



# HUMAN RIGHTS AND TERRORISM- ADV. PRAGNYASA SWAIN

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## ABSTRACT

The term "Human Rights" are two regular common terms though when constituted together lays down an actual groundwork for the existing reality of all human beings. The approach of Human Rights is perceived to be "unavoidable fundamental rights to which an individual is intrinsically entitled essentially on the grounds that she or he is a human being." In the present era, the very crucial conflict on concept of human rights is the rampant rise of terrorism. Billows of psychological oppression have coated the essence of the human rights round the globe.

**KEY WORDS-** Human Rights, Terrorism, Fundamental Rights, Counter-Terrorism, Legal Framework, Psychological oppression of Terrorism, Terrorism in India, Counter Terrorism measures of India, Public safety, Protection of Human Rights

## INTRODUCTION

The psychological oppression of terrorism exists practically in every one of the nations around the globe in some form or another. Post the Independence of India, the concept of terrorism has turned into a sensitive national issue with the rise of various human right reforms. The subject of terrorism has hammered & impacted pretty much every aspect of human existence let it either be economical or governmental issue or the public activity. In a wider sense, the psychological warfare of terrorism contradicts the freedom & the autonomy of human rights. The border states of India are most impacted from Terrorism due to its geographical location. Due to dynamically growing clutches of terrorism, India was driven to make different regulations to counter with the illegal intimidation. Among all of such establishments a few are listed below-

Indian Penal Code, sec-124-A, Terrorism and disruptive activities (Prevention) Act, 1987 Prevention of terrorism Act, 2002, Waging War against India and armed forces (Special Power Act)1958 and so on for managing the outcomes of Terrorism.

This Article tries to look through the different viewpoints & issues connecting with terrorism in our country, India and on a global scale. This is an endeavour for taking an initiative in the devolving elements of terrorism. The survivors of psychological oppression of terrorism of different nations and India experience traumas of

intimidation against the safety of the public. The establishment of various institutes that proposed the opposing mechanisms to fight terrorism is also elaboratively discussed.

Terrorism & rights of human cannot co-exist because they aim to destruct one another. Wherever there exists terrorism, rights of human beings cannot survive. In such situations there lies no human rights, no consideration for human poise, life & ethical values. Psychological oppression takes a toll on the humanitarian aspects of majority of people as well as frustrates the goal & intentions of the human rights along with clash of motive of establishments of such rights. The issue of Terrorism elevates above all wildernesses whether public, global, political or monetary. The answer to it requires a worldwide effort, global cooperation & societal action. Psychological oppression of terrorism is an intense global issue which is not in limelight because of its sheer nature of viciousness although it comprises a threat to right of life & liberty. Terrorism warfare can be told a wilful activity used for threatening naive people. In other words, the concept of terrorism is the utilization of brutality and maliciousness specifically for full filling political agendas.

### **MEANING OF THE WORD "TERRORISM"**

The origin comes from the latin phrase "terrere," that means "great fear," is where the word "terrorism" originates. The definition of terrorism is quite ambiguous; one person's act of terrorism can be another person's act of freedom activism. At least 115 different definitions are thought to have been given to the globe between 1936 and 1985.

"Terrorism" is defined as "the act or practise of intimidating especially by violence for political reasons as by Government wanting to scare a populace or by revolutionary seeking to topple government, compel the release of prisoners, etc." by Webster's Dictionary in 1990.

In order to incite or spread widespread generalised fear for political ends, another renowned philosopher conceptualises 'terrorism' as "the use of violence against random civilian targets."

### **TERRORISM ATTACKS ROUND THE GLOBE**

A number of Terrorist acts in the recent past are listed as follows-

- ❖ Bombardment on "Boston Marathon dated on 15th April, 2013,
- ❖ On 11th September 2001 attack on the World Trade Centre in New York,
- ❖ Attacks on the Indian Parliament on the date of 13th December, 2001,
- ❖ Mumbai attack on 26th November, 2008 and
- ❖ The serial blasts of Delhi, Surat, local trains of Bombay, Guwahati, Ahmedabad, Surat" etc otherwise known as the Malegaon blasts have come to scare the bedrock of modernized civil society.

India has long been a victim of terrorism let it be the state of Punjab, North east or Jammu & Kashmir. Presently, Terrorism has been rapidly spreading to all other parts of the country through the aid international institutions & derailed youth groups who have been blindly indulging themselves in terrorist activities for fulfilment of malicious intentions and momentary self-gratification.

## **CASE LAWS ON HUMAN RIGHTS AND TERRORISM**

In “Kartar Singh v State of Punjab”, the apex court of India noted that our country has been in the clutch of rampant terrorism & is intertwined in the inhumane claws of obstreperous pursuits.

The Supreme Court of India dwelt on it extensively in 1994, drawing a difference of a sheer criminal act from a terrorist one in pronouncement of “State of Maharashtra v. Hitendra Vishnu Thakur”

The statement given by the apex court was that "It is possible to define terrorism as the use of violence to disrupt the normal pace, peace, and tranquillity of society and to instil fear and insecurity."

Aside from the 1948 Universal Declaration on Human rights, there are numerous other eminent international regulatory documents. “The International Covenant On Civil & Political rights, The Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment Act 1984, The Convention on the Rights of the Child 1989 and The United Nations Code of Conduct for Law Enforcement Officials” are such few examples of the human rights frameworks and it’s practises.

## **INTERNATIONAL CONFLITS OF TERRORISM**

As the threat of international terrorism has grown in recent years, many people have considered ways to combat it. The problem was first addressed by the 27th Session General Assembly. In addition to that, terrorism has recently manifested itself in a variety of forms globally that includes-

- ❖ Hijacking of airplanes
- ❖ Abduction of political figures & attacks on diplomatic mission.
- ❖ Terrorism in national liberalisation wars
- ❖ Terrorist attacks
- ❖ Nuclear terrorism

## **TRIGGERS OF TERRORISM**

This is one criterion which needs to be in dept investigated. Identifying the causes of international terrorism will undoubtedly take time but it cannot be avoided.

Terrorism is a problem in many countries around the world. The International Committees have not yet developed a sufficient collective victory to take corresponding steps against it. Some Government & Non-Government officials support the very action. The basic argument states that there are some inhumane and unethical humans in the world that use terrorist tactics against individuals to achieve maleficent goals.

However, origins of Global Terrorism can be noted from early 1948, when Israel was formed by the partition of Palestine & Palestinians denied to accept the formation of 2 states. Several Palestinian associations turned to terrorist approaches in order to achieve their malicious targets. Several Palestinian groups have turned to Terrorism in order to destroy Israel and establish an Independent Palestinian state. As a result, our world has seen the rise of terrorism in “Middle East.”

Amidst such heart-breaking mechanisms the concept of “Suicide Bombing” has taken on a new facet in the Global Terrorism arena. There are numerous causes of terrorism in the current context. In certain ways selfish and non-compassionate human behaviour reflects the early stage of development of Terrorism. When personal conflicts or loss overwhelm people, they tend to diverge into non-conventional ways of self-gratification.

The concept of “Shikh Noor-Ud-Din Wali” has expressed the idea of surrendering to the evil in varied methods with vengeance, force & stress. Such ideas are frequently repeated in his poetry. People who tend to adapt these methods lack the basic element of “Pity and Probity.”

### **IMPACT OF TERRORISM ON HUMAN RIGHTS**

Terrorism targets to destruct human rights, societal peace, law & order, co-ordination of the Nations and Global peace. It goes after the qualities at the core of the Unified Nations Contract and other International Instruments such as regard for Human Rights, Law & Order, Rules overseeing equipped Contraventions and Protection of citizens, Resistance of Individuals, groups, Nations and Conflict Resolution methods. Terrorism straightforwardly affects the delight of number of Human Rights out of which most outstandingly are the Rights to Life, Freedom and Dignity. Fear of Terrorism Acts weakens States, subverts society, Imperils Harmony and Security, jeopardises social & economic turn of events & adversely affects Assemblies and Gatherings. These affects the basic elements and importance of Human Rights universally.

“Terrorism's horrendous effect on Human Rights” and security has been recognized at most elevated levels of the UN most remarkably by the “Security Board”, General Assembly & prior Commissions on Human Rights and new Human rights Institutions.

Terrorism directly influences Human Rights with ramifications in regards to one's right to life, opportunity, freedom & basic rights of individuals. We will specially find losses of mental health and conditions due to oppressions of Terrorism. It can debilitate and undermine entire social orders, risk the harmony and security of the society as well as emerge social and monetary scarcities. Terrorism attempts to compel upon the larger part of the minority and drives forward persistently pursuing its focuses. Terrorism and its unlawful intimidation target the backbones of a greater part of frameworks and laws where there is admiration of Human Rights foundation.

States have an obligation to defend the presences of their occupants and the honesty of the state. The state is also obliged to be in a situation to take fitting measures to fight mental oppression caused due to the impact of Terrorism on common citizens. There is no necessity for a "split the difference" between Human Rights and feasible counter-mental aggressor movement as the protections exist in the fundamental opportunities of regulations itself. The “European Convention on Human Rights” is one such regulation. There are several different international Human Rights instruments that can be applied to allow states to take a rational as well as proportionate action for safeguarding the democratic framework and law as well as request against the risk of mental oppression caused due to Terrorism.

"War of Fear" is beguiling and inconsequential and possess threat to the entire arrangement of worldwide "Human Rights". Terrorists are lawbreakers not officers and such manipulations of wrongdoings don't amount to demonstrations of War but they can be consistently portrayed as violations of Human Rights against humankind.

There lies a threat that concise measures to fight terrorism despite of not being considered essential at the hour of the act creates grave impact post the changing of circumstances. Any restriction put on an individual needs to be assessed constantly throughout the duration of the limitation.

"The European Convention on Human Rights" is committed to protect the rights and opportunities ensured in the Convention as well as regulations in their jurisdiction including people or regions under their successful control though outside their geographical areas. This includes the countries that have successfully ratified to the European Convention and continues to adhere to its regulations and guideline.

Additionally, there should be more such conventions that guarantees no exceptions to the unavoidable Right to life and puts a prohibition on all tormenting and inhuman practices such as human trafficking and Terrorism. This incorporates complying with the guideline of non-refoulement especially when the "European Court of Human Rights has demonstrated a significant measure under Rule 39 of its Principles of Court" and practice intense caution with regards to political affirmations.

On account of Rights subjected to restrictions under the convention of Human Rights, any limitation should be completely important when it safeguards the listed Rights.

Regulatory detention should be restricted to exceptions and liable to suitable control. Reconnaissance, interception and related measures should be accessible to the state and they should be obviously recognised by the law and dependent upon appropriate legal as well as political view.

Violation of "Human rights" should be stated without ambiguity and its criminal risk should be particularly implied and should be followed by satisfactory legal sanctions.

The parliament assembly accepts that terrorism mechanisms should be managed principally through the law enforcement framework which has inherent and reliable along with fair preliminary shields to safeguard the presumption of innocence & everyone's basic right to freedom. Managerial coercion for preventive purposes should be restricted to duration and utilized only if all other mechanisms fail depending on extreme rigid conditions

There should be stringently compliance with the provisions of "International Human Rights law." All nations should be mandated to conduct ordinary audits of their National Legislations and practices to guarantee that there is no effect of any enemy or terrorism and the measures of Human Rights are consistent with the norms of the "European Convention on Human Rights as deciphered by the European Court of Human Rights." This should incorporate a parliamentary development of Resolution as per "The United Nations Security Council Resolution 1822" of 2011 on parliamentary gathering change.



## **LEGAL FRAMEWORK TO COMBAT TERRORISM**

India has consistently worked to combat the threat of terrorism on both national as well as global scale by enacting specific policy measures. Resolution (48/122) of Human Rights and Terrorism (1993) adopted by the General Assembly on "condemns all acts, methods and practises of terrorism as activities aimed at the destruction of human rights, fundamental freedoms, and democracy undermining the population of civil society and having negative consequences for the economic and social development of States."

Furthermore, some of the significant Legal Frameworks of India established for countering Terrorism are "National Security Guard (NSG)" and "Financial Action Task Force (FATF)"

The intension of countering Terrorism should be for the peace and safety of all citizens by safeguarding their basic fundamental Human Rights. A few of the possible implications of combating Terrorism must be combated in the following ways -

- ❖ Collaboration with the private sector to prevent the misuse of modern communication.
- ❖ Increasing capacity for better border controls.
- ❖ Cross Country Sharing of information about passenger movement.
- ❖ Designate Counter-Terrorism focal points to combat global terror.
- ❖ Construction of Preventive Legal frameworks for controlling terrorist movements.
- ❖ Enforcing stricter and harsher sanctions for Cyber Terrorism.
- ❖ Educating the youth to distinguish between the conventional means of achieving goals from the non-conventional means.
- ❖ Creating a moral standard of the upcoming generation to eradicate the element of self-gratification and hatred.

## **CONCLUSION**

The necessity of guarantee of Human Rights and safeguards against terrorism couldn't possibly be more significant. Constantly fighting and at last abolishing terrorism will be purposeless if the approach for protecting the society is not in adherence with human rights norms. The most affected aspect of human rights is the battle against terrorism. Human rights regulations consistently counter Terrorist organisations with specific legitimate entanglements. It might not be instantly gratifying but it would emerge to be more powerful in the long haul at winning the philosophical fight against terrorism than human-rights-abusing procedures. One of the unseen side-effects of terrorist movement and the international response to it has been the propensity to set the concepts of freedom and security in opposition to one another. Human rights protection has habitually been introduced as contradictory with terrorism prevention.

That could not possibly be more ironical. Human rights instruments are intended to respond to conflict and give components to keep up with harmony and strength. Accordingly, the international human rights structure is relevant in managing the terrorist danger of terrorism by addressing its causes and managing its culprits as well as safeguarding its casualties and relieving its consequences. States have an obligation to give protection against

terrorism. Human rights guidelines force positive obligations on states to safeguard the right to life, prevention of abuse and similar other Human Rights and Liberties.

Terrorist acts are always going to disregard the rights that are all essential for a state's obligation of security. This inevitably makes a state incapable of successfully implementing its security measures. Nonetheless, the state bears the responsibility for the violation of its security as well as fundamental Human Rights. Thus, any State should not neglect to go to sufficient and proper lengths to safeguard those rights. Subsequently, a compelling counter-terrorism system can be implemented for specifically safeguarding the obligations of human rights. The best procedure to disarm and overcome Terrorism is by acknowledging human rights policies, cultivating civil rights, improving voting system and maintaining the power of law and order.

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