



THE OFFENCE OF ZINA (ENFORCEMENT OF HUDOOD) ORDINANCE, 1979



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THE OFFENCE OF ZINA (ENFORCEMENT OF HUDOOD) ORDINANCE, 1979.

¹ORDINANCE NO. VII OF 1979

[10th February, 1979]

An Ordinance to bring in conformity with the Injunctions of Islam the law relating to the offence of zina.

WHEREAS it is necessary to modify the existing law relating to *zina* so as to bring it in conformity with the injunctions of Islam as set out in the Holy Quran and Sunnah;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (*C.M.L.A. Order No. I of 1977*), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:

1. Short title, extent and commencement.-(1) This Ordinance may be called the Offence of *Zina* (Enforcement of Hudood) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context:-

(a) “adult” means a person who has attained, being a male, the age of eighteen years or, being a female, the age of sixteen years, or has attained puberty;

²[(aa) “confession” means, notwithstanding any judgement of any court to the contrary, an oral statement, explicitly admitting the commission of the offence of *zina*, voluntarily made by the accused before a court of sessions having jurisdiction in the matter or on receipt of a summons under section 203A of the Code of Criminal Procedure, 1898 (Act V of 1898)”; and

¹ This Ordinance has been applied to the Provincially Administered Tribal Areas of Baluchistan, by Baluchistan Govt. Notification No. S. O. (TA)-3 (46)/79, dated 29-4-1979, see Baluchistan Gazette. 1979, Ext. (Issue No. 58), dated 14-6-1979.

This Ordinance has been applied to the Federally Administered Tribal Areas by S.R.O. No. 362(I)/97, dated 23-4-1979, see Gaz. of P., Ext., Pt II, p. 632.

This Ordinance has been applied to the Provincially Administered Tribal Areas of the N. W. F. P. by N. W. F. P., Government Notification No. 127-HD (TA) III/79-H, dated 26th May, 1979, see N. W. F. P., Government Gazette Ext., 1979, p. 1101.

² Ins. by Act VI of 06, s. 10.

(b) *hadd*¹ means punishment ordained by the Holy Quran or Sunnah;

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(d) “*Muhsan*” means

(i) a Muslim adult man is not insane and has had sexual intercourse with a Muslim adult woman who at the time he had sexual intercourse with her, was married to him and was not insane; or

(ii) a Muslim adult woman who is not insane and has had sexual intercourse with a Muslim adult man who, at the time she had sexual intercourse with him, was married to her and was not insane; and

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4. Zina. A man and a woman are said to commit ‘*zina*’ if they willfully have sexual inter-course without being ¹* married to each other.

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5. Zina liable to hadd.-(1) *Zina* is *zina* liable to *hadd* if:

(a) it is committed by a man who is an adult and is not insane with a woman to whom he is not, and does not suspect himself to be, married; or

(b) it is committed by a woman who is an adult and is not insane with a man to whom she is not, and does not suspect herself to be, married.

(2) Whoever is guilty of *zina* liable to *hadd* shall, subject to the provisions of this Ordinance:-

(a) if he or she is a ‘*muhsan*’ be stoned to death at a public place; or

(b) if he or she is not a ‘*muhsan*’ be punished, at a public place, with whipping numbering one hundred stripes.

(3) No punishment under sub-section (2) shall be executed until it has been confirmed by the Court to which an appeal from the order of conviction lies: and if the punishment be of whipping, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

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²[“**5A. No. case to be converted, lodged or registered under certain provisions.** No complaint of *zina* under section 5 read with section 203A of the Code of Criminal Procedure, 1898 and no case where an allegation of rape is made shall at any stage be converted into a complaint of fornication under section 468B of the Pakistan Penal Code (Act XLV of 1860) and no complaint of fornication shall at any stage be converted into a complaint of *zina* under section 5 of the Offence of *Zina* (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979) or an offence of similar nature under any other law for the time being in force.”].

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¹ Omitted by Act VI of 06, ss. 10-11 & 12.

² Ins. & omitted by Act VI of 06, s. 12, A-13.