in severe bodily pain for twenty days or more or renders him unable to follow his ordinary pursuits for twenty days or more, shall be liable to *daman* and also be punished with imprisonment of either description for a term which may extend to seven years.

(2) Whoever causes hurt not covered by sub-section (1) shall be punished with imprisonment of either description for a term which may extend to two years, or with *daman*, or with both.

**337M. Hurt not liable to *qisas*.**— Hurt shall not be liable to *qisas* in the following cases, namely :—

(a) when the offender is a minor or insane:

Provided that he shall be liable to *arsh* and also to *ta 'zir* to be determined by the court having regard to the age of offender, circumstances of the case and the nature of hurt caused;

(b) when an offender at the instance of the victim causes hurt to him:

Provided that the offender may be liable to *ta'zir* provided for the kind of hurt caused by him;

(c) when the offender has caused *itlaf-i-udw* of a physically imperfect organ of the victim and the convict does not suffer from similar physical imperfection of such organ :

Provided that the offender shall be liable to *arsh* and may also be liable to *ta 'zir* provided for the kind of hurt caused by him; and

(d) when the organ of the offender liable to *qisas* is missing:

Provided that the offender shall be liable to *arsh* and may also be liable to *ta 'zir* provided for the kind of hurt caused by him.

### ***Illustrations***

(i) A amputates the right ear of Z, the half of which was already missing. If A's right ear is perfect, he shall be liable to *arsh* and not *qisas*.

(ii) If in the above illustration Z's ear is physically perfect but without power of hearing, A shall be liable to *qisas* because the defect in Z's ear is not physical.

(iii) If in illustration (I) Z's ear is pierced. A shall be liable to *qisas* because such minor defect is not physical imperfection.

**337N. Cases in which *qisas* for hurt shall not be enforced.**-(1) The *qisas* for a hurt shall not be enforced in the following cases, namely :—

(a) when the offender dies before execution of *qisas* :

(b) when the organ of the offender liable to *qisas* is lost before the execution of *qisas*:

Provided that offender shall be liable to *arsh*, and may also be liable to *ta'zir* provided for the kind of hurt caused by him;

(c) when the victim waives the *qisas* or compounds the offence with *badl-i-sulh* ; or

(d) when the right of *qisas* devolves on the person who cannot claim *qisas* against the offender under this Chapter:

Provided that the offender shall be liable to *arsh*, if then is any *wali* other than the offender and if there is no *wali* other than the offender he shall be liable to *ta'zir* provided for the kind of hurt caused by him.

(2) Notwithstanding anything contained in this Chapter, in all cases of hurt, the court may, having regard to the kind of hurt caused by him, in addition to payment of *arsh*, award *ta'zir* to an offender who is a previous convict, habitual or hardened, desperate or dangerous criminal <sup>1</sup>[or the offence has been committed by him in the name or on the pretext of honour]<sup>1</sup>[:]

<sup>1</sup>[Provided that the *ta'zir* shall not be less than one-third of the maximum imprisonment provided for the hurt caused if the offender is a previous convict, habitual, hardened, desperate or dangerous criminal or if the offence has been committed by him in the name or on the pretext of honour].

**337O. Wali in case of hurt.**— In the case of hurt the *wali* shall be—

(a) the victim:

Provided that, if the victim is a minor or insane, his right of *qisas* shall be exercised by his father or paternal grandfather, how-high-so-ever ;

(b) the heirs of the victim, if the later dies before the execution of *qisas* ; and

(c) the Government, in the absence of the victim or the heirs of the victim.

**337P. Execution of *qisas* for hurt.**- (1) *Qisas* shall be executed in the public by an authorised medical officer who shall before such execution examine the offender and take due care so as to ensure that the execution of *qisas* does not cause the death of the offender or exceed the hurt caused by him to the victim.

(2) The *wali* shall be present at the time of execution and if the *wali* or his representative is not present, after having been informed of the

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<sup>1</sup>Added, Subs+Ins by Act I of 5, Ss.10+11.

date, time and place by the court an officer authorised by the court in this behalf shall give permission for the execution of *qisas*.

(3) If the convict is a woman who is pregnant, the court may, in consultation with an authorised medical officer, postpone the execution of *qisas* up to a period of two years after the birth of the child and during this period she may be released on bail on furnishing of security to the satisfaction of the court or, if she is not so released, shall be dealt with as if sentenced to simple imprisonment.

**337Q. Arsh for single organs.**— The *arsh* for causing *itlaf* of an organ which is found singly in a human body shall be equivalent to the value of *diyat*.

*Explanation.*- Nose and tongue are included in the organs which are found singly in a human body.

**337R. Arsh for organs in pairs.**— The *arsh* for causing *itlaf* of organs found in a human body in pairs shall be equivalent to the value of *diyat* and if *itlaf* is caused to one of such organs the amount of *arsh* shall be one-half of the *diyat* :

Provided that, where the victim has only one such organ or his other organ is missing or has already become incapacitated the *arsh* for causing *itlaf* of the existing or capable organ shall be equal to the value of *diyat*.

*Explanation.*- Hands, feet, eyes, lips and breasts are included in the organs which are found in a human body in pairs.

**337S. Arsh for the organs in quadruplicate.**-(1) The *arsh* for causing *itlaf* of organs found in a human body in a set of four shall be equal to—

- (a) one-fourth of the *diyat*, if the *itlaf* is one of such organs;
- (b) one-half of the *diyat*, if the *itlaf* is of two of such organs;
- (c) three-fourth of the *diyat*, if the *itlaf* is of three such organs; and
- (d) full *diyat*, if the *itlaf* is of all the four organs.

*Explanation.* Eyelids are organs which are found in a human body in a set of four.

**337T. Arsh for fingers.**-(1) The *arsh* for causing *itlaf* of a finger of a hand or foot shall be one-tenth of the *diyat*.

(2) The *Arsh* for causing *itlaf* of a joint of a finger shall be one-thirteenth of the *diyat* :

Provided that where the *itlaf* is of a joint of a thumb, the *arsh* shall be one-twentieth of the *diyat*.

**337U. Arsh for teeth.**-(1) The *arsh* for causing *itlaf* of a tooth, other than a milk tooth shall be one-twentieth of the *diyat*.

*Expianation.*- The impairment of the portion of a tooth outside the gum amounts to causing *itlaf* of a tooth.

(2) The *arsh* for causing *Itlaf* of twenty or more teeth shall be equal to the value of *diyat*.

(3) Where the *itlaf* is of a milk tooth, the accused shall be liable to *daman* and may also be punished with imprisonment of either description for a term which may extend to one year:

Provided that, where *itlaf* of a milk tooth impedes the growth of a new tooth, the accused shall be liable to *arsh* specified in sub-section (1).

**337V. Arsh for hair.**-(1) Whoever uproots—

(a) all the hair of the head, beard, mustaches, eyebrow, eyelashes or any other part of the body shall be liable to *arsh* equal to *diyat* and may also be punished with imprisonment of either description for a term which may extend to three years as *ta'zir*;

(b) one eyebrow shall be liable to *arsh* equal to one-half of the *diyat* ; and

(c) one eyelash, shall be liable to *arsh* equal to one-fourth of the *diyat*.

(2) Where the hair of any part of the body of the victim are forcibly removed by any process not covered under sub-section (1), the accused shall be liable to *daman* and imprisonment of either description which may extend to one year.

**337W. Merger of arsh. (1)** Where an accused causes more than one hurt, he shall be liable to *arsh* specified for each hurt separately:

Provided that, where—

(a) hurt is caused to an organ, the accused shall be liable to *arsh* for causing hurt to such organ and not for *arsh* for causing hurt to any part of such organ; and

(b) the wounds join together and form a single wound, the accused shall be liable to *arsh* for one wound.

### Illustrations

(i) A amputates Z's fingers of the right hand and then at the same time amputates that hand from the joint of his wrist. There is separate *arsh* for hand and for fingers. A shall, however, be liable to *arsh* specified for hand only.

(ii) A twice stabs Z on his thigh. Both the wounds are so close to each other that they form into one wound. A shall be liable to *arsh* for one wound only.

(2) Where, after causing hurt to a person, the offender causes death of such person by committing *qatl* liable to *diyat*, *arsh* shall merge into such *diyat* :

Provided that the death is caused before the healing of the wound caused by such hurt.

**337X. Payment of *arsh*.**- (1) The *arsh* may be made payable in a lump sum or in instalments spread over a period of <sup>1</sup>[five years] from the date of the final judgement.

(2) Where a convict fails to pay *arsh* or any part thereof within the period specified in sub-section (1), the convict may be kept in jail and dealt within the same manner as if sentenced to simple imprisonment until *arsh* is paid in full or may be released on bail if he furnishes security<sup>1</sup>[or surety] equal to the amount of *arsh* to the satisfaction of the court <sup>1</sup>[or may be released on parole as may be prescribed by the rules.]

(3) Where a convict dies before the payment of *arsh* or any part thereof, it shall be recovered from his estate.

**337Y. Value of *daman*.**- (1) The value of *daman* may be determined by the court keeping in view—

- (a) the expenses incurred on the treatment of victom ;
- (b) loss or disability caused in the functioning or power of any organ; and
- (c) the compensation for the anguish suffered by the victim.

<sup>1</sup>[(1a) the *daman* may be made payable in lump sum or in installments spread over a period of five years from the date of the final judgment.] and

<sup>1</sup>[(2) where a convict fails to pay *daman* or any part thereof within the period specified in sub-section (1a), the convict may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment until *daman* is paid in full or may be released on bail if he furnishes security or surety equivalent to the amount of *daman* to the satisfaction of the court or may be released on parole as may be prescribed by the rules.]

**337Z. Disbursement of *arsh* or *daman*.** The *arsh* or *daman* shall be payable to the victim or, if the victim dies, to his heirs according to their respective shares in inheritance.

**338. *Isqat-i-Hamal* .—** Whoever causes a woman with child whose organs have not been formed, to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the women, or providing necessary treatment to her, is said to cause '*isqat-i-haml*'.

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<sup>1</sup>*Subs, ins & added by Act XV of 2010, Ss3-4 (w.e.f. 3-10-2007)*

*Explanation.*- A women who causes herself to miscarry is within the meaning of this section.

**338A. Punishment for *Isqat-i-haml*.**— Whoever causes *isqat-i-haml* shall be liable to punishment as *tazir*—

- (a) with imprisonment of either description for a term which may extend to three years, if *isqat-i-haml* is caused with the consent of the woman; or
- (b) with imprisonment of either description for a term which may extend to ten years, if *isqat-i-haml* is caused without the consent of the woman :

Provided that, if as a result of *isqat-i-haml*, any hurt is caused to woman or she dies, the convict shall also be liable to the punishment provided for such hurt or death as the case may be.

**338B. *Isqat-i-janin*.**— Whoever causes a woman with child some of whose limbs or organs have been formed, to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, is said to cause *isqat-i-janin*.

*Explanation.*- A woman who causes herself to miscarry is within the meaning of this section.

**338C. Punishment for *Isqat-i-janin*.** Whoever causes *Isqat-i-janin* shall be liable to-

- (a) one-twentieth of the *diyat* if the child is born dead;
- (b) full *diyat* if the child is born alive but dies as a result of any act of the offender; and
- (c) imprisonment of either description for a term which may extend to seven years as *ta'zir*:

Provided that, if there are more than one child in the womb of the woman, the offender shall be liable to separate *diyat* or *ta'zir*, as the case may be, for every such child:

Provided further that if, as a result of *isqat-i-janin*, any hurt is caused to the woman or she dies, the offender shall also be liable to the punishment provided for such hurt or death, as the case may be.

**338D. Confirmation of sentence of death by way of *qisas* or *tazir*, etc.**— A sentence of death awarded by way of *qisas* or *tazir*, or a sentence of *qisas* awarded for causing hurt, shall not be executed, unless it is confirmed by the High Court.

**338E. Waiver or compounding of offences.**-(1) Subject to the provisions of this Chapter and section 345 of the Code of Criminal Procedure, 1898 (V of 1898), all offences under this Chapter may be waived or compounded and the provisions of sections 309 and 310 shall, *mutatis mutandis*, apply to the waiver or compounding of such offences:

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<sup>1</sup> Subs. and ins. by Act 1 of 05, s. 12.

Provided that, where an offence has been waived or compounded, the court may, in its discretion having regard to the facts and circumstances of the case, acquit or award *tazir* to the offender according to the nature of the offence<sup>1</sup>[:]

<sup>1</sup>[Provided further that where an offence under this Chapter has been committed in the name or on the pretext of honour, such offence may be waived or compounded subject to such conditions as the Court may deem fit to impose with the consent of the parties having regard to the facts and circumstances of the case.]

(2) All questions relating to waiver or compounding of an offence or awarding of punishment under section 310, whether before or after the passing of any sentence, shall be determined by trial court :

Provided that where the sentence of qisas or any other sentence is waived or compounded during the pendency of an appeal, such questions may be determined by the appellate court.

**338F. Interpretation.**— In the interpretation and application of the provisions of this Chapter, and in respect of matter ancillary or akin thereto, the court shall be guided by the Injunctions of Islam as laid down in the Holy Quran and Sunnah.

**338G. Rules.**—<sup>2</sup>(1) The Government may, in consultation with the Council of Islamic Ideology, by notification in the official Gazette, make such rules as it may consider necessary for carrying out the purposes of this Chapter.

<sup>2</sup>[(2) Notwithstanding anything contained in sub-section (1), the Federal Government may, by Notification in the official Gazette, make rules regarding the following matters, namely:—

- (a) providing mechanism for creation of a fund, which shall be non-lapsable and exempted from taxes, for the purpose of making of payment of *diyat*, *arsh* and *daman* of convicts, who, on account of poverty and weak financial position are confined in jails for want of making the said payment;
- (b) facility of extending soft loans out of the said fund to the convicts enabling them to satisfy the claim of legal heirs of the deceased or victims in respect of *diyat*, *arsh* and *daman*;
- (c) in appropriate cases release of such prisoners on parole by the court who after having served out the substantive sentence of imprisonment, if any, are confined in jails on account of non-payment of *diyat*, *arsh* and *daman*;
- (d) providing jobs to the said convicts, other than the Government department in the work places attached with the jails or through the social organizations or philanthropists, enabling the convicts to disburse the amount paid out of the fund or extended through loans;

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<sup>1</sup>Subs & ins by Act I of 05, S.2.

<sup>2</sup>Re-numbered & added by Act XV of 2010, S.5 (w.e.f. 3-07-2010)

- (e) mechanism for protecting rights of the victims for the purpose of diyat, arsh and daman; and
- (f) any other matter for which the rules may be necessary to carry out the aforesaid purpose.”]

**338H.Saving.— (1)** Nothing in this Chapter, except sections 309, 310 and 338E, shall apply to cases pending before any court immediately before the commencement of the Criminal Law (Second Amendment) Ordinance, 1990 (VII of 1990), or to the offences committed before such commencement.

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## [CHAPTER XVI A]<sup>1</sup>

### OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT

**339. Wrongful restraint.** Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

**Exception.—**The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

#### *Illustration*

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

**340. Wrongful confinement.** Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “wrongfully to confine” that person.

#### *Illustrations*

- (a) A causes Z to go within a walled space, and locks Z in. Z is then prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

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<sup>1</sup>Ins by Act No II of 1997, s.7.

(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

**341. Punishment wrongfully restrains.** Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to <sup>1</sup>[one thousand five hundred rupees], or with both.

**342. Punishment for wrongful confinement.** Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both.

**343. Wrongful confinement for three or more days.** Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**344. Wrongful confinement for ten or more days.** Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**345. Wrongful confinement of person for whose liberation writ has been issued.** Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

**346. Wrongful confinement in secret.** Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

**347. Wrongful confinement to extort property or constrain to illegal act.** Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**348. Wrongful confinement to extort confession, or compel restoration of property.** Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration

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<sup>1</sup>Subs. by ord. 86 of 02, S.2 & Sch.I.

of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

### *<sup>1</sup>Of Criminal Force and Assault*

**349. Force.** A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling : Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described :

*First.*-By his own bodily power.

*Secondly.*-By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

*Thirdly.*-By inducing any animal to move, to change its motion, or to cease to move.

**350. Criminal force.** Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

### *Illustrations*

- (a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.
- (b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.
- (c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence. A has used criminal force to Z.

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<sup>1</sup>As to punishment for an offence under s. 354 enquired into by a Council of Elders in a Punjab Frontier District, in the N.W.F.P. or in Baluchistan see the Frontier Crime Regulation, 1901 (3 of 1901), s.12.

- (d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.
- (e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water, and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.
- (f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.
- (g) Z is bathing, A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z. A has used criminal force.
- (h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

**351. Assault.** Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

**Explanation.-** Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

### ***Illustrations***

- (a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.
- (b) A begins to unloose the muzzle of a ferocious dog, intending, or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.
- (c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

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<sup>1</sup>Subs. by ord. 86 of 02, S.2& Sch.1

**352. Punishment for assault or criminal force otherwise than on grave provocation.** Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to <sup>1</sup>[one thousand five hundred rupees], or with both.

**Explanation.**— Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

**353. Assault or criminal force to deter public servant from discharge of his duty.** Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**354. Assault or criminal force to woman with intent to outrage her modesty.** Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>2</sup>**[354A. Assault or use of criminal force to woman and stripping her of her clothes.** Whoever assaults or uses criminal force to any woman and strips her of her clothes and, in that condition, exposes her to the public view, shall be punished with death or with imprisonment for life, and shall also be liable to fine.]

**355. Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.** Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**356. Assault or criminal force in attempt to commit theft of property carried by a person.** Whoever assaults or uses criminal force to any person in attempting to commit theft on any property which that person is then wearing or carrying shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**357. Assault or criminal force in attempt wrongfully to confine a person.** Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to <sup>3</sup>[three thousand rupees], or with both.

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<sup>1</sup>Subs. by ord. 86 of 02, S.2& Sch.1

<sup>2</sup>Ins. by Ord. XXIV of 1984, s.2.

<sup>3</sup>Subs. by Ord. No. 86 of 2002, s.2 and Sch.1.

**358. Assault or criminal force on grave provocation.** Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to <sup>1</sup>[six hundred rupees], or with both.

*Explanation.*- The last section is subject to the same Explanation as section 352.

**359. Kidnapping.** Kidnapping is of two kinds : kidnapping from <sup>2</sup>[Pakistan], and kidnapping from lawful guardianship.

**360. Kidnapping from Pakistan.** Whoever conveys any person beyond the limits of <sup>2</sup>[Pakistan] without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from <sup>2</sup>[Pakistan].

**361. Kidnapping from lawful guardianship.** Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

*Explanation.*- The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

*Exception.*- This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

**362. Abduction.** Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

**363. Punishments for kidnapping.** Whoever kidnaps any person from <sup>2</sup>[Pakistan] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**364. Kidnapping or abducting in order to murder.** Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with <sup>3</sup>[imprisonment for life] or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

### *Illustrations*

(a) A kidnaps Z from <sup>2</sup>[Pakistan], intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

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<sup>1</sup>Subs. by Ord. No. 86 of 2002, s.2 and Sch-I.

<sup>2</sup>Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2<sup>nd</sup> Sch. (w.e.f. 14<sup>th</sup> October, 1955), for “the Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, Arts. 3(2) ad 4, for “British India”.

<sup>3</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

<sup>1</sup>[**364A. Kidnapping or abducting a person under the age of <sup>2</sup>[fourteen].** Whoever kidnaps or abducts any person under the age of <sup>2</sup>[fourteen] in order that such person may be murdered or subjected to grievous hurt, or slavery, or to the lust of any person or may be so disposed of as to be put in danger of being murdered or subjected to grievous hurt, or slavery, or to the lust of any person shall be punished with death or with <sup>3</sup>[imprisonment for life] or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than seven years.]

**365. Kidnapping or abducting with intent secretly and wrongfully to confine person.** Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>2</sup>[**365A. Kidnapping or abducting for extorting property, valuable security, etc.**—Whoever kidnaps or abducts any person for the purpose of extorting from the person kidnapped or abducted, or from any person interested in the person kidnapped or abducted, any property, whether movable or immovable, or valuable security, or to compel any person to comply with any other demand, whether in cash or otherwise, for obtaining release of the person kidnapped or abducted, shall be punished with <sup>4</sup>[death or] imprisonment for life and shall also be liable to forfeiture of property.]

<sup>5</sup> [**365B. Kidnapping, abducting or inducing woman to compel for marriage etc.**— Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced, or seduced to illicit intercourse, knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment for life, and shall also be liable to fine; and whoever by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punished as aforesaid.]

<sup>6</sup>**366.** [*Kidnapping, abducting or inducing woman to compel her marriage, etc.*] Rep. by the Offences of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), s. 19 (w.e.f. the 10th day of February, 1979).

<sup>7</sup>[**366A. Procurement of minor girl.** Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

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<sup>1</sup>S. 364A ins. by the Criminal Laws Amdt. Act, 1958 (34 of 1958), s. 2.

<sup>2</sup> Subs. & Ins. by Act III of 1990, s.3.

<sup>3</sup>See foot-note 4 on page 93, supra.

<sup>4</sup>Ins. by Act II of 1991, s.2.

<sup>5</sup> Ins. by Act. VI of ss. 2 & 3. <sup>6</sup>This section was amended by the Indian Penal Code (Amdt.) Act, 1923 (20 of 1923), s. 2.

<sup>7</sup>Ss. 366A and 366B were ins. *ibid.*, s. 3.

<sup>8</sup>The words "or to the unnatural lust of any person," omitted by the Offences of Zina (Enforcement of Hudood) Ordinance, 1979. (7 of 1979),s.19 (w.e.f. 10th February,1979).

<sup>1</sup>[**366B. Importation of girl from foreign country.** Whoever imports into Pakistan from any country outside Pakistan any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.]

**367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.** Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, <sup>2</sup>\* \* \* or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>3</sup>[**367A. Kidnapping or abducting in order to subject person to unnatural lust.** Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with death or rigorous imprisonment for a term which may extend to twenty-five years, and shall be liable to fine.]

**368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.** Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

**369. Kidnapping or abducting child under ten years with intent to steal from its persons.** Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>4</sup>[**369A. Trafficking of human beings.**—Whoever involves himself in human trafficking shall be punished with imprisonment for a term which shall not be less than five years and may extend upto seven years, or with fine which shall not be less than five hundred thousand rupees and may extend upto seven hundred thousand rupees, or with both.

*Explanation.*—The word "human trafficking" in this section, shall have the same meaning as is assigned to it in the Prevention and Control of Human Trafficking Ordinance, 2002 (LIX of 2002).]

**370. Buying or disposing of any person as a slave.** Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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<sup>1</sup>Section 366B as amended by A. O., 1949, Ord. 21 of 1960. Ord. 1 of 1961 have been subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., to read as above.

<sup>2</sup>The words "or to the unnatural lust of any person," omitted by the Offences of Zina (Enforcement of Hudood) Ordinance, 1979 (7 of 1979), s.19 (w.e.f. 10th February, 1979).

<sup>3</sup>Ins. by Act VI of 06, ss. 2 & 3.

<sup>4</sup>Ins. by Act X of 2016, s. 6.

**371. Habitual dealing in slaves.** Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

<sup>2</sup>**371A. Selling person for purpose of prostitution, etc.**— Whoever sells, lets to hire, or otherwise disposes of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment which may extend to twenty-five years, and shall also be liable to fine.

**Explanations.**—(a) When a female is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

b. For the purposes of this section and section 371B, “illicit intercourse” means sexual intercourse between persons not united by marriage.

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

<sup>2</sup> Ins. by Act VI of 06, s. 4.

<sup>1</sup>**371B. Buying person for purpose of prostitution, etc.**— Whoever buys, hires or otherwise obtains possession of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment which may extend to twenty-five years, and shall also be liable to fine.

*Explanation.*— Any prostitution or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.”]

<sup>2</sup>**372.** [Selling minor for purposes of prostitution, etc.] Rep. by the Offences of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), s. 19 (w.e.f. the 10th day of February, 1979).

<sup>2</sup>**373.** [Buying minor for purposes of prostitution, etc.] Rep. by the Offences of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), s. 19 (w.e.f. the 10th day of February, 1979).

<sup>3</sup>[**374.**-(1)] **Unlawful compulsory labour.** Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

<sup>4</sup>[(2) Whoever compels a prisoner of war or a protected person to serve in the armed forces of Pakistan shall be punished with imprisonment of either description for a term which may extend to one year.

*Explanation.*-In this section the expressions “prisoner of war” and “protected person” shall have the same meaning as have been assigned to them respectively by Article 4 of the Geneva Convention Relative to the Treatment of prisoners of War of August 12, 1949, and Article 4 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, ratified by Pakistan on the second June, 1951.]

### *Of Rape*

<sup>5</sup>[**375. Rape.**—A man is said to commit rape who has sexual intercourse with a woman under circumstances falling under any of the five following descriptions,—

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<sup>1</sup> Ins. by Act VI of 06, s. 4.

<sup>2</sup> This section was amended by the Indian Penal Code (Amdt.) Act, 1924 (5 of 1924) s. 2 and the Indian Criminal Law (Amdt.) Act, 1924 (18 of 1924), s.2.

<sup>3</sup> S. 374 was re-numbered as sub-section (1) of that section by the Pakistan Penal Code (Amdt.) Act, 1958 (36 of 1958), s. 2.

<sup>4</sup> Sub-section (2) added by the Pakistan Penal Code (Amdt.) Act, 1958 (36 of 1958), s. 2.

<sup>5</sup> Ins. by Act VI of 06, s. 5.

- (i) against her will;
- (ii) without her consent;
- (iii) with her consent, when the consent has been obtained by putting her in fear of death or of hurt;
- (iv) with her consent, when the man knows that he is not married to her and that the consent is given because she believes that the man is another person to whom she is or believes herself to be married; or
- (v) with or without her consent when she is under sixteen years of age.

*Explanation.*—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

**376. Punishment for rape.**—(1) Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more than twenty-five years and shall also be liable to fine.

(2) When rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life.]

### *Of Unnatural Offences*

**377. Unnatural offences.** Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with <sup>1</sup>[imprisonment for life,] or with imprisonment of either description for a term which <sup>2</sup>[shall not be less than two years nor more than] ten years, and shall also be liable to fine.

*Explanation.*- Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

<sup>3</sup>**[377A. Sexual abuse.** Whoever employs, uses, forces, persuades, induces, entices, or coerces any person to engage in, or assist any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or simulation of such conduct either independently or in conjunction with other acts, with or without consent where age of person is less than eighteen years, is said to commit the offence of sexual abuse.

**377B. Punishment.** Whoever commits the offence of sexual abuse shall be punished with imprisonment of either description for a term which may extend to seven years and liable to fine which shall not be less than five hundred thousand rupees or with both.]

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## CHAPTER XVII OF OFFENCES AGAINST PROPERTY *Of Theft*

**378. Theft.** Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>2</sup> Ins. by Act VI of 06, s. 5.

<sup>3</sup> Ins. by Act X of 2016, s. 7.

*Explanation 1.*—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

*Explanation 2.*—A moving effected by the same act which effects the severance may be a theft.

*Explanation 3.*—A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

*Explanation 4.*—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

*Explanation 5.*—The consent mentioned in the definition may be expressed or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

### *Illustrations*

- (a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.
  - (b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.
  - (c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.
  - (d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.
  - (e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession and A has not committed theft, though he may have committed criminal breach of trust.
  - (f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.
  - (g) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.
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- (h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.
- (i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, in as much as what he did was not done dishonestly.
- (j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.
- (k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property inasmuch as he takes it dishonestly.
- (l) A takes an article belonging to Z out of Z's possession with out Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly ; A has therefore committed theft.
- (m) A, being on friendly terms with Z, goes in to Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable than A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.
- (n) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.
- (o) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.
- (p) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

**379. Punishment for theft.** Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

**380. Theft in dwelling house. etc.** Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**381. Theft by clerk or servant of property in possession of master.** Whoever being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>1</sup>**[381A. Theft of a car or other motor vehicles.—** Whoever commits theft of a car or any other motor vehicle, including motor-cycle, scooter and Tractor shall be punished with imprisonment of either description for a term which may extend to seven years and with fine not exceeding the value of the stolen car or motor vehicle.]

<sup>2</sup>*[Explanation.—*Theft of an electric motor of a tube well or transformer shall be within the meaning of this section.]

**382. Theft after preparation made for causing death hurt or restraint in order to the committing of the theft.** Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

#### *Illustrations*

- (a) A commits theft on property in Z's possession ; and, while committing the theft, he has a loaded pistol under his garment having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.
- (b) A picks Z's pocket, having posted several of his companions near him in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

**383. Extortion.** Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

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<sup>1</sup>Ins. by Act 1 of 1996, s.2

<sup>2</sup>Added by Act XVI of 1996, s.2

### *Illustrations*

- (a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.
- (b) A threatens Z that he will keep Z's child in wrongful confinement unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion.
- (c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.
- (d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

**384. Punishment for extortion.** Whoever, commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**385. Putting person in fear of injury in order to commit extortion.** Whoever, in order to the committing of extortion, puts any person in fear or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**386. Extortion by putting a person in fear of death or grievous hurt.** Whoever, commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**387. Putting person in fear of death or of grievous hurt, in order to commit extortion.** Whoever, in order to the committing of extortion puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**388. Extortion by threat of accusation of an offence punishable with death or <sup>1</sup>[imprisonment for life]. etc.** Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with <sup>1</sup>[imprisonment for life], or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under section 377 of this Code, may be punished with <sup>1</sup>[imprisonment for life].

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<sup>1</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "Transportation".

<sup>2</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

**389. Putting person in fear of accusation of offence, in order to commit extortion.** Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit an offence punishable with death or with <sup>1</sup>[imprisonment for life], or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with <sup>1</sup>[imprisonment for life.]

### *Of Robbery and Dacoity*

**390. Robbery.** In all robbery there is either theft or extortion.

**When theft is robbery.** Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

**When extortion is robbery.** Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

*Explanation.*- The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

### **Illustrations**

- (a) A holds Z down, and fraudulently takes Z’s money and jewels from Z’s clothes, without Z’s consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.
- (b) A meets Z on the high-road, shows a pistol, and demands Z’s purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.
- (c) A meets Z and Z’s child on the high-road. A takes the child, and threatens to fling it down a precipice, unless Z deliver his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.
- (d) A obtains property from Z by saying—“Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees.” This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

**391. Dacoity.** When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery,

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<sup>1</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

and persons present and aiding such commission or attempt, amount to give or more every person so committing, attempting or aiding, is said to commit “dacoity”.

**392. Punishment for robbery.** Whoever commits robbery shall be punished with rigorous imprisonment for a term which <sup>1</sup>[shall not be less than three years nor more than] ten years, and shall also be liable to fine ; and, if the robbery be committed on the highway <sup>2\*\*\*</sup> the imprisonment may be extended to fourteen years.

**393. Attempt to commit robbery.** Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**394. Voluntarily causing hurt in committing robbery.** If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with <sup>2</sup>[imprisonment for life], or with rigorous imprisonment for a term which <sup>1</sup>[shall not be less than four years nor more than] ten years, and shall also be liable to fine.

**395. Punishment for dacoity.** Whoever commits dacoity shall be punished with <sup>2</sup>[imprisonment for life], or with rigorous imprisonment for a term which <sup>1</sup>[shall not be less than four years nor more than] ten years, and shall also be liable to fine.

**396. Dacoity with murder.** If anyone of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, everyone of those person shall be punished with death, or <sup>2</sup>[imprisonment for life], or rigorous imprisonment for a term which <sup>1</sup>[shall not be less than four years nor more than] ten years, and shall also be liable to fine.

**397. Robbery or dacoity with attempt to cause death or grievous hurt.** If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

**398. Attempt to commit robbery or dacoity when armed with deadly weapon.** If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

**399. Making preparation to commit dacoity.** Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**400. Punishment for belonging to gang of dacoits.** Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with <sup>2</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

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<sup>1</sup> Subs. by the Criminal Laws (Amdt.) Ordinance, 1980 (3 of 1980), ss.7-10, for “may extend to”.

<sup>2</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

<sup>3</sup> Omitted by Act VIII of 1993, s.2.

**401. Punishment for belonging to gang of thieves.** Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

**402. Assembling for purpose of committing dacoity.** Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

## <sup>1</sup>[OF HIJACKING

**402A. Hijacking.** Whoever unlawfully, by the use or show of force or by threats of any kind, seizes, or exercises control of, an aircraft is said to commit hijacking.

**402B. Punishment for hijacking.** Whoever commits, or conspires or attempts to commit, or abets the commission of, hijacking shall be punished with death or imprisonment for life, and shall also be liable to forfeiture of property and fine.

**402C. Punishment for harbouring hijacker, etc.** Whoever knowingly harbours any person whom he knows or has reason to believe to be a person who is about to commit or has committed or abetted an offence of hijacking, or knowingly permits any such persons to meet or assemble in any place or premises in his possession or under his control, shall be punished with death or imprisonment for life, and shall also be liable to fine.]

<sup>2</sup>[**402D. Provincial Government not to interfere in sentences of rape.**— Notwithstanding anything contained in sections 401, 402 or 402B, the Provincial Government shall not suspend, remit or commute any sentence passed under section 376 of the Pakistan Penal Code (Act XLV of 1860).”].

### *Of Criminal Misappropriation of Property*

**403. Dishonest misappropriation of property.** Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

#### *Illustrations*

- (a) A takes property belonging to Z out of Z's possession in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

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<sup>1</sup>Ins. by the Pakistan Penal Code (Second Amendment) Ordinance, 1981 (30 of 1981), s. 2.

<sup>2</sup>Ins by Act 26 of 2011, s.4.

- (b) A, being on friendly terms with Z, goes into Z's library in Z's absence and takes away a book without Z's express consent. Here, if A was under the impression, that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.
- (c) A and B, being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

*Explanation 1.*- A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

### ***Illustration***

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

*Explanation 2.*— A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence ; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it, it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

### ***Illustrations***

- (a) A finds a rupee on the high-road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.
- (b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.
- (c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person on whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

- (d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.
- (e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.
- (f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

**404. Dishonest misappropriation of property possessed by deceased person at the time of his death.** Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

*Illustration*

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

*Of Criminal Breach of Trust*

**405. Criminal breach of trust.** Whoever, being in any manner entrusted with property or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust".

*Illustrations*

- (a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.
- (b) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust.

- (c) A, residing in <sup>1</sup>[Dacca], is agent for Z, residing at <sup>2</sup>[Lahore]. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z, remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.
- (d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.
- (e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.
- (f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

**406. Punishment for criminal breach of trust.** Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to <sup>3</sup>[seven] years, or with fine, or with both.

**407. Criminal breach of trust by carrier, etc.** Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**408. Criminal breach of trust by clerk or servant.** Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**409. Criminal breach of trust by public servant, or by banker, merchant or agent.** Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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<sup>1</sup> Subs. by the Federal Laws Revision and Declaration Act, 1951 (26 of 1951), s. 4 and III Sch., for "Calcutta".

<sup>2</sup> Subs. *ibid.*, for "Delhi".

<sup>3</sup> Subs. by Criminal Law (Amendment) Ordinance, 1981 (33 of 1981), s.2, for "three".

<sup>4</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

## *Of the Receiving of Stolen Property*

**410. Stolen property.** Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which <sup>1</sup>\* \* \* criminal breach of trust has been committed, is designated as “stolen property”, <sup>2</sup>[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without <sup>3</sup>[Pakistan]]. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

**411. Dishonestly receiving stolen property.** Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**412. Dishonestly receiving property stolen in the commission of a decoity.** Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of decoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with <sup>4</sup>[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

**413. Habitually dealing in stolen property.** Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with <sup>4</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**414. Assisting in concealment of stolen property.** Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

## *Of Cheating*

**415. Cheating.** Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person <sup>5</sup>[or any other person] in body, mind, reputation or property, is said to “cheat”.

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<sup>1</sup>The word “the” before the words “offence of” was rep. by the Amending Act, 1891 (12 of 1891), and the words “offence of” were rep. by s. 9 of the Indian Penal Code Amdt. Act, 1882 (8 of 1882).

<sup>2</sup>Ins. by Act 8 of 1882, s. 9.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch., (w.e.f. 14th October, 1955), for “the Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, Arts. 3(2) and 4, for “British India”.

<sup>4</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

<sup>5</sup>Ins. by the Pakistan Penal Code (Amdt.) Ordinance, 1980 (41 of 1980), s.2.

*Explanation.*- A dishonest concealment of facts is a deception within the meaning of this section.

### ***Illustrations***

- (a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean, to pay. A cheats.
- (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
- (c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.
- (d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.
- (e) A, by pleading as diamonds articles, which he knows are not diamonds intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.
- (f) A, intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.
- (g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats ; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.
- (h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.
- (i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

**416. Cheating by personation.** A person is said to “cheat by personation” if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

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*Explanation.*- The offence is committed whether the individual personated is a real or imaginary person.

### *Illustrations*

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

**417. Punishment for cheating.** Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect,** Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law, or by legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**419. Punishment for cheating by personation.** Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to <sup>1</sup>[seven] years, or with fine, or with both.

**420. Cheating and dishonestly inducing delivery of property.** Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

### *Of Fraudulent Deeds and Dispositions of Property*

**421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.** Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**422. Dishonestly or fraudulently preventing debt being available for creditors.** Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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<sup>1</sup>Subs. by the Criminal Law (Amdt.) Ord. 1981 (33 of 1981), s. 2, for "three".

**423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.** Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**424. Dishonest or fraudulent removal or concealment of property.** Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

### *Of Mischief*

**425. Mischief.** Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits “mischief”.

*Explanation 1.-* It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

*Explanation 2.-* Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

### *Illustrations*

- (a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.
- (b) A introduces water into an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.
- (c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- (d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

- (e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.
- (f) A, causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.
- (g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.
- (h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

**426. Punishment for mischief.** Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

**427. Mischief causing damage to the amount of fifty rupees.** Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**428. Mischief by killing or maiming animal of the value of ten rupees.** Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.** Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

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**430. Mischief by injury to works of irrigation or by wrongfully diverting water.** Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**431. Mischief by injury to public road, bridge, river, or channel.** Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**432. Mischief by causing inundation or obstruction to public drainage attended with damage.** Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

**433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.** Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**434. Mischief by destroying or moving etc., a landmark fixed by public authority.** Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**435. Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.** Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards <sup>1</sup>[or (where the property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which <sup>2</sup>[shall not be less than two years nor more than] seven years and shall also be liable to fine.

**436. Mischief by fire or explosive substance with intent to destroy house, etc.** Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with <sup>3</sup>[imprisonment for life], or with imprisonment of either description for a term which <sup>4</sup>[shall not be less than three years nor more than] ten years, and shall also be liable to fine.

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<sup>1</sup>Ins. by the Penal Code Amdt. Act, 1882 (8 of 1882), s.10.

<sup>2</sup>Subs. by the Criminal Laws (Amdt.) Ord., 1980 (3 of 1980), ss. 11. and 12, for "may extend to".

<sup>3</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>4</sup>Subs. by Ord. 3 of 1980, s. 12, for "may extend to".

**437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.** Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**438. Punishment for the mischief described in section 437 committed by fire or explosive substance.** Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**439. Punishment for intentionally running vessel a ground or ashore with intent to commit theft, etc.** Whoever intentionally runs any vessel a ground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**440. Mischief committed after preparation made causing death or hurt.** Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

### *Of Criminal Trespass*

**441. Criminal trespass.** Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or, having lawfully entered into or upon such property, unlawfully remains therewith intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit “criminal trespass”.

**442. House-trespass.** Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit “house-trespass”.

*Explanation.*- The introduction of any part of the criminal trespasser’s body is entering sufficient to constitute house-trespass.

**443. Lurking house-trespass.** Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit “lurking house-trespass”.

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

**444. Lurking house-trespass by night.-** Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit “lurking house-trespass by night”.

**445. House-breaking.** A person is said to commit “house-breaking” who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say :-

*Firstly.*-If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

*Secondly.*-If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance ; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

*Thirdly.*-If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

*Fourthly.*-If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

*Fifthly.*-If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

*Sixthly.*-If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house trespass.

*Explanation.*-Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

### ***Illustrations***

- (a) A commits house-trespass by making a hole through the wall of Z’s house, and putting his hand through the aperture. This is house-breaking.
- (b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.
- (c) A commits house-trespass by entering Z’s house, through a window. This is house-breaking.
- (d) A commits house-trespass by entering Z’s house through the door, having opened a door which was fastened. This is house-breaking.

- (e) A commits house-trespass by entering Z's house through the door having lifted a latch by putting a wire through a hole in the door. This is house-breaking.
- (f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.
- (g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.
- (h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

**446. House-breaking by night.** Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

**447. Punishment for criminal trespass.** Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to <sup>1</sup>[one thousand five hundred rupees], or with both.

**448. Punishment for house-trespass.** Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to <sup>1</sup>[three thousand rupees], or with both.

**449. House trespass in order to commit offence punishable with death.** Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with <sup>2</sup>[imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

**450. House-trespass in order to commit offence punishable with imprisonment for life.** Whoever commits house-trespass in order to the committing of any offence punishable with <sup>2</sup>[imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

**451. House-trespass in order to commit offence punishable with imprisonment.** Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

**452. House-trespass after preparation for hurt, assault or wrongful restraint.** Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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<sup>1</sup> Subs. by Ord. 86 of 2002, s. 2 and Sch., I, for "five hundred rupees and one thousand rupees".

<sup>2</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

**453. Punishment for lurking house-trespass or house breaking.** Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

**454. Lurking house-trespass or house breaking in order to commit offence punishable with imprisonment.** Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

**455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.** Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**456. Punishment for lurking house-trespass or house breaking by night.** Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**457. Lurking house trespass or house-breaking by night in order to commit offence punishable with imprisonment.** Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine ; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

**458. Lurking house-trespass or house breaking by night after preparation for hurt, assault or wrongful restraint.** Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

<sup>1</sup>[**459. Hurt caused whilst committing lurking house-trespass or house-breaking.** Whoever, whilst committing lurking house-trespass or house-breaking, causes hurt to any person or attempts to commit *qatl* of, or hurt to, any person, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to the same punishment for committing *qatl* or causing hurt or attempting to cause *Qatl* or hurt as is specified in Chapter XVI of this Code.]

<sup>1</sup>[**460. Persons jointly concerned in lurking house-trespass or house-breaking by night punishable for qatl or hurt caused by one of them.**— If, at the time of the committing of lurking house-trespass by night or house-breaking by night,

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<sup>1</sup>Subs. by Act II of 1997, Ss. 8 & 9.

any person guilty of such offence shall voluntarily cause or attempt to commit *qatl*, of or hurt to, any person, every person jointly concerned in committing such lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment for life or, with imprisonment of either description for a term which may extend to ten years and shall also be liable to the same punishment for committing *qatl* or causing hurt to attempting to cause *qatl* or hurt as is specified in Chapter XVI of this Code.]

**461. Dishonestly-breaking open receptacle containing property.** Whoever dishonestly or with intent to commit mischief breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**462. Punishment for same offence when committed by person entrusted with custody.** Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

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<sup>1</sup>[CHAPTER XVII A  
OF OFFENCES RELATING TO OIL AND GAS ETC

**462A. Definition.**—In this chapter, unless there is anything repugnant in the subject or context:

- (a) "distribution" means the activity of transporting petroleum through pipelines and associated facilities. In case of natural gas, distribution means the activity of transporting natural gas through pipelines and associated facility at a pressure which would not ordinarily be expected to exceed three hundred per square inch gauge (psig) or such pressure as the relevant Regulatory Authority may prescribe from time to time;
- (b) "facility" includes Liquefied Petroleum Gas (LPG) processing facility or compression facility, natural gas or LPG testing facility, natural gas storage facility, Liquefied Natural Gas (LNG) processing facility or crude oil and refined oil products storage facility, repeater station or compression station other than compression system installed at Compressed Natural Gas (CNG) Station;
- (c) "gas meter" means an instrument which measures gas delivered to consumer for consumption;
- (d) "gas regulator" means a regulator to control the pressure of gas;
- (e) "installation" means all facilities used in loading, unloading, reloading, transmission and distribution of petroleum, including equipment, terminals, storage tanks, pipelines and port facilities;
- (f) "meter index" means a "counter in" in a gas meter for recording the volume of gas passed through the gas meter at line condition;
- (g) "person" includes any individual or any company, firm or corporation whether incorporated or not, or a public servant or an employee of any oil and gas company;

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<sup>1</sup> Ins. by Act XX of 2011, s. 2.

- (h) "petroleum" means oil, crude oil, refined oil products, natural gas, LPG, Air Mix LPG, LNG and CNG;
- (i) "pipeline" means any pipe or any system or arrangement of pipes wholly within Pakistan including offshore area which transports petroleum and includes all equipment of any kind used for the purpose of, or in connection with, or incidental to, the operation of a pipeline in transporting or handling of petroleum;
- (j) "tampering" includes interfering or creating hindrance in flow or metering of petroleum by unauthorized entry into metering system or transmission and distribution lines either by breaking the seals or damaging or destructing the same or in any manner interfering with the meter or interfering with its original condition;
- (k) "transmission" means the activity of transporting natural gas through pipelines and other facilities at a pressure of not less than three hundred psig or such pressure as the relevant regulatory Authority may prescribe from time to time; and
- (l) "transportation" means an activity of transporting oil through pipelines and associated facilities where the pipelines are an integral part of a refinery, facility or gathering pipelines.

**462B. Tampering with petroleum pipelines, etc.—**(1) Any person who wilfully does tampering or attempts to do tampering or abets in tampering with a facility, installation or main pipeline for transmission or transportation, as the case may be, of petroleum, is said to commit tampering with petroleum pipelines.

(2) Any person who commits or abets in tampering with petroleum pipelines for the purpose of,—

- (a) theft of petroleum; or
- (b) disrupting supply of petroleum,

shall be punished with rigorous imprisonment which may extend to fourteen years but shall not be less than seven years and with fine which may extend to ten million rupees.

**462C. Tampering with auxiliary or distribution pipelines of petroleum.—** (1) Any person who wilfully does tampering or attempts to do tampering or abets in tampering with any auxiliary or distribution pipeline of petroleum not being a main transmission and transportation pipeline but includes a distribution system, distribution pipeline or any other related system and equipment, as the case may be, of petroleum is said to commit tampering with auxiliary or distribution pipelines of petroleum.

(2) Any person who commits or abets in tampering with auxiliary or distribution pipeline or petroleum for the purpose of,—

(a) theft of petroleum; or

(b) disrupting supply of petroleum,

shall be punished with rigorous imprisonment which may extend to ten years but shall not be less than five years and with fine which may extend to three million rupees.

**462D. Tampering with gas meter by domestic consumer, etc.-** Any person or individual being the domestic consumer who does tampering or abets in tampering with any gas meter regulator, meter index or gas connection or any other related system and equipments, whether to commit theft of gas or for the purpose of unauthorized distribution or supply of gas shall be punished with imprisonment for a term which may extend to six months or fine which may extend to one hundred thousand rupees or both.

**462E. Tampering with gas meter by Industrial or commercial consumer, etc. —** Any person or individual being industrial or commercial consumer who does tampering or abets in tampering with any gas meter, regulator, meter index or gas connection or any other related system and equipments, whether to commit theft of gas or for the purpose of unauthorized distribution or supply of gas shall be punished with imprisonment which may extend to ten years but shall not be less than five years or fine which may extend to five million rupees or both.

**462F. Damaging or destructing the transmission or transportation lines, etc. —** Any person who damages or destructs any transmission or transportation lines by an act of subversion by explosive material or in another manner so as to disrupt the supply of petroleum shall be punished with rigorous imprisonment which may extend to fourteen years but shall not be less than seven years and with fine which shall not be less than one million rupees.

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**CHAPTER XVII B**  
**OF OFFENCES RELATING TO ELECTRICITY**

**462G. Definitions.**—In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) "Court" means the court of sessions designated as Electricity Utilities Court empowered to take cognizance of an offence under this Chapter;
- (b) "consumer" means a person or his successor in interest who purchases or receives electric power for consumption and not for delivery or resale to other, including a person who owns or occupies a premises where electric power is supplied;
- (c) "distribution" means the ownership, operation, management or control of distribution facilities for the movement or delivery or sale to consumers of electric power but shall not include the ownership, operation, management and control of distribution facilities located on private property and used solely to move or deliver electric power to the person owning, operating, managing and controlling those facilities or to tenants thereof;
- (d) "distribution facilities" means electrical facilities operating at the distribution voltage and used for the movement or delivery of electric power;
- (e) "electric meter" means an instrument which measures electricity delivered to the consumer for consumption including kilowatt meter, kilowatt hour meter; kilowatt ampere hour meter, kilowatt ampere reactive hour meter, current transformers, potential transformers, maximum demand indicator or any other measuring apparatus;
- (f) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting, or distributing energy together with any casing, coating, covering, tube, pipe or insulator, enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy;
- (g) "electric power" means electrical energy or the capacity for the production of electrical power;
- (h) "electric power services" means the generation, transmission or distribution of electric power and all other services incidental thereto;
- (i) "energy" means electrical energy when generated, transmitted, distributed, supplied or used for any purpose;
- (j) "Government" means the Federal Government;
- (k) "licence" means a licence issued for generation, transmission or distribution under the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);
- (l) "licence" means a holder of a licence;
- (m) "person" includes any individual or any company, firm or cooperation whether incorporated or not, or public servant or an employee of any, company, licensee or electric power utility;
- (n) "service line" means any electric supply-line through which energy is, or is intended to be, supplied by a licensee,—

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<sup>1</sup>Ins. by Act VI of 2016,s.2.

- (i) to a single consumer either from a distributing main or immediately from the licensee's premises; or
- (ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main;
- (o) "tampering" or "tamper" includes interfering or creating hindrance in flow or metering of electric power by unauthorized entry of access into metering system or transmission and distribution lines either by breaking the seals or damaging or destructing the same or in any manner interfering with the electric meter or transmission line or distribution line or interfering with its original condition;
- (P) "tariff" means the rates, charges terms and condition for generation of electric power, transmission, inter-connection, distribution services and sales of electric power to consumers by a licensee;
- (q) "transmission" means the ownership, operation, management or control of transmission facilities;
- (r) "transmission facilities" means electrical transmission facilities including electrical circuits, transformers and sub-stations operating at or above the minimum transmission voltage; and
- (s) "works" includes electric supply-lines and any buildings, machinery or apparatus required to supply energy.

**462H. Abstraction or tampering etc. with transmission.**— (1) Any person who,—

- (a) dishonestly taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or services lines, electric supply-line or transmission facilities of a licensee for transmission of electric power services, or any other related system and equipment, as the case may be, so as to abstract, use or consume electricity without passing through the electric meter is said to cause abstraction; or
- (b) willfully tampers or attempts to tamper with service line, electric supply-line or transmission facilities for transmission of electric power, is said to cause tampering.

(2) Any person who causes or abets in causing abstraction or commits or abet in committing tampering with transmission of electric power for the purpose of,—

- (a) theft of electric power; or
- (b) disrupting supply of electric power; or
- (c) illegal transmission of electric power services,

shall be punishable with rigorous imprisonment which may extend to three years or with fine which may extend to ten million rupees or with both.

**462I. Abstraction or tampering etc., with distribution or auxiliary.**— (1) Any person who,-

- (a) dishonestly taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service lines, electric supply-line or distribution facilities of a licensee for distribution of electric power services so as to abstract, use or consumer electricity without passing through the electric meter is said to cause abstraction; or
- (b) willfully tampers or attempts to tamper with service line, electric supply-line or distribution facilities for distribution of electric power services, or any other related system and equipment, as the case may be, for distribution of electric power services is said to cause tampering with auxiliary or distribution of electric power.

(2) Any person who causes or abets in causing abstraction or commits or abets in committing tampering with distribution of electric power for the purpose of,—

- (a) theft of electric power; or
- (b) disrupting supply of electric power; or
- (c) illegal distribution of electric power services,

shall be punishable with rigorous imprisonment which may extend to three years or with fine which or may extend to three million rupees or with both.

**462J. Interference, improper use or tampering with *electric meter* by domestic consumer, etc.**—Any person being the domestic consumer who,—

- (a) unauthorizedly connects any electric meter with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line without the consent of the licensee; or
- (b) unauthorizedly reconnects any electric meter with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected without the consent of the licensee; or
- (c) tampers with an electric meter, install or uses a tampered electric meter, current reversing transformer, loop connection or any other device or method, contrivance or artificial means which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- (d) uses the energy supplied by a licensee under one method of tariff in a manner for which higher tariff is in force; or
- (e) uses energy supplied by a licensee in a manner prejudicial to the safety or efficient working of the electric supply-line or deals with it in a manner so as to interfere with efficient supply of energy to other consumers, or persons; or
- (f) abets in the commission or any of the acts mentioned in clauses (a) to (e),

in order to commit theft of electric power, or dishonestly abstract, consume or use electric power or unauthorized distribution or supply of electric power shall be punishable with imprisonment for a term which may be extend to two years or with fine which may extend to one million rupees or with both.

**462K. Interference, improper use of tampering with electric meter by industrial or commercial, etc.**— Any person being industrial or commercial who,—

- (a) unauthorizedly connects any electric meter with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line without the consent of the licensee; or
- (b) unauthorizedly reconnects any electric meter with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected without the consent of the licensee; or
- (c) tampers with an electric meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method, contrivance or artificial means which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- (d) uses the energy supplied by a licensee under one method of tariff in a manner for which higher tariff is in force; or
- (e) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee without consent; or
- (f) uses energy supplied by a licensee in a manner prejudicial to the safety or efficient working of the electric supply-line or deals with it in a manner so as to interfere with efficient supply of energy to other consumers, persons; or
- (g) abets in the commission of any of the acts mentioned in clauses (a) to (f),

in order to commit theft of electric power, or dishonestly abstract, consume or use electric power or unauthorized distribution or supply of electric power shall be punished with imprisonment which may extend to three years or with fine which may extend to six million rupees or with both.

**462L. Interference, improper use or tempering with electric meter by agricultural consumer, etc.—** Any person being agricultural consumer who,—

- (a) unauthorizedly connects any electric meter with any electric line through which electricity is supplied by a licensee disconnects the same from any such electric line without the consent of the licensee; or
- (b) unauthorizedly reconnects any electric meter with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected without the consent of the licensee; or
- (c) tampers with an electric meter, install or uses a tampered meter, current reversing transformer, loop connection or any other device or method, contrivance or artificial means which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- (d) uses the energy supplied by a licensee under one method of tariff in a manner for which higher tariff is in force; or
- (e) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee without consent; or
- (f) uses energy supplied by a licensee in a manner prejudicial to the safety or efficient working of the electric supply-line or deals with in a manner so as to interfere with efficient supply of energy to other consumers, persons; or
- (g) abets in the commission of any of the act mentioned in clauses (a) to (f),

in order to commit theft of electric power, or dishonestly abstract, consume or use electric power or unauthorized distribution or supply of electric power shall be punished with imprisonment which may extend to two years or with fine which may extend to two and half million rupees or with both.

**462M. Damaging or destroying or destructing the transmission lines, distribution lines, electric meter etc.**—Any person who damages, destroys or destruct any transmission lines, distribution lines, electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged, destroyed or destructed by an act of subversion by explosive material or in any other manner so as to disrupt the supply of electric power services or maliciously causes electric power services to be wasted or diverted or cuts off or injures or attempts to cut off or injure any transmission line or distribution line or a service line or electric supply line shall be punished with rigorous imprisonment which may extend to seven years and with fine which shall not be less than three million rupees.

**462N. Recovery of outstanding amounts from persons involved in section 462H to 462M offences.**— Any person said to commit or to have committed the offence as mentioned in section 462H to 462M shall also be liable to pay an amount equivalent to the financial loss caused to the Government or the distribution companies concerned. Any such outstanding amount of penalties or fines imposed under this Chapter shall be recoverable as arrears of land revenue.

**462O. Cognizance.**— (1) The Court shall try an offence punishable under this Chapter.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 or any other law for the time being in force, the Court shall not take cognizance of an offence under this Chapter except on a complaint made, with reasons to be recorded in writing along with full particulars of the offence committed under this Chapter, by duly authorized officer (not below Grade 17) of the Government or the distribution company, as the case may be.

**462P. Overriding effect.**— The provisions of this Chapter shall have effect notwithstanding anything contained in any other law for the time being in force."

**CHAPTER XVIII**  
**OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE**  
**OR PROPERTY MARKS.**

**463. Forgery.** Whoever makes any false document or part of a document, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

**464. Making a false document.** A person is said to make a false document—

*Firstly.*-Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed ;  
or

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*Secondly.*-Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration ; or

*Thirdly.*-Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

### ***Illustrations***

- (a)** A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000 and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.
  - (b)** A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery.
  - (c)** A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.
  - (d)** A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.
  - (e)** A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.
  - (f)** Z's will contains these words-"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.
  - (g)** A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order" and thereby converts the special endorsement into a blank endorsement. B commits forgery.
  - (h)** A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.
  - (i)** Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.
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- (j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property. A has committed forgery.
- (k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

*Explanation 1.*- A man's signature of his own name may amount to forgery.

### ***Illustrations***

- (a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.
- (b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery ; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.
- (c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable, here A has committed forgery.
- (d) A purchases an estate sold under execution of a decree against B. B after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.
- (e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors ; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

*Explanation 2.*- The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his life time, may amount to forgery.

### ***Illustration***

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

**465. Punishment for forgery.** Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**466. Forgery of record of Court or of public register, etc.** Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**467. Forgery for valuable security will, etc.** Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**468. Forgery for purpose of cheating.** Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**469. Forgery for purpose of harming reputation.** Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**470. Forged document.** A false document made wholly or in part by forgery is designated “a forged document” .

**471. Using as genuine a forged document.** Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

**472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.** Whoever makes or counterfeits any seal, plate or ether instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punishable with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

**473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.** Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.** Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466 of this Code, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; and if the document is one of the description mentioned in section 467, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

**475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.** Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with <sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**476. Counterfeiting device or mark used for authenticating, documents other than those described in section 467, or possessing counterfeit marked material.** Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.** Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with<sup>1</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for "transportation for life".

<sup>1</sup>[**477A. Falsification of accounts.** Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**Explanation.-** It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.]

### ***Of Trade, Property and Other Marks***

<sup>2</sup>[<sup>3</sup>**478. Trade mark.** A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purpose of this Code the expression “trade mark” includes any trade mark which is registered in the register of trade marks kept under the Trade Marks Act, 1940 (V of 1940).].

**479. Property mark.** A mark used for denoting that moveable property belongs to a particular person is called a property mark.

**480. Using a false trade mark.** Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

**481. Using a false property mark.** Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

**482. Punishment for using a false trade-mark or property mark.** Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**483. Counterfeiting a trade mark or property mark used by another.** Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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<sup>1</sup>S. 477A ins. by the Criminal Law Amdt. Act, 1895 (3 of 1895), s. 4.

<sup>2</sup>Ss. 478 to 489 were subs. by the Indian Merchandise Marks Act, 1889 (4 of 1889), s. 3, for the original sections.

<sup>3</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., for section 478.

**484. Counterfeiting a mark used by a public servant.** Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**485. Making or possession of any instrument for counterfeiting a trade mark or property mark.** Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**486. Selling goods marked with a counterfeit trade mark or property mark.** Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or thing with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves-

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**487. Making a false mark upon any receptacle containing goods.** Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

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**488. Punishment for making use of any such false mark.** Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

**489. Tampering with property mark with intent to cause injury.** Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

### *Of Currency-Notes and Bank-Notes*

<sup>1</sup>**489A. Counterfeiting currency-notes or bank-notes.** Whoever counterfeits, or knowingly performs any part of the process of <sup>2</sup>counterfeiting, any currency-note or banknote, shall be punished with <sup>3</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.-* For the purposes of this section and of sections 489B, 489C and 489D, the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

**489B. Using as genuine forged or counterfeit currency-notes or bank-notes.** Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with <sup>3</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**489C. Possession of forged or counterfeit currency-notes or bank-notes.** Whoever has in his possession any <sup>4</sup>forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.** Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with <sup>3</sup>[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

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<sup>1</sup> Ss. 489A to 489D ins. by the Currency Notes Forgery Act, 1899 (12 of 1899), s. 2.

<sup>2</sup> For 'counterfeiting' and 'forging' of currency Notes and Bank Notes, see C.M.L.A. Secretariat Notification No. 57/24 (259) AJAG/CMLA/82, 4.3.1982.

<sup>3</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for “transportation for life”.

<sup>4</sup> For 'counterfeiting' and 'forging' of currency Notes and Bank Notes, see C.M.L.A. Secretariat Notification No. 57/24 (259) AJAG/CMLA/82, 4.3.1982.

<sup>1</sup>[**489E. Making or using documents resembling currency-notes or bank-notes.**- (1) Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency-note or bank-note shall be punished with <sup>2</sup>[imprisonment of either description for a term which may extend to one year, or with fine, or with both].

(2) If any person, whose name appears on a document the making of which is an offence under sub-section (1), refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with <sup>2</sup>[imprisonment of either description for a term which may extend to one year, or with fine, or with both].

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that person caused the document to be made.].

<sup>3</sup>[**489F. Dishonestly issuing a cheque.**-Whoever dishonestly issues a cheque towards repayment of a loan or fulfillment of an obligation which is dishonoured on presentation, shall be punishable with imprisonment which may extend to three years, or with fine, or with both, unless he can establish, for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be honoured and that the bank was at fault in not honouring the cheque.]

<sup>4</sup>[**489G. Counterfeiting or using documents resembling Prize Bonds or unauthorized sale thereof.**- Whoever counterfeits or causes to counterfeit, or delivers to any person, or performs any act, or uses for any purpose whatsoever, any document purporting to be, or in any manner resembling, the Prize Bond or the Serial Number of Prize Bonds, or sells or promotes the sale of Prize Bonds or Serial Number of Prize bonds unless authorized by the Federal Government shall be punished with the imprisonment of either description for a term which may extend to seven years and with fine.”]

## CHAPTER XIX OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

**490.** [*Breach of contract of service during voyage or journey.*] *Rep. by the Workmen’s Breach of Contract (Repealing) Act, 1925 (III of 1925), s. 2 and Sch.*

**491. Breach of contract to attend on and supply wants of helpless person.** Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to <sup>5</sup>[six hundred rupees], or with both.

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<sup>1</sup>S.489E.ins. by the Indian Penal Code(Amdt.) Act, 1943(6 of 1943), s.2.

<sup>2</sup> Subs. by the Criminal Law (Amdt.) Act, 1976 (8 of 1976), s.2, for “fine which may extend to one hundred rupees”.

<sup>3</sup>Ins. by Ord 85 of 2002, s.2,

<sup>4</sup>Ins. by Act. 23 of 2012, s.2.

<sup>5</sup>Sub.by ord.86 of 2002,S.2 and sch-I.

492. [*Breach of contract to serve at distant place to which servant is conveyed at master's expense.*] Rep. by the *Workmen's Breach of Contract (Repealing) Act, 1925 (III of 1925), s. 2 and Sch.*

## CHAPTER XX

### OF OFFENCES RELATING TO MARRIAGE

493. [*Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.*] Rep. by the *Offences of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), s. 19 (w.e.f. the 10th day of February, 1979).*

<sup>1</sup>[493A. **Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.**— Every man who deceitfully causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief, shall be punished with rigorous imprisonment for a term which may extend to twenty-five years and shall also be liable to fine.]

494. **Marrying again during lifetime of husband or wife.** Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Exception.* - This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

495. **Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.** Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

496. **Marriage ceremony fraudulently gone through without lawful marriage.** Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

<sup>2</sup>[496A. **Enticing or taking away or detaining with criminal intent a woman.**— Whoever takes or entices away any woman with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any woman, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

496B. **Fornication.**—(1) A man, and woman not married to each other are said to commit fornication if they willfully have sexual intercourse with one another.

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<sup>1</sup>Sub. by ord.86 of 2002, S.2 and sch-I.

<sup>2</sup>Ins by Act. VI of 2006, S.6

(2) Whoever commits fornication shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine not exceeding ten thousand rupees.

**496C. Punishment for false accusation of fornication.**— Whoever brings or levels or gives evidence of false charge of fornication against any person, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine not-exceeding ten thousand rupees:

Provided that Presiding Officer of a Court dismissing a complaint under section 203C of the Code of Criminal Procedure, 1898 and after providing the accused an opportunity to show cause if satisfied that an offence under this section has been committed shall not require any further proof and shall forthwith proceed to pass the sentence.]

**497.** [*Adultery.*] *Rep. by the Offences of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), s. 19 (w.e.f the 10<sup>th</sup> day of February, 1979).*

**498.** [*Enticing or taking away or detaining with criminal intent a married woman.*] *Rep. by the Offences of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979), s. 19 (w.e.f the 10<sup>th</sup> day of February, 1979).*

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## <sup>1</sup>“CHAPTER XXA

### OF OFFENCES AGAINST WOMEN

**498A. Prohibition of depriving women form inheriting property.**-whoever by deceitful or illegal means deprives any woman from inheriting any movable or immovable property at the time of opening of succession shall be punished with imprisonment for either description for a term which may extend to ten years but not be less than five years or with a fine of one million rupees or both.

**498B. Prohibition of forced marriage.**- whoever coerces or in any manner whatsoever compels a woman to enter into marriage shall be punished with imprisonment of either description for a term, which may extend to seven years or for a term which shall not be less than three years and shall also be liable to fine of five hundred thousand rupees.

**498C. Prohibition of marriage with the Holy Quran.**- whoever compels or arranges or facilitates the marriage of a woman with the Holy Quran shall be punished with imprisonment of either description which may extend to seven years which shall not be less than three years and shall be liable to fine of five hundred thousand rupees.

**Explanation.**- Oath by a woman on Holy Quran to remain unmarried for the rest of her life or, not to claim her share of inheritance shall be deemed to be marriage with the Holy Quran.”.

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<sup>1</sup> *Ins. by Act XXVI of 2011 s. 3.*

## CHAPTER XXI

### OF DEFAMATION

**499. Defamation.** Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person[.]<sup>1</sup>

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*Explanation 1.-* It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

*Explanation 2.-* It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

*Explanation 3.-* An imputation in the form of an alternative or expressed ironically, may amount to defamation.

*Explanation 4.-* No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

#### *Illustrations*

- (a) A says—"Z is an honest man ; he never stole B's watch" ; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.
- (b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.
- (c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

**First Exception. Imputation of truth which public good requires to be made or published.-** It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

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<sup>1</sup>Subs. by Act IV of 1986, s.2 for "colon".

<sup>2</sup>Omitted *ibid*.

**Second Exception. Public conduct of public servant.**- It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

**Third Exception. Conduct of any person touching any public question.**- It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

#### ***Illustration***

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question in signing requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

**Fourth Exception. Publications of reports of proceedings of Courts.**- It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

*Explanation.*- A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

**Fifth Exception. Merits of case decided in Court or conduct of witnesses and other concerned.**- It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

#### ***Illustrations***

(a) A says-"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.

(b) But if A says-"I do not believe what Z asserted at that trial because I know him to be a man without veracity". A is not within this exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

**Sixth Exception. Merits of public performance.**-It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

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*Explanation.*- A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

### ***Illustrations***

- (a) A person who publishes a book, submits that book to the judgment of the public.
- (b) A person who makes a speech in public, submits that speech to the judgment of the public.
- (c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.
- (d) A says of a book published by Z-“Z’s book is foolish : Z must be a weak man. Z’s book is indecent ; Z must be a man of impure mind.” A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z’s character only so far as it appear in Z’s book, and no further.
- (e) But if A says-“I am not surprised that Z’s book is foolish and indecent, for he is a weak man and a libertine.” A is not within this exception, inasmuch as the opinion which he expresses of Z’s character is an opinion not founded on Z’s book.

***Seventh Exception. Censure passed in good faith by person having lawful authority over another.***- It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

### ***Illustration***

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court ; a head of a department censuring in good faith those who are under his orders ; a parent censuring in good faith a child in the presence of other children ; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils ; a master censuring a servant in good faith for remissness in service ; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier-are within this exception.

***Eighth Exception. Accusation preferred in good faith to authorized person.***- It is not defamation to prefer in good preferred in faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.

### ***Illustration***

If A in good faith accuses Z before a Magistrate ; if A in good faith complains of the conduct of Z, a servant, to Z,s master ; if a in good faith complains of the conduct of Z, a child, to Z’s father-A is within this exception.

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**Ninth Exception. Imputation made in good faith by person for protection of his or other's interest.-** It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.

### **Illustrations**

- (a) A, a shopkeeper, says to B, who manages his Business—"Sells nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.
- (b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good. A is within the exception.

**Tenth Exception. Caution intended for good or person to whom conveyed or for public good.-** It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

**<sup>1</sup>500. Punishment for defamation.** Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both <sup>2</sup>[.]

<sup>3</sup>[Provided that the originator of the defamatory imputation shall be punished with imprisonment of either description for a term which may extend to five years, or with fine which shall not be less than one hundred thousand rupees, or with both.]

*Explanation .—* "Originator" means the initiator of a defamatory imputation.]

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**<sup>1</sup>501. Printing or engraving matter known to be defamatory.** Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**502. Sale of printed or engraved substance containing defamatory matter.** Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

<sup>3</sup>[**502A. Trial of offences under this chapter.**— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Court of Session shall have the jurisdiction to try an offence under this Chapter and decide it within a period of ninety days.]

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<sup>1</sup> In this section for the word "simple" the word "rigorous" has been subs. in its application to the Province of West Pakistan by (W. P. Act 32 of 1964), s. 2.

<sup>2</sup> Subs. and omitted by Act, IV of 1986, s.2

<sup>3</sup> subs and Ins by Act IX of 04, ss.7,8.

## CHAPTER XXII

### OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

**503. Criminal intimidation.** Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of anyone in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

*Explanation.*- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

#### *Illustration*

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

**504. Intentional insult with intent to provoke breach of the peace.** Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>1</sup>**505. Statement conducing to public mischief.**-(1) Whoever makes, publishes or circulates any statement, rumour or report,—

- (a) with intent to cause or incite, or which is likely to cause or incite, any officer, soldier, sailor, or airman in the Army, Navy or Air Force of Pakistan to mutiny or otherwise disregard or fail in his duty as such ; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or
- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment for a term which may extend to seven years and with fine.

(2) Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment for a term which may extend to seven years and with fine.

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<sup>1</sup>The original s. 505 have successively been amended by the Indian Penal Code (Amdt.) Act, 1898 (4 of 1898), s. 6, the Repealing and Amending Act 1927 (10 of 1927), s. 2 and Sch I, the Amending Act, 1934 (35 of 1934), s. 2 and Sch., A. O.1961, Art. 2 and Sch. (23-3-56), and the Criminal Law (Amdt.) Act, 1973 (6 of 1973), s. 2 (w.e.f. 28th July, 1973), to read as above.

*Explanation.*- It does not amount to an offence within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid.]

**506. Punishment for criminal intimidation.** Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

**If threat be to cause death or grievous hurt, etc.** and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or <sup>1</sup>[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**507. Criminal intimidation by an anonymous communication.** Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

**508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.** Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

#### *Illustration*

- (a) A sits dhurma at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.
- (b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

<sup>2</sup>[**509. Insulting modesty or causing sexual harassment.**—Whoever,-

- (i) intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman;
- (ii) conduct sexual advances, or demand sexual favors or uses verbal or non-verbal communication or physical conduct of a sexual nature which intends to annoy, insult, intimidate or threaten the other person or commits such acts at the premises of workplace, or makes submission to such conduct either explicitly or implicitly a term or

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<sup>1</sup> Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., 4 "Transportation".

<sup>2</sup> Subs. by Act I of 2010, s. 2.

condition of an individual's employment, or makes submission to or rejection of such conduct by an individual a basis for employment decision affecting such individual, or retaliates because of rejection of such behaviour, or conducts such behaviour with the intention of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment;

shall be punished with imprisonment which may extend to three years or with fine up to five hundred thousand rupees or with both.

*Explanation. 1* —Such behaviour might occur in public place, including, but not limited to, markets, public transport, streets or parks, or it might occur in private places including, but not limited to workplaces, private gathering, or homes.

*Explanation. 2* — Workplace means, the place of work or the premises where an organization or employer operates, this may be a specific building, factory, open area or a larger geographical area where the activities of the organization are carried out. Sexual advances may occur after working hours and outside workplace. It is the access that perpetrator has to the person being harassed by virtue of a job situation or job related functions and activities.].

**510. Misconduct in public by a drunken person.** Whoever, in a state of intoxication appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to <sup>1</sup>[thirty rupees], or with both.

## CHAPTER XXIII OF ATTEMPTS TO COMMIT OFFENCES

**511. Punishment for attempting to commit offences punishable with <sup>2</sup>[imprisonment for life or for a shorter term].** Whoever attempts to commit an offence punishable by this Code with <sup>3</sup>[imprisonment for life], or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt be punished with <sup>4</sup>[imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence] or with such fine <sup>5</sup>[daman] as is provided for the offence, or with both.

### *Illustrations*

- (a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.
- (b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

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<sup>1</sup>Subs. by Ord. 86 of 2002, s. 2 and Sch I, for "ten rupees".

<sup>2</sup>subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s.2 and Sch. for "transportation or imprisonment"

<sup>3</sup>Subs. *ibid.*, for "transportation".

<sup>4</sup>Subs. *ibid.*, for certain words.

<sup>5</sup>Ins. by Act No. II of 1997 s. 10.

