

Amendment to the Pakistan Penal Code, Section 509

*further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure,
1898*

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898) for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement. – (I) This Act may be called the Criminal Law (Amendment) Act, 2009.

(2) It shall come into force at once.

2. Amendment of section 509. XLV of 1860. - In the Pakistan Penal Code, 1860 (Act XLV of 1860), for section 509, the following shall be substituted namely:-

"509 Insulting modesty or causing sexual harassment – (1) 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) conducts sexual advances, or demands sexual favours or uses written or 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 work place, or makes submission to such conduct either explicitly or implicitly a term or 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 behavior, or conducts such behavior 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 fine up to five hundred thousand rupees or with both.

Explanation-1

Such behavior 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 work places, private gatherings, 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 a perpetrator has to the person being harassed by virtue of a job situation or job related functions and activities.”.

4. Amendment of Schedule II, Act V of 1898.- In the Code of Criminal Procedure 1898, (V of 1898) in Schedule II, -

- (a) for the entries relating to section 509, in column 1 to 8 the following shall be substituted, namely:-

“1	2	3	4	5	6	7	8
509	Insulting modesty or causing sexual harassment	Shall not arrest without warrant.	Warrant	Bailable	Compoundable With permission of the court	Imprisonment up to 3 years, or fine up to Rs.5,00,000, or both	Magistrate of the first class

STATEMENT OF OBJECTS AND REASONS

Harassment is one of the most common issues faced by the women of Pakistan. They face intimidation in the market place, in buses, at bus stops and at work place. This issue alone inhibits most of the women to move out of their houses for education, for availing medical facilities and for earning a livelihood. Parents are hesitant to send their daughters out of the homes alone because the social environment is not safe.

Though in Pakistan Penal Code there are some sections that attempt to address sexual harassment to a certain extent but the terminology is vague. For example, *violate* the *modesty* of women. Neither the term “violate” is well defined nor “modesty”. Therefore it is open to interpretation and can be made much more effective by adding a more specific section.

The amendment drafted in PPC is in the same spirit as section 509 and the other relevant clauses of PPC that provide protection to women. It elaborates and specifies what constitutes harassment of women in public, private and workplaces. It also increases the maximum punishment.

In addition, the clauses in the PPC deal with harassment in the public places only. Workplace is considered a private place and therefore, those clauses are not applicable there. So far, in Pakistan no law covers the incidents of sexual harassment against women at the workplace. The amended version covers sexual harassment at the work place for the first time.

Thus, in conclusion, the new amendment takes the spirit of the PPC forward and makes it more effective for women in cases of insults, humiliation and intimidation.

This amendment will not only make the public and work environment safer for women but it will open up the path for more women to pursue livelihood with dignity. It will reduce poverty as more and more women will get the courage to enter the job market.

In addition it will open up the opportunity for private and government sector to get competent human resource and result in better production and quality services. The social benefits as a result of providing protection for women will become a major contribution to the development of this country.

**MINISTER-IN-CHARGE
SYED YOUSUF RAZA GILLANI**