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## Human Rights and Terrorism: An Overview

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### Abstract

Today, both the world at large and India in particular, face daunting challenges in the task of protecting human rights of common people regardless of the country they belong to. No country in world can be said to be free from the deadly scourge of terrorism. A peaceful society rest upon the pillars of justice and individual accountability. Terrorism and human rights are inter-related to each other because when one starts other violates. Terrorism itself is an attack on human rights. Terrorism, in all its forms, is the greatest violator of human rights. Terrorism is a clear and present danger to world today; it strikes a fatal blow to human rights of innocent citizens. The main aim of such acts is not to kill or harm a particular person or persons but to create a sense of terror and fear among the people generally and de-stabilize the civil society. Terrorists take recourse to different forms of violence to subvert the system by acts of terror and violence perpetrated through various methods like taking hostages, hijacking, etc. vast majority of fatalities through terrorism are caused by attacks on unarmed civilians who are going around about their peaceful and lawful business. There is need of Global awakening about human rights and the threat that terrorism has posed to human rights of the people all over the world. All nations must therefore, co-operate to relentlessly and without any compromise fight terrorism. Our, legislative, executive and judicial institutions must be prepared to exercise their authority to protect all citizens from pretty fears and prejudices that are so easily aroused. Terrorism is a challenge which has to be met with innovative ideas and approach.

**Keywords:** Human Rights, Terrorism, protection

### Introduction

The Human rights are the basic rights which are crucial to the civilized existence and right to life is the most basic of all rights. In democratic societies fundamental human rights and freedoms are more than paper or mere pious aspirations. The right to life is very significant for every person, every group of people, every class and every nation and as a matter of fact for all humanity. Terrorism and its impact on human rights have consistently been the most vital and intricate issue of the present times. Terrorism, in all its forms, is the greatest violator of human rights. Terrorism is a clear and present danger to world today; it strikes a fatal blow to human rights of innocent citizens. The main aim of such acts is not to kill or harm a particular person or persons but to create a sense of terror and fear among the people generally and de-stabilize the civil society. In order to achieve this objective no rules are followed and no holds are barred. Terrorists take recourse to different forms of violence to subvert the system by acts of terror and violence perpetrated through various methods like taking hostages, hijacking, etc. vast majority of fatalities through terrorism are caused by attacks on unarmed civilians who are going around about their peaceful and lawful business. Till recent, India was one of the few countries facing the onslaught of terrorism single handedly. But the event of 9/11, not only changed the thinking but also the attitude of the world community at large towards meeting the challenges posed by terrorist activities. Extreme violence and terrorism have created a variety of challenges and dilemmas for human rights advocates.

The World Conference in Vienna (1993) was a significant landmark in recognizing terrorism as a threat to human rights. International terrorism is a modern form of warfare against liberal democracies and needs to be dealt with as such. The goal of these terrorists is to destroy the very fabric of democracy and it would be wrong for any democratic state to consider international terrorism to be problem of single state. Most of the times terrorists take advantage of the animosity and indifference of one country against the other. It is not unknown, nor a secret which cannot be shared, that some countries provide training, shelter and other kinds of logistic support to terrorist elements to cause terror in other countries.

The highly coordinated attacks of September 11, 2001 on WTC and Pentagon; of 1<sup>st</sup> October 2001 on the J&K State Assembly in Srinagar or on the Parliament at New Delhi on 13<sup>th</sup> December and more recently the 26/11 Mumbai attack and 3/3 Lahore attack on the cricket team

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of Sri Lanka, makes it amply clear that terrorism today, is an activity of expertly organized and well financed organizations and superior communication network. These organizations operate across transnational borders and are undeterred by the threat of punishment.

### Meaning of Terrorism

While the term “terrorism” is often used in our discourses, there is still some ambiguity about the exact definition of this term. It may be defined as the systematic use of terror especially as a means of coercion. Most definitions of terrorism include only those acts which are intended to create fear, are perpetrated for an ideological goal and deliberately target or disregard the safety of non-combatants. Various definitions also include acts of unlawful violence and war. An analysis of such conflicts indicates that regardless of any stated positions, however extreme that may be organizations do not select “terrorism” as a path of action for its political effectiveness; and so, terrorism can also be seen as a form of unconventional warfare or psychological warfare. The term terrorism is politically and emotionally charged, and this greatly compounds the difficulty of providing a precise definition. The concept of terrorism is itself controversial because it is often used by states to delegitimize political opponents,

And thus legitimize the state’s own use of terror against those opponents. But normally terrorism means neither violence by organized groups, armies or government machineries nor mob violence such as neither riots nor wars.

Currently, suicide bombing is the aspect of terrorism that tends to arouse greatest public concern. This is partly because it is so difficult to combat. Suicide bombing undoubtedly brings another dimension to terrorist attacks. Past security measures have been premised on the assumption that terrorists will wish to escape alive (hence procedures such as matching airline passengers with their hold baggage). Suicide bombing is effective because it evades such measures. Attacks are often technically simpler as well: truck bombs of the kind that have killed thousands of people in Iraq can be exploded more easily if they are steered and detonated by a human driver. The fears they inspire, as well as the technical difficulties of combating them, often lead security agencies to overreact. In Iraq and other conflicts, many individuals have been shot in their vehicles because they have been mistaken for suicide bombers; in an infamous incident in London in 2005 a Brazilian was shot dead by police on the London Underground for the same reason.

### Nature of Human Rights

Human rights are universal values and legal guarantees that protect individuals and groups against actions and omissions primarily by state agents that interfere with fundamental freedoms, entitlements and human dignity. The full spectrum of human rights involves respect for, and protection and fulfillment of, civil, cultural, economic, political and social rights, as well as the right to development. Human rights are universal- in other words, they belong inherently to all human beings- and are inter-dependent and indivisible.

### Nature of Terrorism

Terrorism is a negation and violation of norms of human behaviour recognized by all civilized people of the world. It contravenes the generally accepted norms of the social order, right to life, right to existence and survival and equality of all human beings. Social development has been accepted and adopted as an ideal concept in the UN Charter as “Universal

Brotherhood”. Security of the individual is a basic human right and the protection of individuals is, accordingly a fundamental obligation of government. States therefore have an obligation to ensure the human rights of their nationals and others by taking positive measures to protect them against the threat of terrorist acts and bringing the perpetrators of such acts to justice.

### Impact of Terrorism on Human Rights

Terrorism aims at the very destruction of human rights, democracy and the rule of law. It attacks the values that lie at the heart of the Charter of the United Nations and other international instruments: respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among peoples and nations; and the peaceful resolution of conflict. Terrorism has a direct impact on the enjoyment of a number of human rights, in particular the rights to life, liberty and physical integrity. Terrorist acts can destabilize Governments, undermine civil society, jeopardize peace and security, threaten social and economic development, and may especially negatively affect certain groups. All of these have a direct impact on the enjoyment of fundamental human rights.

There is destructive impact of terrorism on human rights.

Terrorism:

- Threatens the dignity and security, endangers or takes away innocent lives, creates an environment of fear jeopardizing fundamental freedoms, and aims at destruction of human rights;
- Has an adverse effect on the establishment of the rule of law, aims at destruction of democratic bases of society, and destabilizes legitimately constituted governments;
- Has links with transnational organized crime, drug trafficking in arms, as well as illegal transfer of nuclear, chemical and biological materials;
- Has adverse consequences for the economic and social development of states, jeopardizes friendly relations among states;
- Threatens the territorial integrity and security of states, constitutes a grave violation of the purpose and principles of the United Nations, is a threat to international peace;

### Ways to Counter Terrorism

Respect for human rights and the rule of law must be bedrock of the global fight against terrorism. This requires the development of national counter-terrorism strategies that seek to prevent acts of terrorism, prosecute those responsible for such criminal acts, and promote and protect human rights and the rule of law. It implies measures to address the conditions conducive to the spread of terrorism, including the lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, and socio-economic marginalization; to foster the active participation and leadership of civil society; to condemn human rights violations, prohibit them in national law, promptly investigate and prosecute them, and prevent them; and to give due attention to the rights of victims of human rights violations, for instance through restitution and compensation.

Terrorism has a serious impact on a range of fundamental human rights; states have not only a right but a duty to take effective counter-terrorism measures. Effective counter-terrorism measures and the protection of human rights are complementary and mutually reinforcing objectives which must be pursued together as part of states’ duty to protect individuals within jurisdiction.

### Existing Statutory Provisions and Their misuse

Various statutory provisions have been enacted over the years within India. The enactment of Armed Forces Special Powers Act (AFSPA), Terrorists and Disruptive Activities Act (TADA), Prevention of Terrorism Act (POTA), Unlawful Activities (Prevention) Amendment (UAPA) and other security laws by the Indian government marks a departure from constitutional standards and ordinary principles of criminal law.

Under these laws, the police and armed forces are given a vast range of power. They may arrest, detain and use violence against citizens on mere suspicion of anti-state activity. This terrorizes Indian citizens and enables the use of torture, inhuman and degrading treatment, killing and disappearances outside the purview of the ordinary criminal justice system. Given legal expression, these provisions divest the constitutional rights of the individual of any meaning and are an assault on the rule of law. India's Prevention of Terrorism Act (26 March 2002) has been criticized for targeting minorities and political opponents. Under POTA, terrorist acts include disruption of essential services carried out with the "intent to threaten the unity and integrity of India or to strike terror in any part of the people". Suspects can be detained for up to three months without charge which can be extended for up to three months more with permission from an appointed judge. The Act has been cited as an excuse for targeting political opponents in Uttar Pradesh and Kashmir and was used in January 2003 against an independent member of the legislative assembly. This results in violation of various international conventions as well, such as the United Nations Convention against Torture and Inhuman and Degrading Treatment (1984) and the United Nations International Convention for the Protection of All Persons from Enforced Disappearances (2006). Misuse of these statutes created a feeling of further victimization among the people of the targeted community and acts as a catalyst to further terrorism.

### Suggestions

- People should be given voice and ensured that no community get marginalized in the development process so as to prevent a feeling of victimization, which more often than not, is the root cause of terrorism.
- Educational curricula should be revised and an international body must be set up to examine the various curricula of different countries and ensure that they do not consciously or sub-consciously create a feeling of prejudice against any community.
- Stigmatization of any religion or religious community should not take place.
- A balance should be maintained between combating terrorism and protecting the civil liberties of citizens.
- Raise awareness of the impact of terrorism and counter-terrorism on the enjoyment of all human rights;
- Provide a practical tool for practitioners dealing with terrorism, counter-terrorism measures and human rights;
- Provide guidance on ensuring compliance with human rights when countering terrorism;

### Conclusion

States have both a right and a duty to protect individuals under their jurisdiction from terrorist attacks. This stems from the general duty of States to protect individuals under their jurisdiction against interference in the enjoyment of human rights. More specifically, this duty is recognized as part of States' obligations to ensure respect for the right to life and

the right to security. The right to life, which is protected under international and regional human rights treaties, such as the International Covenant on Civil and Political Rights, has been described as "the supreme right" because without its effective guarantee, all other human rights would be without meaning. As such, there is an obligation on the part of the State to protect the right to life of every person within its territory and no derogation from this right is permitted, even in times of public emergency. The protection of the right to life includes an obligation on States to take all appropriate and necessary steps to safeguard the lives of those within their jurisdiction. As part of this obligation, States must put in place effective criminal justice and law enforcement systems, such as measures to deter the commission of offences and investigate violations where they occur; ensure that those suspected of criminal acts are prosecuted; provide victims with effective remedies; and take other necessary steps to prevent a recurrence of violations. In addition, international and regional human rights law has recognized that, in specific circumstances, States have a positive obligation to take preventive operational measures to protect an individual or individuals whose life is known or suspected to be at risk from the criminal acts of another individual, which certainly includes terrorists. Also important to highlight is the obligation on States to ensure the personal security of individuals under their jurisdiction where a threat is known or suspected to exist. This, of course, includes terrorist threats. In order to fulfill their obligations under human rights law to protect the life and security of individuals under their jurisdiction, States have a right and a duty to take effective counter-terrorism measures, to prevent and deter future terrorist attacks and to prosecute those that are responsible for carrying out such acts. At the same time, the countering of terrorism poses grave challenges to the protection and promotion of human rights. As part of States' duty to protect individuals within their jurisdiction, all measures taken to combat terrorism must also comply with States' obligations under international law, in particular international human rights, refugee and humanitarian law. To combat terrorism, a delicate balance between fighting terrorism and respecting the constitutional rights of every citizen will have to be maintained. The Supreme Court has taken a positive step by permitting the Maharashtra police to tap telephone conversations of terror suspects. However powers given to the police and other forces should not be unlimited and unchecked. There is need of Global awakening about human rights and the threat that terrorism has posed to human rights of the people all over the world. All nations must therefore, co-operate to relentlessly and without any compromise fight terrorism. Our, legislative, executive and judicial institutions must be prepared to exercise their authority to protect all citizens from pretty fears and prejudices that are so easily aroused. Terrorism is a challenge which has to be met with innovative ideas and approach.

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