

National Reconciliation Ordinance, October 5, 2007

AN ORDINANCE to promote national reconciliation

WHEREAS it is expedient to promote national reconciliation, foster mutual trust and confidence amongst holders of public office and remove the vestiges of political vendetta and victimization, to make the election process more transparent and to amend certain laws for that purpose and for matters connected therewith and ancillary thereto;-

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance;-

1. Short title and commencement.

- (1) This Ordinance may be called the National Reconciliation Ordinance, 2007.
- (2) It shall come into force at once.

2. Amendment of section 494, Act V of 1898.

In the Code of Criminal Procedure, 1898 (Act V of 1898), section 494 shall be renumbered as sub-section (1) thereof and after sub-section (1) renumbered as aforesaid, the following sub-section (2) and (3) shall be added, namely:-

- (2) Notwithstanding anything to the contrary in sub-section(1), the Federal Government or a Provincial Government may, before the judgment is pronounced by a trial court, withdraw from the prosecution of any person including an absconding accused who is found to be falsely involved for political reasons or through political victimization in any case initiated between 1st day of January, 1986 to 12th day of October, 1999 and upon such withdrawal clause (a) and clause (b) of sub-section (1) shall apply.

- (3) For the purposes of exercise of powers under sub-section (2) the Federal Government and the Provincial Government may each constitute a Review Board to review the entire record of the case and furnish recommendations as to their withdrawal or otherwise.
- (4) The Review Board in case of Federal Government shall be headed by a retired judge of the Supreme Court with Attorney-General and Federal Law Secretary as its members and in case of Provincial Government it shall be headed by a retired judge of the High Court with Advocate-General and/or Prosecutor-General and Provincial Law Secretary as its members.
- (5) A review Board undertaking review of a case may direct the Public Prosecutor or any other concerned authority to furnish to it the record of the case.

3. Amendment of section 39, Act LXXXV of 1976.

(1) In the Representation of the People Act, 1976 (LXXXV of 1976), in section 39, after sub-section (6), the following new sub-section (7) shall be added, namely:-

- (7) After consolidation of results the Returning Officer shall give to such contesting candidates and their election agents as are present during the consolidation proceedings, a copy of the result of the count notified to the Commission immediately against proper receipt and shall also post a copy thereof to the other candidates and election agents.

4. Amendment of section 18, Ordinance XVIII of 1999.

In the National Accountability Ordinance, 1999 (XVIII of 1999), hereinafter referred to as the said Ordinance, in section 18, in clause (e), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

Provided that no sitting member of Parliament or a Provincial Assembly shall be arrested without taking into consideration the recommendations of the Special Parliamentary Committee on Ethics referred to in clause (aa) or Special Committee of the Provincial Assembly on Ethics referred to in clauses (aaa) of section 24, respectively.

5. Amendment of section 24, Ordinance XVIII of 1999.

In the said ordinance, in section 24,-

- (i) in clause (a) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely.-

Provided that no sitting member of Parliament or a Provincial Assembly shall be arrested without taking into consideration the recommendations of the Special Parliamentary Committee on Ethics referred to in clause (aa) and (aaa), respectively, before which the entire material and evidence shall be placed by the chairman, NAB.
; and

- (ii) after clause (a), amended as aforesaid, the following new clauses (aa) and (aaa) shall be inserted, namely;-

(aa) The Special Parliamentary Committee on Ethics referred to in the proviso to clause (a) above shall consist of a chairman who shall be a member of either House of Parliament and eight members each from the National Assembly and Senate to be selected by the Speaker, National Assembly and Chairman Senate, respectively, on the recommendations of Leader of the House and Leader of the Opposition of their respective Houses, with equal representation from both sides.

(aaa) The Special Committee of the provincial Assembly on Ethics shall consist of a Chairman and eight members to be selected by the Speaker of the Provincial Assembly on the recommendation of Leader of the House and Leader of the Opposition, with equal representation from both sides.

6. Amendment of section 31A, Ordinance XVIII of 1999.

In the said Ordinance, in section 31A, in clause (a), for the full stop at the end a colon shall be substituted and thereafter the following new clause (aa) shall be inserted, namely:-

- (aa) An order or judgment passed by the Court in absentia against an accused is void ab initio and shall not be acted upon.

7. Insertion of new section, Ordinance, XVIII of 1999.

In the said Ordinance, after section 33, the following new section shall be inserted, namely:-

33A. Withdrawal and termination of prolonged pending proceedings initiated prior to 12th October, 1999.

- (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, proceedings under

investigation or pending in any court including a High Court and the Supreme Court of Pakistan initiated by or on a reference by the National Accountability Bureau inside or outside Pakistan including proceedings continued under section 33, requests for mutual assistance and civil party to proceedings initiated by the Federal Government before the 12th day of October, 1999 against holders of public office stand withdrawn and terminated with immediate effect and such holders of public office shall also not be liable to any action in future as well under this Ordinance for acts having been done in good faith before the said date;

Provided that those proceedings shall not be withdrawn and terminated which relate to cases registered in connection with the cooperative societies and other financial and investment companies or in which no appeal, revision or constitutional petition has been filed against final judgment and order of the Court or in which an appellate or revisional order or an order in constitutional petition has become final or in which voluntary return or plea bargain has been accepted by the Chairman, National Accountability Bureau under section 25 or recommendations of the Conciliation Committee have been accepted by the Governor, State bank of Pakistan under section 25A.

- (2) No action or claim by way of suit, prosecution, complaint or other civil or criminal proceeding shall lie against the Federal, Provincial or Local Government, the National Accountability Bureau or any of their officers and functionaries for any act or thing done or intended to be done in good faith pursuant to the withdrawal and termination of cases under sub-section (1) unless they have deliberately misused authority in violation of law.