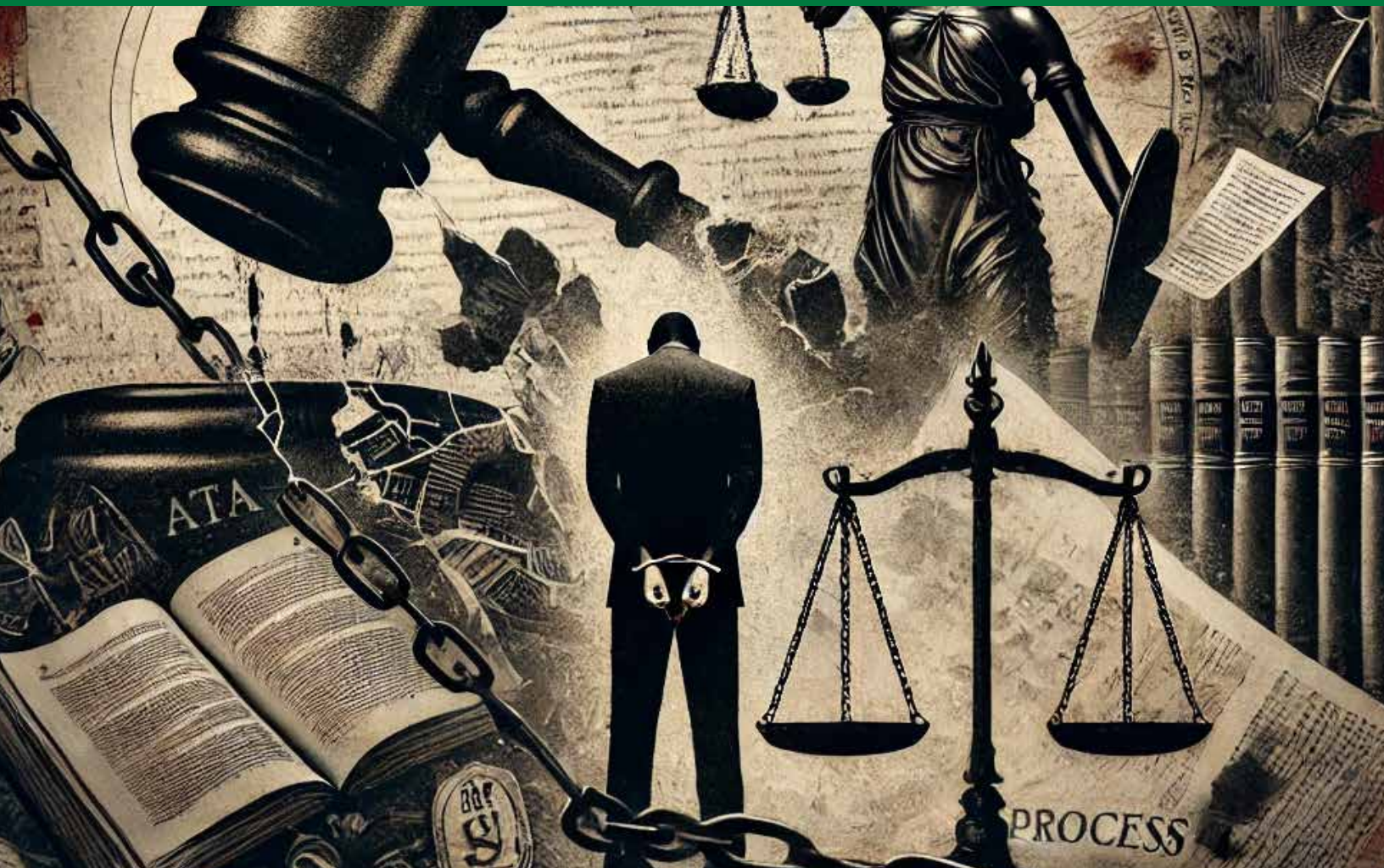


POSITION PAPER

# REINING IN THE MISUSE OF ATA

## TIME TO PRIORITIZE DUE PROCESS

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CGR



CENTRE for GOVERNANCE RESEARCH  
PAKISTAN

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## REINING IN THE MISUSE OF ATA TIME TO PRIORITIZE DUE PROCESS

*“The safeguard of our people’s liberties is not the law, but the protection of the law against misinterpretation.”*

### Introduction

The Anti-Terrorism Act (ATA) 1997 was enacted to protect national security by prosecuting terrorism and violent extremism. However, its increasing misapplication in cases far removed from genuine terrorism has raised significant concerns about the erosion of justice. While Pakistan has long asserted its position as a victim of terrorism, this stance is wrongly labeling the country as a hub of criminal extremism.

Originally intended to target terrorism, the ATA has been overextended to cover minor and politically motivated cases. This overreach undermines the core purpose of the ATA, casting doubts on the professionalism of law enforcement. As a result, courts are overwhelmed, fairness is compromised, and the rights of citizens are often violated.

Restoring due process in law enforcement is essential. Misuse of the ATA bypasses constitutional safeguards, subjecting individuals to disproportionate penalties without adequate protections. This not only violates human rights but also erodes public trust in the legal system. The human cost of faultily applying ATA sections is immense, as it leads to unjust detentions, destroyed livelihoods, and psychological trauma. It’s time to explore the consequences of this overreach, examine its legal and societal implications, and propose measures to restore due process and prevent further misuse.

### Background

Terrorism in Pakistan stems from a complex interplay of historical conflicts, socio-political challenges, and global dynamics. The violent partition of 1947 and subsequent political instability laid the groundwork for extremism. This was exacerbated by the Soviet-Afghan War (1979-1989), which led to the proliferation of militant groups, embedding a culture of violence within society.

The situation deteriorated after 9/11 when Pakistan joined the U.S.-led Global War on Terror. Extremist groups exploited internal instability, religious extremism surged, and external militants’ interventions worsened humanitarian crises. The fallout from these events, combined with political instability and poor governance, led to the frequent misuse of anti-terrorism measures, including the ATA.

Relentlessly, the increasing political pressures during this period distorted the legal framework, as anti-terrorism laws like the ATA were frequently employed to address political challenges rather than genuine security threats. Driven by expediency, it eroded due process and weakened the justice system.

## **Historical Overview**

Globally, anti-terrorism laws have evolved in response to major historical events. The post-9/11 era, in particular, saw the adoption of key measures such as UN Security Council Resolution 1373 (2001), the USA PATRIOT Act (2001), and the UK Prevention of Terrorism Act (2000), which transformed global anti-terrorism strategies.

In Pakistan, the initial approach (1970s-1990s) to counterterrorism relied on the Pakistan Penal Code (PPC) of 1860 and special ordinances targeting sectarian violence. The Suppression of Terrorist Activities (Special Courts) Act (1974-1997) aimed to expedite terrorism prosecutions but proved inadequate. Later The Anti-Terrorism Act (ATA) 1997 enacted introduced special courts and stricter penalties, marking a shift toward more aggressive counterterrorism efforts.

Sadly, the transition has been abrupt, leaving the process of understanding the law, its application, and its consequences a quagmire. This has led to its misuse, with ordinary citizens being targeted for minor felonies instead of focusing on actual hardened criminals

## **UN Resolutions and Judicial Interpretations**

UN General Assembly resolutions have consistently condemned terrorism, with Resolution 49/60 (1994) identifying terrorism as “criminal acts intended or calculated to provoke a state of terror.” In Pakistan, the misuse of the ATA has been a significant concern. In the landmark 2019 judgment *Ghulam Hussain vs. The State*, Justice Asif Saeed Khosa clarified that not every violent act constitutes terrorism, emphasizing that terrorism under Section 6 of the ATA must involve public fear and threats to state stability. This marked a pivotal shift in Pakistan's legal approach, but to this day, without legislative amendments, inconsistent ATA laws enforcement and judicial proceedings continue.

## **Overview of ATA Cases**

Since the enactment of the ATA in 1997, 38,800 cases have been registered, leading to the arrest of 187,724 individuals (primarily suspects). Of these, 9,560 were convicted (many sentences later overturned), while 28,655 were acquitted. Many cases remain unresolved, raising concerns about inefficiencies in the judicial system and damaging Pakistan's legal credibility.

1. In **Punjab**, 11,203 cases were registered, resulting in 32,213 arrests, 5,633 convictions, and 15,909 acquittals, with 276 females implicated in terrorism-related cases.
2. **Sindh** reported 14,074 cases, with 19,274 arrests, 2,795 convictions, and 7,702 acquittals, implicating 34 females.
3. **Khyber Pakhtunkhwa** registered 7,383 cases, leading to 12,644 arrests, 281 convictions, and 1,790 acquittals, with 26 females involved.
4. **Balochistan** recorded 4,792 cases, with 5,468 arrests, 646 convictions, and 2,571 acquittals, involving 14 females.
5. In **Islamabad**, 307 cases were registered, resulting in 2,049 arrests, 101 convictions, and 546 acquittals, with 4 females implicated.
6. **Azad Jammu and Kashmir (AJK)**, since the enactment of the ATA in 2014, registered 55 cases, with 283 arrests, 5 convictions, and 28 acquittals, with so far, no female involvement reported.
7. **Gilgit Baltistan** registered 881 cases, leading to 1,574 arrests, 93 convictions, and 105 acquittals, with 9 females involved.
8. The **Railway Police** registered 105 cases, resulting in 219 arrests, 6 convictions, and 4 acquittals, with 6 females implicated.

### **Ailments of Misapplications of ATA**

- The misuse of the ATA has resulted in numerous negative consequences, undermining its original purpose and causing significant damage to legal and societal framework.
- Undermines constitutional principles of fairness, the presumption of innocence, and proportionality in punishment.
- Overburdens the judicial system by treating minor crimes as terrorism.
- Deepens public distrust in law enforcement and the judiciary, reducing their capacity to address genuine threats.
- Damages Pakistan's international reputation regarding human rights and due process.
- Shifts Pakistan's image from a victim of terrorism to a hub of criminal extremism.
- Dilutes the original intent of the ATA, weakening its effectiveness against real terrorism offenses.
- Exacerbates judicial inefficiency through slow processes and inconsistent sentencing.
- Creates fragmented counterterrorism efforts due to poor inter-agency coordination and political exploitation.
- Hampers economic development, tourism, and foreign investment by increasing the fear of instability.
- Prioritizes quick fixes and rushed investigations over addressing the root causes of terrorism.
- Misapplications result from a shortage of trained staff and unqualified police handling terrorism cases.
- Allows powerful figures to exploit the law, suppress dissent, and erode civil liberties.



- Deepens socio-economic challenges such as poverty and unemployment, worsening political instability.

## Way Forward

- To restore the integrity of the ATA and ensure its fair application, a series of reforms and measures must be implemented to uphold justice, protect human rights, and prevent further misuse.
- Ensure that anti-terrorism laws are applied fairly, with a central focus on justice and human rights (Arif et al., 2022).
- Address the alarming number of civilian-held firearms by enforcing strict weapon control to reduce terrorism risks.
- Law enforcement leaders must resist politically motivated orders and hold those who comply with such influence accountable.
- Speed up legal proceedings in terrorism cases to bring closure and create a strong deterrent.
- Police, prosecutors, and judges should be continuously trained on the proper application of ATA laws within human rights standards.
- Forensic science must be integrated into investigations to ensure evidence-based accountability and protect innocent lives.
- Implement robust accountability measures within law enforcement to prevent misuse of ATA laws and restore public trust.
- The media should avoid sensationalism, nurture informed dialogue on terrorism's root causes, and support efforts to heal and unite communities.
- Educate citizens on their rights under the ATA, ensuring transparency and preventing abuse.
- Define clear boundaries for the ATA's application, ensuring it is only used for genuine terrorism cases.
- Provide counseling and rehabilitation services for those wrongly accused under the ATA to restore dignity and aid reintegration into society.

## Conclusion

The unchecked misuse of ATA sections allows anyone to be labeled a terrorist, crushing their dignity in the process. With no accountability, state institutions wield unchecked power, spreading fear and traumatizing innovators and challengers alike. This reckless overreach has not only damaged institutional reputations but also wasted public funds, eroded trust, and tarnished the nation's credibility. Leadership must be held accountable for this misuse, as it undermines justice, democracy, and governance, all while casting citizens aside for mere political gains.

## Bottomline

*“The misuse of law is not just a failure of enforcement, but a failure of society” – Ahmed, 2019<sup>i</sup>.*

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<sup>i</sup> Ahmed, S. (2019). *Misapplication of Anti-Terrorism Laws: A Socio-Legal Perspective*. *Journal of Legal Studies*, 12(3), 45-58.

## ABOUT THE AUTHOR



Dr. Syed Kaleem Imam is a former civil servant, known for his extensive contributions in law enforcement, academics, and organizational development. He has a PhD in Politics and

International Relations and an LLM in Human Rights Law from SOAS, UK, master's in philosophy.

He held the position of Inspector General of Police (IGP) in several regions such as Punjab, Islamabad, and Sindh, further serving twice on the National Highways and Motorways. As the Federal Secretary of the Narcotics Control Ministry, he played a key role in formulating national policies that harmonized with international strategies.

He has been the Chief of Operations in Mozambique, Planning Coordinator in Liberia, and UN Police Commissioner in Darfur, Sudan. His service was honored with three UN peace medals, the Quaid Azam Police Medal, the President's Police Medal, and the Sitara Imtiaz and Tamagha-i-Imtiaz.

Moreover, Imam has been instrumental in shaping academic discourse through his numerous national and international publications to his credit and frequently participating in public forums, training institutes, and media outlets. Besides being a security analyst, he is also a law and governance consultant, a strategist, and a policy practitioner.



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