

Key Legal Challenges CT Framework

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Challenges

- **Low conviction rates**
- **Poor court administration and case management**
- **Broad definition of terrorism**
- **Long delays in trials**
- **Overreliance on witness testimony**
- **Lack of an effective witness protection program**
- **Presentation of stock witnesses, or fabrication of stories**

Low Rate of Convictions

- Majority of “hardcore terrorists” acquitted
- Gaps in Police investigation
- Procedure followed in CrPC is not followed
- Lack of institutional coordination
- Padding of witnesses and cases

Delays in trials

- **Police is often preoccupied with other duties**
- **Police is understaffed**
- **Strikes in bar**
- **Frequent adjournments**
- **Absent defence counsels**
- **Only one forensics agency**
- **Courts are vacant**

Case management

“[The] speedy resolution of civil and criminal cases is an important constitutional goal, as envisaged by the principles of policy enshrined in the constitution. It is therefore, not undesirable to create Special Courts for operation with speed but expeditious disposition of cases of terrorist activities/heinous offenses have to be subject to constitution and law.”

Case management

- Liaquat Hussain v Federation of Pakistan 1999 – “zero inventory” policy
- ATA amendment in 1999 –broad definition of terrorism
- Trials now take months or even years

Definition of Terrorism

- No international consensus
- Numerous amendments to the ATA
- Personal enmity cases do not fall under terrorism
- No standard definition of “fear”
- Inconsistent jurisprudence of the superior courts

Role of Prosecution

- Responsible for flagging defects in the Police Report
- Power to raise objections under S 9 (5) of the Punjab Prosecution Act
- Prosecutors lack support against “pressure groups”
- Most terrorist cases begin and end at ATC level

Evidence

- Apathy towards forensic evidence
- Poorly trained experts
- Overreliance on eyewitness testimony v forensic evidence
- Police chains of custody of evidence are unsatisfactory
- Lack of reliance on modern methods
- Learning limitations and procedural errors

Investigation for Fair Trial Act 2013

- Provides for the collection of evidence from modern devices
- Empowers intelligence and L.E.As to conduct surveillance and interception
- Cumbersome procedure for obtaining a warrant

First Information Report

- Molding of evidence to support initial findings
- Overreliance on FIR
- One of the reasons behind low convictions

Witness Protection

- Risky identification parade process
- Prosecutors have to hide the names of witnesses
- Hardly any witnesses come forward
- No effective witness protection program
- Section 21 ATA
- No financial compensation

Thank you!
