

NATIONAL PUBLIC SAFETY COMMISSION



ANTI-TERRORISM MANUAL

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National Public Safety Commission

MANUAL

ON

ANTI-TERRORISM ACT, 1997

**NATIONAL POLICE BUREAU
ISLAMABAD**

October, 2008

FOREWORD

1. Experience in our country shows that more often than not the police, through its conventional methods of investigation and use of undisclosed sources of information, succeeds in solving a criminal case and catching the real culprits but in alarmingly big ratio of such cases the culprits manage to obtain acquittal either from the trial court or through the appellate process. In majority of such cases acquittals are earned by the culprits mainly because the evidence produced by the police/prosecution before the court is either insufficient or not of the standard required by the law. This malady underscores the importance of realizing that the purpose of investigation is not just to nab a criminal but, more importantly, to bring him to justice and that is possible only where the investigation is carried out with the objective of collecting and then producing before the court such evidence which meets the legal requirements and is sufficient in the eyes of law to secure a conviction. Hence, apart from training the investigators in the skills of investigation there appears to be a pressing need for educating them in the field of requisite ingredients of various penal provisions, the onus of proving the said ingredients and the standards of proof required in that regard.

2. In the above mentioned backdrop it is felt necessary and useful to prepare separate Manuals for different penal legislative instruments clearly specifying the necessary ingredients of the relevant penal provisions contained therein and the onus and standard of proof required by the law for such penal provisions. Such an exercise may help in developing a checklist for all such offences which checklist may be utilized by the investigating officers before finalizing the investigation and by the Prosecution Branch before forwarding a Challan before the court. It is understood that availability and use of such Manuals may contribute significantly towards capacity building of the police, prosecutors and lawyers for better results in the courts. As a first step, the present Manual has been prepared in respect of the Anti-Terrorism Act, 1997.

3. In its present amended shape the Anti-Terrorism Act, 1997 comprises of 40 sections and four Schedules. As this study is concerned only with the offences mentioned in and dealt with by the said Act and investigation regarding the same, therefore, the following provisions of the Act are relevant in the present context:

Section 6:	Definition of ‘terrorism’ specifying the <i>mens rea</i> and the <i>actus reus</i> necessary to constitute the offence
Section 8:	Acts intended or likely to stir up sectarian hatred
Section 11-F:	Offences in respect of proscribed organizations
Section 11-G:	Offence in respect of uniform, etc. of a proscribed organization
Section 11-H:	Fund raising for terrorism
Section 11-I:	Use and possession of funds for terrorism
Section 11-J:	Funding arrangements for terrorism
Section 11-K:	Money-laundering of terrorist property
Section 11-V:	Directing terrorist activities
Section 11-W:	Printing, publishing or disseminating material to incite or giving projection to any convicted terrorist, proscribed organization, organization kept under observation or anyone concerned in terrorism

Section 11-X:	Responsibility for creating civil commotion
Section 21-A(6):	Disclosure about or interference with terrorist investigation
Section 21-C:	Weapons training and training in terrorism
Section 21-H:	Conditional admissibility of confession
Section 21-I:	Aiding and abetting an act under this Act
Section 21-J:	Harbouring a person involved in an offence under this Act
Section 21-L:	Punishment for an absconder
Section 27:	Punishment for defective investigation
Third Schedule:	List of offences exclusively triable by an Anti-Terrorism Court

4. This Manual consists of 14 Chapters dealing with definition of terrorism, various offences specified in the Anti-Terrorism Act, 1997, basic ingredients required to prove such offences in a court of law and proper completion of the process of investigation in respect of such offences.

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Director General
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Chapter 1

Defining Terrorism

Changing definitions of 'terrorism'

1.1 Like its counterparts in rest of the world Pakistan has also been groping for the last many decades to find a suitable and appropriate definition of terrorism. Ever since the introduction of anti-terrorism laws in our country our legislature has constantly been in search of an apt definition of terrorism and in the process different laws have been enacted from time to time and different definitions of terrorism have been introduced at different occasions. In such definitions emphasis has been placed upon different aspects at different times. Although Suppression of Terrorist Activities (Special Courts) Act, 1974, Special Courts for Speedy Trials Ordinance, 1987, Terrorist Affected Areas (Special Courts) Ordinance, 1990, Special Courts for Speedy Trials Ordinance, 1991, Special Courts for Speedy Trials Act, 1992 and many other laws were also enacted in this regard from time to time yet for the present purposes focus may be kept mainly on the two major enactments in this field, i.e. the Suppression of Terrorist Activities (Special Courts) Act, 1975 and the Anti-Terrorism Act, 1997 (Annexure).

1.2 The first major piece of legislation introduced in Pakistan specifically in the context of terrorism was the Suppression of Terrorist Activities (Special Courts) Act, 1975 and the Preamble of that Act delineating the purposes of introduction of that Act provided as follows:

“Whereas it is expedient to make special provisions for the purposes of suppressing acts of sabotage, subversion and terrorism and to provide for speedy trial of offences committed in furtherance of or in connection with such acts.”

According to section 4(1) of that Act “Notwithstanding anything contained in the Code the scheduled offences shall be triable exclusively by a Special Court”. Section 2(b) of the Act provided that “ ‘Scheduled offence’ means an offence specified in the Schedule” and the Schedule (as subsequently amended from time to time) read as under:

- “(a) Any offence punishable under any of the following sections of the Pakistan Penal Code, 1860 (XLV of 1860) namely:-
- (i) sections 121, 121-A, 122, 123, 123-A, 124-A, 365-A, 400, 402-A, 402-B, 402-C, 147 and 431;
 - (ii) section 216 if committed in relation to an offender who is accused of having committed any of the offences specified in this Schedule;
 - (ii)(a) section 302 or section 307 if committed in the course of the same transaction in which an offence specified in this paragraph or paragraphs (b) and (c) is committed or in addition to or in combination with such offence;

- (iii) sections 392, 393, 394, 395, 396, 397, 398 and 399, if a cannon, grenade, bomb, rocket or an arm of a prohibited bore is used for, or any public property is stolen, destroyed or damaged in, the commission of the offence; or
- (iv) section 435, 436, 437, 438 and 440, if an explosive substance, mineral oil or any product of mineral oil is used for the commission of the offence;
- (b) Any offence punishable under the Explosive Substances Act, 1908 (XI of 1908);
- (c) Any offence punishable under the Arms Act, 1878 (XI of 1878), or any offence punishable under any of the following sections for the West Pakistan Arms Ordinance, 1965 (West Pakistan Ordinance No. XX of 1965), namely sections 8, 9 and 10, if committed in respect of a cannon, grenade, bomb or rocket, or a light or heavy automatic or semi-automatic weapon such as Kalashnikov, a G-III rifle or any other type of assault rifle;
- (cc) Any offence punishable under section 13-A or section 13-B of the Pakistan Arms Ordinance, 1965 (West Pakistan Ordinance of 1965);
- (d) Any offence punishable under any of the following sections of the Railways Act, 1890 (IX of 1890), namely sections 126, 127 and 128;
- (e) Any offence punishable under section 25 of the Telegraph Act, 1885 (XIII of 1885);
- (f) Any offence punishable under rule 29 of the Aircraft Rules, 1937;
- (g) Any offence punishable under rule 43 of the Defence of Pakistan Rules;
- (h) Any offence punishable under sub-section (1) of section 13 of the Anti-National Activities Act, 1974 (VII of 1974), if such offence constitutes anti-national activity within the meaning of sub-clause (i) or sub-clause (ii) of clause (a) of section 2 of that Act; and
- (i) Any attempt or conspiracy to commit, or any abetment of, any of the aforesaid offences.”

It is of critical importance to point out here that although the word terrorism had been used in the Preamble of the said Act yet the same had not been defined in the Act at all and the Schedule of that Act created an impression that the word terrorism was to be understood in the context of any offence of serious and grave nature.

1.3 The Anti-Terrorism Act, 1997 was a major step forward in Pakistan’s quest for dealing with the menace of terrorism and its Preamble provided as follows:

“Whereas it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto”.

Section 12 of the Act conferred jurisdiction to try the scheduled offences exclusively upon the Special Courts constituted under the said Act. Section 6 of that Act defined a ‘terrorist act’ in the following terms:

“Whoever, to strike terror in the people, or any section of the people, or to alienate any section of the people or to adversely affect harmony among different sections of the people, does any act or thing by using bombs, dynamite or other explosive or inflammable substances, or fire-arms, or other lethal weapons or poisons or noxious gases or chemicals or other substances of a hazardous nature in such a manner as to cause, or to be likely to cause the death of, or injury to, any person or persons, or damage to, or destruction of, property or disruption of any supplies of services essential to the life of the community or displays fire-arms, or threatens with the use of force public servants in order to prevent them from discharging their lawful duties commits a terrorist act.”

Section 7 of the Act specified various punishments for the terrorist acts mentioned in section 6, section 8 defined an offence regarding stirring up sectarian hatred and section 9 of the said Act provided for punishment for the offence under section 8. The Schedule of the said Act read as follows:

- “1. Any offence punishable under this Act.
2. Any offence punishable under any of the following sections of the Pakistan Penal Code (Act XLV of 1860), namely:-
 - (a) section 302, --
 - (i) if committed with a cannon, grenade, bomb, rocket or a light or heavy automatic weapon;
 - (ii) if the victim is a member of police, armed forces or civil armed forces or is a public servant;
 - (iii) if there is more than one victim; or
 - (iv) the victim was subjected to cruelty, brutality, torture or burning; and
 - (b) offences under sections 295-A, 298-A, 364, 364-A, 365, 365-A, 392 to 402 of the Pakistan Penal Code (Act No. XLV of 1860).
3. An offence punishable under sub-section (4) of section 10 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordinance No. VII of 1979).
4. Any attempt or conspiracy to commit or any abetment of any of the aforesaid offences.”

The essence of a ‘terrorist act’ defined by this Act was striking terror in the people or any section of the people or alienating any section of the people or adversely affecting harmony among different sections of the people. The emphasis appeared to be on the gravity of the offence and its effect upon the general populace rather than on the actual motivation behind the act.

1.4 The above mentioned definition of a ‘terrorist act’ contained in section 6 was subsequently amended through the Anti-Terrorism (Second Amendment) Ordinance, 1999 (Ordinance No. XIII of 1999) and the new definition read as follows:

“A person is said to commit a terrorist act if he –

- (a) in order to, or if the effect of his actions will be to, strike terror or create a sense of fear and insecurity in the people, or any section of the people, does any act or thing by using bombs, dynamite or other explosive or inflammable substances, or such fire-arms or other lethal weapons as may be notified, or poisons or noxious gases or chemicals, in such a manner as to cause, or be likely to cause, the death of, or injury to, any person or persons, or damage to, or destruction of, property on a large scale, or a widespread disruption of supplies of services essential to the life of the community, or threatens with the use of force public servants in order to prevent them from discharging their lawful duties; or
- (b) commits a scheduled offence, the effect of which will be, or be likely to be, to strike terror, or create a sense of fear and insecurity in the people, or any section of the people or to adversely affect harmony among different sections of the people; or
- (c) commits an act of gang rape, child molestation, or robbery coupled with rape as specified in the Schedule to this Act; or
- (d) commits an act of civil commotion as specified in section 7-A.”

Through this amendment the focus on the effect of the action was extended to a potential or likely effect besides the actual effect of the action and the focal point still remained the effect of the action rather than the incentive or inspiration behind the same.

1.5 It is important to mention here that while providing in the amended section 6 that “in order to, or if the effect of his actions will be to, strike terror or create a sense of fear and insecurity in the people, or any section of the people, does any act or thing --- ” the legislature never specified the motivation for that “act or thing” on the part of the perpetrator which propelled or prompted him to commit a terrorist act. Thus, the *actus reus* (the action) was itself considered to be determinative if the same was intended to create fear and insecurity, etc. in the public at large, had the effect of creating such fear and insecurity, etc. or had a potential for creating such fear and insecurity, etc. According to this definition what was of paramount consideration was the *effect* of the act, whether actual, intended or potential, and not the design or the purpose behind that act.

1.6 On August 15, 2001 the Anti-Terrorism Act, 1997 was drastically amended through the Anti-Terrorism (Amendment) Ordinance, 2001 (Ordinance No. XXXIX of 2001). Through the amending Ordinance the Schedule of the Act containing various offences to be tried under the said Act was done away with and the term ‘terrorist act’ with its definition contained in section 6 of the Act was substituted and replaced by the term ‘terrorism’ with the following definition thereof:

- “(1) In this Act “terrorism” means the use or threat of action where:
 - (a) the action falls within the meaning of sub-section (2), and
 - (b) the use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or
 - (c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause.

- (2) An “action” shall fall within the meaning of sub-section (1), if it:
- (a) involves the doing of anything that causes death;
 - (b) involves grievous violence against a person or grievous bodily injury or harm to a person;
 - (c) involves grievous damage to property;
 - (d) involves the doing of anything that is likely to cause death or endangers a person’s life;
 - (e) involves kidnapping for ransom, hostage-taking or hijacking;
 - (f) incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
 - (g) involves stoning, brick-batting or any other form of mischief to spread panic;
 - (h) involves firing on religious congregations, mosques, *imambargahs*, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;
 - (i) creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civic life;
 - (j) involves the burning of vehicles or any other serious form of arson;
 - (k) involves extortion of money (“*bhatta*”) or property;
 - (l) is designed to seriously interfere with or seriously disrupt a communications system or public utility service;
 - (m) involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties; or
 - (n) involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant.
- (3) The use or threat of use of any action falling within sub-section (2), which involves the use of fire-arms, explosives or any other weapon, is terrorism, whether or not sub-section 1(c) is satisfied.
- (4) In this section “action” includes any act done for the benefit of a proscribed organization.
- (5) In this Act, terrorism includes any act done for the benefit of a proscribed organization.
- (6) A person who commits an offence under this section or any other provision of this Act, shall be guilty of an act of terrorism.
- (7) In this Act, a “terrorist” means:
- (a) a person who has committed an offence of terrorism under this Act, and is or has been concerned in the commission, preparation or instigation of acts of terrorism;

- (b) a person who is or has been, whether before or after the coming into force of this Act, concerned in the commission, preparation or instigation of acts of terrorism, shall also be included in the meaning given in clause (a) above.”

1.7 The resume of our legislative developments in the field of terrorism shows that with different laws and definitions of terrorist act or terrorism the emphasis has been shifting from one criterion to another including the gravity of the act, lethal nature of the weapon used, plurality of culprits, number of victims, impact created by the act and effect of fear and insecurity brought about or likely to be created in the society by the action. The last definition of a ‘terrorist act’ contained in section 6 of the Anti-Terrorism Act, 1997 squarely focused on the *effect* of fear and insecurity intended to be created by the act or actually created by the act or the act having the potential of creating such an effect of fear and insecurity in the society. It, however, appears that subsequently the legislature did not feel convinced of the aptness or correctness of that definition and resultantly the erstwhile definition of a ‘terrorist act’ contained in section 6 of the Anti-Terrorism Act, 1997 was repealed and a totally fresh and new definition of ‘terrorism’ was introduced through an amended section 6 of the Anti-Terrorism Act, 1997 and this was accomplished through the Anti-Terrorism (Amendment) Ordinance, 2001 (Ordinance No. XXXIX of 2001) promulgated on 15.08.2001. The legislature had probably realized by then that an *effect* of an act may not always be a correct indicator of the nature of such an act as every crime, especially of violence against person or property, does create some sense of fear and insecurity in some section of the society and a definition of terrorism based upon the magnitude or potential of an effect created or intended to be created or having a potential of creating would necessarily require a premature, speculative and imaginary quantification of the effect so as to determine the nature of the act in order to decide about the jurisdiction of a criminal court to try such an act. That surely was an unsure test and the result of such a premature, speculative and presumptive test could vary from court to court and from Judge to Judge. The new definition of ‘terrorism’ introduced through the amended section 6 of the Anti-Terrorism Act, 1997 as it stands today appears to be the most comprehensive and the clearest definition of ‘terrorism’ introduced in our legal system thus far. It appears that in its quest for an apt and appropriate definition of terrorism and after stumbling through various approaches in that regard the legislature in our country has finally hit upon a definition of terrorism which is not only closest to its real meaning but the same is also in accord with the international perceptions about the same. The earlier emphasis on the speculative *effect* of the act has now given way to a clearly defined *mens rea* (the intention) and *actus reus* (the action). The amended section 6(1)(b) now specifies the ‘*design*’ and section 6(1)(c) earmarks the ‘*purpose*’ which should be the motivation for the act and the *actus reus* has been clearly mentioned in section 6(2)(a) to (n) and now it is only when the *actus reus* specified in section 6(2) is accompanied by the requisite *mens rea* provided for in section 6(1)(b) or (c) that an action can be termed as ‘terrorism’. Thus, it is no longer the fear or insecurity actually created or intended to be created or likely to be created which would determine whether the action qualifies to be termed as terrorism or not but it is now the intent and motivation behind the action which would be determinative of the issue irrespective of the fact whether any fear and insecurity was actually created or not. After this amendment in section 6 an action can now be termed as terrorism if the use or threat of that action “is *designed to* coerce and intimidate or overawe the Government or the public or a section of the public or community or sect” or if such action is *designed to* “create a

sense of fear or insecurity in society” or the use or threat is made *for the purpose of* advancing a religious, sectarian or ethnic cause. Now creating fear or insecurity in the society is not by itself terrorism unless the motive itself is to create fear or insecurity in the society and not when fear or insecurity is just a by-product, a fall out or an unintended consequence of a private crime. In the last definition the focus was on the action and its result whereas in the present definition the emphasis appears to be on the motivation and objective and not on the result. Through this amendment the legislature seems to have finally appreciated that mere shock, horror, dread or disgust created or likely to be created in the society does not transform a private crime into terrorism but terrorism as an ‘ism’ is a totally different concept which denotes commission of a crime with the object and purpose of destabilizing the society or government with a view to achieve objectives which are political in the extended sense of the word. This approach appears to be in harmony with the emerging international perception about terrorism. This metamorphosis in the anti-terrorism law in our country has brought about a sea change in the whole concept as we have understood it in the past and it is, therefore, of paramount importance for all concerned to understand this conceptual modification and transformation in its true perspective.

1.8 The above mentioned change of meanings and emphasis in the definition of ‘terrorism’ had been highlighted by the Lahore High Court in the case of *Basharat Ali v. Special Judge, Anti-Terrorism Court-II, Gujranwala and two others* (PLD 2004 Lahore 199) but the judgment in that case had been set aside by the Supreme Court of Pakistan in the case of *Mirza Shaukat Baig and others v. Shahid Jamil and others* (PLD 2005 SC 530). However, later on in the cases of *Mohabbat Ali and another v. The State and another* (2007 SCMR 142) and *Fazal Dad v. Col. (Rtd.) Ghulam Muhammad Malik and others* (PLJ 2008 SC 182) the Supreme Court finally held and reiterated exactly what had been held by the Lahore High Court in Basharat Ali’s case.

Cases based upon personal enmity or private vendetta

1.9 There are cases where gruesome murders or offences of shocking nature are committed by persons on account of an on-going personal enmity or in furtherance of private revenge or vendetta. It has already been held by the Supreme Court of Pakistan that mere gravity or shocking nature of an offence committed in pursuance of personal enmity or in furtherance of private vendetta is not by itself sufficient to brand such offences as terrorism. A reference in this regard may be made to the cases of *Mehram Ali and others v. Federation of Pakistan and others* (PLD 1998 SC 1445) and *Mohabbat Ali and another v. The State and another* (2007 SCMR 142).

Jurisdiction of an Anti-Terrorism Court

1.10 Section 21-G of the Anti-Terrorism Act, 1997 provides that “All offences under this Act shall be tried exclusively by the Anti-Terrorism Court established under this Act”. In the cases of *Allah Din and 18 others v. The State and another* (1994 SCMR 717) and *Mumtaz Ali Khan Rajban and another v. Federation of Pakistan and others* (PLD 2001 SC 169) it had been held that the jurisdiction of an Anti-Terrorism Court to try a particular case depends not just upon the allegations levelled in the FIR but also upon the statements made by witnesses, the material collected during the investigation and the findings of the investigating agency as a result of the investigation. It is, thus, possible for the investigating agency to conclude in a given case that although allegations *vis-à-vis*

terrorism had also been levelled by the complainant party yet the said allegations had remained unsubstantiated and, therefore, the Challan ought to be submitted before a court of ordinary jurisdiction.

Some offences having no apparent nexus with ‘terrorism’ may also be tried by an Anti-Terrorism Court if such offences are included in the Third Schedule

1.11 According to section 12(1) of the Anti-Terrorism Act, 1997 “Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in an area in a Province shall be triable only by Anti-Terrorism Court exercising territorial jurisdiction in relation to such area”. The Third Schedule appended with the Anti-Terrorism Act, 1997, as it stands amended at present, contains the following as the scheduled offences:

- “1. Any act of terrorism within the meaning of this Act including those offences which may be added or amended in accordance with the provisions of Section 34 of this Act.
2. Any other offence punishable under this Act.
3. Any attempt to commit, or any aid or abetment of, or any conspiracy to commit, any of the aforesaid offences.
4. Without prejudice to the generality of the above paragraph, the Anti-Terrorism Court to the exclusion of any other Court shall try the offences relating to the following, namely:--
 - (i) Abduction or kidnapping for ransom;
 - (ii) Use of fire-arms or explosives by any device, including bomb blast in a mosque, *imambargah*, church, temple or any other place of worship, whether or not any hurt or damage is caused thereby; and
 - (iii) Firing or use of explosives by any device, including bomb blast in the Court premises.”

It is evident from item number 4 of the Third Schedule that, if included in the said Schedule, even an offence committed for absolutely private motives and having no nexus with ‘terrorism’ is also to be tried by an Anti-Terrorism Court. The case of *Rana Abdul Ghaffar v. Abdul Shakoor and 3 others* ((PLD 2006 Lahore 64) may be referred to in this context.

Joint trial of scheduled and other offences

1.12 Section 21-M of the Anti-Terrorism Act, 1997 provides as follows:

- “Joint trial.- (1) While trying any offence under this Act, a Court may also try any other offence which an accused may, under the Code of Criminal Procedure, 1898, be charged, at the same trial if the offence is connected with such other offence.
- (2) If, in the course of any trial under this Act of any offence it is found that the accused person has committed any other offence under the Act or any other law for the time being in force, the Court may convict an accused for such other offence and pass any

sentence authorized by this Act or, as the case may be, such other law, for the punishment thereof.”

It is, thus, clear that in an appropriate case an Anti-Terrorism Court has the requisite jurisdiction to try any other offence along with a scheduled offence, if such joint trial is warranted by the circumstances of the case and is authorized by the Code of Criminal Procedure, 1898.

Trial of children by an Anti-Terrorism Court

1.13 The Juvenile Justice System Ordinance, 2000 mandates that all offences committed by a ‘child’ are to be tried only by a Juvenile Court and the Anti-Terrorism Act, 1997 recognizes no distinction between an adult and a child in respect of exclusive jurisdiction of an Anti-Terrorism Court regarding trial of offences of terrorism, etc. This shows that a Juvenile Court has the exclusive jurisdiction over the child’s person whereas an Anti-Terrorism Court has the exclusive jurisdiction to try the offence of terrorism, etc. even where such an offence is committed by a child. It goes without saying that a court having no jurisdiction to try an offence cannot try the accused person even where the accused person falls within the exclusive jurisdiction of such a court. Confronted with such situations it has been held by different courts that a ‘child’ involved in an offence under the Anti-Terrorism Act, 1997 can be tried only by an Anti-Terrorism Court. A reference in this respect may be made to the cases of *Muhammad Din v. Muhammad Jahangir and 4 others* (PLD 2004 Lahore 779), *Mst. Azra Bibi v. The State through Special Judge, Anti-Terrorism Court, Faisalabad and another* (2004 P.Cr.L.J. 1967) and *Meraj Hussain and 3 others v. Judge, Anti-Terrorism, Northern Areas, Gilgit and another* (2007 P.Cr.L.J. 1011). However, a contrary view has also been taken in this regard by some courts, as is evident from the cases of *Ghulam Mustafa Shah alias Papa v. The State* (NLR 2003 Criminal 536), *Aleem Ashraf v. State* (PLJ 2005 Lahore 971) and *Qamar Hussain Shah v. The State* (PLD 2006 Karachi 331). This issue has not so far been resolved by the Supreme Court of Pakistan and generally the former view is preferred over the latter view.

Chapter 2

Ingredients of section 6 of the Anti-Terrorism Act, 1997

2.1 In its present shape section 6 of the Anti-Terrorism Act, 1997 reads as follows:

- “(1) In this Act “terrorism” means the use or threat of action where:
- (a) the action falls within the meaning of sub-section (2), and
 - (b) the use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or
 - (c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause.
- (2) An “action” shall fall within the meaning of sub-section (1), if it:
- (a) involves the doing of anything that causes death;
 - (b) involves grievous violence against a person or grievous bodily injury or harm to a person;
 - (c) involves grievous damage to property;
 - (d) involves the doing of anything that is likely to cause death or endangers a person’s life;
 - (e) involves kidnapping for ransom, hostage-taking or hijacking;
 - (f) incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
 - (g) involves stoning, brick-battling or any other form of mischief to spread panic;
 - (h) involves firing on religious congregations, mosques, *imambargahs*, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;
 - (i) creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civic life;
 - (j) involves the burning of vehicles or any other serious form of arson;
 - (k) involves extortion of money (“*bhatta*”) or property;
 - (l) is designed to seriously interfere with or seriously disrupt a communications system or public utility service;
 - (m) involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties; or

- (n) involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant.
- (3) The use or threat of use of any action falling within sub-section (2), which involves the use of fire-arms, explosives or any other weapon, is terrorism, whether or not sub-section 1(c) is satisfied.
- (4) In this section “action” includes any act done for the benefit of a proscribed organization.
- (5) In this Act, terrorism includes any act done for the benefit of a proscribed organization.
- (6) A person who commits an offence under this section or any other provision of this Act, shall be guilty of an act of terrorism.
- (7) In this Act, a “terrorist” means:
 - (a) a person who has committed an offence of terrorism under this Act, and is or has been concerned in the commission, preparation or instigation of acts of terrorism;
 - (b) a person who is or has been, whether before or after the coming into force of this Act, concerned in the commission, preparation or instigation of acts of terrorism, shall also be included in the meaning given in clause (a) above.”

Sub-section (1) of section 6 reproduced above clearly shows that in order to constitute an offence of ‘terrorism’ the *actus reus* must fall in either of the categories mentioned in sub-section (2) and that action is taken with the *mens rea* specified in sub-section (1). No court can accept the prosecution’s allegation regarding ‘terrorism’ unless the prosecution establishes beyond reasonable doubt that the action of the accused person fell within the scope of sub-section (2) and that action had been taken with the intention specified by sub-section (1) of the Anti-Terrorism Act, 1997.

2.2 There are three different kinds of *mens rea* mentioned in sub-section (1) of section 6 of the Act and any one of them can individually suffice for the purposes of the prosecution. The specified *mens rea* are as follows:

- (i) the use or threat of action is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect, or
- (ii) the use or threat of action is designed to create a sense of fear or insecurity in society; or
- (iii) the use or threat of action is made for the purpose of advancing a religious, sectarian or ethnic cause.

The intention behind his action is always in the mind of the culprit but such intention can be established by the prosecution through the circumstances of a given case. A court shall seldom presume a particular intention on the part of an accused person and the onus shall invariably be on the prosecution to establish this necessary ingredient of the offence of ‘terrorism’. Thus, in all such cases the prosecution must produce independent and reliable evidence before the court in order to establish that the use or threat of action in the given case was designed to coerce and intimidate or overawe the Government or the public or a

section of the public or community or sect or the use or threat of action was designed to create a sense of fear or insecurity in society or the use or threat of action was made for the purpose of advancing a religious, sectarian or ethnic cause. The investigating officer in all such cases must, therefore, be conscious of the fact and the prosecution must beware that even if the *actus reus* is proved before the court no conviction for an offence of ‘terrorism’ can be achieved without simultaneously establishing the requisite *mens rea*.

2.3 In order to establish the *actus reus* mentioned in sub-section (2) of section 6 of the Anti-Terrorism Act, 1997 an investigating officer and a prosecutor have to collect and then produce before the court sufficient and trustworthy evidence regarding each and every ingredient of the action constituting the relevant offence and failure to prove even one of the many ingredients is bound to result in acquittal of the accused person from the relevant charge. The investigating officers and the prosecutors are, therefore, to remain conscious of all the basic ingredients of the different ‘actions’ mentioned in sub-section (2) of section 6 of the Anti-Terrorism Act, 1997 and for facility of reference and by way of a checklist such basic ingredients are detailed as follows:

2.4 **Section 6(2)(a): “involves the doing of anything that causes death”**

Basic ingredients to be proved:

- Something was done by the accused person; and
- the doing of that thing by the accused person had caused the death of the deceased.

2.5 **Section 6(2)(b): “involves grievous violence against a person or grievous bodily injury or harm to a person”**

Basic ingredients to be proved:

- Violence against a person was resorted to; or
- bodily injury or harm was caused to a person; and
- the violence or bodily injury or harm caused was ‘grievous’ as defined in section 2(j) of the Anti-Terrorism Act, 1997.

2.6 **Section 6(2)(c): “involves grievous damage to property”**

Basic ingredients to be proved:

- Damage was caused to some property; and
- the damage caused to the property was ‘grievous’ as defined in section 2(j) of the Anti-Terrorism Act, 1997.

2.7 **Section 6(2)(d): “involves the doing of anything that is likely to cause death or endangers a person’s life”**

Basic ingredients to be proved:

- Something was done; and

- the doing of that thing was likely to cause death; or
- the doing of that thing was likely to endanger a person's life.

2.8 **Section 6(2)(e): “involves kidnapping for ransom, hostage-taking or hijacking”**

Basic ingredients to be proved:

- A person was kidnapped for ransom; and
- such ‘kidnapping for ransom’ attracted the definition contained in section 2(n) of the Anti-Terrorism Act, 1997.
- A person was taken as a hostage; and
- such ‘hostage-taking’ fell within the purview of section 2(m) of the Anti-Terrorism Act, 1997.
- An aircraft had been hijacked; or
- an attempt was made in that regard; and
- such actual or attempted ‘hijacking’ met the requirements of section 2(l) of the Anti-Terrorism Act, 1997.

2.9 **Section 6(2)(f): “incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance”**

Basic ingredients to be proved:

- The accused person had incited hatred and contempt; and
- such incitement was on religious basis; or
- such incitement was on sectarian basis; or
- such incitement was on ethnic basis; and
- such incitement was meant to stir up violence; or
- such incitement was meant to cause internal disturbance.

2.10 **Section 6(2)(g): “involves stoning, brick-batting or any other form of mischief to spread panic”**

Basic ingredients to be proved:

- The incident involved stoning; or
- the incident involved brick-batting; or
- the incident involved any other form of mischief; and
- the purpose of the accused person was to spread panic.

2.11 **Section 6(2)(h): “involves firing on religious congregations, mosques, imambargahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship”**

Basic ingredients to be proved:

- There was firing on a religious congregation; or
- there was firing on a mosque; or
- there was firing on an *imambargah*; or
- there was firing on a church; or
- there was firing on a temple; or
- there was firing on any other place of worship; or
- there was random firing; and
- the purpose of such firing was to spread panic; or
- the incident involved takeover of a mosque; or
- the incident involved takeover of any other place of worship; and
- such actual or attempted takeover was forcible.

- 2.12 **Section 6(2)(i):** “creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civic life”

Basic ingredients to be proved:

- The incident had created a risk to safety of the public; or
- the incident had created a risk to safety of a section of the public; and
- the risk to safety of the public or a section of the public was ‘serious’ as defined in section 2(w) of the Anti-Terrorism Act, 1997; or
- the incident was designed to frighten the general public; and
- the purpose of such frightening of the general public was to prevent them from coming out and carrying on their lawful trade and daily business; and
- the incident had disrupted civic life.

- 2.13 **Section 6(2)(j):** “involves the burning of vehicles or any other serious form of arson”

Basic ingredients to be proved:

- Some vehicles were actually burnt during the incident or an attempt was made in that regard; or
- the incident involved arson; and
- the form of arson was ‘serious’ as defined in section 2(w) of the Anti-Terrorism Act, 1997.

- 2.14 **Section 6(2)(k):** “involves extortion of money (“*bhatta*”) or property”

Basic ingredients to be proved:

- The incident involved actual or attempted extortion of money (“*bhatta*”); or

- the incident involved actual or attempted extortion of property.

2.15 **Section 6(2)(l) “is designed to seriously interfere with or seriously disrupt a communications system or public utility service”**

Basic ingredients to be proved:

- There was an actual or attempted interference with or disruption of a communications system or a public utility service; and
- the purpose of the accused person was to interfere with a communications system; or
- the purpose of the accused person was to interfere with a public utility service; or
- the intention of the accused person was to disrupt a communications system; or
- the intention of the accused person was to disrupt a public utility service; and
- the actual or intended interference with or disruption of a communications system or public utility service was ‘serious’ as defined in section 2(w) of the Anti-Terrorism Act, 1997.

2.16 **Section 6(2)(m): “involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties”**

Basic ingredients to be proved:

- The incident involved a public servant; and
- the public servant was coerced; or
- the public servant was intimidated; and
- the coercion or intimidation was ‘serious’ as defined in section 2(w) of the Anti-Terrorism Act, 1997; and
- the purpose of coercion or intimidation was to force the public servant to discharge his lawful duties; or
- the purpose of coercion or intimidation was to force the public servant to refrain from discharging his lawful duties.

2.17 **Section 6(2)(n): “involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant”**

Basic ingredients to be proved:

- There was violence against a member of the police force; or
- there was violence against a member of the armed forces; or
- there was violence against a member of the civil armed forces; or
- there was violence against a public servant; and
- the violence was ‘serious’ as defined in section 2(w) of the Anti-Terrorism Act, 1997.

2.18 The Lahore High Court had held in the case of *Taj Muhammad v. Judge, Anti-Terrorism Court and another* (PLD 2003 Lahore 588) that every push, shove, scuffle, scratch or bruise involving a member of a force or a public servant does not attract section 6(2)(n) of the Anti-Terrorism Act, 1997 unless the violence is proved to be 'serious' within the purview of section 2(w) of the said Act.

2.19 In the case of *Mehram Ali and others v. Federation of Pakistan and others* (PLD 1998 SC 1445) it had been held by the Supreme Court of Pakistan that for the purposes of this offence the member of the force or the public servant concerned should be discharging his official duties at the time of the incident and that this penal provision is not applicable where the member of the force or the public servant concerned is subjected to serious violence at a time when he is available at the spot in his private capacity.

Cases involving suicide bombings

2.20 Cases involving suicide bombings are generally hard cases for the prosecution to prove because the main culprit blowing himself up in pieces often remains unidentified and his motives normally remain shrouded in mystery. It is usually his accomplices or co-conspirators who are brought before the Court for trial and the main evidence produced against them is in respect of hatching of a conspiracy. The investigating officer and the prosecutor of such cases must beware that the evidence of eavesdroppers in that regard is generally looked at by the Courts with suspicion and distrust and a reference in this respect may be made to the cases of *Fakku Mian alias Motahar v. The State* (1969 SCMR 620) and *Farman Ali and others v. The State and others* (PLD 2007 Lahore 495). The recoveries affected from the spot often do not connect the conspirators with the offence and the recoveries affected from the conspirators usually do not connect the conspirators with the main culprit. Such recoveries are, thus, likely to be of little evidentiary value before the Court unless the necessary connections are established by the prosecution beyond reasonable doubt.

Cases of sabotage

2.21 The main culprit in cases of sabotage generally remains unseen or, at best, unidentified. Thus, upon his arrest, apart from the other necessary evidence and material, sufficient and reliable evidence also needs to be collected regarding his availability at or very near the place of sabotage at or shortly before the time of occurrence. Holding of a test identification parade in accordance with the legal requirements may also be a *sine qua non* in such cases.

High profile killings

2.22 It is common experience that after every high profile killing there is a clamour for prompt arrest of the culprits and usually deadlines are fixed in that regard. Fixing of such deadlines and eagerness of the police to meet the same often leads to arrest of some unconnected persons and recording of their confessions which are subsequently retracted. Such arrests and confessions generally defuse the pressure of the deadlines for the time being but more often than not the arrested persons are ultimately acquitted by the Courts for the obvious reason, i.e. lack of sufficient or reliable evidence. It is, therefore, desirable that the pressure upon an investigating officer to solve a particular case should emanate from professional compulsions and must not stem from political or popular hankering.

Chapter 3

Acts intended or likely to stir up Sectarian Hatred

3.1 Section 8 of the Anti-Terrorism Act, 1997:

“Prohibition of acts intended or likely to stir up sectarian hatred.- A person who:-

- (a) uses threatening, abusive or insulting words or behaviour;
or
- (b) displays, publishes or distributes any written material which is threatening, abusive or insulting; or
- (c) distributes or shows or plays a recording of visual images or sounds which are threatening, abusive or insulting; or
- (d) has in his possession written material or a recording of visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another

shall be guilty of an offence if:-

- (i) he intends thereby to stir up sectarian hatred; or
- (ii) having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.”

Basic ingredients to be proved:

- There was a use of threatening, abusive or insulting words or behaviour;
or
- any written material was displayed, published or distributed which material was threatening, abusive or insulting; or
- some recording of visual images or sounds were distributed, shown or played which visual images or sounds were threatening, abusive or insulting; or
- some written material or a recording of visual images or sounds were kept in possession which written material, visual images or sounds were threatening, abusive or insulting; and
- such possession was meant for the written material or recording of visual images or sounds to be displayed or published by the accused person himself or by somebody else; and
- the intention of the accused person was to stir up sectarian hatred; or
- the circumstances of the case showed that sectarian hatred was likely to be stirred up by the above mentioned actions of the accused person.

Chapter 4

Offences in respect of Proscribed Organizations

4.1 Section 11-F of the Anti-Terrorism Act, 1997:

- “Membership, support and meetings relating to a Proscribed Organization.- (1) A person is guilty of an offence if he belongs or professes to belong to a proscribed organization.
- (2) A person guilty of an offence under sub-section (1) shall be liable on conviction to a term not exceeding six months’ imprisonment and a fine.
- (3) A person commits an offence if he-
- (a) solicits or invites support for a proscribed organization, and the support is not, or is not restricted to, the provision of money or other property; or
 - (b) arranges, manages or assists in managing or addressing a meeting which he knows is-
 - (i) to support a proscribed organization;
 - (ii) to further the activities of a proscribed organization;
 - or
 - (iii) to be addressed by a person who belongs or professes to belong to a proscribed organization.
- (4) A person commits an offence if he addresses a meeting or delivers a sermon to a religious gathering by any means whether verbal, written, electronic, digital or otherwise, and the purpose of his address or sermon is to encourage support for a proscribed organization or to further its activities.
- (5) A person commits an offence if he solicits, collects or raises funds for a proscribed organization.
- (6) A person guilty of an offence under sub-sections (3), (4) and (5) shall be liable on conviction to a term of imprisonment not less than one year and not more than five years and a fine.”

Basic ingredients to be proved:

- The accused person belonged or professed to belong to a proscribed organization; or
- he solicited or invited support for a proscribed organization through provision of money or other property or through other means; or
- he arranged a meeting which he knew was to support a proscribed organization; or
- he managed a meeting which he knew was to support a proscribed organization; or
- he assisted in managing or addressing a meeting which he knew was to support a proscribed organization; or

- he arranged a meeting which he knew was to further the activities of a proscribed organization; or
- he managed a meeting which he knew was to further the activities of a proscribed organization; or
- he assisted in managing or addressing a meeting which he knew was to further the activities of a proscribed organization; or
- he arranged a meeting which he knew was to be addressed by a person who belonged or professed to belong to a proscribed organization; or
- he managed a meeting which he knew was to be addressed by a person who belonged or professed to belong to a proscribed organization; or
- he assisted in managing or addressing a meeting which he knew was to be addressed by a person who belonged or professed to belong to a proscribed organization; or
- he addressed a meeting by any means whether verbal, written, electronic, digital or otherwise; and
- the purpose of his address was to encourage support for a proscribed organization or to further its activities; or
- he delivered a sermon to a religious gathering by any means whether verbal, written, electronic, digital or otherwise; and
- the purpose of his sermon was to encourage support for a proscribed organization or to further its activities; or
- he solicited funds for a proscribed organization; or
- he collected funds for a proscribed organization; or
- he raised funds for a proscribed organization.

4.2 Section 11-G of the Anti-Terrorism Act, 1997:

“Uniform.- (1) A person commits an offence if he-

- (a) wears, carries or displays any article, symbol, or any flag or banner connected with or associated with any proscribed organization; or
 - (b) carries, wears or displays any uniform, item of clothing or dress in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organization.
- (2) A person who commits an offence under sub-section (1) shall be liable to imprisonment for a term which may extend to five years or with fine or with both.”

Basic ingredients to be proved:

- The accused person wore any article, symbol, or any flag or banner connected with or associated with any proscribed organization; or
- he carried any article, symbol, or any flag or banner connected with or associated with any proscribed organization; or
- he displayed any article, symbol, or any flag or banner connected with or associated with any proscribed organization; or

- he carried any uniform, item of clothing or dress in such a way or in such circumstances as to arouse reasonable suspicion that he was a member or supporter of a proscribed organization; or
- he wore any uniform, item of clothing or dress in such a way or in such circumstances as to arouse reasonable suspicion that he was a member or supporter of a proscribed organization; or
- he displayed any uniform, item of clothing or dress in such a way or in such circumstances as to arouse reasonable suspicion that he was a member or supporter of a proscribed organization.

Chapter 5

Fund Raising for Terrorism

5.1 Section 11-H of the Anti-Terrorism Act, 1997:

- “Fund raising.- (1) A person commits an offence if he-
- (a) invites another to provide money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect it may be used, for the purpose of terrorism.
- (2) A person commits an offence if-
- (a) he receives money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism.
- (3) A person commits an offence if he-
- (a) provides money or other property, and
 - (b) knows or has reasonable cause to suspect that it will or may be used for the purpose of terrorism.
- (4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.”

Basic ingredients to be proved:

- The accused person invited another to provide money or other property; and
- he intended that such money or other property should be used for the purpose of terrorism; or
- he had reasonable cause to suspect that such money or other property might be used for the purpose of terrorism; or
- the accused person received money or other property; and
- he intended that such money or other property should be used for the purpose of terrorism; or
- he had reasonable cause to suspect that such money or other property might be used for the purpose of terrorism; or
- the accused person provided money or other property; and
- he knew that such money or other property would be used for the purpose of terrorism; or
- he knew that such money or other property might be used for the purpose of terrorism; or
- he had reasonable cause to suspect that such money or other property would be used for the purpose of terrorism; or
- he had reasonable cause to suspect that such money or other property might be used for the purpose of terrorism.

5.2 Section 11-I of the Anti-Terrorism Act, 1997:

“Use and possession.- A person commits an offence if-

- (1) he uses money or other property for the purposes of terrorism; or
- (2) he-
 - (a) possesses money or other property; and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.”

Basic ingredients to be proved:

- The accused person had used money or other property for the purpose of terrorism; or
- he possessed money or other property; and
- he intended that such money or other property should be used for the purposes of terrorism; or
- he had reasonable cause to suspect that such money or other property might be used for the purposes of terrorism.

5.3 Section 11-J of the Anti-Terrorism Act, 1997:

“Funding arrangements.- (1) A person commits an offence if he-

- (a) enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and
- (b) has reasonable cause to suspect that it will or may be used for the purposes of terrorism.”

Basic ingredients to be proved:

- The accused person entered into an arrangement as a result of which money or other property was made available to another; or
- he became concerned in an arrangement as a result of which money or other property was made available to another; or
- he entered into an arrangement as a result of which money or other property was to be made available to another; or
- he became concerned in an arrangement as a result of which money or other property was to be made available to another; and
- he had reasonable cause to suspect that such money or other property would be used for the purposes of terrorism; or
- he had reasonable cause to suspect that such money or other property might be used for the purposes of terrorism.

Chapter 6

Money-laundering of Terrorist Property

6.1 Section 11-K of the Anti-Terrorism Act, 1997:

- “Money-laundering.- (1) A person commits an offence if he enters into or becomes concerned in any arrangement which facilitates the retention and control, by or on behalf of another person, of terrorist property-
- (a) by concealment,
 - (b) by removal from the jurisdiction,
 - (c) by transfer to nominees, or
 - (d) in any other way.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.”

Basic ingredients to be proved:

- The accused person entered into any arrangement which facilitated the retention and control by another person of terrorist property by concealment; or
 - he became concerned in any arrangement which facilitated the retention and control by another person of terrorist property by concealment; or
 - he entered into in any arrangement which facilitated the retention and control on behalf of another person of terrorist property by concealment; or
 - he became concerned in any arrangement which facilitated the retention and control on behalf of another person of terrorist property by concealment.
-
- The accused person entered into any arrangement which facilitated the retention and control by another person of terrorist property by removal from the jurisdiction; or
 - he became concerned in any arrangement which facilitated the retention and control by another person of terrorist property by removal from the jurisdiction; or
 - he entered into in any arrangement which facilitated the retention and control on behalf of another person of terrorist property by removal from the jurisdiction; or
 - he became concerned in any arrangement which facilitated the retention and control on behalf of another person of terrorist property by removal from the jurisdiction.

- The accused person entered into any arrangement which facilitated the retention and control by another person of terrorist property by transfer to nominees; or
 - he became concerned in any arrangement which facilitated the retention and control by another person of terrorist property by transfer to nominees; or
 - he entered into in any arrangement which facilitated the retention and control on behalf of another person of terrorist property by transfer to nominees; or
 - he became concerned in any arrangement which facilitated the retention and control on behalf of another person of terrorist property by transfer to nominees.
-
- The accused person entered into any arrangement which facilitated the retention and control by another person of terrorist property in any other way; or
 - he became concerned in any arrangement which facilitated the retention and control by another person of terrorist property in any other way; or
 - he entered into in any arrangement which facilitated the retention and control on behalf of another person of terrorist property in any other way; or
 - he became concerned in any arrangement which facilitated the retention and control on behalf of another person of terrorist property in any other way.

Chapter 7

Directing Terrorist Activities

7.1 Section 11-V of the Anti-Terrorism Act, 1997:

- “Directing terrorist activities.- (1) A person commits an offence if he-
- (a) directs, at any level, whilst resident in Pakistan or abroad, activities of an organization concerned with the preparation, instigation or commission of acts of terrorism; or
 - (b) directs, from within the country or abroad, activities connected with the commission, preparation or instigation of an act of terrorism.
- (2) A person guilty of an offence under sub-section (1) shall be liable on conviction to imprisonment for life and to forfeiture or confiscation of his assets within or outside Pakistan.”

Basic ingredients to be proved:

- The accused person directed, at any level, whilst resident in Pakistan, activities of an organization concerned with the preparation of acts of terrorism; or
- he directed, at any level, whilst resident abroad, activities of an organization concerned with the preparation of acts of terrorism; or
- he directed, at any level, whilst resident in Pakistan, activities of an organization concerned with the instigation of acts of terrorism; or
- he directed, at any level, whilst resident abroad, activities of an organization concerned with the instigation of acts of terrorism; or
- he directed, at any level, whilst resident in Pakistan, activities of an organization concerned with the commission of acts of terrorism; or
- he directed, at any level, whilst resident abroad, activities of an organization concerned with the commission of acts of terrorism; or
- he directed, from within the country, activities connected with the commission of an act of terrorism; or
- he directed, from abroad, activities connected with the commission of an act of terrorism; or
- he directed, from within the country, activities connected with the preparation of an act of terrorism; or
- he directed, from abroad, activities connected with the preparation of an act of terrorism; or
- he directed, from within the country, activities connected with the instigation of an act of terrorism; or
- he directed, from abroad, activities connected with the instigation of an act of terrorism.

7.2 Section 11-W of the Anti-Terrorism Act, 1997:

“Printing, publishing or disseminating any material to incite hatred or giving projection to any person convicted for a terrorist act or any proscribed organization or an organization placed under observation or anyone concerned in terrorism.- (1) A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video-cassettes or by written, photographic, electronic, digital, wall-chalking or any other method which incites religious, sectarian or ethnic hatred or gives projection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or proscribed organization or an organization placed under observation:

Provided that a factual news report, made in good faith, shall not be construed to mean “projection” for the purposes of this section.

(2) Any person guilty of an offence under sub-section (1) shall be punished on conviction with imprisonment which may extend to five years and with fine.”

Basic ingredients to be proved:

- The accused person printed any material; or
- he published any material; or
- he disseminated any material by audio-cassette; or
- he disseminated any material by video-cassette; or
- he disseminated any written material; or
- he disseminated any photographic material; or
- he disseminated any electronic material; or
- he disseminated any digital material; or
- he disseminated any material through wall-chalking; or
- he disseminated any material through any other method; and
- such material incited religious hatred; or
- such material incited sectarian hatred; or
- such material incited ethnic hatred; or
- such material gave projection to any person convicted for a terrorist act; or
- such material gave projection to any person concerned in terrorism; or
- such material gave projection to any proscribed organization; or
- such material gave projection to an organization placed under observation.

Chapter 8

Responsibility for Creating Civil Commotion

8.1 Section 11-X of the Anti-Terrorism Act, 1997:

- “Responsibility for creating civil commotion.- (1) A person commits an offence if he makes any call for action or shut-down, imposed through the use or threat of force resulting in damage or destruction of property or injury to person, to intimidate citizens and prevent them from carrying out their lawful trade or business activity.
- (2) A person guilty of an offence under sub-section (1) shall on conviction be punishable with imprisonment for a term not less than five years and not more than ten years and shall pay compensation as may be determined by the Court, from the funds of the organization to which he belongs or from his own personal resources or assets for the hurt or damage or destruction caused as a result of the commission of the offence under sub-section (1).
- (3) A person commits an offence if he addresses a meeting or gathering or delivers a sermon to religious gathering by any means whether verbal, written, electronic, digital or otherwise to incite religious, sectarian or ethnic hatred and contempt, and shall, on conviction, be punishable with imprisonment for not less than five years and not more than ten years or with fine or with both.”

Basic ingredients to be proved:

- The accused person made any call for action; or
 - he made any call for shut-down; and
 - the call was imposed through the use of force; or
 - the call was imposed through the threat of force; and
 - as a result of such call and its imposition some damage of property had been caused; or
 - as a result of such call and its imposition some destruction of property had been caused; or
 - as a result of such call and its imposition some injury to any person had been caused; and
 - the motive on the part of the accused person was to intimidate citizens and to prevent them from carrying out their lawful trade or business activity.
-
- The accused person addressed a meeting; or
 - he delivered a sermon to religious gathering; and
 - such address or sermon was delivered by any means whether verbal, written, electronic, digital or otherwise; and

- his motive was to incite religious hatred and contempt; or
- his motive was to incite sectarian hatred and contempt; or
- his motive was to incite ethnic hatred and contempt.

Chapter 9

Disclosure about or Interference with Terrorist Investigation

9.1 Section 21-A(6) of the Anti-Terrorism Act, 1997:

“Where a person knows or has reasonable cause to suspect that a terrorist investigation is being conducted or is proposed to be conducted, a person commits an offence if he-

- (a) discloses to another, or others, anything which is likely to prejudice an investigation; or
- (b) interferes with material which is likely to be relevant to an investigation.”

Basic ingredients to be proved:

- The accused person knew that a terrorist investigation was being conducted; or
- he knew that a terrorist investigation was proposed to be conducted; and
- he disclosed to another, or others, anything which was likely to prejudice the investigation; or
- he interfered with material which was likely to be relevant to the investigation.

Chapter 10

Weapons Training and Training in Terrorism

10.1 Section 21-C of the Anti-Terrorism Act, 1997:

- “Training.- (1) Weapons Training: A person commits an offence if he provides, without valid authorization from the competent authority, any instruction or training in the making or use of-
- (a) fire-arms;
 - (b) explosives; or
 - (c) chemical, biological, and other weapons.
- (2) A person commits an offence if he provides, without valid authorization from the competent authority, any instruction or training to any child under sub-section (1) and, upon conviction, shall be liable to a term of imprisonment of not less than ten years and fine.
- (3) A person commits an offence if he receives instruction or training from anyone, without valid authorization from the competent authority, to give such instruction or training or invites another, specifically or generally, to receive such unauthorized instruction or training in the making or use of-
- (a) fire-arms;
 - (b) explosives; or
 - (c) chemical, biological, and other weapons.
- (4) A child commits an offence if he provides, without valid authorization from the competent authority, any instruction or training, or if he receives such unauthorized instruction or training or invites another, specifically or generally, to receive such unauthorized instruction or training in the making or use of-
- (a) fire-arms;
 - (b) explosives; or
 - (c) chemical, biological, and other weapons.
- (5) A child guilty of an offence under sub-section (4) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding five years.
- (6) A person guilty of an offence under sub-sections (1) and (3) shall be liable on conviction to imprisonment for a term not exceeding ten years or fine or with both.
- (7) Training in terrorism-
- (a) A person commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism.
 - (b) A person commits an offence if he receives any instruction or training in acts of terrorism or invites another, specifically or generally, to receive such instruction or training.

- (c) A person guilty of an offence under sub-sections (a) and (b) shall, on conviction, be liable to imprisonment of either description for a term of not less than one year and not more than ten years and fine.
- (d) A person is guilty of an offence if he provides any instruction or training in acts of terrorism to a child and shall be liable on conviction to imprisonment of either description for a term not less than one year and not more than ten years and fine.
- (e) A child commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism and, on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.
- (f) A child commits an offence if he receives, generally or specifically, instruction or training in acts of terrorism and, on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.
- (8) A Court by which a person is convicted of an offence under this section, may order the forfeiture of any thing or property which it considers to have been in the person's possession for purposes connected with the offence, after giving any person, other than the convicted person, who claims to be the owner or is otherwise interested, an opportunity of being heard."

Basic ingredients to be proved:

- The accused person had provided any instruction or training in the making or use of fire-arms, explosives or chemical, biological, and other weapons; and
- he had no valid authorization from the competent authority to impart such instruction or training.

- The accused person had provided any instruction or training to any child in the making or use of fire-arms, explosives or chemical, biological, and other weapons; and
- he had no valid authorization from the competent authority to impart such instruction or training.

- The accused person had received instruction or training from anyone to give such instruction or training, specifically or generally, in the making or use of fire-arms, explosives or chemical, biological, and other weapons; or
- he had invited some other person, specifically or generally, to receive such unauthorized instruction or training in the making or use of fire-arms, explosives or chemical, biological, and other weapons; and
- he had no valid authorization from the competent authority in that regard.

- The accused person was a child; and
 - he had provided any instruction or training in the making or use of fire-arms, explosives or chemical, biological, and other weapons; or
 - he had received such unauthorized instruction or training in the making or use of fire-arms, explosives or chemical, biological, and other weapons; or
 - he had invited another, specifically or generally, to receive such unauthorized instruction or training in the making or use of fire-arms, explosives or chemical, biological, and other weapons; and
 - he had no valid authorization from the competent authority in that regard.
-
- The accused person had provided, generally or specifically, any instruction or training in acts of terrorism; or
 - he had received any instruction or training in acts of terrorism; or
 - he had invited another, specifically or generally, to receive such instruction or training; or
 - he had provided any instruction or training in acts of terrorism to a child.
-
- The accused person was a child; and
 - he had provided, generally or specifically, any instruction or training in acts of terrorism; or
 - he had received, generally or specifically, instruction or training in acts of terrorism.

Chapter 11

Conditional Admissibility of Confession

11.1 Section 21-H of the Anti-Terrorism Act, 1997:

“Conditional admissibility of confession.- Notwithstanding anything contained in the Qanoon-e-Shahadat, 1984 (President’s Order No. 10 of 1984) or any other law for the time being in force, where in any Court proceedings held under this Act the evidence (which includes circumstantial and other evidence) produced raises the presumption that there is a reasonable probability that the accused has committed the offence, any confession made by the accused during the investigation without being compelled, before a police officer not below the rank of a District Superintendent of Police, may be admissible in evidence against him, if the Court so deems fit.

Provided that the District Superintendent of Police before recording any such confession had explained to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and that no District Superintendent of Police has recorded such confession unless, upon questioning the person making it, the District Superintendent of Police had reason to believe that it was made voluntarily; and that when he recorded the confession, he made a memorandum at the foot of such record to the following effect:

“I have explained to (--- name ---) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.”

(Signed)
Superintendent of Police”

11.2 A confession made before the police is generally inadmissible in evidence and according to Article 38 of the Qanun-e-Shahadat Order, 1984 “No confession made to a police officer shall be proved as against a person accused of any offence”. However, section 21-H of the Anti-Terrorism Act, 1997 makes such a confession conditionally admissible in evidence if the following requirements are met:

- The proceedings being conducted before the Court must be under the Anti-Terrorism Act, 1997; and

- the Court holding the proceedings comes to a conclusion that the admissible evidence produced raises the presumption that there is a reasonable probability that the accused person has committed the offence; and
- the confession made by the accused person during the investigation was made before a police officer not below the rank of a District Superintendent of Police; and
- the Court finds that the confession was made by the accused person without being compelled; and
- the Court deems it fit in the circumstances of the case to consider the evidence of confession.

11.3 The admissibility of a confession before the police is, thus, contingent upon the Court's satisfaction about reasonable probability of involvement of the accused person in the offence established before Court through the other admissible evidence, the confession having been made before a senior police officer, the voluntary nature of the confession and the overall discretion of the Court in the matter of admitting the confession in evidence.

11.4 The safeguards provided in this section for ensuring voluntary nature of the confession and maintenance of correct record of the same are as follows:

- Before recording any confession the District Superintendent of Police has to explain to the person making it that he is not bound to make a confession; and
- before recording any confession the District Superintendent of Police has to explain to the person making it that if he makes a confession then it may be used as evidence against him; and
- upon questioning the person making the confession the District Superintendent of Police has reason to believe that it is being made voluntarily; and
- after having recorded the confession the District Superintendent of Police has to make a memorandum in the prescribed form at the foot of such record.

Chapter 12

Aiding, Abetting and Harbours

12.1 Section 21-I of the Anti-Terrorism Act, 1997:

“Aid and abetment.- Whoever aids or abets any offence under this Act shall be punished with maximum term of same imprisonment provided for the offence or the fine provided for such offence or with both.”

Basic ingredients to be proved:

- The accused person had aided the offence; or
- he had abetted the offence.

12.2 In a case involving suicide bombing the main culprit is dead and in a case of sabotage the main culprit is usually unidentified or untraceable. However, in such cases, in the absence of the main culprit, it is not a legal impossibility to try, convict and punish only the persons aiding or abetting the main culprit.

12.3 Section 21-J of the Anti-Terrorism Act, 1997:

“Harbouring.- (1) A person commits an offence if he harbours any person who has committed an offence under this Act.
(2) A person guilty of an offence under sub-section (1) shall be liable on conviction to punishment as provided in Section 216 and 216-A of the Pakistan Penal Code (Act XLV of 1860).”

Basic ingredients to be proved:

- The accused person had harboured a person; and
- the person harboured had committed an offence under this Act.

12.4 The words “who has committed an offence under this Act” do not mean that the person harboured should be a person who has already been convicted for an offence under this Act. A person accused of committing an offence under this Act is also included in the purview of this section.

Chapter 13

Absconder

13.1 Section 21-L of the Anti-Terrorism Act, 1997:

“Whoever being accused of an offence under this Act, absconds and avoids arrest or evades appearance before any inquiry, investigation or Court proceedings or conceals himself, and obstructs the course of justice, shall be liable to imprisonment for a term not less than five years and not more than ten years or with fine or with both.”

Basic ingredients to be proved:

- The person concerned was accused of an offence under this Act; and
- he had absconded; or
- he had avoided arrest; or
- he had evaded appearance before an inquiry; or
- he had evaded an investigation; or
- he had evaded Court proceedings; or
- he had concealed himself; and
- he had obstructed the course of justice.

13.2 A trial in absentia is generally considered to be unconstitutional but in the case of *Haji Muhammad v. The State* (PLD 2003 SC 262) the Supreme Court of Pakistan had held that a wilful absconcion in order to obstruct the course of justice may still be culpable.

13.3 In order to establish that the accused person had indeed become an absconder the prosecution must prove that all the necessary steps warranted by sections 87 and 88 of the Code of Criminal Procedure, 1898 had in fact been taken and all the requisite formalities in that regard had in fact been complied with.

Chapter 14

Defective Investigation

14.1 Section 27 of the Anti-Terrorism Act, 1997:

“Punishment for defective investigation.- If an Anti-Terrorism Court or a High Court comes to the conclusion during the course of or at the conclusion of the trial that the investigating officer or other concerned officers have failed to carry out the investigation properly or diligently or have failed to pursue the case properly and in breach of their duties, it shall be lawful for such Court or, as the case may be, High Court to punish the delinquent officers with imprisonment which may extend to two years or with fine or with both by resort to summary proceedings.”

Basic ingredients to be proved:

- An Anti-Terrorism Court or a High Court had come to a conclusion; and
- such conclusion had been reached during the course of or at the conclusion of the trial; and
- the conclusion was that the investigating officer had failed to carry out the investigation properly; or
- the conclusion was that the investigating officer had failed to carry out the investigation diligently; or
- the conclusion was that the investigating officer had failed to pursue the case properly; or
- the conclusion was that the investigating officer had committed breach of his duties; or
- the conclusion was that the other concerned officers had failed to carry out the investigation properly; or
- the conclusion was that the other concerned officers had failed to carry out the investigation diligently; or
- the conclusion was that the other concerned officers had failed to pursue the case properly; or
- the conclusion was that the other concerned officers had committed breach of their duties;

CONCLUSION

1. It must be appreciated and understood by every investigating officer and prosecutor that mere satisfaction of the police regarding catching hold of the real culprit is not by itself sufficient to clinch his conviction because a Court has to administer justice in accordance with the law and not in terms of satisfaction of the police.
2. It is elementary in criminal law that, except in cases of strict liability offences, in order to constitute a criminal offence the *mens rea* on the part of the accused person must coincide with the *actus reus* and also that each and every ingredient of the relevant offence must independently be proved by the prosecution beyond reasonable doubt before any conviction of the accused person can be secured in a Court of law. Every investigating officer and prosecutor must, therefore, always be conscious that lack or insufficiency of proof of even one of the necessary ingredients of the relevant offence is bound to entail acquittal of the accused person.
3. Acts of terrorism often involve brutality of the most vicious kind but it must be realized by all concerned that despite the brutality of the accused person alleged in a case of terrorism the Court trying the case would still not be ready to brutalize justice by ignoring or disregarding the law of evidence. The importance of fulfilling the requirements of the law of evidence in all such cases, therefore, cannot be overstated.
4. Finally, all concerned with investigation of such cases must beware that any serious lapse in the investigation of such cases committed by an investigating officer or other concerned officer may entail appropriate punishment of imprisonment or fine or both under section 27 of the Anti-Terrorism Act, 1997 besides taking of departmental disciplinary action against him in that regard.

The Anti-Terrorism Act, 1997

THE ANTI-TERRORISM ACT 1997

(ACT NO. XXVII OF 1997)

An Act to provide for the prevention of terrorism, sectarian violence
and for speedy trial of heinous offences and for matters
connected therewith and incidental thereto

whereas it is expedient to provide for the prevention of terrorism, Sectarian violation and for speedy trial of heinous offences and for matters connected therewith and incidental thereto:

1. Short title, extent and commencement. (1) This Act may be called the Anti-Terrorism Act 1997.

2. It extends to the whole of Pakistan.

3. It shall come into force at once.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context,....

(a) “armed forces” means the Military, Navel and Air Forces of Pakistan and the Reserves of such Forces;

(b) “civil armed forces means the Frontier Constabulary, Frontier Corps, Pakistan Coast Guards, Pakistan Rangers or any other civil armed force notified by the Federal Government as such;

(c) “code” means the Code of Criminal Procedure, 1898 (Act V of 1898;

¹[(d)] “child” means the a persons who at the time of the commission of the offence has not attained the age of the eighteen years;

1. Clauses (d) to (cc) subs. for clauses (d) to (h) by Ord. XXXIX of 2001, dated 14-08-2001

- (e) “court” means an Anti-Terrorism Court established under section 13;
- (f) “explosives” means any bomb, grenade, dynamite, or explosive substance capable of causing an injury to any person or damage to any property and includes any explosive substances as defined in the Explosives Act, 1884 (IV of 1884);
- (g) “fire-arms” means any or all types and gauges of handguns, rifles and shotguns, whether automatic, semi-automatic or bolt action, and shall include all other fire-arms as defined in the Arms Ordinance, 1965 (W.P.Ord. XX of 1965);
- (h) “fine” means a pecuniary amount to be determined by the Court having regard to the facts and circumstances of the case;
- (i) “government”, means the Federal Government or, as the case may be, the Provincial Government;
- (j) “grievous”, in relation to bodily injury, means any emasculation, mutilation, incapacitation, disfigurement or severe harm or hurt; and in relation to property means severe loss; damage or destruction;
- (k) “high court” means the High Court having territorial jurisdiction in respect of the area for which an Anti-Terrorism Court have been established;
- (l) “Hijacking” means any unlawful seizure or exercise of control, or any attempt at unlawful seizure or exercise of control, of an aircraft, by force, violence, threat or any form of obstruction, directly or through any other person, from within or outside the aircraft;
- (m) “hostage-taking” means the holding of a person captive with threats made to kill or harm that person if demands are not met;
- (n) “kidnapping for ransom” means the action of conveying any person from any place, without his consent, or by force compelling or by any deceitful means inducing him, to go form any place, and unlawfully detaining him and demanding or attempting to demand,

money, pecuniary or other benefit from him or from another person, as a condition of his release;

- (o) “meeting” means a meeting of two or more persons, whether in public or private;
- (p) “organization” means any group, combination or body of persons acting under a distinctive name;
- (q) “proscribed organization” means any organization using a name which is listed in the First Schedule under section 11B;
- (r) “public servant” shall have the same meaning as in Section 21 of the Pakistan Penal Code, 1860 or in any other law for the time being in force;
- (s) “schedule” means a Schedule to this Act;
- (t) “scheduled offence” means an offence as set out in the Third Schedule;
- (u) “sectarian” means pertaining to, devoted to, peculiar to, or one which promotes the interest of a religious sect, or sects, in a bigoted or prejudicial manner;
- (v) “sectarian hatred” means hatred against a group of persons defined by reference to religion, religious sect, religious persuasion, or religious belief;
- (w) “serious” means dangerous to life or property;
- (x) “terrorism” or “act of terrorism” has the meaning as assigned to it in section 6;
- (y) “terrorist” has the meaning as assigned to it in section 6(5);
- (z) “terrorist investigation” means an investigation of:

- (a) the commission, preparation or instigation of acts of terrorism under this Act;
 - (b) an act which appears to have been done for the purposes or terrorism;
 - (c) the resources of a proscribed organization;
 - (d) the commission, preparation or instigation of an offence under this Act; or
 - (e) any other act for which investigation may be necessary for the purposes of this Act.
- (aa) “terrorist property” means;
- (i)
 - (a) money or other property which is used or is likely to be used for the purposes of terrorism (including any resources or a proscribed organization);
 - (b) proceeds of the commission of acts of terrorism;
 - (c) proceeds of acts carried out for the purposes of terrorism; and
 - (ii) In sub-section (i) above:
 - (a) a reference to proceeds of an act, includes reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments of other rewards in connection with the commission);
 - (b) the reference to an organization’s resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organization, and includes assets of any kind, whether tangible or intangible, movable or immovable, and legal documents or instruments in any form, whether

written, electronic or digital, and shares, securities bonds, drafts and letters of credit; and

- (c) a reference to money includes a reference to any case which means any coins, notes in any currency, postal orders, money orders, bank credit, travelers cheques, bank cheques, bankers drafts, and such other kinds of monetary instruments as the Federal Government may be order specify;
- (bb) “weapon” means any item which can be used to injure or cause bodily harm, and includes any type of fire-arm, explosive, sword, dagger, knuckle-duster, bomb, grenade, rocket launcher, mortar or any chemical, biological weapon or any other thing which can be used for causing injury, hart, harm or destruction of person or property, an includes ‘illicit arms’ as defined in the Surrender of Illicit Arms Act, 1991 (XXI of 1991); and
- (cc) all other terms and expressions used but not defined in this Act, shall have the meanings as are assigned to them in the Pakistan Penal Code, 1860, or the Code of Criminal Procedure, 1898]

3. ²[x x x x x x x x x x]

4. Calling in of armed forces and civil armed forces in aid of civil power.

(1) It shall be lawful for the Federal Government to order, and subject to sub-section (2), for the Provincial Government to secure, the presence of armed forces and civil armed forces in any area for the prevention and punishment of terrorist acts and scheduled offences in accordance with the provisions of this Act.

²

Section 3 omitted by Amendment Ord. XXXIX of 2001, dated 14-08-2001

(2) If, in the opinion of the Provincial Government, the presence of armed forces, or civil armed forces, is necessary in order to prevent the commission of terrorist acts of scheduled offences in any area it may request the Federal Government to direct the presence of posting of units or personnel of the armed forces, or civil armed forces, in such numbers as may be deemed necessary for the prevention or control, or terrorist acts or scheduled offences.

(3) The Federal Government may decide whether the requirements of the situation call for the deployment of:

- (i) the civil armed forces, or
- (ii) the armed forces,

and on so deciding shall, by means of a notification in the official Gazette issued under clause (i) or (ii) or both authorize and direct the posting thereof.

5. Use of armed forces and civil armed forces to prevent terrorism. (1) Any Police Officer, or member of the armed forces, or civil armed forces, who is present or deployed in any area may, after giving sufficient warning, use the necessary force to prevent the commission of terrorist acts or scheduled offences, and in so doing shall, in the case of an officer of the armed forces or civil armed forces, exercise all the powers of a police officer under the Code.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), an officer of police, armed forces and civil armed forces may;

- (i) after giving prior warning use such force as may be deemed necessary or appropriate, bearing in mind all the facts and circumstances of the situation, against any person who is committing ³[x x x x] a terrorist act or a scheduled offence, ⁴[it shall be lawful for any such officer, or any senior officer, when fired upon] to fire, or order the firing upon any person or persons against whom he is authorized to use force in terms hereof;

3. Omitted by Second Amendment Ordinance XIII 1999.

4. Subs. for "and in the events of being fired upon it shall be lawful for any such officer, or any superior officer by Amendment Ordinance XXXIV of 2001, dated 14-08-2001.

- (ii) arrest, without warrant, any person who has committed an act of terrorism or a scheduled offence or against who a reasonable suspicion exists that he has committed, or is about to commit, any such act or offence; and
 - (iii) enter and search, without warrant any premises to make any arrest or to take possession of any property, fire-arm, weapon or article used, or a likely to be used, in the commission of any terrorist act or scheduled offence.
- (3) Nothing contained in sub-section (1) or (2) shall affect the provisions of Chapter IX of the Code and the provisions of section 132 of the Code shall apply to any person acting under this section.

⁵[**6. Terrorism.** (1) In this Act, “terrorism” means the use or threat of action where:

- (a) the action falls within the meaning of sub-section (2), and
- (b) the use of threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or
- (c) the use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause;

(2) An “action” shall fall within the meaning of sub-section (1), if it:

- (a) involves the doing of anything that causes death;
- (b) involves grievous violence against a person or grievous bodily injury or harm to a person;
- (c) involves grievous damage to property;
- (d) involves the doing of anything that is likely to cause death or endangers a person’s life;
- (e) involves kidnapping for ransom, hostage-taking or hijacking;
- ⁱ(ee) **involves use of explosives by any device including bomb blast;**

- (f) incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
- (g) involves stoning, brick-bating or any other form of mischief to spread panic;
- (h) involves firing on religious congregations, mosques, imambagahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover of mosques or other places of worship;
- (i) creates a serious risk to safety of the public or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carrying on their lawful trade and daily business, and disrupts civil life;
- (j) involves the burning of vehicles or any other serious form of arson;
- (k) involves extortion of money (“bhatta”) or property;
- (l) is designed to seriously interfere with or seriously disrupt a communications system or public utility service;
- (m) involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties; or
- (n) involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant.

(3) The use of threat of use of any action falling within sub-section (2), which involves the use of fire-arms, explosives or any other weapon, is terrorism, whether or not sub-section (1)(c) is satisfied.

(4) In this section “action” includes an act or a series of acts.

(5) In this Act, terrorism includes any act done for the benefit of a proscribed organization.

(6) A person who commits an offence under this section or any other provision of this Act, shall be guilty of an act of terrorism.

(7) In this Act, a “terrorist” means:

- (a) a person who has committed an offence of terrorism under this Act, and is or has been concerned in the commission, preparation or instigation of acts of terrorism;
- (b) a person who is or has been, whether before or after the coming into force of this Act, concerned in the commission, preparation or instigation of acts of terrorism, shall also be included in the meaning given in clause (a) above].

⁶[7. **Punishment for acts of terrorism.** Whoever, commits an act of terrorism under section 6, whereby:-

- (a) death of any person is caused, shall be punishable, on conviction, with death or with imprisonment for life, and with fine; or
- (b) he does anything likely to cause death or endangers life, but death or hurt is not caused, shall be punishable, on conviction, with imprisonment of either description for a term which shall be not less than **ten years** but may extend to ⁱⁱ**imprisonment for life** and with fine;
- (c) grievous bodily harm or injury is caused to any person, shall be punishable, on conviction, with imprisonment of either description for a term which shall not be less than ⁱⁱⁱ**ten years** but may extend to imprisonment for life and shall also be liable to a fine; or
- (d) grievous damage to property is caused, shall be punishable on conviction, with imprisonment, of either description for a term not less than ten years ^{iv}**but may extend to imprisonment for life**, and shall also be liable to fine; or
- (e) the offence of kidnapping for ransom or hostage-taking has been committed, shall be punishable, on conviction, with death or imprisonment for life and shall also be liable to forfeiture of property; or

6. Subs. by Amendment Ordinance XXXIX of 2001, dated 14-08-2001
 i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 ii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 iii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 iv. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.

- (f) the offence of hijacking, has been committed, shall be punishable, on conviction, with death or imprisonment for life, and shall also be liable to forfeiture of property and fine;
- ⁱ(ff) **the act of terrorism committed falls under section 6(2) (ee), shall be punishable with imprisonment which shall not be less than fourteen year but may extend to imprisonment for life;**
- (g) the act of terrorism committed falls under section 6(2)(f) and (g), shall be punishable on conviction, with imprisonment of not less than ⁱⁱ**two years** and not more than ⁱⁱⁱ**five years** and with fine; or
- (h) the ac of terrorism committed falls under clauses (h) to (n) of sub-section (2) of section 6, shall be punishable, on conviction, to imprisonment of not less than ^{iv}**five years** and ^v**but may extend to imprisonment for life** and with fine; and
- (i) any other act of terrorism not falling under clauses (a) to (h) above or under any other provision of this Act, shall be punishable, on conviction, to imprisonment of not less than ^{vi}**five years** and not more than ^{vii}**ten years** or with fine or with both.]

⁷[7A. x x x x x x]

⁸[7B. x x x x x x]

8. Prohibition of acts intended or likely to stir up sectarian hatred. A person who:-

- (a) uses threatening, abusive or insulting words or behaviour; or
- (b) displays, publishes or distributes any written material which is threatening, abusive or insulting; or
- (c) distributes or shows or plays a recording of visual images or sounds which are threatening, abusive or insulting; or

i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 ii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 iii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 iv. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 v. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 vi. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 vii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 7. Omitted by Amendment Ordinance XXIX of 2000 dated 24-07-2000
 8. Omitted by Amendment Ordinance XXIX of 2000 dated 24-07-2000

- (d) has in his possession written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another, view to their being displayed or published by himself or another,

shall be guilty of an offence if:-

- (i) he intends thereby to stir up sectarian hatred; or
 (ii) having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.

9. Punishment for offence under section 8. Whoever contravenes any proviso of section 8 shall be punished with ⁹[x x x] imprisonment for a term which may extend to ¹[five] years ²[and with fine].

10. Power to enter or search. If any officer of the police, armed forces or civil armed forces is satisfied that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 8 he may enter and search the premises where it is suspected the material or recording is situated and take possession of the same:

³[Provided that the concerned officer shall first record in writing his reasons for such belief and search a copy thereof either on the person or on the premises].

11. Power to order forfeiture. (1) An ⁴[Anti-Terrorism Court] by which a person is convicted of an offence under section 9 shall order to be forfeited any material or recording referred to therein.

9. Omitted by Second Amendment Ordinance XIII of 1999
 1. Subs. for "seven" by Amendment Ordinance XXXIX of 2001 dated 14-08-2001.
 2. Subs. for Second Amendment Ordinance XIII of 1999.
 3. Proviso added by Second Amendment Ordinance XIII of 1999.
 4. Subs. by Second Amendment Ordinance XIII of 1999.

(2) Where the person who collected the material or recording cannot be found or identified the ⁵[Anti-Terrorism Court] on the application of the officer seizing the material or recording, shall forfeit the material or recording to the State to be disposed of as directed by it.

⁶[**11-A. Organizations concerned in terrorism.** For the purposes of this Act, an organization is concerned in terrorism if it:-

- (a) commits or participates in acts of terrorism;
- (b) prepares for terrorism;
- (c) promotes or encourages terrorism;
- (d) supports and assists any organization concerned with terrorism;
- (e) patronizes and assists in the incitement of hatred and contempt of religious, sectarian or ethnic lines that stir up disorder;
- (f) fails to expel from its ranks or ostracize those who commit acts of terrorism and presents them as heroic persons; or
- (g) is otherwise concerned in terrorism.

11-B. Proscription. (1) For the purposes of this Act an organization is proscribed if:-

- (a) the Federal Government, having reason to believe that an organization is concerned in terrorism, by order, lists it in the First Schedule;
- (b) it operates under the same name as an organization listed in the First Schedule or it operates under a different name; or
- (d) the First Schedule is amended by the Federal Government in any way to enforce prescription.

5. Subs. by Second Amendment Ordinance XIII of 1999.

6. Sections 11A to 11X inserted by Amendment Ordinance XXXIX of 2001, dated 14-08-2001.

(2) The Federal Government may, by order, add or remove an organization from the First Schedule or amend it in any other way.

11C. Right of Review. (1) Where any proscribed organization is aggrieved by the order of the Federal Government made under section 11B, it may, within thirty days of such order, file a review application in writing, before the Federal Government, stating the grounds on which it is made, and the Federal Government shall, after hearing the applicant, decide the matter within ninety days.

(2) An organization whose review application has been refused under sub-section (1) may file an appeal to the High Court within thirty days of the refusal of the review application.

(3) The Federal Government shall appoint a Proscribed Organizations Review Committee to determine all review applications under sub-section (1).

11D. Observation Order. Where the Federal Government, has reason to believe that an organization is acting in a manner that it may be concerned in terrorism:

(1) The organization may be kept under observation, if:

- (a) the name of the organization is listed in the Second Schedule by order of the Federal Government; or
- (b) it operates under the same name as an organization listed in the Second Schedule.

(2) An organization or a person aggrieved by the observation order passed under sub-section (1) may file a review application before the Federal Government, which shall, after hearing the applicant, decide the matter within sixty days.

(3) Where the organization is under observation, the Federal Government may further extend the period of observation, only after giving the organization an opportunity of being heard.

(4) Each observation period shall be for six months, and may be extended by the Federal Government only after giving an opportunity of being heard to the organization concerned.

11E. Measures to be taken against a proscribed organization. Where any organization shall be proscribed:

- (1) Amongst other measures to be taken by the Federal Government:-
 - (a) its offices, if any, shall be sealed;
 - (b) its accounts, if any, shall be frozen;
 - (c) all literature, posters, banners, or printed, electronic, digital or other material shall be seized; and
 - (d) publication, printing or dissemination of any press statements, press conferences or public utterances by or on behalf of or in support of a proscribed organization shall be prohibited.

- (2) The Proscribed Organization shall submit all accounts of its income and expenditure for its political and social welfare activities and disclose all funding sources to the competent authority designed by the Federal Government.

[11EE. Security for good behaviour. (1) Whenever the Federal or Provincial Government on an information received from any source that any person is an activist, office bearer or an associate of an organization kept under observation under section 11D or proscribed under section 11E, or in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism, such Government may notify the name of such person or persons in a list entered in the Fourth Schedule.

(2) Where a person's name is listed in the Fourth Schedule, the Federal or Provincial Government, as the case may be, without prejudice to any other action which may lie against such person under this Act or any other law for the time being in force, may take following actions and exercise following powers, namely:-

(a) require such person to execute a bond with one or more sureties to the satisfaction of the District Police Officer in the territorial limits of which the said person ordinarily resides, or carries on business, for his good behaviour and not to involve in any act of terrorism or in any manner advance the objectives of the organization referred to in sub-section(1) for such period not exceeding three years and in such amount as may be specified:

Provided that where he fails to execute the bond or cannot produce a surety or sureties to the satisfaction of the District Police Officer order him to be detained and produced within twenty-four hours before a Court which shall order him to be detained in prison until he executes the bond or until a satisfactory surety or sureties if required, are available or, failing that the term of the order under clause (a) expires:

Provided further that where he is a minor, the bond executed by a surety or sureties only may be accepted;

(b) require any such person to seek prior permission from the officer incharge of Police Station of the concerned area before moving from his permanent place of residence for any period of time and to keep him informed about the place he would be visiting and the persons, he would be meeting during the stay;

(c) require:-

(i) that his movements to be restricted to any place or are specified in the order

- (ii) him to report himself at such times and places and in such mode as may be specified in the order;
 - (iii) him to comply with both the directions; and
 - (iv) that he shall not reside within areas specified in the order;
- (d) direct that he shall not visit or go within surroundings specified in the order including any of the under-mentioned places, without the written permission of the officer incharge of the Police Station within whose jurisdiction such place is situated, namely:-
- (i) schools, colleges and other institutions where persons under twenty-one years of age or women are given education or other training or are housed permanently or temporarily;
 - (ii) theatres, cinemas, fairs, amusement parks, hotels, clubs, restaurants, tea shops and other place of public entertainment or resort;
 - (iii) airport, railway stations, bus stands, telephone exchanges, television stations, radio stations and other such places;
 - (iv) public or private parks and gardens and public or private playing fields; and
 - (v) the scene of any public meeting or procession of any assemblage of the public whether in an enclosed place or otherwise in connection with any public event festival or other celebration:
- (e) check and probe the assets of such persons or their immediate family members i.e. parents, wives and children through police or any other Government agency, which shall exercise the powers as are available to it under the relevant law for the purposes of the investigation, to ascertain

whether assets and sources of income are legitimate and are being spent on lawful objectives:

Provided that no order under clause (d) or (e) above shall be made operative for a period of more than three year; and

- (f) monitor and keep surveillance over the activities of such person through police or any other Government agency or any person or authority designated for the purpose.

(3) Any person whose name has been notified in the list entered in the Fourth Schedule under sub-section (1) or is aggrieved by any direction or order of the Federal or Provincial Government made under sub-section (2), may within thirty days of such notification, direction or order, prefer an appeal to the Federal or Provincial Government, as the case may be, and such Government after providing an opportunity of being heard to such person decide the appeal within thirty days.

(4) Any person who violates any direction or order of the Federal or Provincial Government or any terms of bond referred to in sub-section (2), shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

11EEE. Power to arrest and detain suspected persons. (1) Government if satisfied that with a view to prevent any person whose name is included in the list referred to section 11EE, it is necessary so to do, may, by order in writing, direct to arrest and detain, in such custody as may be specified, such person for such period as may be specified in the order, and Government if satisfied that for the aforesaid reasons it is necessary so to do, may, extend from time to time the period of such detention for a total period not exceeding twelve months.

(2) The provisions of Article 10 of the Constitution of the Islamic Republic of Pakistan shall mutatis mutandis apply to the arrest and detention of a person ordered under sub-section (1).]

11F. Membership, support and meetings relating to a Proscribed Organization. (1) A person is guilty of an offence if he belongs or professes to belong to a proscribed organization.

(2) A person guilty of an offence under sub-section (1) shall be liable on conviction to a term not exceeding six months imprisonment and a fine.

(3) A person commits an offence if he:

(a) solicits or invites support for a proscribed organization, and the support is not, or is not restricted to, the provision of money or other property; or

(b) arranges, manages or assists in managing, or addressing a meeting which he knows is:-

(i) to support a proscribed organization;

(ii) to further the activities of a proscribed organization; or

(iii) to be addressed by a person who belongs or professes to belong to a proscribed organization.

(4) A person commits an offence if he addresses a meeting, or delivers a sermon to a religious gathering, by any means whether verbal, written, electronic, digital or otherwise, and the purpose of his address or sermon, is to encourage support for a proscribed organization or to further its activities.

(5) A person commits an offence if he solicits, collects or raises funds for a proscribed organization.

(6) A person guilty of an offence under sub-section (3), (4) and (5) shall be liable on conviction to a term of imprisonment not less than one year and not more than five years and a fine.

11G. Uniform. A person commits an offence if he:-

- (a) wears, carries or displays any article, symbol, or any flag or banner connected with or associated with any proscribed organization; or
- (b) carries, wears or displays any uniform, item of clothing or dress in such a way or in a such circumstance as to arouse reasonable suspicion that he is a member or supporter of a proscribed organization.

(2) A person who commits an offence under sub-section (1) shall be liable to imprisonment for a term which may extend to five years, or with fine, or with both.

11H. Funds raising. ---- (1) A person commits an offence if he:---

- (a) invites another to provide money or other property, and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose terrorism.

(2) A person commits an offence if:

- (a) he receives money or other property, and
- (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism.

(3) A person commits an offence if he:

- (a) provides money other property; and
- (b) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

(4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

11-1. Use and possession.--- A person commits an offence if:--

- (1) he uses money or other property for the purposes of terrorism' or
- (2) he—
 - (a) possesses money or other property; and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism.

11-J. Funding Arrangements.---A person commits an offence if he:--

- (a) enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and
- (b) has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

11-K. Money-laundering.--- (1) A person commits an offence if he enters into or becomes concerned in any arrangement which facilitates the retention or control, by or on behalf of another person, of terrorist property:---

- (a) by concealment,
- (b) by removal from the jurisdiction,
- (c) by transfer to nominees, or
- (d) in any other way,

(2) It is a defense for a person charged with an offence under sub-section (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

11-L. Disclosure of Information.--- (1) Where a person:---

- (a) believes or suspects that another persons has committed an offence under this Act; and
- (b) base his belief or suspicion on information which comes to his attention in the course of a trade, profession, business or employment, he commits an offence if he does not disclose to a police officer as soon as is reasonably practicable his belief or suspicion, and the information on which it is based.
- (3) It is a defence for a person charged with an offence under sub-section (1) of this section to prove that he has a reasonable excuse for not making the disclosure:

Provided that this sub-section does not require disclosure by professional legal advisor of any information which he obtains in privileged circumstances.

- (4) A person may disclose to a police officer:-
 - (i) a suspicion or belief that any money or other property is terrorist property or is derived from terrorist property; or
 - (ii) any matter on which the suspicion is based.

- (5) Sub-section (3) shall have effect notwithstanding any restriction on the disclosure of information imposed by any law for the time being in force.

11.M. Cooperation with the Police.--- (1) A person does not commit an offence under sections 11H to 11K, if he is action with the express consent of a police officer not below the rank of a Deputy Superintendent.

(2) Subject to sub-sections (3) and (4) under this section, a person does not commit an offence under sections 11H to 11K by involvement in a transaction or a arrangement relating to money or other property if he discloses to police officer:--

- (a) his suspicion or belief that the money or other property is terrorist property, and
 (b) the information on which his suspicion or belief is based.

(3) Sub-section (2) under this section applies only where a person makes a disclosure:-

- (a) after he becomes concerned in the transaction concerned;
 (b) on this own initiative' and
 (c) as soon as is reasonably practicable;

(4) Sub-section (2) under this section does not apply to a person if:-

- (a) a police officer forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates, and
 (b) he continues his involvement.

(5) It is a defence for a person charged with an offence under section 11H to 11J to prove that:

- (a) he intended to make a disclosure; and
 (b) there is reasonable excuse for this failure to do so.

11.N. Punishment under sections 11H to 11K.--- Any person who commits an offence under sections 11H to 11K, shall be punishable on conviction with imprisonment for a term not less than **five years** and not exceeding **ten years** and with fine.

11-O. Seizure and detention.--- An officer authorized by the Provincial Government in this behalf, hereinafter referred to as the "authorized officer" may seize and detain any cash recovered, if he has reasonable grounds for suspecting that:-

- (a) it is intended to be used for the purposed of terrorism.

- (b) It forms the whole or part of the resources of a proscribed organization, and includes any cash which is applied or made available, or is to be applied or made available, for use by the organization whether being imported into, or exported from, Pakistan; or
- (c) it is terrorist property within the meaning given in Section 2(aa):

Provided that any such seized cash under section shall be released not later than the end of the period of 4 hours beginning with the time when it is seized, unless an application has been made to the Court under section 11P and an order has been obtained for its detention for a further specified period.

11-P. Application by authorized officer to a Court.---(1) An authorized officer may apply to a Court for an order under this section in relation to any cash seized under section 11-O.

- (2) An order under section:
 - (a) shall authorize, the further detention under section 11-O of the cash to which it relates for a period specified in the order, if the continued detention of the cash is justified pending completion of an investigation of its origin or derivation;
 - (b) shall specify a period which ends not later than the period of three months beginning with the date of the order; and
 - (c) shall require notice to be given to the person from whom the cash was seized and to any other person who is affected by and specified in the order.

(3) Any cash detained under section 11-O if detained for a further period specified under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture;

11-Q. Forfeiture.---- (1) The Court by or before which a person is convicted of an offence under any of the Sections 11H to 11M may make a forfeiture order in accordance with the provisions of this section.

- (2) Where a person is convicted of an offence under section 11H(1) or (2) or section 11-1, the Court may order the forfeiture of any money or other property:
 - (a) which, at the time of the offence, he had in his possession or under this control; and

- (b) which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purpose of terrorism.
- (3) Where a person has been convicted under section 11H(3), the Court may order the forfeiture of any money or other property:
 - (a) Which, at the time of the offence, he had in his possession or under his control, and
 - (b) which, at the time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.
- (4) Where a person is convicted of an offence under section 11J, the Court may order the forfeiture of the money or other property:
 - (a) to which the arrangement in question related; and
 - (b) which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purpose of terrorism.
- (5) where a person is convicted of an offence under section 11K, the Court may order the forfeiture of the money or other property to which the arrangement in question related.
- (6) where a person is convicted of an offence under any of sections 11H to 11K, the Court may order forfeiture of any money or other property which wholly or partly, and directly, or indirectly is received by any person as payment or other reward in connection with the commission of the offence.

11-R. Authorized officer may apply to Court for forfeiture.--- (1) Any authorized officer may apply to the Court for an order forfeiting the cash being detained under sections 1P and 11Q.

(2) The Court may grant an application only if satisfied on the balance of probabilities that the cash is cash of a kind as defined in Section 11Q, and before so doing must give an opportunity to be heard to any person:

- (a) who is not a party to the proceeding, and
- (b) who claims to be the owner of or otherwise interested in any of the cash which can be forfeited under this section.

(3) An order may be made under this section, whether or not proceedings are brought against any person for an offence with which the cash is connected.

11-S. Appeal against forfeiture order under section 11R..... (1) Any party to the proceedings in which a forfeiture order is made under section 11R, may appeal to the High Court against such a order.

(2) An appeal must be brought before the end of the period of thirty days beginning with the date on which the forfeiture order was made.

11-T. Deposit of cash in a fund.--- (1) Any cash to which a forfeiture order under sections 11R and 11S applies, along with the profit and loss accrued, shall be deposited into a special fund to be notified by the Federal Government:--

- (a) after the expiry of the limitation period within which an appeal against the forfeiture order may be brought under section 11S(2), or
 - (b) where an appeal brought under section 11s has been determined and disposed of.
- (2) Any fund constituted by the Federal Government under sub-section (1) may also be used to compensate victims of acts of terrorism or in the case of deceased victims, their dependants,

11-U. De- proscription.--- (1) After three years of the disposal of the appeal , if any or where no appeal was filed, from the date of the order of prescription, or from the date of any refusal of an application of de-proscription, the proscribed organization may apply in writing to the Federal Government for the exercise of the its power under section 11B(d) to remove the organization from the First Schedule, where the proscribed organization feels that it can prove to the satisfaction of the Federal Government that the reasons for its proscription have ceased to exist.

(2) The Federal Government shall decide such application within a period of ninety days, after providing a reasonable opportunity of hearing to the applicant.

11.V. Directing terrorist activities.--- (1) A person commits an officer if he:--

- (a) directs, at any level, whilst resident in Pakistan or abroad, activities of an organization concerned with the preparation, instigation or commission of acts of terrorism; or

- (b) directs, from within the country or abroad, activities connected with the commission, preparation or instigation of an act of terrorism.
- (2) A person guilty of an offence under sub-section (1) shall be liable on conviction to **imprisonment for life** and to forfeiture or confiscation of his assets within or outside Pakistan.

11-W. Printing, publishing, or dissemination any material to incite hatred or giving projection to any person convicted for terrorist act or any proscribed organization or an organization placed under observation or anyone concerned in terrorism.--- (1) A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video- cassettes or by written, photographic, electronic, digital, wall-chalking or any other method which incites religious, sectarian or ethnic hatred or gives projection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or proscribed organization or an organization placed under observation:

Provided that a factual news report, made in good faith, shall not be construed to mean “projection” for purposes of this section.

(2) Any person guilty of an offence under sub-section (1) shall be **punishable on conviction with imprisonment which may extend to five years and with fine.**

11.X. Responsibility for creating civil commotion.--- (1) A person commits an offence if he makes any call for action or shut-down, imposed through the use of threats of force resulting in damage or destruction of property or injury to person, to intimidate citizens and prevent them from carrying out their lawful trade or business activity.

(2) A person guilty of an offence under sub-section (1) shall on conviction be punishable with imprisonment of a term not less than ⁱⁱⁱ**five years** and not more than ^{iv}**ten years** and shall pay compensation as may be determined by the Court, from the funds of the organization to which he belongs or from his own personal resources or assets for the hurt or damage or destruction cause as a result of the commission of the offence under sub-section (1).

i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 ii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 iii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 iv. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.

(3) A person commits an offence if he addresses a meeting or gathering of delivers a sermon to a religious gathering by any means whether verbal, written, electronic, digital, or otherwise to incite religious, sectarian or ethnic hatred and contempt, and shall, on conviction, be punishable with imprisonment not less than **five years** and not more than **ten years** or fine or with both.}

12. Jurisdiction of ⁸[Anti- Terrorism Court].----(1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in an area in a Province shall be triable only by the ⁹[Anti-Terrorism Court exercising territorial jurisdiction in relation to such area.

(2) Notwithstanding anything in Sub-section (1), if, in respect of a case involving a scheduled offence committed in any area, the Government, having regard to the facts and circumstances of the case, is satisfied that in order to ensure a fair trial, or for the protection and safety of witnesses, that such offence should be tried by an ¹[Anti-Terrorism Court] established in relation to any other area, the Government may make a declaration to the effect.

Explanation.---- Where an ²[Anti- Terrorism Court] is established in relation to two or more areas, such ³[Anti – Terrorism Court] shall be deemed, for the purpose of this sub-section to have been established in relation to such areas.

(3) Where a declaration is made in respect of an offence committed in an area in a Province, any prosecution in respect of such offence shall be instituted only in the ⁴ [Anti – Terrorism Court] established in relation to such area, and, if any prosecution in respect of such offence is pending immediately before such declaration in any other Court, the same shall stand transferred to such Anti- Terrorism Court and such ⁵[Anti – Terrorism Court] shall proceed with such case from the stage at which it was pending at that time without the necessity of recalling any witnesses.

i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 ii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 8. Subs. by Second Amendment Ord. XIII of 1999
 9. Subs. by second Amendment Ord. XIII of 1999
 1. Subs. by second Amendment Ord. XIII of 1999
 2. Subs. by second Amendment Ord. XIII of 1999
 3. Subs. by second Amendment Ord. XIII of 1999
 4. Subs. by second Amendment Ord. XIII of 1999
 5. Subs. by second Amendment Ord. XIII of 1999

⁶**[Establishment of (Anti- Terrorism Court).---**(1) for the purpose of providing for the speedy trial of the cases referred to in sub-section (2) an sub-section (3) of section 39-A, and of scheduled offences, the Federal Government, or if so directed by the Government, or if so directed by the Government, the Provincial Government may establish by notification one or more Anti –Terrorism Courts in relation to ⁷[each territorial area as specified by the High Court concerned].

(2) Where more Anti –Terrorism Courts than have been established in any area, the Government in consultation with the Chief Justice of High Court shall ⁸[designate a Judge of any such Court to be an administrative Judge] and all cases triable under this Act pertaining to the said area shall be filed before the ⁹[said Court and such Judge any either try the case himself] or, assign charge. The cases shall be assigned to a Court one case a time:

Provided that in order to ensure that the time of the Court is not wasted if for some reason a given case cannot proceed more than one case can be assigned to it at any time or form time to time.

(3) In respect of a case assigned to a Court under sub-section (2), all orders made or proceedings taken before the assignment shall be deemed to have been made or taken by the Court to which the case has been assigned.]

6. Subs. by second Amendment Ord. XIII of 1999
 7. Subs. by second Amendment Ord. XIII of 1999
 8. Subs. by second Amendment Ord. XIII of 1999
 9. Subs. by second Amendment Ord. XIII of 1999

¹⁰[(4) Notwithstanding anything contained in sub-section (2) and sub-section (3), the Federal Government or if so directed by the Government, the Provincial Government shall in addition to be existing ¹[Anti-Terrorism Court] or such other ²[Anti-Terrorism Court] as may be established in the area, establish one such additional ³[Anti-Terrorism Court] under this Act at the Principal seat of the ⁴[Anti-Terrorism Court] and appoint a Judge of such High Court as Judge of ⁵[Anti-Terrorism Court] in consultation with the Chief Justice of the High Court concerned, and where a Judge of High Court is appointed as a Judge for any area under this Act, he shall be the administrative Judge for that area and such administrative Judge, in addition to the powers exercisable under this Act, either suo motu or on the application of any party, at any stage of the proceedings whether before or after the framing of charge for sufficient cause including as mentioned in sub-section (1) of S. 28, transfer, withdraw or recall any case pending before any other ⁶[Anti-Terrorism Court] in that area and may either try the case himself or make it over for trial in any other ⁷[Anti-Terrorism Court] in that area.

(5) The ⁸[Anti-Terrorism Court] to which a case is transferred or recalled for trial under sub-section (4), shall proceed with the case from the stage at which it was pending immediately before such transfer or recall and it shall not be bound to recall or rehear any witness who has given evidence and may act on the evidence already recorded.]

10. Subs. by second Amendment Ord. XIII of 1999
 1. Subs. by Ordinance VI of 2002, dated 31.1.2002.
 2. Subs. by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002.
 3. Subs. by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002.
 4. Added by Ordinance XX of 1999 w.e.f. 2.12.1999
 5. Subs. by Ordinance VI of 2002.
 6. Subs. by Ordinance VI of 2002
 7. Subs. by Ordinance VI of 2002
 8. Subs. by Ordinance VI of 2002

⁹ [14. Composition and appointment of presiding officers of Anti- Terrorism Court.-(1)

An Anti – Terrorism Court shall consist of a Judge, being a person who:-

- (i) is a Judge of a High Court, or is or has been a Sessions Judge or an Additional Session Judge; or
 - (ii) is a Judicial Magistrate First Class vested with powers under section 30 of the Code; or
 - (iii) has for a period of not less than ten years been an advocate of a High Court.
- (2) The Federal Government or the Provincial Government, if directed by the Federal Government to establish a Court under this Act, shall, after consultation with the Chief Justice of the High Court, appoint a Judge of each Court.
 - (3) A Judge shall hold office for a period of two and a half years but may be appointed for such further term of part of term as the Government appointing the Judge may determine.
 - (4) A Judge may be removed from his office prior to the completion of the period for which he has been appointed after consultation with the Chief Justice of the High Court.
 - (5) In case is on leave, or for any other reason temporarily unable to perform his duties, the Government making appointment of such Judge may after consultation with the Chief Justice of the High Court, authorize the Sessions Judge, have Jurisdiction at the principal seat of the Anti-Terrorism Court, to conduct proceedings of urgent nature so long as such Judge is unable to perform his duties.

- (6) The Anti- Terrorism Courts existing immediately before the commencement of the Anti- Terrorism (Second Amendment) Ordinance 2002, and the Judge appointed to such Court, shall, subject to the provisions of this Act, as amended, continue to function and try offence under this Act.]

15. Place of sitting.—(1) Subject to sub-section (2) and (3), an ¹⁰[Anti-Terrorism] shall ordinarily sit at such place or places ¹[including cantonment area or jail premises] as the Government may, by order, specify in that behalf.

- (2) The Government may direct that for the trial of a particular case the Court shall sit at such place including the place of occurrence of an offence as it may specify.

- (3) A judge should be removed from his office prior to the completion of the period for which has been appointed after consultation with the chief Justice of the High court.

- (4) Except in a case where a place of sitting has been specified under sub-section (2), an ²[Anti – Terrorism Court] may, if it consider it expedient or desirable so to do either suo motu or on the application of the public prosecutor sit, for holding the trial of a case at any place including a mosque other than the ordinary place of its sitting.

16. Oath by ³[Anti- Terrorism Court]---A ⁴[Judge] of an ⁵[Anti- Terrorism Court] shall, at the commencement of proceeding under this Act, make oath, in the case of Muslim, on the Holy Quran to the effect that he shall decide the case honestly, faithfully and considering himself accountable to Almighty Allah, and in case o a non-Muslim in accordance with ⁶[the constitution law and his conscience].

10. Subs. by Ordinance VI of 2002
 1. Inserted by Amendment Ordinance VI of 2002 dated 31-12-2002
 2. Subs. by Second Amendment Ord.XIII of 1999
 3. Subs. by Second Amendment Ord.XIII of 1999
 4. Subs. by Second Amendment CXXXIV of 2002, dated 23.11.2002.
 5. Subs. by Second Amendment Ord.XIII of 1999
 6. Subs. by Second Amendment Ord.XIII of 1999

17. **Powers of ⁷[Anti- Terrorism Court]- with respect to other offences.---**
 When trying any scheduled offence, an ⁸[Anti- Terrorism Court] may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial.

18. **Public prosecution.—⁹**[(1) The Provincial Government shall appoint in relation to each Anti- Terrorism Court or a High Court and Supreme Court of Pakistan a proficient, diligent and professionally competent Public Prosecutors or Law Officers and may also appoint one or more Additional prosecutors or Law Officers:

Provided that the Government may also appoint, for any case or class of cases, a Special Public Prosecutor,]

(2) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor shall be deemed to be a Public Prosecutor within meaning of section 492 of the Code, and the provisions of the Code shall have effect accordingly.

19. **Procedure and Powers of ¹[Anti- Terrorism Court].---** ²[(1) All offence under this Ordinance, except the offences in respect of which the investigation has already been completed and final report under section 173 of the Code has been submitted in the Court, shall be investigated by a joint Investigation Team which shall comprise of a police officer not below the rank of an Inspector and an officer of any other Investigating Agency, including an intelligence agency, whom the Federal Government, or as the case may be, the Provincial Government, may nominate for the purpose. The joint Investigation Team shall complete the investigation in respect of a case triable by a Anti – Terrorism Court within seven working days and forward directly to the Anti- Terrorism Court a report under section 173 of the Code.

7. Subs. by Second Amendment Ord.XIII of 1999
 8. Subs. by Second Amendment Ord.XIII of 1999
 9. Subs. by Amendment Ordinance VI of 2002 dated 31-01-2002
 1. Subs. by Second Amendment Ord.XIII of 1999
 2. Inserted by Amendment Ord. VI of 2002 dated 31.1.2002.

³[(1a) The joint Investigating Team referred to in sub-section (1) shall have and exercise same powers as are vested in an officer Incharge of a Police Station under the Code.]

(2). Any default on the part of an officer- in- charge of a police-station; an investigating officer or any other person required by law to perform any functions in connection with the investigation, that result in or has the effect of delaying investigation or submission of the report under sub-section (1), shall be deemed to be a willful disobedience of the orders of the ²[Anti- Terrorism Court] and the person committing the default shall be liable to be punished for contempt of Court.

(3) The ²[Anti – Terrorism] may directly take cognizance of a case triable by such Court within the case being sent to it under section 190 of the Code.

^{4a} [(4) xxxxxxxxxxxx]

(5) Where in a case triable by an ^{4b}[Anti – Terrorism], an accused has been released from police custody ^{4c}[under section 169 of the Code, or has been remanded to judicial custody, the ^{4c}[[Anti – Terrorism] may, on good grounds being shown by Public Prosecutor or Law Officer of the Government, for reasons to be recorded in writing, make an order for placing him in police custody ^{4d}[or Custody of any other Investigating Agency Joint in Investigation] for the purpose of further investigation in the case.

(6) An ⁵[Anti – Terrorism] shall be deemed to be a Magistrate for purpose of ⁶[sub-section] (5).

3. Subs. Amendment Ord. VI of 2002 dated 31.1.2002.
 2. Inserted by Amendment Ord. VI of 2002 dated 31.1.2002.
 4a. Sub-section (4) omitted by Amendment Ord. XXXIX of 2001, dated 14.8.2001
 4b. Subs. by Second Amendment Ord. XIII of 1999.
 4c. Inserted by Amendment Ord. VI of 2002 dated 31.1.2002
 4d. Inserted by Amendment Ord. VI of 2002 dated 31.1.2002
 5. Subs. by Second Amendment Ord. XIII of 1999
 6. Subs. for "sub-section (4) and" by Amendment Ord. XXXIX of 2001, dated 14.8.2001

⁷[(7) The Court shall, on taking cognizance of a case, proceed with the trial from day to day and shall decide the case within seven days, failing which an application may be made to the Administrative Judge of the High Court concerned for appropriate directions for expeditious disposal of the case to meet the ends of Justice].

ⁱ(8) **An Anti-Terrorism Court shall not give more than two consecutive adjournments during the trial of case. If the defence counsel does not appear after two consecutive adjournments, the Court may appoint a State Counsel with at least seven years standing in criminal matters for the defence of the accused from the panel of advocates maintained by the Court for the purpose in consultation with the Government and shall proceed with the trial of the case.**

ⁱⁱ(a) **Non compliance with the provisions of sub-section (8) may render the presiding officer of the Courts liable to disciplinary action by the concerned High Court.**

ⁱⁱⁱ(b) **Notwithstanding anything contained in section 7 of the Explosive Substances Act, 198 (VI of 1908), or any other law for the time being in force, if the consent or sanction of the appropriate authority; where required, is not received within thirty days of the submission of challan in the Court, the same shall be deemed to have been given or accorded and the Court shall proceed with the trial of the case.**

7. Subs. Amendment Ord. XXXIX of 2001, dated 14-08-2001
i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
ii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
iii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.

(9) An ⁵[Anti- Terrorism Court] shall not, merely by reason of a change in its composition of transfer of a case under sub-section (1) of section 10, be bound to recall and re-hear any witness who has given evidence and may act on the evidence and may act on the evidence already recorded.

¹[(10) Any accused person may be tried in his absence if the Anti- Terrorism Court, after such inquiry as it deems fit, is satisfied that such absence is deliberate and brought about with a view of impeding the course of justice:

Provided that the accused person shall not be tried under this sub-section unless a proclamation has been published in respect of him at least three national daily newspapers out of which one shall be in the Urdu language requiring him to appear at a specified place within seven days failing which action may also be in taken against him under section 88 of the Code:

Provided further that the Court shall proceed with the trial after taking the necessary steps to appoint an advocate at the expense of the State to defend the accused person who is not before the Court.

Explanation.----- An accused who is tried in this absence under this sub-section shall be deemed not to have admitted the commission of any offence of which he has been charged.]

(11) The Advocate appointed under the second proviso to sub-section (10) shall be a person selected by the ²[Anti Terrorism Court] for the purpose and he shall be engaged at the expense of the Government.

5. Sub. section (13) omitted by Amendment Ord. XXXIX of 2001, dated 14.8.2001
1. Subs. by Second Amendment Ord. XIII of 1999
2. Subs. by Second Amendment Ord. XIII of 1999

³[(11A) Nothing contained in sub-section (10) or sub-section (11) shall be construed to deny the accused the right to consult or be defended by a legal practitioner of his own choice.]

(12) If, within sixty days from the date of his conviction any person tried under sub-section (10) appears voluntarily, or is apprehended and brought before the Anti- Terrorism Court, and proves to its satisfaction that he did not abscond or conceal himself for the purpose of avoiding the proceeding against him, the ⁴[Anti- Terrorism] shall set aside his conviction and proceed to try him in accordance with law for the offence with which he is charged:

Provided that the ⁴[Anti – Terrorism] may exercise its powers under this sub-section in case in which a person as aforesaid appears before it after the expiration of the said period and satisfies it that he could not appear within the said period by reason of circumstances beyond his control.

⁵[xxxxxxxxxxxx]

(14) Subject to the other provision of this Act, an ⁶[Anti-Terrorism Court] the purpose of trial of any offence have all the powers of a Court of Sessions and shall try such offence as if it were a Court of Sessions as far as may be in accordance with the procedure in the Code for trial before a Court of Sessions.

20. ⁷[x x x x x x x x]

3. Inserted by Second Amendment Ord. XIII of 1999
 4. Subs. by Second Amendment Ord. XIII of 1999
 5. Sub-section (13) omitted by Amendment Ord. XXXIX of 2001, dated 14-08-2001
 6. Subs. by Second Amendment Ord. XIII of 1999
 7. Section 20 omitted by Amendment Ord. XXXIX of 2001, dated 14.8.2001

⁸[21. Protection to Judge, ⁹[Members] ¹⁰[x x x x] Counsel, Public Prosecutor, witnesses and persons concerned with Court proceedings.—(1) The Court may, subject to the availability of resources, make such necessary orders or take such measures, as it deems fit, within available resources, for the protection of a witness, Judge, ¹⁰[Member] ¹[x x x] public prosecutor, counsel and other persons concerned in proceedings for an offence under this Act, which may also include the following measures :

- (a) Proceedings may be held in camera, or under restricted entry of members of the public, where necessary for the protection of the Judge, ¹⁰[Member] witnesses or a victim's family members or to prevent persons from crowding or storming the Court to intimidate the Judge ¹⁰[Member] ²[x x x] or to create a threatening atmosphere;
- (b) The names of Judges, ¹⁰[Member] ³[x x x x] counsel, public prosecutor, witnesses and persons concerned with Court proceedings shall not be published; and
- (c) During any inquiry, investigation or Court proceedings whenever the matter of the identification of the accused arises, adequate protection shall be provided to a witness identifying any accused, in order to protect the identity of the witness from the accused.

(2) For purposes of protection of the Judges, ⁴[x x x x] accused, witnesses, prosecutors and defence counsel and anyone concerned with the Court proceedings, the Government may adopt such other measures as may be appropriate or may be proscribed. ⁵[and the Armed Forces shall also provide comprehensive protection and securing to the Judges members, accused witnesses, prosecutors Investigators defence counsel and all those concerned in the Court Proceedings.

8. Subs. by Amendment Ord. XXXIX of 2001, dated 14-08-2001
 9. Inserted by Amendment Ord. VI of 2002 dated 31.1-2002
 10. Words omitted by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002
 1. Words omitted by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002
 2. Words omitted by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002
 3. Words omitted by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002
 4. Words omitted by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002
 5. Added by Amendment Ord. VI of 2002 dated 31.1.2002.

(3) The Government shall extend protection to a Judge, ⁶[x x x x] a counsel, public prosecutor and the witnesses during investigation of an offence and proceedings under this Act, and thereafter, as may be considered necessary.]

⁷**[21A. Cordons for Terrorist Investigation.---**(1) An area is a cordoned area for the purposes of a terrorist investigation under this Act, if it is designated under this section.

(2) A designation may be made only by an officer not below the rank of a DSP, ⁸[Deputy Superintendent of Police or a member of a Joint Investigation Team] if he considers it expedient for the purposes of a terrorist investigation.

(3) If a designation is made orally, the officer making it shall confirm it in writing, as soon as is reasonably practicable.

(4) The officer making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably practicable.

(5) an area may be designated a cordoned area for a maximum period of fourteen days, which may be extended in writing from time to time, with each extension specifying the additional period:

Provided that a designation shall have no effect after 28 days beginning with the day on which it was made.

6. Words omitted by Second Amendment Ord. CXXXIV of 2002, dated 23.11.2002
7. Section 21A to 21M inserted by Amendment Ord XXXIX of 2001, dated 14.8.2001
8. Inserted by Amendment Ord. VI of 2002, dated 31.01.2002.

(6) Where a person knows or has reasonable cause to suspect that a terrorist investigation is being conducted or is proposed to be conducted, a person commits an offence if he---

- (a) discloses to another, or others, anything which is likely to prejudice an investigation; or
- (b) interferes with material which is likely to be relevant to an investigation.

(7) Whosoever, commits an offence under sub-section (6) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding two years, and fine.

(8) It is a defence for a person charged with an offence under sub-section (6) to prove---

- (a) that he did not know and had no reasonable cause to suspect that the disclosure or interference was likely to effect a terrorist investigation; or
- (b) that he had reasonable excuse for the disclosure or interference.

(9) For the purposes of this section:

- (a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation; and
- (b) a person interferes with any material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of these things.

21B. Terrorist investigation.---(1) policeman in uniform ⁹[or a member of a joint Investigation Team] may;

- (a) order person in a cordoned area to leave immediately,
- (b) order a person immediately to leave the premises which are wholly or partly in or adjacent to a cordoned area,
- (c) order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately,
- (d) arrange for the removal of a vehicle from the cordoned area,
- (e) arrange for the movement of a vehicles within a cordoned area,
- (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles,
- (g) enter and search any premises in a cordoned area if he suspects anyone concerned with terrorism is hiding there,
- (h) search and arrest any person hue reasonably suspects to be a person concerned with terrorism:

Provided that any search of a person shall be done by a Police person of the same sex; or

- (i) take possession of any property in a cordoned area he reasonably suspects is likely to be used for the purposes of terrorism.

21C. Training.---(1) **Weapons Training:** A person commits an offence if he provides, without valid authorization from the competent authority, any instruction or training in the making or use of---

- (a) fire-arms;
- (b) explosives; or
- (c) chemical, biological, and other weapons.

(2) A person commits an offence if he provides without valid authorization from the competent authority, any instruction or training to any child under sub-section (1) and, on conviction, shall be liable to a term of imprisonment of not less than ten years and fine.

(3) A person commits an offence if he receives instruction or training from anyone, without valid authorization from the competent authority, to give such instruction or training or invites another, specifically or generally, to receive such unauthorized instruction or training in the making or use of ----

- (a) Fire-arms;
- (b) Explosives; or
- (c) Chemical, biological, and other weapons.

(4) A child commits an offence if he provides, without valid authorization from the competent authority, any instruction or training, or if he receives such unauthorized instruction or training or invites another, specifically or generally, to receive such unauthorized instruction or training in the making or use of:

- (a) fire-arms;
- (b) explosives; or
- (d) chemical, biological, and other weapons.

(5) A child guilty of an offence under sub-section (4) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding five years.

(6) A person guilty of an offence under sub-sections (1) and (3) shall be liable on conviction to imprisonment for a term not exceeding ten years, or fine or with both.

(7) **Training Terrorism:**

- (a) A person commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism

- (b) A person commits an offence if he receives any instruction or training in acts of terrorism or invites another, specifically or generally, to receive such instruction or training.
 - (c) A person guilty of an offence under sub-sections (a) and (b) shall, on conviction, be liable to imprisonment of either description for a term not less than one year and not more than ten years and fine.
 - (d) A person is guilty of an offence if he provides, any instruction or training in acts of terrorism to a child, and shall be liable on conviction to imprisonment of either description for a term not less than one year and not more than ten years and fine.
 - (e) A child commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.
 - (f) A child commits an offence if he receives, generally or specifically, instructions or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and no more than five years.
- (8) A Court by which a person is convicted of an offence under this section, may order the forfeiture of any thing or property which it considers to have been in the person's possession for purposes connected with the offence, after giving any person, other than the convicted person, who claims to be the owner or is otherwise interested, in opportunity of being heard.

21D. Bail. ---(1) Notwithstanding the provisions of Sections 439, 491, 496, 497, 498, 498A and 561A of the Code, no Court, other than an anti-Terrorism Court; a High Court or the Supreme Court of Pakistan, shall have the power or jurisdiction to grant bail to or otherwise release an accused person in a case triable by an Anti-Terrorism Court.

(2) All offences under this Act punishable with death or imprisonment ¹[x x x x x] exceeding three years shall be non-bailable:

Provided that if there appear reasonable grounds for believing that any person accused of non-bailable offence has been guilty of an offence punishable with death or imprisonment for life or imprisonment for ²[x x x x x] less than ten years, such person shall ³[x x x x x] be released on bail.

(3) Subject to sub-section (2), the Court may admit a person to bail, unless satisfied that there are substantial grounds for believing that the person, if released on bail (whether subject to conditions or not), would:

- (a) fail to surrender to custody;
- (b) commit an offence while on bail;
- (c) interfere with a witness; otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or another person; or
- (d) fail to comply with the conditions of release (if any).

(4) In exercising its powers in relation to a person seeking bail under this Act, the Court shall have regard to such of the following considerations (as well as to any others which it considers relevant)---

1. Omitted by Amendment Ord. V1 of 2002, dated 31.1.2002.
 2. Omitted by Amendment Ord. V1 of 2002, dated 31.1.2002.
 3. Omitted by Amendment Ord. V1 of 2002, dated 31.1.2002.

- (a) the nature and seriousness of the offence with which the person is charged;
- (b) the character, antecedents, associations and community ties of the person;
- (c) the time which the person has already spent in custody and the time which he likely to spend in custody if he is not admitted to bail; and
- (d) the strength of the evidence of his having committed the offence.

(5) Without prejudice to any other power to impose conditions on admission to bail, the Court admitting a person to bail under this section may impose such conditions as it considers;

- (a) likely to result in the person's appearance at the time and place required,
or
- (b) necessary in the interests of justice or for the prevention of crime.

(6) It shall be lawful for the person to be held in military or police protective custody in accordance with the conditions of his bail.

(7) The Government or the Court may, under this section, at any time, in respect of a person charged of an offence under this Act, if it considers necessary, by special or general order, direct special arrangements to be made as to the place at which the person is to be held in order:

- (a) to prevent his escape; or
- (c) to ensure his safety or the safety of others.

21E. Remand.---(1) Where a person is detained for investigation, the Investigating Officer, within twenty-four hours of the arrest, excluding the time necessary for the journey from the place of arrest to the Court, shall produce the accused before the Court, and may apply for remand of the accused to police custody, ⁴[or custody of any other Investigation Agency Joined in the investigation] for which the maximum period allowed may be fifteen days:

4. Inserted by Amendment Ord. VI or 2002, dated 31.1.2002.

Provided that, where an accused cannot within twenty-four hours be produced before the Court, a temporary order for police custody ⁵[or custody of any other Investigation Agency Joined in the investigation] not exceeding twenty-four hours may be obtained from the nearest Magistrate for the purpose of producing the accused before the Court within that period.

(3) No extension of the time of the remand of the accused in police custody ⁶[or custody of any other Investigation Agency Joined in the investigation]. shall be allowed, unless it can be shown by the Investigating Officer, to the satisfaction of the Court that further evidence may be available and the Court is satisfied that no bodily harm has been or will be caused to the accused.

Provided that the total period of such remand shall not exceed thirty days.

(3) The Court shall be deemed to be a Magistrate for purposes of sub-section (1).

21F. Remission.--- Notwithstanding anything contained in any law or prison rules for the time being in force, no remission in any sentence shall be allowed to a person, other than a child, who is convicted and sentenced for any offence under this Act, unless granted by the government.

21G. Trial of offences --- All offences under this Act shall be tried **exclusively** by the Anti-Terrorism Court established under this Act.

21H. Conditional admissibility of confession.--- Notwithstanding anything contained in the Qanoon-e-Shahadat, 1984 (President's Order No. 10 of 1984) or any other law for the time being in force, where in any Court proceedings held under this Act the evidence (which includes circumstantial and other evidence) produced raises the presumption that there is a reasonable probability that he accused has committed the offence, any confession made by the accused during investigation without being compelled, before a police officer not below the rank of a Superintendent of Police, may be admissible in evidence against him, if the Court so deems fit:

5. Inserted by Amendment Ord. VI or 2002, dated 31.1.2002.

6. Inserted by Amendment Ord. VI or 2002, dated 31.1.2002.

Provided that the Superintendent of Police before recording any such confession, had explained to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and that no superintendent of Police has recorded such confession unless, upon questioning the person making it, the Superintendent of Police had reason to believe that it was made voluntarily; and that when he recorded that confession he made a memorandum at the foot of such record to the following effect:

“I have explained to (..name..), that he is not bound to make a confession and that, if he does so any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed)

Superintendent of Police.”

21-I. Aid and abetment.---Whoever aids or abets any offence, under this Act shall be punishable with the maximum term of same imprisonment provided for the offence or the fine provided for such offence or with both.

21J. Harboursing.---(1) A person commits an offence if he harbours any person who has committed an offence under this Act.

(2) A person guilty of an offence under sub-section (1) shall be liable on conviction to punishment as provided in Sections 216 and 216A of the Pakistan Penal Code (Act XLV of 1860).

21K. Offences triable by way of summary procedure.---All offences under this Act punishable with imprisonment for a term of not more than six months with or without fine shall be tried by way of summary procedure.

21L. Punishment for an Absconder.---whoever being accused of an offence under this Act , absconds and avoids arrest or evades appearance before any inquiry, investigation or Court proceedings or conceals himself, and obstructs the course of justice, shall be liable to imprisonment for a term not less than **five years** and not more than **ten years** or with fine or with both.

21M. Joint Trial.---(1) While trying any offence under this Act, a Court may also try any other offence with which an accused may, under the Code of Criminal Procedure, 1898 be charged at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Act of any offence it is found that the accused person has committed any other offence under this Act or any other law for the time being in force, the court may convict an accused for such other offence and pass any sentence, authorized by this Act or, as the case may be such other law for the punishment thereof.

22. Manner and place of execution of sentence.---The Government may specify the manner, mode and place of execution of any sentence passed under this Act having regard to the deterrent effect which such execution is likely to have.

23. Power to transfer cases to regular courts.---- Where, after taking cognizance of an offence, an ⁷[Anti-Terrorism Court]is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any Court having jurisdiction under the Code, and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 ii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 7. Subs by Second Amendment Ord XIII of 1999

24. ⁸[x x x x x x x x x x]

25. **Appeal.**---(1) An appeal against the final judgment of an ⁹[Anti-Terrorism Court] shall lie to ⁹[a High Court].

(2) Copies of the judgment of ¹[Anti-Terrorism Court] shall be supplied to the accused and the Public Prosecutor free of cost on the day the judgment is pronounced and the record of the trial shall be transmitted to the ¹[High Court] within three days of the decision.

(3) An appeal under sub-section (1) may be preferred by a person sentenced by an ¹[Anti-Terrorism Court] to ¹[a High Court] within seven days of the passing of the sentence.

(4) The Attorney-General ²[Deputy Attorney General, Standing Counsel] or an Advocate General ³[or an Advocate of the High Court or the Supreme Court of Pakistan appointed as Public Prosecutor, Additional Public Prosecutor or a Special Public Prosecutor] may, on being directing by the Federal or a Provincial Government, file an appeal against an order of acquittal or a sentence passed by ⁴[Anti-Terrorism Court] within fifteen days of such order.

⁵[(4A) Any person who is a victim or legal heir of a victim and is aggrieved by the order of acquittal passed by an Anti-Terrorism Court, may, within thirty days, file an appeal in a High Court against such order.

8. Section 24 omitted by Second Amendment Ord.XIII of 1999.
 9. Subs. By Second Amendment Ordinance XIII of 1999.
 1. Subs. By Amendment Ord.VI of 2002, dated 31.1.2002.
 2. Inserted by Amendment Ordinance, XIX of 2000.
 3. Inserted by Amendment Ordinance, XIX of 2000.
 4. Subs. By Second Amendment Ordinance XIII of 1999.
 5. Inserted by Amendment Act, X of 2004, dated 30.11.2002.

(4B) If an order of acquittal is passed by an Anti-Terrorism Court in any case instituted upon complainant and the High Court, on an application made to it by the complainant and the High Court, on an application made to it by the complaint in this behalf grant special leave to appeal from the order of acquittal, the complainant may within thirty days present such an appeal to the High Court.]

(5) An appeal under this section shall be heard and decided by an Appellate Tribunal within seven working days.

(6) ⁶[x x x x x x x x x x]

(7) ⁷[x x x x x x x x x x]

(8) Pending the appeal in the ⁴[High Court] shall not release the accused on bail.

ⁱ**(9) For the purposes of hearing appeals under this section each High Court shall establish a Special Branch or Benches consisting of not less than two Judges.**

ⁱⁱ**(10) While hearing an appeal, the Bench shall not grant more than two consecutive adjournments.**

26. ⁸[x x x x x x x x x x]

6. Sub-section (6) omitted by Second Amendment Ordinance XIII of 1999.
 7. Sub-section (7) omitted by Second Amendment Ordinance XIII of 1999.
 4. Subs. by Second Amendment Ordinance XIII of 1999.
 i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 ii. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.
 8. Section 26 omitted by Second Amendment Ordinance, XIII of 1999.

27. Punishment for defective investigation.---If an ⁹[Anti-Terrorism Court] or ¹⁰[a High Court] comes to the conclusion during the course of or at the conclusion of the trial that the investigation officer, or other concerned officers have failed to carry out the investigation properly or diligently or have failed to pursue the case properly and in breach of their duties, it shall be lawful for such Court or as the case may be, ¹⁰[a High Court] to punish the delinquent officers with imprisonment which may extend to two years, or with fine, or with both by resort to summary proceedings, ¹[a High Court].

28. Transfer of cases.---(1) Notwithstanding anything in this Act, ⁸[the Chief Justice of High Court concerned may, if he], may, if it considers it expedient so to do in the interest of justice, or where the convenience or safety of the witnesses or the safety of the accused so requires, transfer any case from one ⁹[Anti-Terrorism] to another ¹[Anti-Terrorism Court] within or outside the area.

(2) An ⁹[Anti-Terrorism Court] to which a case is transferred under sub-section (1) shall proceed with the case from the stage at which it was pending immediately before such transfer and it shall not be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded.

²[Provided that nothing herein contained shall affect the powers of the presiding officer of the Special Court to call any witness as is available under the law.]

28A. Impounding of passport of person charge-sheeted under the Act. Notwithstanding anything contained in any other law for the time being in force, the passport of person, who is accused of an offence under this Act, shall be deemed to have been impounded for such period as the Court may deem fit.

9. Subs. by Second Amendment Ordinance XIII of 1999.
 10. Subs. by Second Amendment Ordinance XIII of 1999.
 1. Subs. by Amendment Ord. VI of 2002, dated 31.1.2002.
 8. Section 26 omitted by Second Amendment Ordinance XIII of 1999
 2. Added by Second Amendment Ordinance XIII of 1999.
 i. Subs by (Second Amendment) Act, 2004, dated 10-01-2005.

29. Trial before ³[Anti-Terrorism Court] to have precedence.---A trial under this Act of an offence by ³[Anti-Terrorism Court], and the appearance of an accused before it, shall have precedence over the trial of any other case the accused in any other Court, except the High Court on its original side.

30. Modified application of certain provisions of the Code.---(1) Notwithstanding anything contained in the Code or in any other law, every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (f) of section 4 of the Code and the words “cognizable case” as defined in that clause shall be construed accordingly.

(2) Sections 374 to 379 of the Code shall apply in relation to a case involving a scheduled offence subject to the modification that the reference to a “Court of Session” and “High Court”, wherever occurring therein, shall be construed as reference to an ³[Anti-Terrorism Court].

⁴[(3) and (4) x x x x x x x x x x x x x x x x]

31. Finality of judgment.---A judgment or order passed, or sentence awarded, by an ⁵[Anti-Terrorism Court], subject to the result of an appeal under this Act shall be final and shall not be called in question in any Court.

32. Overriding effect of Act.---(1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law but, save as expressly provided in this Act, the provisions of the Code shall, insofar as they are not inconsistent with the provisions of this Act, apply to the proceedings before an ⁵[Anti-Terrorism Court] and for the purpose of the said provisions of the Code, and ⁵[Anti-Terrorism Court] shall be deemed to be Court of Sessions.

3. Subs. by Second Amendment Ord. XIII of 1999

4. Sub-sections (3) and (4) omitted by Amendment Ord. .XXXIX of 2001, dated 14.8.2001.

5. Subs. By Second Amendment Ord. XIII of 1999.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of section 350 of the Code shall, as far as may be, apply to the proceedings before ⁵[Anti-Terrorism Court], and for this purpose and reference in those provisions to a Magistrate shall be construed as a reference certificate to an ⁵[Anti-Terrorism Court].

33. Delegation.----the Government may, by notification, delegate, subject to such conditions as may be specified therein, all or any of the powers exercisable by it under this Act.

34. Power to amend the ⁶[First, Second and Third Schedule].---The Government may, by notification, amend the ⁶[First, Second and Third Schedule] so as to add any entry thereto or modify or omit any entry therein.

⁷**35. Power to make rules.**---A High Court may, with approval of the Chief Justice of Pakistan, by notification in the official Gazette make rules for carrying out the purposes of this Act.]

36. Saving.----(1) Nothing contained in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any Court or other authority under any laws relating to the Naval, Military or Air Forces or any other armed force of the Government.

(2) For the removal of any doubt, it is hereby declared that, for the purposes of any such law as in referred to in sub-section (1). ⁸[Anti-Terrorism Court] shall be deemed to be a Court of ordinary criminal jurisdiction.

5. Subs. By Second Amendment Ord. XIII of 1999.
 6. Subs. Schedule by amendment Ord. XXXIX of 2001 , dated 14.8.2001
 7. Subs. by amendment Ord.XXIX of 200,dated,24.7.2000.
 8. Subs. by Second Amendment Ord. XIII of 1999

⁹[**37. Contempt of Court.** ---(a) Anti-Terrorism Court shall have the power to punish with imprisonment for a term which may extend to six months and with fine any person who:

- (a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order or direction of the Court;
- (b) scandalizes the Court otherwise does anything which tends to bring the Court or a person constituting the Court into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the determination of a matter pending or most likely to come up before the Court' or
- (d) does anything which, by an other law, constitutes contempt o Court.

Explanation.---In this section, "Court" means Anti Terrorism Court.]

38. Punishment for terrorist act committed before this Act.---Where a person has committed an offence before the commencement of this Act which if committed after the date on which this Act comes into force would constitute a terrorist act there under he shall be tried under this Act but shall be liable to punishment as authorized by law at the time the offence was committed.

39. Indemnity.---No suit, prosecution or other legal proceedings shall lie, against any person in respect of anything which is in good faith done or intended to be done under this Act.

¹⁰[**39-A. Removal of difficulties.**---If any difficulty arises in giving effect to any provisions of this Act, the Federal Government may make such order, not inconsistent with the provision of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.

9. Subs. By Second Amendment Ord. XIII of 1999.

10. Sections 39A and 39B inserted by Amendment Ord. XXXIX of 2001, dt 14.8-2001

39-B.Repeal and Savings.---(1) The Suppression of Terrorist Activities (Special Court) Act, 1975 (XV of 1975) is hereby repealed.

(2) Notwithstanding the repeal of the Suppression of Terrorist Activities (Special Court) Act, (XV of 1975) and the amendment of the Anti Terrorism Act, 1997 (XXVII of 1997), by the Anti Terrorism (Amendment) Ordinance, 2001:-

- (a) every order, decision or judgment passed by any Anti-Terrorism Court constituted under this Act or Special Court constituted under the Suppression of Terrorists Activities (Special Court) Act, 1975, or any Appellate Court before such repeal or amendment shall remain in force and operative and the repeal or amendment shall not affect the previous operation of the law or anything duly done or suffered or punishment incurred thereunder:
- (b) every case, appeal and legal proceedings whatsoever, filed or pending before any Court under the Suppression of Terrorist Activities (Special Courts) Act, 1975, including the High Court and the Supreme Court shall continue to be proceeded in accordance with law before the concerned Court of competent jurisdiction, including the Court established under this Act, and all orders passed, decisions made and judgments delivered whether in the past or which may be made delivered hereafter by such concerned Court whether original, appellate or revisional, shall be deemed to have been validly and competently made.”
- (c) all convictions made, punishments or sentences awarded by the Anti-Terrorism Court or Special Court or an Appellate Court before such repeal or amendment shall be executed as if the said Acts were in force;
- (d) any investigation or inquiry under this Act or the Suppression of Terrorist Activities (Special Courts) Act, 1975 made or institute before the commencement of the Anti-Terrorism (Amendment) Ordinance, 2001, shall continue to be made and proceeded in accordance with law;

- (e) all cases pending before the Anti-Terrorism Court or Special Court immediately before the commencement of the Anti-Terrorism (Amendment) Ordinance 2001, of not covered by this Act or clauses (a) and (b) above, shall stand transferred to the respective Courts of Sessions of the area or such other Courts of competent jurisdiction where the cases were registered against the accused and such Courts shall proceed with the cases from the stage at which they were pending, without the necessity of recalling any witnesses, and
- (f) the Court of Session or, as the case may be, any other Court to which a case has been transferred from the Anti-Terrorism Court or a Special Court under clause (d) shall try it in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), and the law applicable to such case.]

40. Amendment of the Criminal Law Amendment Act, 1908 (XIV of 1908).---In the Criminal Law Amendment Act, 1908 (XIV of 1908), the following amendments shall be made, namely:-

- (I) In section 5, in clause (2), in sub-clause (a) for the words “violence or intimidation” the words “terrorist, stirring up sectarianism, violence or intimidation which endanger or threaten public order” shall be substituted.
- (II) For section 16, the following shall be substituted, namely:-

“16. Declaration of an association to be unlawful.---(1) If either the Federal Government or the Provincial Government is of the opinion that an association is an unlawful association it may call upon the association to show cause within fourteen days why it should not be declared as unlawful association for the purpose of this Act.

- (2) If after hearing the association, the Federal Government or the Provincial Government is of the opinion that the association is an unlawful association it may declare such association to be an unlawful association.

- (3) If the Federal Government or the Provincial Government is of the opinion that in the interest of the maintenance of public order or to prevent injury to the people it is just and necessary to take immediate action, it may, pending passing of order under sub-section (2) , by an ad interim order, declare an association to be unlawful.
 - (4) An association aggrieved by an order under sub-section (2) may file an appeal before a Board appointed by the Chief Justice of the High Court of the Province consisting of a Chairman and two other persons each of whom is or has been a Judge of the High Court.
 - (5) The Board shall decide the appeal within thirty days and may pass such order as it may deem fit.”
- (III) In section 17.---
- (i) in sub-section (1) for the words “six months” the words “five years” shall be substituted; and
 - (ii) in sub-section (2) for the words “three years” the words “seven years” shall be substituted.
- (IV) In Sections 17-A, 17-D and 17-E for the words “Provincial Government” wherever occurring the words “Federal Government or the Provincial Government” shall be substituted.

¹[THE FIRST SCHEDULE]

(List of Proscribed Organizations)

[See Section 11B)

[THE SECOND SCHEDULE]

(List of Organization under Observation)

[See Section 11D(1)(a)]

1. Subs for the Schedule by Amendment Ordinance of XXXIX of 2001, dated 14-08-2001.

[THE THIRD SCHEDULE]

Scheduled Offences

See Section 2(f)

1. Any act of terrorism within the meaning of this Act including those offences which may be added or amended in accordance with the provisions of Section 34 of this Act.
2. Any other offence punishable under this Act.
3. Any attempt to commit or any aid or abetment of, or any conspiracy to commit, any of the aforesaid offences.]
- 4. Without prejudice to the generality of the above paragraphs, the Anti-Terrorism Court to the exclusion of any other Court shall try the offences relating to the following, namely:**
 - (i) Abduction or kidnapping of ransom;**
 - (ii) use of fire-arms or explosives by any device, including bomb blast in a mosque, imambargah, church, temple or any other place of worship, whether or not any hurt or damage is caused thereby; or**
 - (iii) firing or use of explosives by any device, including bomb blast in the Court premises.**

National Police Bureau

The National Police Bureau is a statutory body mandated to act as a national focal point on all police-related matters. The Bureau coordinates and monitors the state of implementation of police reforms, as envisaged in Police Order 2002, across Pakistan. Though the National Police Bureau is an integral part of the Ministry of Interior, it has a separate budget. Director General of the Bureau has full financial and administrative powers.

Vision

Reshaping Police into a professionally competent, operationally neutral and publicly accountable service-delivery organization.

Mission

Building standards for professional policing, and acting as a national think tank on issues relating to criminal justice reform, public safety and police information technology.



National Police Bureau

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