

Pakistan : Laws for lesser citizens - In the name of antiterrorism

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The recently promulgated ordinances to deal with terrorism may serve as a tool to steamroller movements of political and civil rights in the country.

The President of Pakistan has recently promulgated two Ordinances — Anti-Terrorism (Amendment) Act, 2011” (ATA) and “Protection of Pakistan Ordinance 2013” (PPO). The official document purports the PPO as a law aimed “to provide for protection against waging of war against Pakistan and the prevention of acts threatening the security of Pakistan”.

Both these laws prescribe ruthless measures to prevent terrorism in the country. It vests almost unbridled powers in the law enforcement apparatus ostensibly to curb terrorism by all means. A cursory look at these laws reveals several common provisions rendering them redundant for either one of the two. Delving deeper in the contents of the two laws reflect the lack of altruism on part of the proponents of such draconian laws.

Some of the provisions are reminiscent of colonial era legal instruments of brinkmanship to subdue the subjects. These laws also transgress international commitments of the State e.g. International Covenant on Civil and Political Rights and Universal Declaration of Human Rights. In a country boasting to be a democratic state, it is absolutely imperative to guarantee all possible safeguards for human rights.

Already owning a blemished record of disrespect for human rights, the country can ill afford such perverted legislative course. PPO provides that “it shall be lawful for any such officer after forming reasonable apprehension that death, grievous hurt or destruction of property may be caused by such act, to fire, or order the firing upon any person or persons against whom he is authorised to use force in terms hereof”. Similarly, law enforcement personnel are exempted from need of warrants to search any premises or arrest any person. PPO also bestows authority to police and civil and armed forces to arrest and purport persons whose identity is “unascertainable” as “enemy aliens” and presume that they are waging war or insurrection against Pakistan.

Section 14 of the PPO further presumes guilt of a scheduled offence and the burden is on the accused to establish non-involvement on war or insurrection against Pakistan. Preventive detention for up to ninety-day is also authorized for those within the purview of 5(5), including those whose identity is unascertainable.

Such provisions will legalise pervasive blatant violations of human rights being committed by law enforcement agencies. Supreme Court of Pakistan has also charged law enforcement agencies in unequivocal terms with forced disappearances and dumping of mutilated bodies. The apprehensions gather further legitimacy in absence of an independent watch guard authority to monitor human rights violations. A toothless Human Rights Ministry also lost its sheen after being subsumed into the Ministry of Law and Justice.

There is no dichotomy of views that the terrorism should be eradicated. However, such a gigantic task requires the State to demonstrate an all encompassing commitment and determination against all forms of terrorism. Terrorism cannot be compartmentalised as good and bad terrorism. The prevalent ambivalence for terrorist groups has confounded citizens and the international community.

The government is brimming with eagerness to talk to the forces who embraced terrorism in the cloak of Jihad. These groups have unleashed a spate of malevolent terror over the past decade that has rendered society and the state institutions paraplegic. They publically claim responsibility of grisly pogroms, abduction and execution of senior army officials, targeting religious and sectarian minorities and homicide of innocent citizens. These laws have been promulgated at the time when negotiations with such groups are being pronounced and passionately pursued. One wonders where this law will be actualized.

It is a serious misperception that the current spell of terrorism originated in the wake of 9/11 incident. In fact, the very incident was a bitter harvest of decades-long investment in promoting and nurturing terrorism in this region. Global powers promoted religiosity in this country to sedate their paranoia of communism. Pakistan's flawed foreign policy bereft of political prescience never adopted a course to serve genuine interests of its citizens. Over the period, religious extremism was made a lynchpin of foreign policy without realising its grave repercussions.

Pakistan evolved as a security state right from its inception. Religious sentiment was dexterously exploited to emblazon foreign policy with faith-dictums. It subsequently compelled Ayub and Bhutto to succumb to pressure of religious elements and reinforce their supremacy in the state affairs. Afghan jihad of 80s institutionalised religiosity and it became an integral part of Pakistani society under the umbrella of official patronisation.

Indoctrination was so intense and ubiquitous that it has now become next to impossible to extricate religion from state affairs and social fabric of the country. Regrettably, this religious sentiment does not revolve around any spiritual or a value-based transformation of the society ; it is rather an aggressive mania that aims at conquering rest of the world to spread Islam. Aggression and violence perpetrated over the past decades has always been condoned and relished as Jihad by the state and non-state actors.

Acts of violence and terrorism have thus been cloaked in the sacred garb of crusade. Although a section of state actors belatedly tried to rein the Frankenstein created by the state itself but it was too late by that time. This explains the reasons for an unfathomable confusion in the official ranks about the religious elements when infamous terrorists are canonized by highly responsible officials in public speeches.

Citizens and civil society, against this backdrop, have serious concerns over potential abuse of such laws. Civil rights campaigners, especially in Balochistan and Sindh, consider these ominous laws as a tool to steamroller movements of political and civil rights in these provinces. Forced disappearances, subjecting captives to torture and dumping their lacerated and mutilated corpses has become a routine in Balochistan. Sindh has also witnessed a surge in replication of same tactics in recent months.

Nationalist parties and civil society activists in these two provinces are rabidly opposing such legislation. Human rights activists express a concern that if government has already knelt before the terrorist groups then who will be the target of these laws ? A country with a tainted profile and a trail of flagrant violations of human rights, would find it hard to justify such initiatives before the international community and civil society. Political prudence demands a firm commitment and evidence if the government and security agencies are genuinely committed to purge itself of

terrorist outfits. This requires a paradigm shift in the approach of managing internal and external affairs.

Employing draconian laws will only exacerbate the complex situation. The State has to revisit its policies towards citizens and redefine its priorities. Without respecting historic rights of federating units and allowing unadulterated democratic dispensation to function and flourish in the country, dream of peace will never be realised. An all encompassing agenda of democratic reforms can bring sustained solution that may rid the country of terrorism. An empowered and accountable parliament, aware and informed citizenry and a vibrant civil society can address the issue of terrorism through larger public participation. Strengthening them will be more rewarding than manufacturing laws for lesser citizens.

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* he News, Political Economy section-10th Nov 2013 :

<http://jang.com.pk/thenews/nov2013-weekly/nos-10-11-2013/pol1.htm#5>

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