

Pakistan Penal Code 1860(Act XLV)

QISAS AND DIYAT ACT 1997

Sec 40 Offence

"An act of commission or an act of omission made punishable by the Code".

Chapter II

Sec 44 Injury

"Any harm whatever illegally caused, to any person, in body, mind, reputation or property."

Note: The word "wound" is not defined in the Law.

Sec 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."

Sec 52 Good faith

"Nothing is said to be done or believed in good faith which is done or believed without due care and attention."

Example: Where a person, uneducated in matters of surgery, operated on a man for internal piles by cutting them out with an ordinary knife, and the man died from haemorrhage, it was held that he did not act in good faith although he had performed similar operations on previous occasions.

Sec 53 Punishments

“The punishments to which offenders are liable under the provisions of this Code are:-

Firstly *Qisas*;

Secondly *Ta'azir*;

Thirdly *Diyat*;

Fourthly *Arsh*;

Fifthly *Daman*;

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”.

Sec 80 accident in doing a lawful act

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

Chapter IV

General Exceptions

Sec 82

“Nothing is an offence, which is done by a child **under seven years of age”.**

Chapter IV

General Exceptions

Sec 83

“Nothing is an offence, which is done by a child **above 7 years of age, and under 12, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion”.**

Chapter IV

General Exceptions

Sec 84

“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 that, or that he is doing what is **either wrong or contrary to law**”.**

Chapter IV

General Exceptions

Sec 85

“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”.**

Sec 87

“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 18 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”.**

Sec 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”.

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

Sec 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**”.

Chapter XI

Of false evidence
and offences
against public
justice

QISAS AND DIYAT ACT 1997

Sec 299 Definitions

(b) **Arsh** - compensation specified in this Chapter to be paid by the offender to the victim or his heirs;

(c) **Authorized medical officer** means a medical officer or a Medical Board however designated, authorized by the Provincial Government;

Chapter XVI

Offences affecting
the Human Body, of
offences affecting
Life



Sec 299 Definitions ...

(d) ***Daman*** - compensation determined by the Court to be paid by the offender to the victim for causing hurt not liable to *Arsh*;

(e) ***Diyat*** - compensation specified in Sec 323 payable to the heirs of the victim by the offender;

(f) **Government** means the Provincial Government;

Chapter XVI

Offences affecting
the Human Body, of
offences affecting
Life



Sec 299 Definitions ...

(g) *Ikrah-e-tam* – 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 *zina-bil-jabr*;

Sec 299 Definitions ...

(i) **Qatal** : causing death of a person

(k) **Qisas** : means punishment by causing similar hurt at the part of body of the convict as he has caused to the victim or by causing his death if he has committed qatal-i-amad ,in exercise of the right of the victim or wali

(l) **Ta'azir** - punishment other than *Qisas*,
Diyat, *Arsh* or *Daman*.

(m) **wali**: means a person entitled to claim qisas

Sec 300 *Qatl-i-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 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-i-amd*.”

Sec 301

*causing death of a person
Other than the person whose
death was intended*

**Where a person, by doing any thing
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
Qata-i-amad**

Punishment For Qatl-i-Amad

- Section 302
- Punished with death as Qisas
- Punished with death or imprisonment for life as Ta'zir
 - If proof specified in sec 304 is not available
- Punishment with either description for a term which may extend to twenty five years
 - Where according to injunction of Islam the punishment of qisas is not applicable

Sec 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 person, is said to commit *qatl shibh-i-amd*.”

Sec 315 *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 qatal shibh-i-amad

Sec 316

Punishment for Qatl shibh-i-amd

- Diyat
- May also punished with imprisonment for a term which may extend to 14 years as ta'zir

Sec 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*.”

Sec 318 *Qatl-i-khata*

Example

A aims at deer but misses the target and kills Z who is standing by. A is guilty of qata-i-khata

A shoots at an object to be a boar but is turn out to be a human being. A is guilty of qatal-i-khata

Sec 319

punishment for *Qatl-i-khata*

Whoever commits qatal-i-khata shall be liable to diyat

Provided that, where qatal-i-khata is committed by any rash or negligent act ,other than rash and negligent driving ,the offender may, in addition to diyat,also be punished with imprisonment for a term that may extend to five years as ta'zir

**Sec 320 Punishment for
Qatl-i-khata by rash or
negligent driving**

**is *Diyat* with imprisonment of either
description for a term which may
extend to ten years.**

Sec 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*.”

Sec 321 *Qatl bis sabab*

A unlawfully dig 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 qatal-bis-sabab

Sec 322

Punishment for *Qatl bis sabab*

Diyat

Sec 323 Value of *Diyat*

- (1) The court shall, subject to 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 Rs 1,70,610 being the value of 30.630 Kg of silver.**

- (2) The Federal Government shall, by notification in the official Gazette, declare the value of silver on the first day of July each year.**

Sec 325

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

Sec 328 Exposure and abandonment of child under 12 years by parent or person having care of it

Whoever being the father or mother of a child under the age of 12 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 7 years, or with fine, or with both.

Sec 329 Concealment of birth by secret disposal of dead body

“Whoever by secretly burying or otherwise disposes 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 of such child, shall be punished with imprisonment of either description for a term which may extend to 2 years, or with fine, or with both”.

Sec 332(1) Hurt

(1) Whoever causes pain, harm, disease, infirmity or injury to any person or impairs, disables, disfigures, defaces or dismembers any organ of the body or part there of any person without causing his death, is said to cause hurt.

Explanation

Disfigure means disfigurement of face or disfigurement or dismemberment of any organ or any part of the organ of the human body which impair or injures or corrodes or deform the symmetry or appearance of the person

(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 hurt.*

Sec 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.

Sec 334.punishment for Itlaf-i-udw

Whoever by doing any act with the intension 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 authorized medical officer be punished with **Qisas**

if qisas is not executable keeping in view the principles of equality in accordance with the injunction of Islam ,the offender shall 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****

Sec 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*.

Sec 336 punishment for Itlaf-i-salahiyyat-i- udw

Qisas

Arsh

Ten year as ta'zir

Sec 336 A

Hurt cause by corrosive substance

Whoever with intension or knowingly causes or attempts to cause hurt by means of a 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 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 corroding effect and which is deleterious to human body

336-B

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

Sec 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)

Sec 337 *Shajjah*

(2) The following are the kinds of *shajjah*, namely:-

- (a) *shajjah-i-khafifa* – (without exposure of bone)**
- (b) *shajjah-i-maudiha* - (exposure without fracture)**
- (c) *shajjah-i-hashimah* - (fracture without dislocation)**
- (d) *shajjah-i-munaqqilah* - (fracture with dislocation)**
- (e) *shajjah-i-ammah* - (exposure of meninges)**
- (f) *shajjah-i-damighah* - (rupture of meninges).**

Sec 337-A punishment for *Shajjah*

- (a) *shajjah-i-khafifa*
 - (Daman ,imprisonment 2 years as ta'zir)
- (b) *shajjah-i-maudiha*
 - Qisas,Arsh (5% of diyat) 5 years as ta'zir
- (c) *shajjah-i-hashimah*
 - Arsh(10% of diyat),ten years imprisonment as ta'zir
- (d) *shajjah-i-munaqqilah*
 - Arsh (15%of diyat),ten years as ta'zir
- (e) *shajjah-i-ammah*
 - Arsh(1/3rd of diyat),ten years as ta'zir
- (f) *shajjah-i-damighah*
 - Arsh (1/2 of diyat)ta'zir fourteen years

Sec 337-B *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) *Jaifah* i.e. where injury extends to body cavities of the trunk; and**
 - (b) *Ghair-Jaifah* i.e. an injury which does not amount to *Jaifah*.**

Sec 337-D *Jaifah*

whoever by doing an act with the intension 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 discription for aterm which may extend to ten years as ta'zir

Sec 337-E

(2) The following are the kinds of *Ghair-Jaifah*:-

- (a) *Damiyah* - rupturing of skin with bleeding;
- (b) *Badiyah* - cutting or incising the flesh without exposing the bone;
- (c) *Mutalahimah* - lacerating the flesh;
- (d) *Mudihah* - exposure of the bone;
- (e) *Hashimah* - fracturing of a bone without dislocation; and
- (f) *Munaqqilah* - fracturing and dislocation of bone.

337-F

punishment of ghayr jaifah

- **(a) *Damiyah***
 - Daman
 - One year ta'zir
- **(b) *Badiyah***
 - Daman
 - 3 years ta'zir
- **(c) *Mutalahimah***
 - Daman
 - 3 years ta'zir

- **(d) *Mudihah***
 - Daman
 - 5 years as ta'zir
- **(e) *Hashimah***
 - Daman
 - 5 years as ta'zir
- **(f) *Munaqqilah***
 - Daman
 - Seven years as ta'zir

Sec 337-J 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 unwhole-some 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 of *arsh* or *daman* provided for the kind of hurt caused, be also punished, having regard to the nature of the hurt caused, with imprisonment of either description for a term which may extend to ten years.

Sec 337-L 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.

... ..

Sec 337-L Punishment for other hurt

- (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.**

Value of *Arsh* for *Itlaf-e-Udw*

<i>Sec of PPC</i>	<i>Itlaf of ...</i>	<i>Example</i>	<i>Value</i>
337-Q	Single organ	nose, tongue	Full <i>Diyat</i>
337-R	Paired organs	hands, feet, lips, breasts	for 1 = half <i>Diyat</i> both/only 1 present = Full <i>Diyat</i>
337-S	Quadruplicate organs	eye lids	1 = 1/4 <i>Diyat</i> 2 = half <i>Diyat</i> 3 = 3/4 <i>Diyat</i> 4 = Full <i>Diyat</i>
337-T	-each finger or toe -each joint of finger/toe		one-tenth <i>Diyat</i> one-thirteenth <i>Diyat</i>
337-U	- each permanent tooth [★] - 20 or more teeth - for temporary teeth	★ <i>Impairment of a part of tooth outside gums amounts to itlaf</i>	one-twentieth <i>Diyat</i> Full <i>Diyat</i> <i>Daman</i> ± 1 yr imprisonment
337-V	Hair	Uprooting all of head hair, beard, moustache, eye brow, lashes, or any other part of body one eye brow one eye lash	Full <i>Diyat</i> half <i>Diyat</i> one-quarter <i>Diyat</i>

Sec 337-Y Value of *Daman*

is determined keeping in view the

(a) expenses incurred on treatment

(b) loss or disability caused

(c) compensation for anguish/suffering

In case of non-payment of *daman*, the individual is kept in prison till recovery

Sec 338 *Isqat-i-Haml*

“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 woman or providing necessary treatment to her, is said to cause *isqat-i-haml*.

A woman who causes herself to miscarry is within the meaning of this section”.

Sec 338-A Punishment for causing Isqat-i-haml

- (a) 3 years rigorous imprisonment if done with consent of the woman;**
- (b) 10 years rigorous imprisonment if done without consent of the woman along with the punishment for hurt or death caused to the woman.**

Sec 338-B *Isqat-i-janin*

“Whoever, causes a woman with child, some of whose organs or limbs 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*.

A woman who causes herself to miscarry is within the meaning of this section”.

Sec 338-C Punishment for causing *Isqat-i-janin*

- (a) one-twentieth of *diyat* if child is born dead;**
- (b) full *diyat* if child is born alive and then dies;**
- (c) 7 years imprisonment as *ta'azir*; if there are multiple children in uterus then separate *diyat* or *ta'azir* for each along with punishment for hurt/death caused to the woman.**

Sec 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.

"Mere words do not amount, to an assault".