

Annex Z: Historical Overview: Counter Terrorism Laws in Pakistan

i) Pakistan Penal Code 1860

Terrorist related crimes were dealt under the provisions of Pakistan Penal Code 1860 (PPC) which contained offences of waging / attempt to / wage or abetment of waging war against Pakistan (Section 121 PPC), collection of arms etc. with the intention of waging war (Section 122 PPC), assaulting President, Governor etc. (Section 124 PPC), Sedition (Section 124-A PPC) and Mutiny (Section 131 PPC, High-jacking (Section 402-B and C of PPC and Mischief (Section 436-PPC)). These sections of law still form part of the Pakistan Penal Code.

ii) Suppression of Terrorist Activities (Special Courts) Acts (1974 to 1997)

History of special legislation regarding terrorism in Pakistan starts with the legislation of Suppression of Terrorist Activities (Special Courts) Act 1974. Thereafter, Special Courts for Speedy Trial Ordinance 1987, Terrorist Affected Areas (Special Courts) Ordinance 1990, Special Courts for Speedy Trials Ordinance 1991 and Special Courts for Speedy Trials Act 1992 were promulgated /enacted.

iii) The Anti -Terrorist Act 1997 and Amendments

Efforts were continuously made for improvement of these laws and finally after the repeal of these laws of 1974 to 1992 from time to time, the Anti-Terrorism Act No. XXVII of 1997 was legislated. The major task was to define the "acts of terrorism" and "Terrorism" and for this purpose, scope of offences was extended to different new forms of terrorist related crime through continues amendments. These amendments were introduced through following enactments:-

1. Anti-Terrorism (Amendment) Ordinance IV of 1999.
2. Anti-Terrorism (Second amendment) Ordinance XIII of 1999
3. Anti-Terrorism (Amendment) Ordinance XX of 1999.
4. Anti-Terrorism (Amendment) Ordinance XIX of 2000.
5. Anti-Terrorism (Amendment) Ordinance XXIX of 2000.
6. Anti-Terrorism (Amendment) Ordinance XXXIX of 2001.
7. Anti-Terrorism (Amendment) Ordinance VI of 2002.
8. Anti-Terrorism (Amendment) Ordinance CXXV of 2002.
9. Anti-Terrorism (Amendment) Ordinance CXXXIV of 2002.
10. Anti-Terrorism (Amendment) Act X of 2004 p
11. Anti-Terrorism (Amendment) Act 2004 (Act II of 2005).
12. Anti-Terrorism (Amendment) Ordinance XXI of 2009.
13. Anti-Terrorism (Amendment) Ordinance I of 2010.
14. Anti-Terrorism (Amendment) Act, 2013.
15. Anti-Terrorism (Amendment) Ordinance, 2013

All Ordinances mentioned at Sr. No.1 to 9 above were covered by Article 270-AA of the Constitution of Islamic Republic of Pakistan, 1973. The laws mentioned at Sr. No.12 and 13 stood repealed in view of Article 89 of the Constitution of Islamic Republic of Pakistan, 1973 as life of these Ordinances was 120 days.

iv) Special Courts and Protection of Judges & Witnesses etc

For the trial of offences under Anti-Terrorism Act, 1997 and other terrorism related offences, Special Courts have been established U/s 13 of the Act as "Anti-Terrorism Court". The court has been empowered, subject to the availability of resources, to make such necessary orders and take such measures, as it deems fit for the protection of witnesses, judges, public prosecutors, counsels and other persons concerned in the proceedings.

v) Administrative Actions under ATA 1997

Following administrative actions can be taken under ATA, 1997:

- (a) Calling in and use of Armed Forces and Civil Armed Forces in aid of civil power. (S.4&5)
- (b) Defining organisations "concerned in terrorism". (S.11- (A)
- (c) Issuance of observation orders. (S.11-B)
- (d) Proscription of organisations. (S.20)
- (e) Measures to be taken against proscribed organisations i.e. sealing offices, freezing accounts, seizing of literature etc. (S.11 -E)
- (f) Security of good behaviour. (S.11-EE)
- (g) Arrest and detention of suspected persons. (S.11-EEE)
- (h) Membership, support and meetings of proscribed organisation. (S.11-F)

vi) Anti Money Laundering Act, 2010

This Act was enacted for the prevention of money laundering, combating financing of terrorism and forfeiture of property derived from, or involved in money laundering or financing of terrorism or for matters connected thereto.

vii) Counter Insurgency (In Aid of Civil Power) Regulations 2011

This regulation was specifically meant to curb the menace of terrorism especially in areas of FATA and PATA where the armed forces have been called in aid of civil administration. This regulation also provides mechanism of keeping the suspects in custody as internees.

vi) The Investigation for Fair Trial Act, 2013

This was enacted to prevent the Law Enforcement and Intelligence Agencies from using their powers arbitrarily and also to provide for their permissible and fair uses in accordance with law. Rules have been framed under this act.

viii) Anti Terrorism (Amendment) Ordinance, Ordinance VII of 2013

It deals with Detention issues, JITs composition under SP, Faceless trials and through video Links, Witness Protections Programs are allowed.

ix) Anti Terrorism (Amendment) Ordinance, Ordinance VIII of 2013

It is to ensure Compliance of FATF (Financial Action Task Force) to counter Terrorism Financing and allowing for taking action against properties/assets of proscribed organisations involved in the terrorist activities.

x) Protection of Pakistan Ordinance, 2013

This was enacted to provide for protection against waging of war and prevention of acts threatening the Security of Pakistan and also for the speedy trial of offences falling in the schedule annexed with this Ordinance. Rules have been framed under this act.

xi) Protection of Pakistan (Amendment) Ordinance, 2014

This is enacted to introduce the concept of enemy combatants and addressing the issues of missing persons. Under the constitutional limits, it gives authority to LEAs to detain suspects for longer period of time.

Summary

1. Offences punishable under Pakistan Penal Code, 1860 (XLV of 1860)
2. Offences punishable under the Arms Act, 1878 (XI of 1978)
3. Offences punishable under the Explosive Act 1884 (IV of 1984)
4. Offences punishable under the prevention of seditious meeting act, 1911 (X of 1911)
5. Offences punishable under the official Secret Act, 1923 (XIX of 1923)
6. Offences punishable under the Dangerous Drugs Act 1930 (II of 1930).
7. Offences punishable under the Foreigners Act, 1946 (XXXI of 1946)
8. Offences punishable under the Foreign Exchange Regulation Act of 1947 (VII of 1947)
9. Offences punishable under Imports and Exports (Controls) Act, 1950 (XXXIX of 1950)
10. Offences punishable under Pakistan Arms Ordinance, 1965 (W.P Ordinance XX of 1965)
11. Offences punishable under Customs Act, 1969 (IV of 1969)
12. Offences punishable under High treason (punishment Act, 1973 (LXVIII of 1973)
13. Offences punishable under prevention of Anti National Activities Act, 1974 (VII of 1974)
14. Offences punishable under Passports Act, 1974 (XX of 1974)
15. Offences punishable under Drugs Act, 1976 (XXXI 1976)
16. Offences punishable under Emigration Ordinance, 1979 (XVII of 1979)
17. Offences punishable under Exit from Pakistan (Control) Ordinance, 1981 (XLVI of 1981)
18. Offences punishable under Employment of Children Act 1991 (V of 1991)
19. Offences punishable under surrenders Illicit Arms Act, 1991 (XXI of 1991)
20. Offences punishable under Pakistan Telecommunication (Re organisation) Act, 1996 (XVII of 1996)
21. Offences punishable under Anti Terrorism Act, 1997(XXVII)
22. Offences punishable under control of Narcotics Substances Act, 1997 (XXV of 1997)
23. Offences under National Data base Registration Authority Ordinance, 2000 (VIII of 2000)

24. Offences punishable under Chemical Weapons Convention Implementation Ordinance 2000 (LIV of 2000).
25. Offences punishable under Electronic Transaction ordinance, 2002 (LI of 2002)
26. Offences punishable under Pakistan Electronic Media Regulatory Authority ordinance, 2002 (XIII of 2002)
27. Offences punishable under Prevention and Control of Human Trafficking Ordinance 2002 (LIX of 2002)
28. Offences punishable under Export control on goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery System Act, 2004 (V 2004)
29. Offences punishable under Anti Money Laundering Act, 2010 (VII of 2010)
30. Offences punishable under all existing applicable laws, orders, rules and regulations enforced in FATA.
31. National Counter Terrorism Authority (NACTA) Act 2013.