

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A Bill

to give effect to the Convention on the Prohibition of the Development Production and Stockpiling of bacteriological (Biological) and Toxin Weapons and on their Destruction;

WHEREAS, Pakistan is determined to prevent any use or threat of use of biological weapons and their proliferation;

AND WHEREAS, Pakistan ratified the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) And Toxin Weapons and on Their Destruction 1972 and supports its objectives and purposes;

AND WHEREAS, Pakistan is determined to regulate biological agents and toxins for peaceful purposes and cooperate, where necessary, in their exchange for the said purpose;

It hereby enacted as follows:-

1. Short title, extent and application.- (1) This Act may be called the Biological and Toxin Weapons Convention (Implementation) Act, 2019.

(2) It extends to the whole of Pakistan and applies to -

- a. the citizens of Pakistan and a person in the service of Pakistan, within and abroad, or any Pakistani visiting or working abroad;
- b. all persons who are suspected to have committed any offence under this Act while in the territory of Pakistan or if the offence is committed against Pakistan or a citizen of Pakistan;
- c. any foreign national present in the territory of Pakistan;
- d. any conveyance registered in Pakistan wherever it may be, or any conveyance registered anywhere else but present within the territories of Pakistan.

2. Definitions.-In this Act, unless there is anything repugnant in the subject context,-

- (a) "aid and abetment" means acts as defined under section 107 of Pakistan Penal Code (Act XLV of 1860);
- (b) "biological agents" means any micro-organism: bacteria, virus, fungus, prion or other infectious substance or their biological products, genetically modified organisms; capable of causing death, disease or other biological malfunction and incapacitation of human beings, animals or plants;
- (c) "biological weapons" means,-

- (i) microbial or other biological agents, or toxins whatever their origin or method of production, or types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or
- (ii) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;
- (d) "Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) And Toxin Weapons and on Their Desiruction 1972;
- (e) "conveyance" means any means of transport used on land, air or the sea;
- (f) "development" includes any activity or phase prior to production, or relates to design research, design analysis, design concept, assembly and testing of prototypes, pilot production schemes, design data, the process of transforming design data into product, configuration design and integration design or layout;
- (g) "Enforcement Agency" means any agency or agencies designated by the Federal Government under section 11;
- (h) "equipment" includes any assembly which may comprise electrical, electronic, mechanical, chemical and metallurgical components, exclusively used in manufacturing, production and stockpiling of biological weapons;
- (i) "export" includes,-
 - (i) shipment, transfer or transmission of goods or technology out of Pakistan; and;
 - (ii) a transfer of goods and technology within Pakistan with the knowledge or intent that the goods or technology shall be shipped, transferred or transmitted to an unauthorized recipient outside Pakistan;
- (j) "Oversight Committee" means committee designated under section 10;
- (k) "import" includes shipment, transfer or transmission of biological weapons or related technology into Pakistan;
- (l) "material" includes materials used in the production of biological weapons and their delivery systems;
- (m) "means of delivery" includes missiles or any other delivery system exclusively designed and adapted to deliver biological weapons;
- (n) "permitted purpose" includes,-
 - (i) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; and
 - (ii) protective purposes that are designed to protect humans, plants and animals against the use of biological and toxin weapons;

- (o) "person" includes an individual who may or may not be a citizen of Pakistan, a company, an association, a body of individuals whether incorporated or not;
- (p) "technology" means any documents including blueprints, plans, diagrams, models, formulae, tables, engineering designs or specifications, manuals or instructions, necessary for the development and production of biological weapons, and their delivery systems, including on the job training, expert advice and services attached therewith except,
 - (i) any document or information that is in public domain or is related to basic scientific research or other peaceful applications of such technology including that related to its application for protective purposes; and
 - (ii) any application of the grant of a patent or any other form of protection for inventions or for the registration of a design in each case under the law of Pakistan or any other country or under any treaty or international conventions to which Pakistan is a party or any document necessary to enable any such application to be filed, made or pursued; and
- (q) "toxin" means any toxic material derived from plants, animals, micro-organisms including bacteria, viruses, fungi, or other infectious substances or their products, whatever their origin or method of production.

3. Prohibition of biological weapons.- (1) No person shall,-

- (a) develop, manufacture, design, produce, stockpile, transport, import, export, sell, transfer or otherwise acquire, possess, control or retain a biological weapon;
- (b) knowingly, manufacture, develop, design, produce, stockpile, transport, transfer or otherwise acquire or retain, any material, equipment, or technologies which are intended to be used in the preparation of a biological weapon;
- (c) knowingly develop, design, produce, stockpile, transport, or otherwise, acquire, retain, import, export, sell, transfer, any means of delivery designed to use biological agents or toxins for hostile purposes or use in armed conflict; and
- (d) knowingly provide technical, financial, logistical or any other assistance by any means for the acts mentioned herejnabove.

(2) Whosoever contravenes, or attempts to contravene, the provisions of clause (a) of sub-section (1) shall be liable for punishment with imprisonment of either description for a term which may extend to twenty-five years but not less than ten years and also liable to fine up to 10 million rupees and all materials, equipments, technologies etc, relating to biological weapons, recovered or found along with conveyance and movable and immovable property of the offender shall be liable to forfeiture to the Federal Government.

(3) Whosoever contravenes, or attempts to contravene, the provisions of clauses (b), (c) and (d) of sub-section (1) shall be liable for punishment with imprisonment for life of either description for a term which may extend to twenty-five years and also liable to fine up to ten million rupees and all materials, equipments, technologies etc, relating to biological weapons, recovered or found along with conveyance and movable and immovable property of the offender shall be liable to forfeiture to the Federal Government.

4. Prohibition of the use of biological weapons, etc.- (1) No person shall use or attempt to use biological weapons in Pakistan; or anywhere outside Pakistan.

(2) Whosoever contravenes, or attempts to contravene any provision of sub-section (1) shall be liable for punishment with death or imprisonment for life and shall also be liable to fine not less than ten million rupees and materials, equipments, technologies as well as all movable and immovable property of such an offender shall be liable to be forfeited to the Federal Government.

5. Control of import and export.- (1) The Federal Government shall exercise power to control or restrict or lay down conditions in respect of import and export of any biological agent, equipment, materials, or technologies and their means of delivery.

(2) For the purposes of section 5 (1), the expression "control list" refers to "control list of such biological agents or technologies" notified under the Export Control on Goods, Technologies, Material and Equipment related to Nuclear and Biological Weapon and their Delivery System Act 2004 (V of 2004).

(3) Whosoever contravenes, or attempts to contravene, the provisions of the control or restriction under this section shall be liable to punishment for imprisonment for a term which may extend up to fourteen years or with fine not exceeding five million rupees or both, and on conviction offender's property and assets, wherever they may be, shall be forfeited to Federal Government.

(4) Whoever commits breach of any restriction or conditions referred in section 5 (1) that constitutes an offence under section 3 or section 4 shall also be punishable under the aforesaid sections.

6. Biological defence research.- Nothing in this Act shall prohibit any programme or activity carried out or authorized by the Federal Government that is specifically designed to protect or defend humans, animals or plants against the use of biological agents or toxins for hostile purposes or in armed conflict, or to detect or assess the impact of such use.

7. Other offences under the Act.- (1) Any person who is found to have been abetting or aiding or assisting the commission of any act that constitutes an offence under this Act or its attempt, shall be liable to punishment with imprisonment of either description for life or for a term which may extend to fourteen years and shall also be liable to fine and his movable and immovable property shall also be liable to forfeiture.

(2) Any person who is found to have, or attempted to have, in any way financed the commission of any act that constitutes an offences under this Act, shall be liable to punishment with imprisonment of either description for life or for a term which may extend to fourteen years and shall also be liable to fine and his movable and immovable property shall be liable to forfeiture.

(3) Any person who is found to harbour any offender, who has committed an offences under this Act, shall be liable to punishment with imprisonment of either description for life or for a term which may extend to fourteen years and shall also be liable to fine and his movable and immovable property shall be liable to forfeiture to the Federal Government.

(4) Any person who knowingly violates the rules made under this Act, shall be liable to punishment with imprisonment for a term which may extend to five years, or shall also be liable to fine which may extend to one million rupees or both.

8. **Offences, etc., to be tried by a Court of Session.-** Any person who contravenes any provision of this Act and rules made thereunder shall be tried by a Court of Session only upon a complaint in writing made by an officer authorized by the Federal Government for purpose of this Act. The provisions of the Code of Criminal Procedure 1898 (Act V of 1898) shall *mutatus mutandis* be applicable for the purpose of trial and other proceedings.

9. **Permissible uses.-** (1) The Federal Government shall facilitate and have the right to participate in the fullest possible exchange of equipment, materials and scientific and technological information, for the use of bacteriological (biological) agents and toxins for peaceful purposes.

(2) The Federal Government shall cooperate in contributing individually or collectively with other states or international organizations to the development and application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.

(3) Nothing in this Act shall be implemented in a manner to hamper the economic or technological development or international cooperation in respect of peaceful bacteriological (biological) activities including the exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes.

10. **Establishment of Oversight Committee.-** (1) The Federal Government shall establish an Oversight Committee consisting of such members as may be notified in the official Gazette.

(2) The Oversight Committee shall ensure the effective implementation of the Convention and under the provisions of the Act and rules made thereunder.

(3) The Oversight Committee shall follow such procedure as may be prescribed.

11. **Enforcement agency.-** (1) The Federal Government shall designate any law enforcement agency or agencies for the enforcement of this Act, or it may entrust any of its functions under the Act to any government body, agency or entity.

(2) The enforcement agency shall have the powers to carry out necessary acts including collection of information, inquiry, investigation, search, seizure, arrests, and prosecution of the individuals, entities and organizations as the case may be, that are suspected to have committed an offence under this Act or any violation of rules, control lost and any other direction, order or instruction issued for the purpose of implementation of the Act.

(3) The Enforcement Agency shall also be entitled to seek assistance from the law enforcement bodies and judicial bodies in other states, for the purpose of investigation under the Act.

12. **International Cooperation.**- The Federal Government, upon receiving a request from any State Party to the Convention, may extend possible cooperation in respect of matters covered by this Act.

13. **Power to make Rules.**- The Federal Government may by notification in the official Gazette make rules for the purpose of implementation of this Act.

14. **Act not to derogate from other laws.**- The provisions of this Act shall be in addition to, and not in derogation of any law or rules, orders or notifications for the time being in force.

15. **Removal of difficulties.**- If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty.

STATEMENT OF OBJECTS AND REASONS

The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC) was adopted in 1972. Pakistan has signed and ratified this convention in 1974.

2. Article IV of the Convention requires all States Parties to take, in accordance with their constitutional processes, any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in the Convention, within their territories, under their jurisdiction or control anywhere.

3. In recent years, advances in the field of biological sciences have opened up new avenues for the peaceful application of biotechnology and international cooperation in this area. However, at the same time, concerns regarding the threat of bio-terrorism have assumed greater significance. In April 2004, the United Nations Security Council, acting under Chapter VII of the United Nations Charter, adopted resolution 1540 which requires all states to take necessary legislative, regulatory and administrative steps to prevent the proliferation of weapons of mass destruction, including biological weapons and their delivery systems and related technologies. Resolution 1540 is binding on all states.

4. The Bill is designed to enable Pakistan to meet its aforementioned international obligations and to profile our standing as a responsible state in the comity of nations.

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Foreign Minister

Member-in-charge