

Legal Framework in the Federally Administered Tribal Areas

By:

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Relevant Constitutional Provisions

1. The Republic and its territories:

- (1) Pakistan shall be Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.
- (2) The territories of Pakistan shall comprise :-
 - (a) the Provinces of Balochistan, the Khyber Pakhtunkhwa, the Punjab and Sindh;
 - (b) the Islamabad Capital Territory, hereinafter referred to as the Federal Capital;
 - (c) the Federally Administered Tribal Areas; and
 - (d) such States and territories as are or may be included in Pakistan, whether by accession or otherwise.
- (3) Majlis-e-Shoora (Parliament) may by law admit into the Federation new States or areas on such terms and conditions as it thinks fit.

Provisions (Continued)

7. Definition of the State.- In this Part, unless the context otherwise requires, "the State" means the Federal Government, Majlis-e-Shoora (Parliament), a Provincial Government, a Provincial Assembly, and such local or other authorities in Pakistan as are by law empowered to impose any tax or cess.

Administration

247. Administration of Tribal Areas.- (1) Subject to the Constitution, the executive authority of the Federation shall extend to the Federally Administered Tribal Areas, and the executive authority of a Province shall extend to the Provincially Administered Tribal Areas therein.

(2) The President may, from time to time, give such directions to the Governor of a Province relating to the whole or any part of a Tribal Area within the Province as he may deem necessary, and the Governor shall, in the exercise of his functions under this Article, comply with such directions.

Administration (Continued)

3) No Act of Majlis-e-Shoora (Parliament) shall apply to any Federally Administered Tribal Area or to any part thereof, unless the President so directs, and no Act of Majlis-e-Shoora (Parliament) or a Provincial Assembly shall apply to a Provincially Administered Tribal Area, or to any part thereof, unless the Governor of the Province in which the Tribal Area is situate, with the approval of the President, so directs; and in giving such a direction with respect to any law, the President or, as the case may be, the Governor, may direct that the law shall, in its application to a Tribal Area, or to a specified part thereof, have effect subject to such exceptions and modifications as may be specified in the direction.

Administration (Continued)

(4) Notwithstanding anything contained in the Constitution, the President may, with respect to any matter within the legislative competence of Majlis-e-Shoora (Parliament), and the Governor of a Province, with the prior approval of the President, may, with respect to any matter within the legislative competence of the Provincial Assembly make regulations for the peace and good government of a Provincially Administered Tribal Area or any part thereof, situated in the Province.

(5) Notwithstanding anything contained in the Constitution, the President may, with respect to any matter, make regulations for the peace and good Government of a Federally Administered Tribal Area or any part thereof.

Administration (Continued)

(6) The President may, at any time, by Order, direct that the whole or any part of a Tribal Area shall cease to be Tribal Area, and such Order may contain such incidental and consequential provisions as appear to the President to be necessary and proper:

Provided that before making any Order under this clause, the President shall ascertain, in such manner as he considers appropriate, the views of the people of the Tribal Area concerned, as represented in tribal jirga.

(7) Neither the Supreme Court nor a High Court shall exercise any jurisdiction under the Constitution in relation to a Tribal Area, unless Majlis-e-Shoora (Parliament) by law otherwise provides:

Provided that nothing in this clause shall affect the jurisdiction which the Supreme Court or a High Court exercised in relation to a Tribal Area immediately before the commencing day.

Relevant Laws

- ◉ FCR 1901 (Key Instrument)
- ◉ Pakistan Penal Code 1860
- ◉ Criminal Procedure Code 1898
- ◉ Other Laws Extended by virtue of Article 247 (With or without modifications)

Pakistan Penal Code 1860

4. Extension of Code to extra-territorial offences.

The provisions of this Code apply also to any offence committed by:-

(1) any citizen of Pakistan or any person in the service of Pakistan in any place without and beyond Pakistan

(4) any person on any ship or aircraft registered in Pakistan wherever it may be.

Explanation: In this section the word "offence" includes every act committed outside Pakistan which, if committed in Pakistan, would be punishable under this Code.

Criminal Procedure Code 1898

5. Trial of offences under Penal Code:

- (1) All offences, under the Pakistan Penal Code shall be investigated, enquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.
- (2) Trial of offences against other laws: All offences under any other law shall be investigated, enquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

Thanks