

THE WHIPPING ACT, 1909

(Act IV of 1909)

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THE WHIPPING ACT, 1909

¹(Act IV of 1909)

[22nd March, 1909]

An Act to consolidate and amend the law relating to the punishment of whipping.

WHEREAS it is expedient to consolidate and amend the law relating to the punishment of whipping;

It is hereby enacted as follows:

1. (1) This Act may be called the Whipping Act, 1909; and

²[(2) It extends to the whole of Pakistan].

Short title and extent.
2. In addition to the punishments described in section 53 of the Pakistan Penal Code, offenders are also liable to the punishment of whipping.

Whipping added to punishment described in Act XLV, 1860.
3. Whoever commits any of the following offences, namely :—

Offences punishable with whipping in lieu of other punishment.
 - (a) theft, as defined in section 378 of the Pakistan Penal Code other than theft by a clerk or servant of property in possession of his master;
 - (b) theft in a building, tent or vessel, as defined in section 380 of the said Code;
 - (c) theft after preparation for causing death or hurt, as defined in section 382 of the said Code;

¹ For statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, P.222; for Report of Select Committee, see *ibid*, 1909, Pt.V, P. 47; and for Proceedings in Council, see *ibid*, 1908, Pt. VI, p.19, and *ibid.*, 1909, Pt, VI, pp.14, 18 and 31.

This Act has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the Khyber Pakhtunkhwa and extended to the Excluded Area of Upper Tanawal Khyber Pakhtunkhwa other than Phulera with effect from such date and subject to such modifications as may be notified, see, Khyber Pakhtunkhwa (Upper Tanawal) (Excluded Area) Laws Regulations, 1950.

It has also been extended to the Leased Areas of Baluchistan, see the G.G.O.III of 1950, and applied in the Federated Areas of Baluchistan, see Gazette, of India, 1937, Pt.I, p.1499.

² Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s.3 and 2nd Sch. (with effect from the 14th October, 1955), for sub-section (2) as amended by A.O., 1949, and the Federal Laws (Revision and Declaration Act, 1951 (XXVI of 1951), s.8.

- (d) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;
- (e) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section;

¹[may, subject to the provisions of sections 4 and 4-A, be punished], with whipping in lieu of any punishment to which he may for such offence be liable under the said Code].

3-A. ²[* * * * *].

³[4. Whoever

Offence punishable with whipping in lieu of or in addition to other punishment.

- (a) abets, commits or attempts to commit, and offence of assault on, or use of criminal force to, any woman, punishable under section 354 of the Pakistan Penal Code;
- (b) voluntarily causes hurt as defined in, section 319 of the Pakistan Penal Code, or grievous hurt as defined in section 320 of the said Code, by throwing, attempting to throw or abetting the throwing of, any substance on the face of any person;
- (c) voluntarily causes grievous hurt punishable under section 325 or section 326 of the, Pakistan Penal Code, by cutting, attempting to cut or abetting the cutting, of the nose of or otherwise disfiguring a male;
- (d) abets, commits or attempts to commit, rape as defined in section 375 of the Pakistan Penal Code;
- (e) compels or induces any person, by fear of bodily injury, to submit to an unnatural offence as defined in section 377 of the Pakistan Penal Code;
- (f) voluntarily causes hurt in committing or attempting to commit robbery, as defined in section 390 of the Pakistan Penal Code;

¹ Subs. for the words "may be punished", by W.P. Ord. VI of 1969.

² Section 3-A was inserted by W.P.Ord.XLII of 1963 and del. by W.P.Ord.VI of 1969.

³ Section 4, subs, by W.P. Ord. VI of 1969.

- (g) commits dacoity as defined in section 391 of the Pakistan Penal Code;
- (h) abets, commits or attempts to commit, an offence of insult to the modesty of a woman punishable under section 509 of the Pakistan Penal Code;

may subject to the provisions of section 4-A, be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence, abetment or attempt be liable under the said Code.]

¹[4-A. (1) Whoever—

Compulsory
whipping in certain
offences.

- (a) commits, attempts to commit or abets the commission of an offence punishable under any of the sections 363 to 373 (both inclusive) of the Pakistan Penal Code in respect of a male under ten years of age or a female, ; or
- (b) commits, attempts to commit or abets the commission of an offence punishable under section 325 or section 326 of the said Code causing disfiguration of a woman in face or body, or maiming a child under the age of fourteen years;

²[(c) abtes, commits or attempts to ²commit, in respect of, or involving, cattle, an offence of—

- (i) taking gift for recovering stolen property punishable under section 215 of the Pakistan Penal Code;
- (ii) theft, punishable under sections 379. 380, 381 or 382 of the said Code;
- (iii) dishonestly receiving or retaining stolen property punishable under section 411 of said Code; or
- (iv) lurking house-trespass or house-breaking punishable under sections 453, 457, 458, 459 or 460 of the said Code;]

shall be punished with whipping in addition to any other punishment to which he may for such offence, abetment or attempt be liable under the said Code.

(2) Notwithstanding anything contained in section 393 of the Code of Criminal Procedure, 1898 (Act V of 1898) a male sentenced to

¹ Section 4-A, ins, by W.P. Ord. XLII of 1963.

² Ins, by W.P. Ord. VI of 1969.

imprisonment for more than five years (not being a sentence of death or transportation) or any male whom the Court considers to be more than forty-five years of age, shall be liable to the punishment of whipping under sub-section (1).]

5. Any juvenile offender who abets, commits or attempts to committ-

Juvenile offenders when punishable with whipping.

- (a) any offence punishable under the Pakistan Penal Code, except offences specified in Chapter VI and in sections 153 A and 505 of that Code and offences punishable with death; or
- (b) any offence punishable under any other law with imprisonment which the ¹[Provincial Government] may, by notification in the ²[official Gazette], specify in this behalf,

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable.

Explanation:- In this section the expression “juvenile offender” means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.

6. When any [Provincial Government] has by notification in the [Official Gazette], declared the provisions of this section to be in force in any frontier district or any wild tract of country within the jurisdiction of such ¹[Provincial Government], any person who in such district or tract of country after such Notification as aforesaid commits any offence punishable under the Pakistan Penal Code with imprisonment for three years or upwards, may be punished with whipping in lieu of any other punishment to which he may be liable under the said Code.

Special provision as to punishment with whipping in frontier districts.

7. *[Amendment of section 392, Act V, 1898]. Rep by the Repealing Act, 1938 (1 of 1938) s. 2 and Schedule.*

8. *[Repeals.] Rep. by the Second Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and Second Schedule.*

THE SCHEDULE—[Enactments repealed]. Rep. by the Second Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and Second Schedule.

¹ Subs. by A.O., 1937, for “Governor General in Council”.

² Sub. Ibid, for “Gazette of India”