Determining the Scope of the Anti-Terrorism Act 1997
Ghulam Hussain v The State

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Introduction

Terrorism, as we understand it today, is a different species of crime where violence is used to achieve political, religious, or ideological means.[1] As simple as it may seem, terrorism has no precise definition in Pakistan's federal law neither has it been defined within the international law regime. Regardless of that, Pakistan is one of the countries that are most affected by terrorism, making it imperative for the state institutions of Pakistan to know and understand the scope of terrorism under the presently applicable law i.e., Anti-terrorism Act 1997 ("ATA 1997"). The definition of terrorism under the ATA 1997 is ambiguous, and the courts have not been consistent with their approach in dealing with the cases related to the meaning and scope of it. The obscurity in the definition of terrorism caused confusion for the law enforcement agencies and the judiciary in determining whether an act falls within the scope of the ATA 1997. Therefore, there was a need for a clear and precise definition of terrorism. Within the present context, this case note looks at a recent judgment of the Supreme Court in *Ghulam Hussain v The State,*[2] which was brought before the court in its appellate jurisdiction. The *Ghulam Hussain* case is a seminal judgment of the Supreme Court of Pakistan, which lays down a clear and precise definition of terrorism and removes the uncertainty in determining the scope of the definition of terrorism.

This case note analyses the approach taken by the Supreme Court in reconciling conflicting definitions of terrorism under the ATA 1997. But before delving into the analysis, the case note, firstly, reflects on the facts, procedural history, and ruling of the *Ghulam Hussain* case and, secondly, it reviews the prior law (domestic and international) on this subject.

Facts, Procedural History and Ruling

By way of the background of the present cases before the Supreme Court, the accused were charged and/or convicted under section 7(a) of the ATA 1997 in three different cases. In *Ghulam Hussain v The State*, and *Muhammad Azeem v The State*, the accused were charged for murder and were sentenced to death by the trial court.[3] In *Tanvir v Prosecutor General Punjab, Lahore*, the investigating agency removed section 7 of the ATA 1997 from the FIR, and therefore the Anti-Terrorism Court refused to try the case.[4] An appeal was filed in each case before the High Court, and the High Court ruled against the accused in all three appeals. Subsequently, leave to appeal was granted by the Supreme Court in the instant case to ascertain whether the provisions of ATA 1997 apply to the facts and circumstances of these cases.

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[1] *Ghulam Hussain v The State*, Criminal Appeal No 95 and 96 of 2019, Civil Appeal No 10-L of 2017 and Criminal Appeal No 63 of 2013 [6].

[2] Ibid.

[3] *Ghulam Hussain v The State* Criminal Appeal No 95 of 2019; *Muhammad Azeem v The State* Criminal Appeal No 96 of 2019.

[4] Civil Appeal No 10-L of 2017.

The case was decided unanimously by a seven-member bench, presided by Chief Justice Asif Saeed Khosa, to determine the scope of the definition of terrorism and the application of ATA 1997. The Court did not delve into the details of specific cases, which would later be decided separately by the new benches of the Supreme Court;[5] it only laid down the extent of application of the ATA 1997. The Court laid down the definition of terrorism, in terms that for an action or threat of action to be accepted as terrorism within the meanings of section 6 of the ATA 1997, the action must fall in subsection (2) of section 6 of said Act and the use or threat of such action must be designed to achieve any of the objectives specified in clause (b) of subsection (1) of section 6 of that Act or the use or threat of such action must be to achieve any of the purposes mentioned in clause (c) of subsection (1) of section 6 of that Act.[6] The Court further held that any offence, regardless of how brutal and heinous it is, cannot fall under the ambit of terrorism if it is not committed with the design or purpose specified in section 6(1)(b)[7] or (c)[8] of the ATA 1997.[9] The Court also held that an offence, even though it may tend to create public fear, would not fall within the scope of terrorism if committed due to personal enmity.

Background and Prior Law

I. Previous Legislation

It is important to understand the legal framework, both domestic and international, along with their subsequent developments to appreciate the merits of the *Ghulam Hussain* case. The first major enactment in Pakistan was Suppression of Terrorist Activities (Special Court), 1975 ("the 1975 Act"). Following this, there were a few legislations which also dealt with terrorism including Special Court for Speedy Trials Ordinance, 1987, Terrorist Affected Areas (Special Courts) Ordinance 1990, Special Courts for Speedy Trials Act, 1991. However, these legislations were of little help in curbing the increased violence and terrorist activities.[10] Although the investigatory agencies made arrests under the previously enacted laws, the number of convictions was very low due to the insufficient evidence against the accused.[11] Therefore, in 1997, the ATA was passed as a crucial step taken towards addressing the escalating issue of terrorism. The ATA 1997 provided a new tool to the law-enforcement agencies and established Anti-Terrorism courts to expeditiously try the people involved in terrorist activities.[12] It is also important to note that only two of these legislations (the 1975 Act and ATA 1997) were major enactments.[13] Although the 1975 Act attempted to tackle terrorism, it did not define terrorism. Rather, terrorism was viewed to be linked

[5] *Ghulam* (n 1) [18].
[6] Ibid [16].
[7] 6(1)(b): the use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society.
[8] 6(1)(c): the use or threat is made for the purpose of advancing a religious, sectarian, or ethnic cause or intimidating and terrorising the public, social sectors, media persons, business community, or attacking the civilians, including damaging property by ransacking, looting, arson, or by any other means, governmental officials, installations, security forces, or law enforcement agencies.
[9] *Ghulam* (n 1) [16].
[10] Research Society of International Law, Pakistan, 'The Case for Change: A Review of Pakistan's Anti-Terrorism Act Of 1997' (Research Society of International Law 2013) 16.
[11] Ibid 16-17.
[12] Ibid 17.
[13] *Basharat Ali v Special Judge, Anti-Terrorism Court-II, Gujranwala* PLD 2004 Lahore 199 [8].

with any crime of grave and serious nature.[14] The ATA 1997, however, was very progressive in this regard as it clearly laid down the definition of a 'terrorist act'. Section 6 of the ATA defined a 'terrorist act' as spreading terror among the people, alienating people, or adversely affecting the harmony between different groups of people. It is important to note that the emphasis of the ATA 1997 was on the outcome of the action and not on the *mens rea* of the person committing it.[15] It did not matter what the actual intention of the accused was; if the action caused fear in public, even though it was completely incidental, that act would be deemed to be a 'terrorist act'. The other way of construing this definition is that, if, while committing an act, a person had the intention to spread fear, but failed to plan it accordingly, such an act would not be deemed as a 'terrorist act' under the originally enacted ATA 1997.

Since the aforesaid definition was problematic, it was amended in 1999.[16] The revised definition widened the scope of a 'terrorist act' and included the possible or potential effects/consequences of the act. The amended Act emphasised the effect, whether actual, intended or potential, and not the purpose behind the act. The *actus reus* alone was sufficient to put an action under the scope of the ATA 1997. Subsequent to this, in 2001, the ATA 1997 was significantly amended.[17] The word 'terrorist act' was substituted with 'terrorism' and the definition was radically changed. The legislature, by then, had emphasised that a definition of a 'terrorist act' based on the outcome of the act or its potential effects was tricky as it led to extensive speculation of the circumstances and gave unnecessary discretion to the judges in dictating whether an act falls within the scope of the ATA 1997.[18] In contrast, 'the design or purpose' of the act was deemed to be more limited as it narrowed the scope of the definition, and thus, the effect of an act was no longer the determinative factor. Therefore, both *actus reus* and *mens rea* had to be satisfied for the act to fall within the definition of terrorism. This change was not realised by superior courts in several cases until Justice Asif Saeed Khosa (as he then was) in *Basharat Ali v Special Judge, Anti-terrorism Court-II Gujranwala*[19] endeavoured to provide a clear interpretation of the amended law. However, the *Basharat Ali* case judgment was overturned by the Supreme Court in *Mirza Shaukat Baig v Shahid Jamil* in 2005.[20] The reason behind using a wide approach to the definition of 'terrorism/terrorist act' was the jurisprudence and mindset inherited from the earlier established courts that adjudged the cases related to terrorism including Summary Military Courts, Speedy Trial Courts, etc.[21] It took some time for the judiciary to disband the earlier jurisprudence, which was only used in particular cases and at different times. If such a mindset was used even after the amendments, one way or the other, every serious crime could have fallen under the scope of the ATA 1997.[22] The ruling of Justice Khosa in the *Basharat Ali* case and the amendment in the ATA 1997 were not only progressive steps, but they also brought the law in conformity with the international perceptions of terrorism. This was also in line with the relevant domestic laws of other jurisdictions such as of t of Ireland, United Kingdom, United States of America, Australia, and India, all of which, emphasised the design of the act rather than relying solely on the effect-

[14] Ibid [9].
[15] Ibid [10].
[16] Anti-Terrorism (Second Amendment) Ordinance 1999, Ordinance No XIII of 1999.
[17] Anti-Terrorism (Amendment) Ordinance 2001, Ordinance No XXXIX of 2001.
[18] *Basharat* (n 13) [14].
[19] Ibid.
[20] PLD 2005 SC 530.
[21] *Basharat* (n 13) [16].
[22] Ibid [16].

based test.[23] Similarities with the above-mentioned laws were not incidental; it was a conscious decision taken by the legislature and therefore, Justice Khosa wisely relied on the jurisprudence of the courts of these countries to interpret the law.[24]

II. Case Law from Pakistan

After the enactment of the ATA 1997, two different approaches have been adopted by the superior courts. First, there are judgments which look at both the outcome of the act and the intention behind the act. Then there are judgments where the scope of terrorism has been determined solely based on the outcome or potential effect of the act—which also holds after the amendment in the definition of terrorism in 2001. This section of the case note lays down the two different approaches adopted by superior courts that contribute to the jurisprudence on the scope of terrorism in Pakistan.

When the *Mehram Ali v Federation of Pakistan*[25] judgment was passed, the definition focusing on the outcome of the act prevailed, however, the Court held that any action which did not have any nexus with the object of the act will not be covered by the ATA 1997. In other words, mere action is not sufficient to determine a terrorist act; the object of the act must align with the one laid down in the ATA 1997. The same was upheld by the Supreme Court in *Jamat-i-Islami Pakistan through Syed Munawar Hassan, Secretary-General v Federation of Pakistan through Secretary, Law, Justice and Parliamentary Affairs*.[26] The said rule was further refined in *Ch. Bashir Ahmad v Naveed Iqbal,*[27] and *Bashir Ahmed v M. Siddique*[28] where the Court held that even though the offences (sprinkling of spirit in the former case, and murder in the latter) were serious and heinous, they were not backed by any motive to destabilise the government or to spread fear in society. The actions were based on a personal vendetta, and no matter how heinous such crimes were, they would not fall within the purview of terrorism. Similarly, by relying on these two cases, the Supreme Court, in *Ahmad Jan v Nasrullah,*[29] held that if the act was not intended to instil fear in the common mind, it would not fall within the ambit of terrorism. However, the courts do not favour a very narrow interpretation of *mens rea*—due consideration is given to the fallout of the concerned act. In *Muhammad Farooq v Ibrar*,[30] the accused opened fire on a person in a mosque after *Jumma* prayers. Although the act was motivated by a personal vendetta, opening fire in a public place was bound to create fear and insecurity amongst the people. In such incidents, the time and place of occurrence of the act are critical and if heinous crimes are committed in the public sphere, they will fall within the domain of terrorism. The same was held by the court in *Muhammad Mushtaq v Muhammad Ashiq*,[31] where four people were murdered on the premises of the District Courts even though there was a factor of enmity between them. In *Malik Muhammad Mumtaz Qadri v The State*,[32] the accused was charged with the murder of the Governor of Punjab,

[23] Ibid [19].
[24] Ibid [19].
[25] PLD 1998 SC 1445.
[26] PLD 2000 SC 111.
[27] PLD 2001 SC 521.
[28] PLD 2009 SC 11.
[29] 2012 SCMR 59.
[30] PLD 2004 SC 917.
[31] PLD 2002 SC 841.
[32] PLD 2016 SC 17.

Mr. Salman Taseer. The Court held him triable under the ATA 1997 because the purpose of his act was to spread fear in society, by serving a lesson to the public at large of the consequences that would follow if someone tried to criticise the blasphemy law in Pakistan. In *Khuda-e-Noor v The State,*[33] the Supreme Court overruled the decision of the Baluchistan High Court and held that every case of honour killing is not *prima facie* a terrorist act unless the act was accompanied by 'a design or purpose' as outlined in Section 6 of the ATA 1997. In *Sagheer Ahmed v The State,*[34] the Supreme Court upheld the judgment of the High Court in deciding that mere allegation of *'Bhatta'* did not amount to terrorism unless it was accompanied by the conditions laid down in the ATA 1997. It is also pertinent to note that the ATA 1997 empowers the Anti-Terrorism Courts to try acts which fall within the Third Schedule. Such acts are triable by the Anti-Terrorism Courts but that does not mean that they fall within the purview of terrorism. The same was laid down in *Amjad Ali v The State*.[35] There are other recent cases as well, but since no further rule was laid down, they are not discussed in this case note.

The other set of judgments is in favour of the effect-based rule, which also overlooks the 2001 amendment to the definition of terrorism. In *Mumtaz Ali Khan Rajban v Federation of Pakistan,*[36] the Supreme Court laid down a foundational rule in this area of law. The Court held that the 1975 Act and ATA 1997 covered two different subject matters and the criteria of the two legislations were not identical. Therefore, the jurisprudence of the former would not apply to the cases brought before the courts under the latter act. However, the courts still decided the cases based on the actions in question, where the threat to a person which was based on personal enmity was not examined by the courts; rather, only the translation of the threat into the act was deemed to be spreading terror in society and therefore, determined to fall within the purview of terrorism. Similarly, in *Mst. Raheela Nasreen v The State*,[37] the Court held that the requirement that terror must be caused was not manifest; rather the possibility of causing terror in the minds of people was sufficient to put an act within the domain of terrorism. The same was laid down in *Zia Ullah v Special Judge, Anti-Terrorist Court, Faisalabad* where an advocate was killed in the vicinity of the court.[38] The Court, even after the amendment to the definition of terrorism was passed, did not recognise it and continued to apply the older rule.

In *Mirza Shaukat Baig v Shahid Jamil*,[39] the Supreme Court, while overruling the motive-based approach, held that greater emphasis was on the word "actions" rather than "designed" under section 6 of the ATA 1997. Thus, even if the "actions" tend to create fear in society without there being any motive behind them, they would still fall under section 6 of the ATA 1997. The Court, subsequently, in *Kashif Ali v The Judge, Anti-Terrorism, Court No. II, Lahore,*[40] further refined the rule that the word "designed" had widened the scope of the ATA 1997, and the intent or motive behind the actions was irrelevant. The object of the act, for which it is designed, was of central importance after the amendment, and it would cover the actions which create an inevitable fear in

[33] PLD 2016 SC 195.
[34] 2016 SCMR 1754.
[35] PLD 2017 SC 661.
[36] PLD 2001 SC 169.
[37] 2002 SCMR 908.
[38] 2002 SCMR 1225.
[39] PLD 2005 SC 530.
[40] PLD 2016 SC 591.

society. *In Shahbaz Khan alias Tippu v Special Judge, Anti-Terrorism, Court No.3, Lahore*,[41] the Court held that where the accused knowingly disregarded the consequences of their acts, any personal motive or vendetta could not be considered as the true intent behind their actions. If actions are such that they inevitably create fear, they would be categorised as terrorism.

III. Indian Case Law

The 2001 amendment in the ATA 1997 harmonised the law in Pakistan in relation to Indian jurisprudence.[42] The Indian courts follow the first approach i.e., an object-based approach, as demonstrated by the case law discussed below. Currently, the Unlawful Activities Prevention Act ("UAPA") deals with terrorism in India. UAPA was preceded by Terrorist and Disruptive Activities (Prevention) Act 1985 (amended in 1987) and the Prevention of Terrorism Act 2002. The provisions of these two acts have been merged in the currently enforceable UAPA.[43] In *Niranjan Singh Karam Singh v Jitendra Bhimaraj Bijje*,[44] one person was murdered with another injured in a public place, however, the Supreme Court of India did not categorise this act as a terrorist act. The Court held that such an act was driven by a personal motive, and although there might be an incidental effect of terror, such an effect was not intended by the accused. Similarly, in *Kartar Singh v State of Punjab*,[45] the Court held that to consider an act to be one of terrorism, it is crucial to prove that the intention behind such an act was to disrupt the government or to terrorise society at large. In *Hitendra Vishnu Thakur v State of Maharashtra*,[46] the Court made a distinction between a terrorist act and an ordinary criminal act based on the intention and objective of the act. The Court held that the purpose behind a terrorist act was to 'overawe the government or disturb harmony of the people' or spread fear in society.[47] The jurisprudence developed by Indian courts is followed by the major countries in the world, and the amendment in Pakistani law was made to bring the law in conformity with international standards.

IV. The Definition of 'Terrorism' in International Law

The definition of 'terrorism' or 'terrorist act' has been contentious under international law. Although there are several conventions that deal with some aspects of terrorism,[48] none of these conventions attempt to define 'terrorism'.[49] The difficulty in reaching a unanimous definition of terrorism is due to different political and ideological views of the states— "one person's terrorist is another person's freedom fighter".[50] Nevertheless, there is a consensus on the basic elements of a terrorist act. The key elements, which are also a reflection of customary international law, were

[41] PLD 2016 SC 1.
[42] *Basharat* (n 13) [18].
[43] Sushant Sareen and Navroz Singh, 'Anti-Terror Laws in India and Pakistan' (Vivekananda International Foundation 2016) 16.
[44] 1990 AIR 1962.
[45] 1994 SCC (3) 569.
[46] AIR 1994 SC 2623.
[47] Ibid [7].
[48] The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, International Convention against the Taking of Hostages, Rome Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, etc.
[49] Gilbert Guillaume, 'Terrorism and International Law' (2004) 53 International and Comparative Law Quarterly 538.
[50] Ibid 539.

summarised by the United Nations Special Tribunal for Lebanon in the *Interlocutory Decision,*[51] and are as follows: a) the perpetration of a criminal act; b) the intent to spread fear among the public; and c) the act involves a transnational element. It is important to note that 'intention' is an important element of terrorism under international law as well and without that, a criminal act cannot be categorised as a terrorist act. Similarly, the Security Council Resolution[52] also lays down the definition of terrorism as a criminal act to spread terror in the public or to compel any government to carry out an act or refrain from doing an act.

Analysis

The *Ghulam Hussain* case is a landmark judgment by the Supreme Court of Pakistan, authored by Justice Asif Saeed Khosa, which lays down a conclusive and narrow scope of the definition of terrorism and its application with respect to criminal cases. The Court has reached one definitive conclusion after undergoing two different sets of approaches used by the Supreme Court in its earlier judgments i.e., an effect-based approach and an object-based approach. The Court, while ruling in favour of the latter approach, has put an end to the wide discretion that was used by the police, government, and the public in general while invoking the ATA 1997. This arbitrary discretion was used even in cases of property damage, personal enmity, and other violations of law which were ordinary in nature. In the province of Punjab, between 2005 and 2010, less than 5 percent of the cases tried under the ATA 1997 reflected "terrorists' signature *modus operandi"*.[53] As a result, over 95 percent of the cases were being tried by the Anti-Terrorism Courts because the police or the political leadership perceived those offences to be of a heinous nature even when they were not linked with terrorism. The broad scope of the ATA 1997 had overburdened the police, prosecution, and courts, resulting in inefficiencies while dealing with 'actual' cases of terrorism.[54] This judgment puts an end to the wide discretionary powers of the courts regarding terrorism cases and prevents misuse of the anti-terrorism law. To invoke the provisions of ATA 1997, a three-fold test needs to be satisfied in pursuance of this judgment: a) there must be *actus reus,* b) there must be *mens rea,* and c) the first two conditions must be coupled with an intention to advance an ideological, political, or religious cause. The effect-based test usually relied on only the first prong of this test, but through the present three-fold test, the ambit of the ATA 1997 has been significantly narrowed.

The verdict of the *Ghulam Hussain* case will also have a considerable impact in terms of the procedure that is followed by the police. In any criminal trial, the police have an important role to play they initiate the investigation and categorise the case as either being of an ordinary nature or of a terrorist nature which will be covered by the ATA 1997. In the latter case, the trial procedures and the investigation itself are more robust, and therefore, a greater burden is placed on the accused who as history suggests, might never have the intention to commit a terrorist activity under section 6 of the ATA 1997. However, in pursuance of the judgment in *Ghulam*

[51] *Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging*, Special Tribunal for Lebanon, STL-11-01/1 (2011).
[52] Security Council Resolution 1566 (2004) [3].
[53] Tariq Parvez and Mehwish Rani, 'An Appraisal of Pakistan's Anti-Terrorism Act' (United States Institute of Peace 2015) 4.
[54] Ibid 3.

Hussain case, the police and the prosecutors would now be aware of the conditions that need to be fulfilled for an act to be categorised as that of a terrorist nature.

The judgment of the apex court will also influence the adjudication of future cases brought under the ATA 1997. The two approaches to the definition and scope of terrorism, i.e., an object-based approach and effect-based approach, result in different thresholds being applied to assess whether a particular case falls within the ambit of terrorism. As can be observed in the cases discussed, adjudication based on the effect-based approach has brought offences committed due to personal motives within the scope of terrorism. The basis for those decisions was 'presumptive and speculative quantification' of the effect of the alleged acts in society.[55] The effect is of primary importance under this approach; it could be actual, intended, or potential effect which was used as a yardstick to classify an act of terrorism. The effect-based approach is misplaced because it involves a subjective assessment of the effects of the act and most judges are bound to find, in one way or another, every serious crime to be of a terrorist nature. Certain offences, especially those pertaining to violence against person and property, will always have the potential to create some level of fear in society, and therefore will fall under the effect-based approach to terrorism. As a result, this will have two impacts on the judicial system. Firstly, the accused will be tried under the ATA 1997, and therefore a greater burden will be placed on the person in comparison to the ordinary trial procedure under the Criminal Procedure Code, and secondly, ordinary courts will be rendered redundant. However, the object-based approach has paved the way for the test of both, *actus reus* and *mens rea*, by substituting the emphasis on the speculative quantification of the effect of an act. Thus, for the purposes of adjudication, the possibility of creating fear is not the determinative factor anymore; rather, the intention and object behind the act is the determining factor for an act to fall within the ambit of terrorism regardless of whether fear was caused in the society or not. Based on the *Ghulam Hussain* case judgment, the Anti-Terrorism courts ought to adjudicate based on objective analysis of the cases linking to the intention of the accused to conduct terrorist activities. Hence, the subjective assessment which requires them to speculate will no longer be used. Such an approach is beneficial to both the accused under trial and the judicial system at large.

Justice Khosa, in his opinion, goes beyond the scope of section 6 of the ATA 1997 and recommends the legislature to further amend the ATA in two ways: firstly, he recommends that the preamble should be changed to only include acts of terrorism and not trials for other heinous crimes and secondly, he endorses the removal of Schedule III from the Act which pertains to the list of offences triable under the ATA 1997. Following an amendment in 2004, 'kidnapping for ransom' and 'abduction' were added to the Third Schedule of the ATA 1997.[56] Such acts may be heinous in nature, but cannot be deemed to be terrorist acts unless they are conducted to further an ideological, political, or religious cause.[57] Between 2008 and 2013, there were about 82,000 reported cases of kidnapping/abduction and by classifying all those acts as terrorist acts or heinous offences, they were adjudicated by the Anti-Terrorism courts, which made these courts ineffective in the disposal of such a large number of cases.[58] By recommending the amendments in the *Ghulam*

[55] *Ghulam* (n 1) [12].
[56] Parvez and Rani (n 53) 4.
[57] Ibid 4.
[58] Ibid 4; Syed Manzar Abbas Zaidi, 'Terrorism Prosecution in Pakistan' (United States Institute of Peace 2016) 18-19.

Hussain case, the Court is trying to restrict the scope of the ATA 1997, which will help/assist in putting an end to the misapplication of the Act. Regardless, the judgment does not come as a surprise by the court of Justice Khosa, as he had already delivered a similar judgment when serving in the Lahore High Court[59]. His earlier judgment was overruled by the Supreme Court at that time,[60] which is why the judgment of *Ghulam Hussain* case was expected to come around in this tenure.

Conclusion

Considering the discussion above, it can be deduced that after years of inconsistency within the law, it is finally settled by the Supreme Court as to how and when the provisions of the ATA 1997 can be invoked. With this judgment, the Supreme Court of Pakistan has brought this law in consistency with the prevalent notion of terrorism under local jurisdictions and international law. Theoretically, the judgment is bound to have an impact that prevents misuse of the ATA 1997 and therefore, one can predict a reduction in the number of cases being tried under the Act. The decision of the Supreme Court is of paramount importance and serves as a guide for the executive and judiciary of the state by laying down a three-prong test that needs to be satisfied for an offence to be categorised as an act of terrorism. The judgment also recommends the legislature to limit the scope of the ATA 1997 by amending the preamble of the Act to only include acts of terrorism, and by removing Schedule III from the Act.

[59] *Basharat* (n 13).
[60] *Mirza* (n 20).