

Combatting Terrorism: An Analysis of the Law on Information of Temporary Residences

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Introduction

History would have witnessed a few days like 16 December 2014. On that hapless day, students and teachers of the Army Public School (‘APS’) Peshawar had just returned to their classes after recess when they were overtaken by a horrific terrorist attack. On that darkest day in the history of Pakistan, six gunmen associated with a banned organization, Tehreek-e-Taliban Pakistan, took the lives of 144 innocent children with their inhumane act. The gargantuan number of body counts coupled with the vulnerability of victims led many to name it as ‘Pakistan’s 9/11’.

In the wake of such a gruesome attack, the civilian and military leadership devised a 20-point National Action Plan (‘NAP’) in January 2015 to uproot the scourge of terrorism from the country. Under the framework of the devised Plan, the twenty-first amendment to the Constitution of Pakistan was passed, which established speedy trial military courts to deal with offences relating to terrorism. The moratorium on capital punishment was also lifted to hang the perpetrators of terrorist attacks. One major concern in the context of these terrorist attacks was to trace and keep record of the hideouts or workstations of the terrorists in the densely populated areas. To solve this dilemma, all provincial assemblies enacted laws to keep record of tenants, guests, and temporary residents in rented premises, buildings, houses, hotels, guest houses, and hostels within the provincial territories in a bid to “effectively combat terrorism and other crimes”.¹ In Baluchistan and Khyber Pakhtunkhwa (KPK), the statutes governing the rented premises are titled, ‘The Baluchistan Restrictions of Rented Buildings (Security) Act, 2015’ and ‘The Khyber Pakhtunkhwa Restriction of Rented Buildings (Security) Act,

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¹ The Preambles of all the Acts in four provinces viz The Punjab Information of Temporary Residence Act 2015; The Sindh Information of Temporary Residence Act 2015; Baluchistan Restrictions of Rented Buildings (Security) Act 2015; and The Khyber Pakhtunkhwa Restriction of Rented Buildings (Security) Act 2014, state their purpose to combat terrorism and other crimes.

2014’, respectively, while the governments in Punjab and Sindh have promulgated the relevant laws with the name of ‘The Punjab Information of Temporary Residence Act 2015’ and ‘The Sindh Information of Temporary Residence Act 2015’, respectively. As the titles of these statutes suggest, the laws regulating rented buildings in KPK and Baluchistan are similar to each other, while the laws governing tenants and other temporary residents in Punjab and Sindh share some commonalities. For example, both the Punjab and Sindh Acts, inter alia, obligate the landlord, the lessee or the manager to provide a copy of CNIC or passport of the tenant to the police; empower police officer not below the rank of Sub-Inspector to inspect a rented premises and interview people subject to reasonable notice; make offences under the Acts cognizable and non-bailable; and provide penalties for the same kind of offences. Similarly, both the KPK and Baluchistan Acts make necessary for the landlord, the lessee or the manager to execute a rent agreement with the tenant; obligate the landlord, the lessee or the manager to provide the similar kind of information to the local police station; empower the police officer not below the rank of Assistant Sub-Inspector to inspect the rented premises; make the owner of the rented premises responsible for providing copy of the Tenant Acknowledge Receipt (‘TAR’) to the tenant; and lastly, make offences cognizable and non-bailable and levy penalties on the same kind of offences.

This legislative review aims to analyse the statutes in the four provinces on the information of temporary residences to gauge their efficiency in combating terrorism and other crimes. The paper initially lays down the purpose of the Acts. Then, it discusses the characteristics of the Statutes in pairs: Punjab-Sindh and KPK-Baluchistan, to highlight the similarities in the Acts. Subsequently, the paper critically analyses the Statutes to show that instead of combating terrorism and other crimes, they have become mere tools in the hands of law enforcement agencies to harass tenants. Lastly, the legislative review proposes some reforms to overcome the deficiencies in the Acts so that the real objective of combating terrorism could be achieved without jeopardizing the rights of tenants.

Purpose of the Statutes

The primary purpose² of these statutes is to provide information to the police about tenants or guests residing in the rented premises so that a database can be maintained in the central system to trace any suspected terrorists. These laws render it mandatory upon the landlords, the lessees, the managers and the property dealers to provide CNIC copies and other required information of the tenants or guests inhabiting their premises to the concerned police station.³ In order to facilitate the public, the police departments of Punjab and Islamabad have also launched online registration systems for tenants and landlords to register themselves.⁴ The online systems enable the landlords and the tenants to fulfil the requirement of the Statutes by filing forms on-line. However, failure to abide by the provisions of the Acts, particularly the ones pertaining to providing information to the police station within a specified time, entails penal consequences. In all four provincial statutes, these offences are cognizable and non-bailable, and the punishment of the offences could be imprisonment and/or fine. The imprisonment extends to six months in Punjab and Sindh, and one year in KPK and Baluchistan. The fine ranges between ten thousand and one hundred thousand rupees for Punjab; ten thousand and forty-five thousand rupees for Sindh, and there is an unspecified fine for the provinces of KPK and Baluchistan.

² The preamble of Punjab and Sindh Acts ensure that the information about tenants and other temporary residents is taken to develop a database so that such information can be used to investigate and prosecute offences, and to effectively combat terrorism and other crimes. Similarly, the Preamble of KPK and Baluchistan Acts provide for the monitoring of rented buildings with the aim to combat terrorism and other crimes in the provinces.

³ Please see, section 3 of Punjab and Sindh Information of Temporary Residents Act and section 4 of the KPK and Baluchistan Restriction of Rented Buildings Act. The Sindh and Punjab Acts require the Landlord to provide an attested copy of CNIC or passport of the tenant. The KPK and Baluchistan Acts obligate them to provide an attested copy of the CNIC of the tenant, an attested copy of the rent agreement, NICs and contact details of references, and particulars of the male members above the age of fourteen residing with the tenant, to the local police station.

⁴ Ashraf Javed, 'Tenant registration to go online' (*The Nation*, 10 October 2016) <<https://nation.com.pk/10-Oct-2016/tenant-registration-to-go-online>> accessed 3 August 2019. Also see, 'Islamabad Police Launch Online Tenancy Registration System' (*The Express Tribune*, 2 June 2017) <<https://tribune.com.pk/story/1425090/islamabad-police-launch-online-tenancy-registration-system/>> accessed 3 August 2019.

Salient Features of the Statutes

This section discusses the salient features of the above-mentioned statutes in two pairs: Punjab-Sindh and KPK-Baluchistan for the reason that laws in each pair are more or less similar.

Characteristics of Punjab and Sindh Acts on Information of Temporary Residents

The Statutes in Punjab and Sindh are enacted to develop a database of tenants or other temporary residents of the respective province. The purpose of developing such a database is to effectively combat terrorism and other crimes, and to use such information for investigation and prosecution of certain offences.⁵ The Acts define rented premises as a “building or part of a building which is let out for residential purpose or which may be used as a temporary place of abode”.⁶ However, the Acts explicitly exclude hotels and hostels from the said definition and defines them separately. This is due to the fact that the nature of residence and the type of people residing there are usually different i.e., students in hostels and tourists in hotels. Therefore, the Acts deal with the specific matters of hostel and hotel in a number of separate provisions. For instance, section 4 of both the Acts specifically deals with guests other than students residing in a hostel.

The Acts make it mandatory upon the property dealers and the landlords to inform police of the tenant within fifteen days of the possession of rented premises. Similarly, owners and managers of the rented premises and hotels are bound to provide information of the guest to the police within twenty-four hours of their arrival or check-in.⁷ The Statutes prohibit outsiders from staying at a hostel which is exclusively managed and controlled by an organization or institution,⁸ i.e., a school hostel exclusively managed by the school administration. Only a student or member of the staff of that organization/institution is allowed to stay in

⁵ Preamble of both the Acts: Punjab Information of Temporary Residents Act 2015 and Sindh Information of Temporary Residents Act 2015.

⁶ Punjab Information of Temporary Residents Act 2015 and Sindh Information of Temporary Residents Act 2015, s. 2 (k).

⁷ Ibid, s. 3.

⁸ Since the organization or institution is not defined in the Acts, it is assumed that it includes all types of organizations or institutions, which have their own hostels.

that hostel. The manager of such an institution is bound to provide the information of such person residing therein without his prior approval.⁹ Moreover, the Acts require from the landlord, the manager and the property dealer to verify identification of the guest or tenant, as the case may be, on the basis of the computerized national identity card or passport; and provide a copy of such instrument to the police.¹⁰ Furthermore, the Statutes make it compulsory for the landlord, the property dealer or the manager to ensure that the tenant or guest is not possessing any unauthorized firearms or explosives. If the tenant or guests are carrying any licensed firearm, the information of same is to be provided to the police.¹¹

The Acts empower police to carry out inspection of the rented premises, hotel or hostels in case of any apprehension. For instance, section 7 of both the Acts empowers the police officer-not below the rank of Sub-Inspector- to inspect the rented premises, hotel and hostel subject to prior notice. The police office has been given the power to obtain all the necessary information from the landlord, the manager, the property dealer, the guest or the tenant.¹² The Act further authorizes the use of such data by police to investigate the offences of terrorism and other offences listed under the Pakistan Penal Code ('PPC').¹³ Moreover, a police officer-not below the rank of Deputy Superintendent- is also given the authority to call for the information about the ownership of a rented premises or a hotel from the relevant officers or authority, which is responsible for keeping records.¹⁴

The Statutes also levy penalties for contravening provisions of the Acts. Section 11 of both the Acts impose penalties in the form of imprisonment which may extend to six months and fine which starts from ten thousand rupees and may extend to forty-five thousand rupees and one hundred thousand rupees for the Province of Sindh and Punjab respectively.¹⁵ The offences under both the Acts are cognizable and non-

⁹ (n 5) s. 4.

¹⁰ Ibid, s. 5.

¹¹ Ibid, s. 8.

¹² Ibid, s. 7.

¹³ Ibid, s. 6.

¹⁴ Ibid, s. 10.

¹⁵ Ibid, s. 11.

bailable; and tried under the summary procedure of Chapter XXII of the Criminal Procedure Code ('CPC').¹⁶ The 'Punjab Information of Temporary Residents Act, 2015' declares the offence compoundable subject to submitting administrative penalty and no prior conviction under the Act.¹⁷ The Punjab Act also makes it mandatory upon every head of district police to send a monthly report to provincial government, which in turn shall submit an annual report to the Punjab Assembly entailing summary of the activities and suggestions for better implementation of the Act.¹⁸ Lastly, both the Acts repeal the previous ordinance in place¹⁹ and empower the respective Governments to make rules for carrying out the purposes of the Act.²⁰

Characteristics of KPK and Baluchistan Acts on Restriction of Rented Buildings

The Restriction of Rented Buildings Act in KPK and Baluchistan was enacted to monitor and regulate the business of rented buildings as a counter-terrorism tactic and to effectively combat crimes.²¹ These Acts define the relationship, pertaining to rented buildings, in terms of a rent agreement, which is a contract between the tenant and the landlord, the lessee, the manager, or the property dealer. The Acts make it mandatory upon the parties to execute a rent agreement, which should contain meaningful information to identify the tenant. The landlord, the manager, and the lessee are obligated to exercise due care and prudence in verification of a tenant to avoid usage of rented building for any sort of illegal or terrorist activities. Moreover, it is mandatory upon the landlord, the manager, and the lessee to seek minimum of two references of known persons, who can verify credentials of the tenant. The details including

¹⁶ Ibid, s. 12.

¹⁷ Punjab Information of Temporary Residents Act 2015, s. 13.

¹⁸ Ibid, s. 14.

¹⁹ Section 17 of the Punjab Information of Temporary Residents Act 2015 repeals 'The Punjab Information of Temporary Residence Ordinance 2015', while Section 16 of the Sindh Information of Temporary Residents Act 2015 repeals 'The Sindh Information of Temporary Residence Ordinance 2015'.

²⁰ See s. 16 of the Punjab Information of Temporary Residents Act 2015 and s. 14 of the Sindh Information of Temporary Residents Act, 2015.

²¹ Please see the Preamble of both the Acts: The Khyber Pakhtunkhwa Restriction of Rented Buildings (Security) Act 2014 and Baluchistan Restriction of Rented Buildings (Security) Act 2015.

their CNIC and contact number are to be made part of the rent agreement. Lastly, the rent agreement is to be attested by the Notary Public.²² In Baluchistan, the attestation could be from a Notary Public, a Magistrate, or an Oath Commissioner.²³

Under the Acts, it is mandatory upon the landlord, the manager, the lessee, and the property dealer to provide information of the tenant to police within a stipulated time of signing the rent agreement. This time period is seven days and three days for KPK and Baluchistan respectively. The information to be provided to the police includes an attested copy of both rent agreement and National Identity Card ('NIC') of the tenant, and contact number of people who verify the credentials of the tenant, and information about the male members above the age of 14 years residing with the tenant.²⁴ Similarly, both student and private hostels are bound to keep record of all the persons staying therein in accordance with section 3 of the Acts. The people staying in the hostels are not allowed to keep any ammunition, explosives, or hate-inciting and seditious material. However, the landlord, the lessee, or the manager is allowed to keep licenced weapons for safety and security of students or tenants.²⁵ Upon satisfaction, the in-charge of the local Police is bound to issue TAR to the landlord, the manager, the lessee, or the property dealer.²⁶

The Police is empowered to inspect the rented building anytime accompanied with the landlord, the manager, or the lessee.²⁷ The in-charge of the local police station is also empowered under the Acts to demand a copy of the ownership, rent agreement, and tenant acknowledgment receipt from the tenant. The tenant is bound to provide the required documents within 24 hours.²⁸ The in-charge of the local police station is obligated to maintain record of all rented buildings within his jurisdiction, which is then used by the local police stations to prepare a computerised

²² The Khyber Pakhtunkhwa Restriction of Rented Buildings (Security) Act 2014 and Baluchistan Restriction of Rented Buildings (Security) Act 2015, s. 3.

²³ The Baluchistan Restriction of Rented Buildings (Security) Act 2015, s. 3 (4).

²⁴ (n 22) s. 4.

²⁵ *Ibid*, s. 5.

²⁶ *Ibid*, s. 4 (2).

²⁷ *Ibid*, s. 4 (4).

²⁸ *Ibid*, s. 6.

database.²⁹ The police department is also required to prepare a central database with the help of the Government.³⁰ To maintain such a database, the Revenue and Estate Department of the Government are bound to provide information to police about ownership of any rented building.³¹

The contravention of sections 3-6 of both the Acts is punishable with imprisonment up to one year or/and fine, which is not specified. Under the Acts, the landlord, the manager, the lessee, or the property dealer may also be charged with abetment of the offence committed by the tenant if there are reasonable grounds to believe that they were aware of the criminal designs of the tenant or have not exercised due care in verification of the tenant.³² The trial under both the Acts is conducted by the Judicial Magistrate of first class having jurisdiction over the matter.³³ The offences under the Acts are cognizable and non-bailable.³⁴ Lastly, both the KPK and Baluchistan Acts provide indemnity from suits and legal proceedings for persons acting in good faith.³⁵

Critical Analysis of the Statutes

The laws on information of temporary residents in all the four provinces were promulgated with the well-intentioned aim to curb the menace of terrorism. These laws have tried to plug the various loopholes which may have previously provided terrorists with safe havens. For instance, the statutes in all the four provinces of Pakistan require the owners, the managers, or the lessees of rented premises, hostels or hotels to inform police about the tenants. In this way, terrorists cannot take refuge in any rented premises, hostels or hotels, and plan out their nefarious designs. Moreover, the Acts also lay down proper procedures for the landlords or managers to inform police about the tenants or guests. Under the repealed ‘Punjab Temporary Residence Ordinance 2015’, for instance, no such manner was prescribed under which the information was required to be

²⁹ Ibid, s. 7 (2).

³⁰ Ibid, s. 8.

³¹ Ibid, s. 9.

³² Ibid, s. 10.

³³ Ibid, s. 12.

³⁴ Ibid.

³⁵ Ibid, s. 14.

made to police.³⁶ Thus, the landlords and managers used to make it an excuse for not providing information to police and actually provided sanctuaries to terrorists. Therefore, these laws have the potential to strike a serious blow to terrorists in the form of eliminating their hideouts. Besides posing an existential threat to terrorists, these laws may also help regulating the rented premises to effectively combat other crimes. For instance, the robbers and thieves cannot take refuge in such premises as they would have to show their identity. Moreover, the police by using the information provided by landlords and managers can also apprehend those criminals residing in rented premises or hotels. The doors for such delinquents to take shelter in hostels are also closed with the promulgation of the Acts as any stranger is not allowed to stay in hostels exclusively managed by an institution or organization.³⁷ In addition to this, the laws also obligate landlords and managers to exercise due care and prudence in verifying the credentials of a tenant so that such buildings are not used for illegal activities.³⁸ However, despite all the aforementioned benefits these laws entail, they still have shortcomings such as the lengthy procedure for the tenants to acquire a TAR and the red tape involved in it, which are exploited by the politicians and the establishment hand in gloves with the police. The police officials brazenly violate the provisions of the Acts and arrest the tenants illegally without being subjected to any punishment or penalty. The following few paragraphs analyse the Statutes to show that they have now become a mere tool to harass tenants.

The KPK and Baluchistan Acts require the tenants to possess a TAR during their stay at a rented building. Although the law requires landlords, managers, lessees or property dealers to acquire a TAR and provide the copy of same to tenants,³⁹ they have very often “conveniently shifted their responsibility to the tenants”.⁴⁰ This has caused a lot of problems for the tenants. Acquiring a TAR is not easy especially when the

³⁶ Intikhab Hanif, ‘Fault Lines’ in Temporary Residents Ordinance’ (*DAWN*, 6 February 2015) <<https://www.dawn.com/news/1161799>> accessed 5 August 2019.

³⁷ See s. 4 of Punjab and Sindh Acts, and s. 5 of KPK and Baluchistan Acts.

³⁸ (n 22) s. 3 (2).

³⁹ *Ibid*, s. 4.

⁴⁰ Waseem Shah, ‘Tenants’ Registration Law a Nightmare for Ordinary People’ (*DAWN*, 27 February 2017) <<https://www.dawn.com/news/1317260>> accessed 5 August 2019.

tenants belong to a different area and have travelled to another city for job and education etc. It requires a lot of documentation which is an uphill task for tenants to achieve. They have to submit computerized copies of the NIC of owner, property dealer, tenant and two references, who can vouch for the credibility of the tenant.⁴¹ The tenants also have to both get these copies attested and verified from National Database & Registration Authority ('NADRA'). It seems a little absurd that they have to both attest and verify the CNICs as the purpose for both is to check the authenticity of the document. If they get the copies of CNICs attested, why would they have to get the same verified from NADRA and vice-versa? To top it all, the tenants also have to provide a bulk of information to the local police *within seven days* of taking residence, which makes the situation even more difficult for them. Thus, a lot of tenants succumb to this red tape and fail to acquire a TAR. Resultantly, when the police raid their residences and they fail to provide TAR, they are harassed, arrested, and subsequently fined by the magistrate.⁴²

The KPK and Baluchistan Acts require tenants to get a TAR even if they shift their residence within the jurisdiction of the same local police station. This has further added to their misery. Once the tenants are registered with the local police and they have been made aware of the identity of tenants, there is no need to get a TAR again when they shift to another rented house in the territory of the same local police station. The local police should simply upgrade their address in its database on being informed by the tenants of their new rented premises. The tenants should only be required to obtain a TAR if they shift to the territory of another police station, city or province. A tenant, Rehmani Gul, while giving an interview to Dawn newspaper also echoed the same sentiments. According to him, "once you are registered with the local police and they know that you are not a terrorist, then why do you have to acquire the TAR again when you shift to another rented house."⁴³ The following argument can be made in favour of this proposition: the necessary information that is required of the tenants i.e., the copy of their CNICs and rent agreement, copy of the CNICs of two references along with their contact details, and particulars of the male members above the age of 14 residing with the

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

tenant, is already available with the local police in its database. Therefore, the local police should simply upgrade the new address of the tenant in its database so that the tenant is not inflicted with the pain of going through the same arduous process again. This shows that the law, by requiring the tenants to seek TARs every time they shift residence, instead of fighting terrorism and making the lives of citizens better, has become a source of harassing tenants and causing them undue stress.

One of the problems with the Statutes is also their failure to provide a time frame for the landlords or managers to register their tenants, who were residing in the rented premises before the promulgation of Acts in the four provinces. This lacuna in the Acts have provided owners the leeway to absolve themselves of any responsibility of providing information to local police. This loophole in the Acts has two-pronged effects: Firstly, due to intransigence of the landlords, the information of criminals already residing in the rented premises before the promulgation of the Acts does not become part of the central database and secondly, the innocent tenants bear the brunt of the mistake of landlords or managers as police raids their residences and arrests them for their failure to produce a TAR.⁴⁴

The police department is adamant in carrying out midnight or early morning raids on the rented premises in blatant violation of section 11 of Punjab and Sindh Acts, and section 4 of KPK and Baluchistan Acts. The Punjab and Sindh Acts allow police to inspect a rented premise subject to reasonable notice.⁴⁵ Similarly, KPK and Baluchistan Acts ensure that the police officials are accompanied by the landlord, the manager, or the lessee, as the case may be, at the time of inspection.⁴⁶ Moreover, section 6 of the KPK and Baluchistan Acts also provides twenty-four hours' time period for tenants to provide a copy of rent agreement or the TAR on being requested by the police.⁴⁷ However, the Police officials often ignore these requirements of the laws during their inspection.⁴⁸ No prior notice is provided to tenants residing in the cities of Punjab and Sindh before

⁴⁴ Ibid.

⁴⁵ (n 5) s. 7.

⁴⁶ (n 22) s. 4 (4).

⁴⁷ Ibid, s. 6.

⁴⁸ (n 40).

carrying out raids. Similarly, in KPK and Baluchistan, raids are carried out without the presence of landlords, the managers, or the lessees with the police officials. The tenants are also not provided the time period of twenty-four hours to produce the TAR.⁴⁹ Therefore, the rights of tenants in all the four provinces are violated and they are arrested in complete violation of section 11 of Punjab and Sindh Acts, and section 4 of KPK and Baluchistan Acts.

Tenants and landlords also face a number of problems in the Islamabad capital Territory ('ICT') due to the lack of any specific law on the subject. Section 144 of the Criminal Procedure Code ('Cr.P.C') is used to pass an order in the ICT regarding the requirements for registration of tenants.⁵⁰ Such an order is not usually publicly known.⁵¹ Thus, tenants and landlords are arrested on the pretext of such an order.⁵² A practical manifestation of this was seen recently when a renowned journalist, Irfan Siddique, was arrested for not providing details of his tenant to the local police. This shows that the state can use such an order for political witch-hunt.

Proposed Reforms

The police department should take action against the tenants by strictly keeping itself within the bounds of the provisions of the Acts. For instance, the police officials should not arrest tenants for the failure of landlords to provide them with a TAR. The KPK and Baluchistan statutes obligate the landlord, the lessee, or the manager to provide a TAR to the tenant. Thus, if the concerned individuals fail to do so, the police officials should take action against tenants as their act may provide a terrorist with a safe haven.

The process for the registration of tenants should also be streamlined. An online system introduced by Punjab to provide a platform

⁴⁹ Ibid.

⁵⁰ Section 144 of the Code of Criminal Procedure (Cr.P.C) empowers district administration to pass an order in public interest.

⁵¹ See, Tariq Butt, 'Islamabad Has No Law To Collect Tenants' Details' (*The News*, 29 July 2019) <<https://www.thenews.com.pk/print/505068-ict-has-no-law-to-collect-tenants-details>> accessed 5 August 2019. Tariq Butt, in the article, mentions that the recent order issued by the Deputy Commissioner was not reported by a single media outlet.

⁵² The police enforce such orders by registering cases under section 188 of the Cr.P.C.

to tenants to register themselves is a step in the right direction. All the other provinces should also follow suit. This would help reduce the red tape involved in the process by allowing tenants to register themselves while sitting at home. To help tenants acquaint themselves with the process, demo videos of the process should be posted online or shown through media outlets. Moreover, the government should arrange seminars at local level to assist illiterate tenants with the online registration process. This would serve a two-pronged purpose: Firstly, it will create awareness among the citizens regarding the registration of tenants and secondly, it will help tenants familiarize themselves with the process.

The requirement for tenants to register themselves with the local police every time they change their residence should be removed. The police department should simply upgrade the address of the tenant in its database if they transfer to another rented house within the jurisdiction of the same local police station. This is due to the fact that the necessary information required of the tenants i.e., the CNIC details of the tenant, CNICs of two references and their contact details, and particulars of the male members above the age of 14 residing with the tenant, is already available with the local police in the central database. The tenant should only be obligated to acquire a TAR if he shifts his residence to the territory of another police station, city or province. Therefore, the provincial governments of KPK and Baluchistan should make amendment in the respective Acts to remove this unnecessary requirement. Moreover, to help the police officials effectively perform their task, the respective governments should ensure necessary infrastructure in local police stations. Computers and stationery should be provided, and police officials should be equipped with the necessary skills to digitally compile the data.⁵³

The police officials should not carry out raids and arrest the tenants without reasonable prior notice in Punjab and Sindh. In *Bashir Ahmed v State*, the court held that the police should summon an accused with a

⁵³ (n 4) Ashraf Javed, in the article, mentions that the police department lacks the manpower and the necessary skills to digitally compile the data and maintain them in computers. He also sheds light on the lack of infrastructure including computers and stationery in many local police stations.

prior notice and investigate him properly before arresting the same.⁵⁴ Similarly, in KPK and Baluchistan, the police officials should be accompanied by the landlord, the lessee, or the manager in case of any inspection of rented premises. An arrest without reasonable notice in Punjab and Sindh, and an inspection of the rented premises by the police officials without the landlord, the manager, or the lessee in accompanying them in KPK and Baluchistan amounts to violation of section 7 of Punjab and Sindh Acts, and section 4 of KPK and Baluchistan Acts respectively.⁵⁵ These kinds of inspections and arrests without following the provisions of the Acts violate the ‘dignity of man’ and the ‘privacy of home’, which is protected under article 14 of the Constitution of Pakistan.⁵⁶

Lastly, the provincial governments in all the four provinces should amend the respective acts to remove their shortcomings. For instance, the Acts should be amended to provide the time frame under which the landlords, the managers, or the lessees are responsible for providing information of those tenants, who are residing in the rented premises before the promulgation of the Acts. This would serve two purposes. Firstly, it will ensure that the information of all tenants become part of the central database. Secondly, the tenants will not be arrested for the failure of landlords in providing their information to local police.

The laws in the four provinces should also be amended to make the offences bailable. Sometimes, the police arrests tenants on a mere hearsay without any investigation and sufficient evidence of their involvement in any offence. Booking ALL the tenants in non-bailable offences on the basis of flawed investigation and weak evidence makes a mockery of the justice system. The right to life and liberty is protected under article 9 of the Constitution. It may not be infringed on the convenience of law enforcement agencies. Thus, the proposed amendment will ensure that the liberty of innocent citizens is not violated, and the tenants are able to seek bail during a full-fledged investigation of the alleged offence. In any case, the tenants should not suffer for substantive errors of law and procedural

⁵⁴ 2016 PCrLJ 1007 Lahore.

⁵⁵ See s. 7 of Punjab and Sindh Acts, and s. 4 of KPK and Baluchistan Acts.

⁵⁶ See, Zubair Abbasi and Zia Ullah Ranjha, ‘Flawed Legislation’ (*The News*, 28 August 2019) <<https://www.thenews.com.pk/print/518370-flawed-legislation>> accessed 8 September 2019.

irregularities of the police authorities. The law should specify the evidentiary requirements under which a tenant can be arrested in a bailable or non-bailable offence. A straightforward arrest of tenants in non-bailable offence makes these laws arbitrary. It is refreshing, however, that our courts have tried to save innocent tenants from transgression of the laws and high-handedness of the police. In *Khalil Khan v State*, the Court provided bail to the petitioner as the offence required further probe.⁵⁷ Thus, this amendment is a need of the hour which would help ease the sufferings of tenants, entitling them to the relief of bail as a matter of right.

Conclusion

The Acts in all the four provinces of Pakistan on the information of temporary residents were promulgated to rein in terrorism. However, the loopholes in the Acts have provided an opportunity to law enforcement authorities to harass and arbitrarily arrest landlords/tenants under the pretext of national security. The flaws in these laws may also be exploited for political witch-hunts. Therefore, it is the need of the hour that these laws are reviewed to protect the liberty, dignity, and privacy of citizens as enshrined in our Constitution. The Acts in the four provinces should be amended to remove the loopholes. A reasonable time-period should be provided in the Acts for the landlords to get their tenants registered, who have been residing in the rented premises before the promulgation of the Acts. Similarly, an amendment should be made in the Acts to make the offences bailable as the tenants are detained unreasonably during the investigation of the alleged offences. However, if a tenant is found to be involved in serious offences and/or terrorism, he may be arrested in a non-bailable offence.

Besides making amendments in the Acts, the existing laws should be implemented within the strict ambit of these laws, subject to the parameters of the Constitution. Any violation of the law such as arrests of the tenants by the police officials without giving them reasonable notice, or without taking the landlords, the managers, or the lessees with them during inspection of the rented premises, should be taken seriously. The violation of these laws and the constitutional protections provided to the citizens should be penalized with disciplinary action against the police and

⁵⁷ 2017 YLR 2472.

punishment under the relevant laws. The police officials should not arrest tenants for the failure of landlords to provide them with a TAR. In fact, an action should be taken against the landlords as their failure to provide information of tenants to the local police may help terrorists get safe havens. Moreover, an online registration system should be introduced in all the provinces to help ease the process for the tenants to get themselves registered. To this effect, the Governments of all four provinces should upgrade infrastructure in the local police stations to facilitate the registration of tenants. Only by taking such steps, the state would be able to end terrorism with the support of citizens and establish law and order in the country.