

AS
[TO BE INTRODUCED IN THE SENATE]

A
BILL

further to amend the Anti-Terrorism Act, 1997

WHEREAS it is expedient further to amend the Anti-terrorism Act, 1997 (XXVII of 1997), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Anti-terrorism (Amendment) Act, 2020.

(2) It shall come into force at once.

2. Substitution of Long title and preamble of Act XXVII of 1997.- In the Anti-Terrorism Act, 1997 (XXVII of 1997), hereinafter referred to as the said Act, for long title and preamble, the following shall be substituted, namely:-

"An Act to make provisions for prevention of, and for dealing with, terrorist activities and for matters concerned therewith

Whereas it is expedient to provide for the prevention of, and dealing with terrorist activities and for matters concerned therewith and incidental thereto;"

3. Amendment of section 6, Act XXVII of 1997.- In the said Act, in section 6, in sub-section (2), in clause (p), for full stop "." occurring at the end a colon ":" shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that actions specified in sub-section (2) do not qualify to be labeled as terrorism, if such actions are taken in furtherance of personal enmity or private vendetts."

4. Amendment of section 7, Act XXVII of 1997.- In the said Act, in section 7, in sub-section (1), after the words, figure and comma, "under section 6," the words and commas, "with an intent to threaten the unity, integrity or sovereignty of Pakistan or to achieve political, ideological or religious objections", shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Anti-Terrorism Act, 1997 lays down the basic legal framework for counter terrorism prosecutions in Pakistan. Despite the law's passage, the criminal justice system has low conviction rates and delayed cases, and it offers a weak deterrence against terrorism. The lengthy delays and high number of acquittals in terrorism cases are due to a number of factors. The definition under the act is too broad, besides procedural issue among law enforcement officers and Police and intelligence agencies.

2. A basic flaw in A.T.A. is the extremely broad definition of terrorist's act, which over burdens the already over-stretched police, prosecution; and courts and results in delays in disposal of "real" cases of terrorism. The preamble of the ATA describes the rationale of the law as providing for "the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto." The addition of heinous offence which are not otherwise defined in the legislation, has widened the application of the ATA to include cases other than terrorism, Although recently some judges have issued rulings emphasizing the need for more precise applications of the law based upon perpetrators' intent / motives to carry out acts under sub-section (2) of clause 6 of ATA.

3. It is of vital importance to mention 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 among the people, does any act or thing..." the legislature never specified the motivation for the "act or thing" on the part of the perpetrator which propelled or promoted him to commit a terrorist act. Thus the actus reus was itself considered to be determinative if the same was intended to create fear and insecurity etc. in the public at large or had a potential for creating such fear and insecurity etc. It is in this very context that an amendment in section 6, sub-section (2) has been proposed. It is very important to understand the determinative factor is the design and purpose behind the act.

4. In addition to that, the purpose of amendment in section 7, sub-section (1) is to provide for a more succinct definition of terrorism, bringing it in line with the international perspectives of that offence and focusing on violent activities aimed at achieving political, ideological or religious objections.

The Bill has been designed to achieve the aforementioned purpose.

**SENATOR MIAN MUHAMMAD ATEEQ SHAIKH
MEMBER-IN-CHARGE**