

(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

...

XXII. ISRAEL⁶⁰

1. PREVENTION OF TERRORISM ORDINANCE⁶¹

THE PROVISIONAL COUNCIL OF STATE hereby enacts as follows:—

1. “Terrorist organisation” means a body of persons resorting in its activities to acts of violence calculated to cause death or injury to a person or to threats of such acts of violence;

“member of a terrorist organisation” means a person belonging to it and includes a person participating in its activities, publishing propaganda in favour of a terrorist organisation or its activities or aims, or collecting moneys or articles for the benefit of a terrorist organisation or its activities.

Activity in a terrorist organisation

2. A person performing a function in the management or instruction of a terrorist organisation or participating in the deliberations or the framing of the decisions of a terrorist organisation or acting as a member of a tribunal of a terrorist organisation or delivering a propaganda speech at a public meeting or over the wireless on behalf of a terrorist organisation, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding twenty years.

Membership in a terrorist organisation

3. A person who is a member of a terrorist organisation shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding five years.

Supporting a terrorist organisation

4. A person who -

⁶⁰ Transmitted to the Secretariat by that Government on 22 May 2001.

⁶¹ No. 33 of 5708-1948. Published in the *Official Gazette*, No. 24 of the 25th Elul, 5708 (29th September, 1948)

- (a) publishes, in writing or orally, words of praise, sympathy or encouragement for acts of violence calculated to cause death or injury to a person or for threats of such acts of violence; or
- (b) publishes, in writing or orally, words of praise or sympathy for, or an appeal for aid or support of a terrorist organisation; or
- (c) has propaganda material in his possession on behalf of a terrorist organisation; or
- (d) gives money or money's worth for the benefit of a terrorist organisation; or
- (e) puts a place at the disposal of anyone in order that that place may serve a terrorist organisation or its members, regularly or on a particular occasion, as a place of action, meeting, propaganda or storage; or
- (f) puts an article at the disposal of anyone in order that that article may serve a terrorist organisation or a member of a terrorist organisation in carrying out an act on behalf of the terrorist organisation,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding one thousand pounds or to both such penalties.

Confiscation of property

- 5. (a) Any property of a terrorist organisation, even if acquired before the publication of this Ordinance in the *Official Gazette*, shall be confiscated in favour of the State by order of a District Court.
- (b) Any property liable to confiscation under this section shall be attached by a decision in writing of the Chief of the General Staff of the Defence Army of Israel or the Inspector General of the Israel Police.
- (c) Any property being in a place serving a terrorist organisation or its members, regularly or on a particular occasion, as a place of action, meeting, propaganda or storage, and also any property being in the possession or under the control of a member of a terrorist organisation, shall be considered the property of a terrorist organisation unless the contrary is proved.

Closing of places of action etc. of a terrorist organisation

- 6. (a) The Chief of the General Staff of the Defence Army of Israel, the Inspector-General of the Israel Police, a military governor or a military commander of an area, may decide in writing to close any place serving a terrorist organisation or its members, regularly or on a particular occasion, as a place of

action, meeting, propaganda or storage; as soon as a decision as aforesaid has been given, it may be carried out by any army officer or police inspector;

(b) Any person aggrieved by a decision given under subsection (a) may appeal against it to a District Court within fifteen days of the day on which the decision came to his knowledge.

Proof of the existence of a terrorist organisation

7. In order to prove, in any legal proceeding, that a particular body of persons is a terrorist organisation, it shall be sufficient to prove that —

(a) one or more of its members, on behalf or by order of that body of persons, at any time after the 5th Iyar, 5708 (14th May, 1948), committed acts of violence calculated to cause death or injury to a person or made threats of such acts of violence; or

(b) the body of persons, or one or more of its members on its behalf or by its order, has or have declared that that body of persons is responsible for acts of violence calculated to cause death or injury to a person or for threats of such acts of violence, or has or have declared that that body of persons has been involved in such acts of violence or threats, provided that the acts of violence or threats were committed or made after the 5th Iyar, 5708 (14th May, 1948).

Government declaring organisation to be a terrorist organisation

8. If the Government, by notice in the *Official Gazette*, declares that a particular body of persons is a terrorist organisation, the notice shall serve, in any legal proceeding, as proof that that body of persons is a terrorist organisation, unless the contrary is proved.

Proof of membership in a terrorist organisation

9. (a) If it is proved that a person was at any time after the 5th Iyar, 5708 (14th May, 1948) a member of a particular terrorist organisation, that person shall be considered a member of that terrorist organisation unless he proves that he has ceased to be a member of it.

(b) A person being in a place serving a terrorist organisation or its members as a place of action, meeting or storage shall be considered a member of a terrorist organisation unless it is proved that the circumstances of his being in that place do not justify this conclusion.

Proof by a publication of a terrorist organisation

10. In order to convict an accused under this Ordinance and also for the purposes of the confiscation of property under this Ordinance, any matter which appears

from its contents to have been published, in writing or orally, by or on behalf of a terrorist organisation, may be accepted as evidence of the facts presented therein.

Judgment to be prima facie evidence

11. (a) If it is determined by a final judgment that a particular body of persons is a terrorist organisation, the judgment shall, in any other legal proceeding, be considered as *prima facie* evidence that that body of persons is a terrorist organisation.

(b) A judgment of a military court given and confirmed under this Ordinance, and also a judgment of a civil court from which no appeal lies – either because the law does not allow an appeal or because no appeal has been lodged with the prescribed time – shall be considered a final judgment within the meaning of this section.

Competent court, its composition and procedure

12. (a) Anyone committing an offence under this Ordinance shall be brought for trial before and be judged by a military court.

(b) A military court, when trying a case under this Ordinance, shall be composed of three members to be appointed by the Chief of the General Staff of the Defence Army of Israel.

(c) The members of the court shall be members of the Defence Army of Israel, and its president shall be a person qualified to practise as an advocate in the State of Israel or another person certified by the Attorney General of the Government of Israel as having sufficient legal knowledge.

(d) The procedure of the court shall be in accordance with the Army Code 5708 or any other law dealing with the procedure of a military court, insofar as the procedure is not prescribed by this Ordinance.

Arrest

13. The Criminal Procedure (Arrest and Searches) Ordinance, cap. 33, applies to a person charged with an offence under this Ordinance with the following modifications:

(a) the power vested by that Ordinance in a magistrate is hereby also vested in a military prosecutor;

(b) the power vested by that Ordinance in a police officer is hereby also vested in a military policeman.

Release on bail

14. The Release on Bail Ordinance, 1944, applies to a person charged with an offence under this Ordinance with the following modifications:

- (a) the power to release on bail before trial shall vest in a military prosecutor;
- (b) the power to release on bail during trial and pending confirmation of the judgment shall vest in the military court dealing with the case;
- (c) if an application for release is refused by a military prosecutor or a military court, the accused may submit it for decision to the Chief of the General Staff of the Defence Army of Israel.

Confirmation of judgment

15. (a) Every convicting judgment of a military court under this Ordinance shall be submitted to the Minister of Defence, who may —

- (1) confirm the judgment;
- (2) confirm the conviction and reduce the punishment;
- (3) quash the judgment and acquit the accused;
- (4) quash the judgment and remit the case for retrial to a military court of the same or a different composition.

(b) The Minister of Defence shall, before giving his decision, obtain a statement of opinion from a person qualified to act as president of a military court under this Ordinance but who did not sit in that case.

Finality of judgment

16. A judgment of a military court given and confirmed under this Ordinance shall be final and no appeal shall lie from it to any court or tribunal whatsoever.

Execution

17. A judgment of a military court under this Ordinance shall, in any matter relating to its execution, have the same effect as a judgment of a civil court.

Reconsideration

18. The Minister of Defence may at any time reconsider any convicting judgment of a military court, even if it has been confirmed by him, and reduce the punishment or replace it by a lighter punishment.

Pardon

19. The powers of the Minister of Defence under this Ordinance do not derogate from the right of pardon under any other law.

Assistance attempt, etc.

20. The provisions of the Criminal Code Ordinance, 1936, as to principal offenders (section 23), offences committed in prosecution of a common purpose (section 24), the mode of execution (section 25), accessories after the fact (section 26, 27), attempts (section 29, 30, 31), neglect to prevent offences (section 33) and conspiracy (section 34) apply as if they were expressly included in this Ordinance.

Criminal responsibility under another law

21. (a) This Ordinance does not affect the criminal responsibility of a person committing an offence under another law.

(b) If a person is brought before a civil court, then, notwithstanding as provided in section 12 (a), offences under this Ordinance may be included in the statement of charge.

(c) A person shall not be punished twice for the same act or omission and a person shall not be brought for trial, in respect of the same act or omission, both before a civil court and a military court.

Revocation

22. The Emergency Regulations (Prevention and Terrorism) 5708–1948, are revoked, but their revocation does not affect any declaration or notice made or given or any other act done thereunder and does not exempt a person from a punishment to which he has become liable thereunder.

Implementation and regulations

23. The Minister of Defence is charged with the implementation of this Ordinance and may make regulations as to any matter relating to its implementation.

Expiration of Ordinance

24. This Ordinance shall expire upon publication of a declaration of the Provisional Council of State, under section 9(d) of the Law and Administration Ordinance, 5708—1948, to the effect that the state of emergency has ceased to exist.

Title

25. This Ordinance may be cited as the Prevention of Terrorism Ordinance, 5708—1948.

19th Elul, 5708 (23rd September, 1948)

David Ben-Gurion
Prime Minister And Minister of Defence

Felix Rosenblueth
Minister of Justice

XXIII. ITALY⁶²

1. SUMMARY OF ITALIAN LEGISLATION ON TERRORISM

1.1 Under Italian law terrorism in itself is not a criminal offence, however, the penal code nevertheless covers certain criminal offences whose terrorist purpose is included in the definition of the crime, such as “Conspiracy to commit acts of terrorism or to subvert the democratic order” (*Article 270 bis*), “Attacks for terrorist or subversive purposes” (*Article 280*), “Abducting a person for the purposes of terrorism or subversion” (*Article 289 bis*). Furthermore, the commission of any criminal offence for terrorist or subversive purposes constitutes an aggravating circumstance.

PENAL CODE – TERRORISM

Article 270 bis: Associations whose aim is terrorism and subversion of the democratic order

“Whoever promotes, establishes, organises or heads associations that propose to carry out violent acts with the purpose of subverting the democratic order shall be punished with imprisonment for a period of four to eight years”.

Article 280: Attempt with the aim of terrorism or subversion

“Whoever, with the intent to terrorize or subvert the democratic order, makes an attempt at the life or safety of a person shall be punished in the first case with imprisonment of not less than twenty years and in the second case with imprisonment of not less than six years (aggravated if the consequences lead to injury--serious injury--very serious injury--death; aggravated if the attempt is

⁶² Transmitted to the Secretariat by that Government on 26 April 2001. Unofficial translation.