

THE ANTI-TERRORISM ACT, 1997

ACT NO. XXVII OF 1997

[Dated 20th August, 1997]

An Act to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences; The following Act of Majlis-e-Shoora (Parliament) received the assent of the president on the 16th August, 1997, is hereby published for general information:--

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;

It is hereby enacted as follows:-

1. Short title and commencement

- (1) This Act may called the Anti-Terrorism Act, 1997.
 - (2)it extends to the whole of Pakistan.
 - (3) It shall come into force at once.

Punjab Province.

For the purposes of the prevention and punishment of the commission of terrorist acts and scheduled offences to have resort to the provisions of the said act for the whole of the province of Punjab.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context,---

- (a)"**armed forces**" means the Military, Naval an Air Forces of Pakistan and the Reserves of such Forces;
- (b)"**Civil armed forces**" means the Frontier Constabulary, Frontier Corps, notified by the Federal Government as such;
- (c)"**Code**" means the Code of Criminal Procedure, 1898 (Act v of 1898);
- (d)"**Government**" means the Federal Government;
- (d- a) "**a High Court**" means the High Court having territorial jurisdiction in respect of the area for which an anti-terrorism court has been established;
- (e)"**Scheduled offence**" means an terrorist or sectarian related offence as set out in this Act or the Schedule hereto.
- (f)"**Sectarian hatred**" means hatred against a group of persons in Pakistan defined by reference to religion religious sect, religious persuasion, or regional belief;
- (g)"**Anti Terrorism Court**" means an anti terrorism court constituted under section 13; and
- (h) "**terrorist act**" has the meaning assigned to it in section 6.

3. Declaration of Intent

If, at any time, in the opinion of the Federal Government, the commission of terrorist acts and scheduled offences have become common place in Pakistan it may, by notification in the official Gazette, declare resort to the Provisions of this Act and thereupon the powers conferred hereunder shall be available for use in accordance herewith.

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

- (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) 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 Government to direct the presence or 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 of terrorist acts or scheduled offences.
- (3) The Federal Government may decide whether the requirements of the situation call for the deployment of:-

(a)the civil armed forces; or

(ii) the armed forces,

and on so deciding shall, by means to a notification in the official Gazette issued under clause (i) or (ii) or both, authorise 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 the 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 a terrorist act or a scheduled offence, and it shall be lawful for any such officer, or any superior officer, to fire, or order the firing upon any person or persons against whom he is authorized to use force in terms hereof;
 - (ii) arrest, without warrant, any person who has committed an act of terrorism or a scheduled offence or against whom a reasonable suspicion exists that he has committed, or is about to commit, an 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 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.

6. Terrorist Act

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 7A.

7. Punishment for terrorist act.

Whoever commits a terrorist act,--

- (i) referred to in paragraph (a) of section 6, shall--
 - (a)if such act has resulted in the death of any person be punished with death; and
 - (b)in any other case, be punishable with imprisonment for a term which shall not be less than seven years but may extend to life imprisonment, and shall also be liable to fine; and
- (ii) referred to in paragraphs (b) and (c) of section 6 be liable to the punishment prescribed under the relevant law.

7A. Creation of civil commotion.

"Civil commotion" means creation of internal disturbances in violation of law or intended to violate law, commencement or continuation of illegal strikes, go-slows, lock-outs, vehicles snatching or lifting, damage to or destruction of state or private property, random firing to create panic, charging bhatha, acts of criminal trespass (illegal qabaz), distributing, publishing or pasting of a handbill or making graffiti or wall-chalking intended to create unrest or fear or create a threat to the security of law and order to incite the commission of an offence punishable under Chapter VI of the Pakistan Penal Code (Act XLV of 1860).

7B. Punishment for creating civil commotion.—

Whoever commits an act of civil commotion shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both.

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
- (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,

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 provision of section 8 shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both.

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:

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

11. Power to order forfeiture.

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

12. Jurisdiction of 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 Anti Terrorism Court exercising territorial jurisdiction in relation to such area.

(2) Notwithstanding anything contained 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 Anti Terrorism court established in relation to any other area, the Government may make a declaration to that effect.

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

13. Establishment of the Anti Terrorism Courts

(1) For the purpose of providing for the speedy trial of the case referred to in sub-section (2) and sub-section (3) of section 39A, as well as of scheduled offences, the Federal Government, or if so directed by the Government, the Provincial Government may establish by notification one or more the anti-terrorism courts in relation to each area.

(2) Notwithstanding anything contained in sub-section (1), if, having regard to the exigencies of the situation prevailing in a province, the Government is of the opinion that it is expedient to establish in relation to an area, or in relation to two or more areas, in the province, an anti-terrorism court outside the said area or areas, for the trial of offences committed in the area, or areas, if may, by notification, establish in relation to such area or areas an anti-terrorism court at such place outside the said area, or areas as may be specified in the notification.

(3) Where more than one anti-terrorism courts have been established in any area, the government in consultation with the Chief justice of the High court shall 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 said court and such judge may either try the cases himself or, assign any case, or case, for trial to any other anti-terrorism court at any time prior to the framing of the charge. The case shall be assigned to a court one case at 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 than one case can be assigned to it at any time or from time to time.

"(4) Notwithstanding anything contained in subsection (2) and subsection (3), the Federal Government or if so directed by the Government, the Provincial Government shall in addition to the existing Special Courts or such other Special Courts as may be established in the area, establish one such additional Special Court under this Act at the principal seat of the Lahore High Court and the High Court of Sindh and appoint a Judge of such High Court as a Judge of Special Court ion consultation with the Chief Justice of the High Court concerned, and where a Judge of a 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 may, 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 subsection (!) of section 28, transfer, withdraw or

recall any case pending before any other Special Court in that area and may either try the case himself or make it over for trial to any other Special Court in that area. (5) The Special Court to which a case is transferred or recalled for trial under subsection (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."

14. Composition and appointment of presiding officers of the 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 Sessions judge; or
- (ii) has exercised the powers of a District Magistrate or an Additional District Magistrate and has successfully completed an advance course in Shariah, (Islamic Law) conducted by the International Islamic University Islamabad; or
- (ii)has for a period of not less than ten years been an advocate of a High Court.

(2) A judge shall be appointed for a period of two and a half years after consultation with the Chief justice of the High Court:

Provided that the judge may be removed from office prior to the expiry of the said period in consultation with the Chief Justice.

15. Place of sitting

(1) Subject to sub-sections (2) and (3), an Anti Terrorism Court shall ordinarily sit at such place or places 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) Except in a case where a place of sitting has been specified under sub-section (2), an Anti Terrorism Court may, if it considers 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 the Anti Terrorism Courts

A judge of an Anti Terrorism Court shall, at the commencement of a proceeding under this Act, make oath, in the case of a 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 of a non-Muslim in accordance with the Constitution, law and his conscience.

17. Powers of the Anti Terrorism Courts with respect to other offences.—

When trying any scheduled offence, an 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 Prosecutors

(1) The Government shall appoint in relation to each an Anti Terrorism Court,or a

High Court or Supreme court of Pakistan a Public Prosecutor and may also appoint one or more Additional Public Prosecutors:

Provided that the Government may also appoint, to 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 the meaning of section 492 of the Code, and the Provisions of the Code shall have effect accordingly.

19. Procedure and powers of the Anti Terrorism Court.

(1) the officer-in-charge of a police-station shall complete the investigation in respect of a case triable by an Anti Terrorism Court within seven working days and forward directly to the Anti Terrorism Court a report under section 173 of the Code: **Provided that** the Anti Terrorism Court may extend the time within which such report is to be forwarded in a case where good reasons are shown for not being able to do so within the time specified in this sub-section.

(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 results 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 order of the Anti Terrorism Court and the person committing the default shall be liable to be punished for contempt of court.

(3) The Anti terrorism Court may directly take cognizance of a case triable by such court without the case being sent to it under section 190 of the Code.

(4) In a case triable by an Anti Terrorism Court, orders for detention of an accused in police custody under section 167 of the Code shall be obtained from the Anti Terrorism Court concerned which shall record reasons for authorizing or refusing such detention:

Provided that, where an accused cannot within twenty-four hours be produced before an Anti Terrorism Court, a temporary order for police custody not exceeding twenty-four hours may be obtained from the nearest magistrate for the purpose of producing the accused before the Anti Terrorism Court within that period.

(5) Where, in a case triable by an Anti terrorism Court, an accused has been released from police custody under section 169 of the Code, or has been remanded to judicial custody, the Anti Terrorism Court may, on good grounds being shown by a Public prosecutor or a law officer of the Government for reasons to be recorded in writing, make an order for placing him in police custody for the purpose of further investigation in the case.

(6) An Anti Terrorism Court shall be deemed to be a Magistrate for purpose of sub-sections (4) and (5).

(7) The Anti Terrorism Court shall on taking cognizance of the case, proceed with the trial from day to day and shall decide the case within seven working days.

(8) An Anti Terrorism Court shall not, adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interest of justice and no adjournment shall, in any case, be granted for more than two working days.

(9) An Anti Terrorism Court shall not, merely by reason of a change in its composition or transfer of a case under sub-section (3) of section 12, be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded.

(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 to 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 in 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 taken against him under section 88 of the Code:

Provided further that the court shall proceed with the trial after taking the necessary step to appoint and advocate at the expense of the state to defend the accused person who is to 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 for which he has been charged.

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

(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 Anti Terrorism court 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 Anti Terrorism court may exercise its powers under this sub-section in a 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.

(13) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years, or with fine, or with both, an Anti Terrorism Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, to the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code shall, so far as may be, apply to such trial:

Provided that, in the case of a conviction in a summary trial under this section, it shall be lawful for an Anti Terrorism Court to pass a sentence of rigorous imprisonment for a term not exceeding two years:

Provided further that an Anti Terrorism Court shall not try in a summary way any case which was pending in any Court immediately before the commencement of this Act, and is transferred to the Anti Terrorism Court under section 12.

(14) Subject to the other provision of the Act, a Anti-Terrorism Court Shall, for 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 prescribed in the Code for trial before a Court of Sessions.

20. Punishment

A person convicted for an offence by the Anti-Terrorism Court shall be awarded the maximum punishment prescribed by law for the offence unless for reasons to be recorded the court decides to award a lesser punishment.

21. Protection of witnesses.

(1) An Anti Terrorism Court trying an offence under this Act may, on application by a

witness in any proceedings before it or by the public prosecutor in relation to such witness or on its own motion, give such directions as it deems fit for the protection of the witness.

(2) Any person who fails to comply with any direction issued under sub-section (1) or any person who threatens or otherwise causes harassment to any such witness shall be guilty of an offence punishable by way of summary procedure with imprisonment which may extend to two years, or with fine, or with both.

22. Manner a 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 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.

24. Omitted

Section 24 Omitted

25. Appeal

(1) An appeal against the final judgment of an Anti Terrorism Court shall lie to an High Court.

(2) Copies of the judgment of an 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 High Court within three days of the decision.

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

(4) The Attorney General "Deputy Attorney General, Standing Council or an Advocate General 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 directed by the Federal or a Provincial government, file an appeal against an order of acquittal or a sentence passed by an Anti Terrorism Court within fifteen days of such order.

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

26. Omitted

27. Punishment for defective investigation.

If an Anti Terrorism Court or an 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 property or diligently or have failed to pursue the case property and in breach of their duties, it shall be lawful for such court or, as the case may be, and 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.

28. Transfer of Cases.—

- (1) Notwithstanding anything contained in this Act, an High court 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 an Anti Terrorism Court to another Anti Terrorism Court within or outside the area.
- (2) An 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.
- Provided that** nothing-herein contained shall affect the powers of the presiding officer of the Anti Terrorism Court to call any witness as is available under the law.

29. Trial before Anti-Terrorism Court to have precedence.—

A Trial under this Act of an offence by an Anti Terrorism Court, and the appearance of an accused before it, shall have precedence over the trial of any other case against 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 references to a "Court of Sessions" and "High Court", wherever occurring therein, shall be construed as reference to an "Anti Terrorism Court" and an High Court.
- (3) Notwithstanding the provisions of sections 439, 491, 496, 498, 498A and 561A of the Code, no Court other than an Anti Terrorism Court 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.
- (4) An Anti Terrorism Court shall not release an accused person on bail if there are reasonable grounds for believing that he has been guilty of the offence with which he has been charged, and nor shall an accused person be released unless the prosecution has been given notice to show cause why he should not be so released and the accused has furnished sound sureties.

31. Finality of judgment

A judgment or order passed, or sentence awarded, by an 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, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before an Anti Terrorism Court, and for the purpose of

the said provisions of the Code, and anti Terrorism Court shall be deemed to be a Court of Sessions.

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

The Government may, by notification, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.

35. Power to make rules

The Government may, by notification, make such rules, if any, as it may deem necessary for carrying out the purposes of this Act.

36. Saving

Nothing contained in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any Court or other authority under any law 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 purpose of any such law as is referred to in sub-section (1), an Anti Terrorism Court shall be deemed to be a Court of ordinary criminal jurisdiction.

37. Contempt of Court

An 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 any other law, constitutes contempt of court.

Explanation.- In This section "Court" means an 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 hereunder he shall be tried under this Act but shall be liable to punishment as authorised 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.

39A. Repeal.

- (1) The Pakistan Armed Forces (Acting in Aid of the Civil Power) ordinance, 1998 (XII of 1998), as amended by the Pakistan Armed Forces (Acting in Aid of the Civil power) (Amendment) Ordinance, 1998 (XIII of 1998), and the Pakistan Armed Force (Acting in Aid of the Civil Power) (Second Amendment) Ordinance, 1998 (XVII of 1997) (hereinafter referred to as the repealed Ordinance), is hereby repealed.
- (2) All cases, including cases before a court of appeals, which were pending under the repealed Ordinance shall stand transferred to the Anti-terrorism court having jurisdiction under the Act and such court shall,

- (a) in cases which have been transferred from a trial court, continue the trial from the stage which the cases had reached; and
- (b) in cases which have been transferred from a Court of appeals decide the same on the basis of evidence earlier recorded after hearing the parties.

- (3) Any judgement given or sentence passed by a trial court or a court of appeals convened under section 3 of the repealed Ordinance, except cases in which sentence of death was passed and has been executed, shall have no effect and all such cases shall stand transferred to the Anti-terrorism court having jurisdiction under this Act for decision after hearing the parities on the basis of the evidence earlier recorded.
- (4) In respect of a case transferred to a court by virtue of sub-section (2) or sub-section (3), the court shall not, by reason of the said transfer, be bound to recall and reheat an witness who has given evidence before the transfer and may act on the evidence already recorded by or produced before the court from which the case is so transferred.

- (5) Nothing contained in sub-section (4) shall affect the power of the court to recall any witness or reheat any evidence as is available under the law.

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 15 in clause (2) in sub-clause (a) for the words "violence or intimidation" the words "terrorism, 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 with 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 associations 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 a 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 judge of a 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 17A, 17D and 17E, for the words "provincial Government" wherever occurring the words "Federal Government or the provincial Government" shall be substituted.

Schedule

SCHEDULE

[See Section 2 (e)]

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 or rocket; or

(ii) if the victim is a member of police, armed forces or civil armed forces or is a public servant; or

(iii) if committed during or while committing the offence of robbery or dacoity and committed after the commencement of this Act; or

(b) sections 109, 120A, 120B, 121, 121A, 122, 123, 295A, 365, 365A, 402A, 402B and 402C; and

(c) section 392 to 395, 397 or 398, if in committing the offence, the offender or any of the offenders commits the offence fo murder or zina-bil-jabr punishable under section 6, 7, 8, or 10 or the Offence of Zina (Enforcement of Hudood) ordinance, 1979 (VII of 1979) and committed after the commencement of this Act.

2-A. Any offence punishable under sections 6, 7, 8 or 10 of the offence of Zina (Enforcement of Hudood) ordinance, 1979 (VII of 1979), if committed in committing any of the offences punishable under sections 392 to 398 of the Pakistan Penal Code (Act XLV of 1860) and committed after the commencement of this Act.

3. An offence punishable under sub-section (4) of section 10 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordi. No. VI of 1979), if committed after the enforcement of this Act.

4. Any attempt or conspiracy to commit or any abetment of any of the aforesaid offences.

5. Any offence including an offence punishable under the Pakistan Arms Ordinance, 1965 (WP Ordi. XX of 1965), committed conjointly with any other offence punishable under this Act.