



RESEARCH PAPER**Role of Mens Rea and Actus Reus in determination of Terrorism Cases**

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ABSTRACT

This research paper examines the role of mens rea and actus reus in determination of terrorism charges in a case. In spite of substantial worldwide comprehensive efforts to curb the menace of terrorism, on the legal side there is still a gap. There is no universally accepted definition of this term. In Pakistan, the broad and ambiguous definition of terrorism in the ATA has led legal jurisprudence to overlaps with regular penal laws. There have been two approaches developed under ATAs: one, the mens rea-based approach; and second, the actus reus-based approach. This study discovers the use of these two approaches in execution and prosecution of ATAs. This research uses a comprehensive analysis of existing legal scholarship, judicial opinions, and landmark case-laws. It concludes that mens rea-based approach can significantly enhance the precision and fairness in determination whether a case falls under terrorism laws or not.

KEYWORDS Anti-Terrorism Act, Anti-Terrorism Laws, Mens Rea, Actus Reus, Terrorism

Introduction

Terrorism has debatably become the most important term in our contemporary political discourse. Worldwide, hundreds of billions of dollars have been allocated to fight this specific form of violent crime. Still many lives are being lost to terrorist acts. Yet, some régimes do not prioritize to define terrorism, nor do they see the need to articulate this concept. However, when governments worldwide call upon nations and their citizens to be united in the fight against terrorism, then they deserve a clear explanation of what exactly terrorism is and how they are expected to tackle it. Is it a metaphorical fight, like the fights against drugs or poverty, or is it a literal combat? This requires thorough explanation and precise definition (Schmid, 2004). Though the use of violence to spread fear and control people has existed in human societies for centuries, yet, the term "terrorism" itself in the realm of law is a relatively recent invention. Although the concept of terror existed, yet legal responses to define "terrorism" only appeared in the 20th century. Researchers found that generally efforts to define it internationally began in the 1920s and 30s, but despite several attempts by legal academics, governments, and international organizations, there is still no single, universally agreed-upon definition. Even after major events like 9/11, there are hundreds of variable definitions that exist (Golder & George, 2004).

As there is no agreement internationally on the one universally accepted definition of terrorism, which is still remain a subject of ongoing jurisprudential development and legal debate (Sinai, 2008). This lack of agreement also extends to the core components of the concept regarding what should be included in the definition of terrorism. Various legal scholars, policymakers, and legal experts propose different criteria, and usually they show diverse perspectives on the ingredients of terrorism.

Some put emphasis on the political or ideological motives behind its definition, while others focus on the methods and tactics that could have been used, such as spreading fear in civilians. We can say that cultural, regional, and historical contexts at all times influence these definitions. Consequently, the absence of a universally accepted definition complicates efforts to develop cohesive ingredients to define terrorism and to create a uniform legal framework.

Furthermore, the growing frequency of terrorist incidents worldwide has raised substantial concerns for the worldwide community. especially for those states who have been continuously plagued by terrorist attacks, implementation of effective counter-terrorism legal measures has become an urgent importance. Meanwhile, the broader negative impacts of terrorist activities have called for the serious attention from other nations. These acts urged them to collaborate on various international initiatives to fight terrorism. This collaboration is also required on the legal front. Therefore, an effective counter-terrorism strategy begins with a definition of terrorism that acknowledges its complexities. Though a universally accepted definition of terrorism has become a challenging task for the worldwide legal scholars. Nonetheless, it is vital to agree on the essential elements of this definition. This definition should be constructed through an analysis of the role of *mens rea* and *actus reus* in the realm of terrorism as a criminal act (Adibe, 2016).

Aisha observed that though Pakistan is one of the most terrorism-affected states internationally, despite that its parliament and judges have remained uncertain in creating a all-inclusive definition of the word 'terrorism'. The legislative coverage for this subject in Pakistan began with main laws that include the Suppression of Terrorist Activities (Special Courts) Act, 1975; the Special Courts for Speedy Trial Ordinance, 1987; and the Terrorist-Affected Areas (Special Courts) Act, 1992. However, these Anti-Terrorism laws (ATLs) were primarily aimed to deliver the required legal support to special courts who were handling infrequent terrorism cases. These laws left a gap in comprehensive anti-terror legislation for the Pakistan. Then the Anti-Terrorism Act, 1997 (ATA) was introduced to address this gap, and currently, this is the main legal framework to cover terrorism. Despite this, the ATA has its own faults. She observed that the broad definition of 'terrorism' in our legislation has made its purpose and scope vague. This vagueness permits the law, which is intended specifically for terrorism cases, to sometimes overlap with the other regular penal laws. This overlap often complicates cases. The courts are bound to first take up the jurisdictional issues. Consequently, ATA cases become routine cases. Usually those do not fall within the purview of ATA (Tariq, 2019). Terrorism still exist in Pakistan (Bilal et al., 2022), and definition of terrorism in Pakistan is also under development (Feyyaz, 2019; Khan & Khan, 2016; Rafique et al., 2023).

Mens rea in the realm of criminal law denotes to 'guilty mind'. It is as a cornerstone of criminal law. Characteristically, the prosecution cannot secure a conviction in criminal cases without proof that the accused involved in the alleged conduct was prohibited by the criminal statute, with a culpable mental state, such as intent, knowledge, recklessness, or negligence. This requirement is now widely considered essential element to secure a fair punishment (Chesney, 1939). Today, this requirement has gain attention from various legal scholarship to criminal law experts. Judicial opinions also often explore the complexities of *mens rea*. The requirement of *mens rea* in criminal law studies has been designated as the central distinguishing characteristic of the studies (Mizel et al., 2023). Similarly, *mens rea* also plays an important role in establishing the offence terrorism in ATA cases in Pakistan. Though the

ATA itself does not explicitly provide the required mens rea to secure conviction in terrorism charges, however, the Pakistani courts have adopted a mens rea-based approach (*Imtiaz Latif v. The State* 2024). This means they do give importance to the intention and knowledge of the accused at the time of the alleged act in order to determine him guilty. Whether mens rea based approach is the real requirement of the law, this is debatable (Apurv, 2023; Robinson, 2014). This is an historical based concept, and it has changed its meanings today (Cross, 2023). Moreover, actus reus has its own importance (F.Kh.Khudaykulov, 2022; Mangiafico, 2011) . This is considered to be the first element in the establishment of liability for an offence. If we translated it into literal English, then it refers to 'guilty act'. Yet, this phrase is commonly used in the criminal law to differentiate the physical, non-mental or exterior essentials of a crime from the mental or interior essentials (Crofts et al., 2020, P 33).

There have been many debates worldwide regarding the definition of terrorism (Ruby, 2002; Shanahan, 2016). These scholars contribute their diverse perspectives. In Pakistan as well, there are numerous academics that have engaged in this ongoing discourse; they also participate in attempting to refine and to clarify what constitutes terrorism (Feyyaz, 2019; Hussain, 2003; Khan & Khan, 2016). However, despite these efforts, there is still a clear gap in the existing legal literature about the application of the mens rea-based approach and the actus reus-based approach in the execution and implementation of the ATs. This absence of legal analysis has left a critical aspect of ATs underexplored. Therefore, this research is being conducted in order to examine the role of mens rea in the execution and application of ATs, particularly within the context of the ATA.

Material and Methods

This research has used a multi-faceted methodology to examine the role of mens rea and actus reus in determination of terrorism charges under the ATs in Pakistan. It includes a comprehensive review of the legislative development and jurisprudential development besides existing legal scholarship on ATs including books, journal articles, and research papers. Further, this study also incorporates a detailed examination of the landmark cases in Pakistan where the ATs has been applied. The reason to focus on judicial opinions and verdicts is to understand how courts have interpreted and applied the concepts of mens rea and actus reus in ATs and in cases. This research precisely scrutinizes the opinions and interpretations of the Supreme Court of Pakistan about the definitions within the ATA and their implications on legal jurisprudence. Through the use of these methodologies, this research aims to provide a thorough understanding on the role of mens rea and actus reus in determination of terrorism charges.

Legislative Development

In order to comprehensively understand the topic, it is imperative to have a brief summary of the legal framework, keeping in due regards to both domestic and international laws. In Pakistan, the first main enactment which deals with the terrorism was the Suppression of Terrorist Activities (Special Court) Act, 1975. Afterwards, this act was followed by various legislations. Those include the Special Court for Speedy Trials Ordinance, 1987, the Terrorist Affected Areas (Special Courts) Ordinance 1990, and the Special Courts for Speedy Trials Act, 1991. Researchers found that in spite of these legal efforts, terrorism were escalating (Tariq, 2019). Consequently, in 1997, the ATA was passed by the legislators to tackle the mounting issue of terrorism in Pakistan more effectively. This legislation empowered the law enforcement and investigation agencies

with new legal tools and it also established new Courts with an aim to do swift trial of the cases under it. It is important to note here that the 1975 Act though attempted to tackle terrorism but it did not define it. On the other hand, the ATA clearly define the required term in Section 6.

At that time the focus was on the consequence of the action; it was not on the mens rea of the accused person who was committing it. Accordingly, if an action has resultantly caused public fear, it was deemed to be an offence, regardless of the actual intent of the accused person. Due to these problems within this definition, this Act was amended in 1999. After this amendment as well, the actus reus alone was considered to be sufficient to bring an action cognizable under the ATA. Thereafter, in 2001, the ATA was again meaningfully amended. The new term 'terrorism' was added. The earlier definition was altered. The purpose was to place emphasis on 'the design or purpose' of the act. Therefore, it requires both actus reus and mens rea for an act to be made cognizable under the ATA (Raza, 2022).

Jurisprudential Development

The definition of terrorism, as stipulated ATA, has been subject to significant interpretive struggle. This has led to the emergence of two primary interpretative approaches: the actus reus-based approach and the mens rea based approach. Briefly the actus reus based approach places its emphasis on the concrete effects of an alleged criminal act. The courts focus exclusively on the actual or potential consequences of the act. This approach has persisted even after the 2001 amendment (Raza, 2022). Under this approach the court emphasis on the practical effects of the act rather than merely on the intentions of the accused person. This approach basically uses external manifestations of the criminal act and mostly the consequences to determine the jurisdiction. On the other hand, the second approach which is the mens rea based approach offers to examine the intentions, motives, and the mental state when determining cognizability of the offence. The higher courts of Pakistan have adopted these two varied approaches in the determination of the jurisdiction of ATs (U. Iqbal, 2023). This paper identifies the coexistence of these two opposing approaches within the jurisprudence of ATs.

These judicial approaches have meaningfully influenced the jurisprudence that is surrounding the concept of terrorism in Pakistan. These approaches reflect that there was a debate in higher courts as well in their interpretations about the criteria to use and execute the ATs. However, the changes that have been made in the ATs were initially overlooked by the superior courts until the amended law was interpreted in the Basharat Ali case. In that case, the history of terrorism was reviewed by the court. The court also used various definitions of 'terrorism' as those defined and adopted in different countries. The court also discussed all relevant precedent cases from Pakistani and Indian cases up to that time, and a comprehensive discussion was conducted on all pertinent issues regarding the topic.

Basharat Ali case

In this case, the court observed that there exists some difference between 'terror' and 'terrorism'. The term terror—manifest horror, shock, or disgust—has already been recognized throughout the human history, however, the concept of 'terrorism' is a more recent development in the legal field. This concept is characterized is used to demonstrate the organized pattern of thought and action in the criminal act. This concept is dissimilar to the concept of mere terror, that may result incidentally from an act that was not initially intended to cause fear. The concept of terrorism in criminal law is used

to show the purposefully designed acts to instill fear and insecurity on a large societal scale. Therefore, in order to determine whether an act constitutes terrorism depends on the analysis of its motivation, objective, design, or purpose behind it, rather than to solely rely on its consequential effects. This distinction underscores the rationale that not every criminal act which are causing fear can be categorized as terrorism. The court also observed that having an understanding about the historical evolution and international attempts to define terrorism is also very essential to grasp the true implications and meanings of this term (*Basharat Ali v. The Special Judge, Anti-Terrorism Court-II, Gujranwala and two others* 2004).

Mehram Ali Case

In this case the higher court noted that though some offences have been listed in the Schedule of the ATA but for the trial of the case that offence must have a connection with the objectives of the law. If in any case, the charged offence, though included in the Schedule, does not relate to the objectives of the ATAs, its inclusion would be ultra vires. The court gives an example that if a public functionary is murdered solely because of his position, without any personal enmity, then this act would be considered terrorism under the ATAs. However, if that murder would be due to personal enmity, then it would not be related to the provisions of the ATA and would not be triable under it (*Mehram Ali and others v. The Federation of Pakistan and others* 1998 SC).

Jamat-i-Islami Case

In this case, the issue of strikes and go-slows was examined by the superior court within the scope of the ATA. The court underscored that it is the responsibility of the state to clearly define what constitutes an offence. Vague legal definitions cannot be used to widen the range of terminologies to be considered offences. In cases of ambiguity in a statute, courts should adopt the safer interpretations. Additionally, the court also conducted a comparative analysis of the amendments which were made after the Mahram Ali case (*Jamat-i-Islami Pakistan through Syed Munawar Hassan, Secretary-General v. The Federation of Pakistan through Secretary, Law, Justice and Parliamentary Affairs* 2000).

Ch. Bashir Ahmad

The court in this case expressed the essential elements at that time for a case to fall within the ambit of ATAs. It highlighted that for an act to be categorized as terrorism, according to Section 6 of the ATA and its Schedule, it must either be intended to or it must have the effect of imparting terror or generating a sense of fear, terror or insecurity amongst the general public. The court underlined the importance of the act and its occurrence in the public for ATAs. In this case, the alleged offence was involved about the sprinkling of a substance on the victim, and that too within the confines of the private property. The court found that the element of terror or fear among the public was absent in the case. Therefore, the court further clarified that the use of such inflammable substances, with an aim to generate fear and insecurity among the public, is a prerequisite for invoking ATAs (*Ch. Bashir Ahmad v. The Naveed Iqbal and 7 others* 2001).

Fazal Dad Case

In this case, the court determined the question of jurisdiction on the basis of the criterion of terror. It emphasizes that the ATA is aimed to control terrorism, sectarian violence, and other heinous crimes. The court highlighted that for an offence to fall under the ATAs, it must align with the aims and relevant provisions. In this case, the court

found no evidence that the alleged offence had created terror, panic, or insecurity among people, therefore, no provision of ATA was applicable (*Fazal Dad v Col. (Rtd.) Ghulam Muhammad Malik and others 2007*).

Mohabbat Ali Case

In this case, the court held that in order to determine that whether a reported crime falls under ATAs, one must review the allegations, the case record, and circumstances of the case to see whether the offence aligns with the provisions of the ATA. The view of the court is that an act is considered to be terrorism on the basis of its motivation, object, design, or purpose, and also on the test whether the act incites fear and insecurity among the public. In this case, the court found that the reported crime was based on personal enmity and private vendetta, and it was occurred in a remote area, with motives that were related to a land dispute, therefore, no ATA provision would attract (*Mohabbat Ali and another v the State 2007*).

Bashir Ahmed Case

In this case the court again observed that in order to determine whether a case falls under ATAs, it is important to review the alleged facts along with the case record. In this case, the crime was stemmed out from the previous enmity and private vendetta, and it had occurred at the respondents' 'haveli' in their village. The court held that when the motive was longstanding personal enmity, then there is no case of terrorism or sectarian violence. ATAs requires fear and insecurity and it was deemed inapplicable on the case. The court held that this case did not meet the criteria of the "Basharat Ali Case," which stated that the fear or insecurity must not be an unintended consequence of a private crime. Therefore, terrorism should be determined by motive and objective and not by the result which may be a fear or may be an insecurity (*Bashir Ahmed v. M. Siddique 2009*).

Mumtaz Qadri Case

In this case the appellant was accused of assassination of the then Governor of Punjab province. The prosecution argued that his act constituted terrorism under the ATAs. The accused admitted his act but the lower court overturned his conviction for terrorism because the prosecution the above discussed criteria of society fear or insecurity. However, the court disagrees. The ratio decidendi of this judgement is that to convict someone of under ATA, it is not necessary to prove that his or her actions actually caused fear or insecurity in society. The main points are: 1) the definition of terrorism requires both a specific act (actus reus) and a specific intention (mens rea); 2) in this case, the actus reus (assassination of the governor) met the definition of terrorism under ATA; 3) The intention (mens rea) of the accused was established by his own statement that he wanted to send a message to others. That is why this also met the other requirements of ATAs. In simple words, the court disagreed with the lower court decision that the prosecution had to prove fear or insecurity in society which was actually created. This judgement concentrates on the intended consequence and not the achieved consequence (*Malik Muhammad Mumtaz Qadri v. The State and others 2016*).

Waris Ali Case

The ratio decidendi of this case on mens rea and on the test to determine terrorism case is that under the ATAs mens rea or the mental state of the accused is very important. The court held that mens rea in these cases is twofold: one can be called general mens

rea, the intent to commit a crime, and the other can be called as a specific mens rea, the intent to commit the crime with the specific purpose of a terrorist ideology. The second one involves creating fear, insecurity, and lack of confidence in the society. The second one aims to weaken the state. The court emphasised in this case that for an act to qualify as terrorism, it must be motivated by this specific mens rea. This is different from ordinary crimes which are usually committed due to personal motives, such as enmity or revenge, and which do not carry the intent to terrorize society. The court also established in this case that the mere gruesome nature of a crime does not suffice to get into the category of terrorism; there must be a clear connection between the act and the intent to create terror and insecurity. The view was that the ordinary crimes should not be mixed with acts of terrorism merely because of their severity. In evaluation of terrorism cases, the allegations, case records, and circumstances must be examined. The motivation and purpose of the crime must be assessed. The court must ensure that the crime has a nexus with the objectives outlined in ATA under its sections 6, 7, and 8. In this case, the court found that the alleged crime because stemmed out from personal enmity and did not involve the specific intent to create public terror, consequently, it did not qualify as terrorism under the ATAs (*Waris Ali and 5 others v. The State* 2017).

Ghulam Hussain Case

After reviewing all the jurisprudence available on the subject, in this final case, the court concluded that for an act or action or for a threat of action in order to be recognized as terrorism under Section 6 of the ATA, it must fall within subsection (2) of Section 6 and it must be designed to achieve any of the objectives that have been specified in clause (b) or (c) of subsection (1) of Section 6. The court further clarified that any act or action which may constitute an offence, regardless of its gravity, does not qualify as terrorism if the same is not performed with those specified designed or purposes. Acts or actions which are taken in furtherance of personal enmity or private vendetta do not meet the requirements of terrorism even if they fall within ATA. The court also pointed out an important aspect of ATAs that the current definition of 'terrorism' in this Act is too broad: it may encompass such actions which may be unrelated to the commonly recognized concept of terrorism. This broad definition burdens special courts with such cases that do not involve actual terrorism. This resultantly cause delays in the trials of genuine terrorism cases. The court recommended that the legislature should consider to revise the definition of 'terrorism' in order to align it with the international perspectives, and with an aim to focus on violent activities for achieving political, ideological, or religious objectives. Additionally, the court also suggested to amend the Preamble of the Act and to remove those offences from the Third Schedule that do not have any nexus with terrorism (*Ghulam Hussain and others v. The State and others* 2020).

Comments on the legal framework of ATAs

Researchers has observed that since the inception of ATAs in Pakistan, the definition and adjudication of these cases have been under evolution (Fayyaz, 2008). And it is shaping the legal framework and jurisdictional boundaries of ATAs. Initially there was lack of a precise definition, and ATAs led to ambiguity in legal terminology during their early stages. Amendments in 1999, and inclusion of clauses in section 6 of ATA, highlighted the impact of extremist acts which were instilling fear and insecurity among the populace. Then the Supreme Court view on the term "designed" to clarify jurisdictional criteria was also an important step. Further amendments from 2011 to 2020 all are aimed to tackle severe terrorism cases further led to divisive interpretations within the legal system. Throughout this evolution, the Supreme Court, legislative changes, and interpretive paradigms played their important roles in setting the scope and boundaries

of ATLS. The efforts to differentiate real-terrorism-related cases from ordinary criminal cases as above have been highlighted show the complex interaction of legal developments. We need to address these issues, keeping in due regards to the observations of the higher courts. Nations are now distinguishing between "domestic" and "international" terrorism (U. Iqbal, 2023). We also need to amend our laws keeping in due regards to the mens rea based approach.

Researchers has made critical examination of ATLS and the Court's interpretations about the principles of ATLS. Researchers concluded that the definition of terrorism fails to meet legal standards, and this was further exacerbated by Supreme Court precedents that have added to the confusion. They observe that failure to align ATA definition of terrorism with principles of legality and human rights could lead to violations. The excessively broad definition is risking to make infringements upon human rights (Imran Khan, 2022; K. Iqbal, 2015; Tariq, 2019).

Terrorism still continues to pose a major and now as a complex global challenge. It has become increasingly intricate with the passage of time. Many countries, including the Pakistan, are now implementing new measures to control it. Despite these efforts, our current legal framework has prominent deficiencies. Scholars have scrutinized our ATLS. They argue that these laws have not effectively prosecuted terrorists or these may remain unable to reduce the terrorism threat. They examine the development of these laws, and they note that ATA though serves as the primary legislation to tackle this violent crime within Pakistan, ye to improve its effectiveness, we not only need to revise its ATLS and procedures but also to introduce new regulations with an aim to expedite trials for those who are really involved in terrorist activities (Imran & Idrees, 2020).

Benefits of Mens Rea Based Approach

A mens rea-based approach for the determination of the question that whether a case falls within the ambit of ATLS would be beneficial for several reasons, when we compared it with solely actus reus approach. Following are the main reasons:

Clarity, Precision, and Legal Consistency

This approach provides clear principles for identification of real-terrorism cases through its focus on the intentions behind the act rather than just on the act itself. This precision helps to differentiate between the ordinary crimes and real acts of terrorism. This ensures that only those criminals who are having the specific intent to cause widespread fear, and to destabilize society, or to achieve their own ideological goals can be classified as terrorist. This also makes the decision making in align with fundamental legal principles of criminal justice system where intention has been due value as it plays an important role in the classification and determination of severity of criminal occurrences.

Fairness, Justice, and Civil Liberties Protection

This approach also ensures that accused are prosecuted appropriately on the basis of their motivations. Motive plays a vital in criminal law. This approach also prevents the wrongful categorization of ordinary crimes as ATLS cases. A clear understanding of components of crime always helps us to safeguard and ensure fundamental rights during trial.

Prevention of Misuse and Resource Allocation

Through the requisition of specific mental state in these cases, we will be able to reduce the risk of tagging ordinary crimes with terrorism. It will prevent the overlapping of charges. This will also protect accused persons from being unlawfully tried and punished. This will prevent the misuse of ATAs from the authorities. Through this law enforcement and judicial resources can also be saved.

Focus on True Threats and Enhanced Deterrence

Misuse of penal laws reduces their deterrence. Mens rea based approach will prevent this misuse. It may direct allocation of resources towards those cases where genuinely intended crimes would have been committed. This will allow for a target-oriented counter-terrorism strategy to develop. False ATA cases resultantly got acquittals. This approach then will create deterrence in accused persons who aim to use terror as a means to achieve their illegal objectives.

International Cooperation and Standards Compliance

Furthermore, if all states have a shared understanding about the ingredient of mens rea ATAs, then this will facilitate better collaboration between them. States can work together more effectively. Moreover, many international legal frameworks also give weightage and due importance to element of intent in their criminal laws. The Adoption of mens rea-based approach will bring our domestic ATAs in line with international standards.

Simultaneously, it is important to acknowledge that a mens rea-based approach also has its own limitations, such as it is sometimes challenging to definitively prove mental state of accused persons. Further, this approach is subject to courts interpretations. This may lead to inconsistencies in verdicts across different cases. Despite this that a mens rea-based approach has its own challenges, yet it offers a more equitable and just way to determine terrorism in different cases.

Conclusion

Though there are international efforts which are aiming to establish a single universally agreed-upon definition of terrorism, despite that this term remains indefinable. This lack of consensus worldwide is creating significant challenges on the legal side. States may interpret offensive acts differently. This is causing hinderance in international cooperation in counter-terrorism efforts. We need this universal definition (Saul, 2012). Furthermore, the absence of a clear definition is also resulting in diverse interpretations, particularly with regards to approaches regarding mens rea and actus reus. It may also lead to accusations of politicization of ATAs, where states may misuse ATAs for their own agendas (Rehman, 2019). We are having a broad definition (*Ghulam Hussain and others v. The State and others* 2020). This ambiguity may also become cause of infringement of civil liberties. Till the international community overcome these hurdles and found a common comprehension of terrorism, the fight against this global threat will continue to be hindered (Horowitz, 2023).

In conclusion, the Ghulam Hussain case has again underscored the need for our ATAs to get a clearer and more focused definition of terrorism. The court highlighted that for an act to be regarded as terrorism, it must meet specific criteria and the act must be designed to achieve certain objectives: this is mens rea based approach. Further, the

current broad definition has overburdened our special courts and it is causing delay in genuine terrorism trials.

Recommendations

To tackle this issue, it is recommended to revise the definition, and the criteria to determine real terrorism cases, to align it with international standards, while having focus on violent intent behind the activities. Adoption of a mens rea-based approach would provide legal clarity and fairness. It will prevent misuse of ATIs.

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