

# Beijing 25 Years on

## Freedom from violence, stigma and stereotypes

### Legal Reforms

Since October 2016,<sup>1</sup> criminal laws have been strengthened, adding new offences for sexual violence and amending procedural laws for more effective prosecution. Punishment for murder in the name or pretext of 'honour' is now mandatory, regardless of whether the heirs of the deceased pardon or compromise with the killer<sup>2</sup>. Provincial governments can no longer commute sentences in cases of honor killing, stripping a woman naked in public, rape, or even for disclosing the identity of a victim of sexual offence/abuse.<sup>3</sup> The prohibition on using wani in out-of-court compromises for murder has been extended to all civil liability and criminal cases.<sup>4</sup> Media reports of cruel treatment of children especially those in domestic service, led to a new cruelty to a child offence in the Pakistan Penal Code (PPC).<sup>5</sup> New offences for exposing a child to seduction, child pornography and sexual abuse have been introduced.<sup>6</sup> The punishment for forced marriages of girls less than sixteen years of age and non-Muslims has been enhanced<sup>7</sup>. Penalties for the rape of a minor or person with mental or physical disability has been enhanced; provisions added in the Criminal Procedure Code (CrPC) for timely medical examination and DNA testing of the victims of sexual crimes with their consent (i.e. rape, sexual abuse and unnatural offences); DNA testing of the accused is now mandatory.<sup>8</sup> The law of evidence has been amended to allow convictions on the basis of modern devices or techniques.<sup>9</sup>

The Punjab Protection Act 2016 does not criminalise any new aspects of domestic violence but provides for VAW centres and some protective remedies, but has only come into force in one district. The domestic violence prevention and protection Acts in Sindh (2013) and Balochistan (2014) laws are not fully operative because stipulated institutions and committees at district and tehsil level have not been established. No action was taken on the Sindh High Court order for a report on the formation of a Commission and District Protection Committees and appointment of protection officers; the order was reiterated in May 30, 2019<sup>10</sup>. The laws provide for similar protection, residence and economic orders<sup>11</sup>, but rules under all three have not been formulated. A domestic violence bill moved by the KP Commission on the Status of Women (KPCSW) has stalled; the bill for the Islamabad Capital Territory has been tabled in parliament but not yet passed.

<sup>1</sup>The Criminal Law (amendment relating to Rape) Act, 2016.

<sup>2</sup>Amendments in sections 309, 310, 338-E of Pakistan Penal Code (PPC) and section 345 of Criminal Procedure Code (CrPC) by Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act, 2016

<sup>3</sup>Amendment in section 55 of PPC through Act no XLIX of 2016

<sup>4</sup>Section 310-A of PPC amended

<sup>5</sup>Section 328-A added in PPC by Criminal Law (second amendment) Act 2016 in March 2016.

<sup>6</sup>Sections 292 A, 292 B & C, 377 A & B added in PPC through Criminal Law (second amendment) Act, 2016 in March 2016.

<sup>7</sup>Punishments for Child pornography and sexual abuse were enhanced in May 2018

<sup>8</sup>Section 498-B of PPC amended by Criminal Law amendment Act IV of 2017 in February 2017.

<sup>9</sup>Sections 164-A, 164-B and 53-A added in CrPC.

<sup>10</sup>Section 164 of Qanoon e shahdat amended.

<sup>11</sup>Writ Petition CP No. S-2658/2018

<sup>12</sup>Order granting financial compensation on financial abuse of the victim

Amendments to the CrPC on a range of GBV crimes<sup>12</sup> enable a survivor to record her statement for registering a case (FIR) at her residence or other convenient place of her choice and make the presence of a female police official or family member mandatory. Any subsequent statement by the survivor must be in the presence of a female police official or female family member<sup>13</sup>. The failure to carry out investigation properly and/or diligently is now a punishable offence, as is intentionally hampering, misleading, jeopardizing or defeating an investigation, inquiry or prosecution or issuing a false or defective report<sup>14</sup>. Trials involving sexual crimes can now be held in camera. To further protect the survivor as well as witnesses, an in-camera trial can use video links or screens. The printing, publishing or broadcasting of any matter in relation to such proceedings without court permission is prohibited<sup>15</sup>. Since 2016, a new section 344-A in the Criminal Law (amendment) (Offence of Rape) Act makes it mandatory for courts to complete trials in cases of sexual offences<sup>16</sup> within three months, yet no measures have been adopted to check compliance.

<sup>12</sup> burn by corrosive substance, outraging modesty of a woman, stripping a woman naked in public and rape

<sup>13</sup> Section 154 & 161 CrPC amended in 2016

<sup>14</sup> Amendments in section 166 & 186 PPC in 2016

<sup>15</sup> Amendment in section 352 of CrPC in 2016

<sup>16</sup> stripping a woman naked in public, rape, unnatural sexual offences and sexual abuse