



Effects of Terrorism on Human Rights in context of India

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Abstract

Today, terrorism has emerged as the most recent danger to global stability, particularly for India's national security. In all parts of their activities, terrorists are becoming more complex and skilled. With the easy accessibility of both equipment and skilled personnel to operate it, terrorist organizations purchasing power is increasing as weapon technology becomes more and more accessible. Terrorists constitute a severe threat to human existence, prosperity, and growth in addition to endangering the ideals of democracy and independence. Terrorism must be prevented with strict security. If terrorism legislation is implemented in a country like India, it should be so strict that the offender gets imprisoned and does not get away with it because loopholes or other problems. It is impossible to dismiss the necessity for special laws to combat terrorism; in fact, the issue is with how such laws are used and how those in charge of enforcing them abuse their authority.

Key Words: Terrorism, Human Rights, Counter-Terrorism, Criminal Laws, Social & Political Concern, Psychological effects



What is Terrorism?

Generally, the term terrorism indicates a criminal and violent activity performed by an individual or group of individuals or an organization in order to strike terror among the general public and send messages to the public and governments, to fulfil a goal. Terrorism” comes from the French word *terrorisme*, and originally referred specifically to state terrorism as practiced by the French government during 1793-1794 Reign of Terror. The French word *terrorisme* in turn derives from the Latin verb *terre* meaning “I frighten”¹

According to the Oxford Dictionary, the term ‘Terrorism’ implies as under:“Use of Terror especially for political purposes”. it further classifies that a Terrorist uses violence to cause terror for political ends. Needless to print out that both ‘Terrorism’ and ‘Terrorist’ are the nouns of ‘Terror’ which itself is a well known term.²Encyclopedia of Social Sciences defines terrorism as-³

“A method whereby an organized group makes to achieve its avowed aim chiefly through the systematic use of violence. Terrorists acts are directed against persons who as individual agents or representatives of authority interfere with the consumption of the objectives of such group”.To be concluded, it is conspicuous that its primary target is the mind. In that sense, terrorism is the most violent form of psychological warfare, and its psychological impact is commonly understood to be far greater than its physical effects. Stooping to often pathetic means, terrorism is a way of creating power in the hope of seizing from below that which the state wields from on high.

Different kinds of Terrorism in India

Problem of Cross-border Terrorism

Since independence, India has confirmed some of terrorist or insurgency associated situations that have revolved round professed principles of secession with the purpose of making separate impartial sovereign states. Although we had been capable of control such dissipates tendencies, a risky element has been brought for the final many years through the participation of Pakistan in assisting or abetting secessionist with-inside the North-East, Punjab and J & K. Having failed in its attempts of annexing Kashmir by force and realizing the futility of carrying out an



armed adventure in the existing security scenario, Pakistan resorted to what can be termed as proxy war and cross-border terrorism.⁴ The history of terrorism in India can be traced to Khalistan movement in Punjab in the eighties. Following independence of India, the demand of separate state by Sikhs led to the creation of Punjab. The khalistan issue resulted in operation Blue Star in Amritsar, that operation resulted the assassination of Prime Minister Indira Gandhi. The Sikh separatist uprising represented the “worst threat” to India’s defensive integrity and unity since and independence separation.

After Punjab, the terrorism in progress in late eighties in Kashmir area by anti-India separatist elements supported by Pakistan. The terror groups operated mostly from Pakistan occupied Kashmir (PoK). The terrorism in Kashmir was formed by groups like Lashkar-e-Taiba, Jaish-e-Mohammad, Harkat-ulMujahidin, Hizbul Mujahideen etc. They were trained and motivated by the Pakistan Inter Service Intelligence. Pakistan supported terrorism in Kashmir which surfaced in 1989 even though the process of militant training and preparation of Kashmiri youth. The terrorist violence supported by the separatist groups here posed numerous continuing threat to India’s territorial integrity, national unity and secular culture. Penetration of armed terrorists and native terrorist motivated by Pakistan in Kashmir enacted circumstances for a never-ending disagreement between India and Pakistan.⁵

Naxalism in India

The Left wing extremism (LWE) typically referred to as the Naxalbari motion had its starting place at Naxalbari village (West Bengal) in 1967 and has now take place to be a prime risk to country’s inner security. While the Andhra Pradesh changed into the stronghold of this motion for lots decades, LWE has now prolonged over to 2 hundred unusual districts, especially in 14 states. The Communist Party of India (CPI) (Maoists), has robust keep within side the states like Chhattisgarh, Jharkhand, Orissa, Bihar and Maharashtra. There spots may be visible in different components of the us of a states like West Bengal, Assam, Uttar Pradesh, Uttaranchal, Madhya Pradesh, Tamil Nadu, Kerala and Karnataka. The method of the Left Wing Extremism is to salary extended People’s struggle fare in opposition to the kingdom as part of its perception of ‘new democratic rise up and the enterprise of people’s government.’⁶



Of the numerous left wing extremist organizations within side the United States, CPI (M) created the solidarity of Peoples struggle fare group (PWG) and Maoist Communist Centre (MCC) in September 2004, has now develop into the front of the Left Wing Extremist motion within side the united states. The ideological aid of the CPI (M) is seriously rooted within side the early Maoist waft enunciate through its ideologues like Charu Mazumdar and Kanu Sanyal in Sixtes that brought about the Naxal Bari revolution in the West Bengal in 1967. This pheonomenon as described as ‘Spring Thunder over India’. Maoist additionally describe the Indian society as ‘neo-colonial’ and semi feudal, one wherein the energy of imperialism, feudalism, caste-ism, communalism, liberalization and brahminical hegemony are dominant. According to them, the abuse of Dalits, Tribal’s girls and the different beneath-neath advantaged sections, kingdom backed subjugation of weaker sections and the solid evacuation of overseas capital and generation in to the USA relegate the home financial system and personal company to backdrop are obvious manifestation of the past trend.⁷

The Maoist headship ideologically pursues to point armed radical resist to destroy the state power as part of its policy of establishes a popular regime. Their argument of the first stage of this effort is to modify the semi colonial, semi-feudal social order in to an independent new democratic society during the decision of the two fundamental contradictions of the current Indian society, that is the disagreement of the Indian people with imperialism and the inconsistency of the wide mass with feudalism. The second is to launch the socialist system and carry on the uprising for advancing towards socialism on the global scale.⁸

Human Rights Violation as a Catalyst for Terrorist Activities

A records of colonial subjugation, gradual financial development, and years of dictatorial rule has left many states in home turmoil, each politically and economically. The speedy price of during the last numerous many years has exacerbated, if not highlighted many of these domestic inadequacies and inequalities.

(a) Political Rights and Terrorism

Citizens who’re capable of protest inside their regime are much less probably to inn to terrorism. The greater open the political device, the much less probably people are to go out of doors device to take part political process. Conversely a citizen in a country with restrained



political rights is much less probably to have an possibility to paintings in the device to impact change.

(b) Security Rights of the individuals

The second category of human rights is security rights, when security rights are violated an incentive is created for the people to seek extra-systemic means of political expression. When uses violation against its citizens, opposition groups often feel justified in responding in kind. Red Brigade in Italy for example argued that their use of violence was justified because the resorted to violence.

(c) Subsistence rights of the individual

Many a time states violate the primary human wishes most customarily refers to lack of ability of the authorities to offer for citizenry and recommend now no longer proactive abuse, however rather neglect. This to be intentional in lots of cases (Zimbabwe, for example) or really a end result of the state's incapability to offer fundamental human wishes, regardless residents suffer. Combining the violation of political protection rights and sub-optimal tiers of simple human wishes, the situations are ripe for terrorism. We want a effective safety regime as a long way as terrorist is worried and eventually we want robust and effective legal regime.

(d) Invoking section 166 Indian Penal Code

We has very without problems left out on the pertinence of this segment which has were given more price than making law that are draconian in nature. First invoke this penal phase towards the servants (Safety personnel) who carry out their obligation arbitrarily best then there may be a prevent to this vicious circle of terrorism and once more draconian legal guidelines on the other hand terrorism. There is Need to place a wreck somewhere. As the great legend Mahatma Gandhi rightly said "An eye for an eye fixed will make the entire world blind". The judiciary has to play an active role in first down the atrocities of the safety non - public with the quintessence individual of this phase of the Indian Penal Code. We need to persuade now no longer simply the formal establishments of presidency and the police, however additionally the general public that safety comes from human rights protection. Civilian police and the groups they may be policing want to apprehend human rights now no longer simply as beliefs however



as realistic tools. In context of countering terrorism, it isn't always simply that a few police practices are surely violating human rights and undermining the guideline of thumb of law. It is likewise that these practices are obviously productive. At a time while a success policing relied upon good, dependable intelligence, police need to be constructing robust courting with the groups wherein they operate. They can this in the event that they concurrently alienate and isolate those communities through police practice.

Anti-Terrorism Legislation and Human Rights Violation

The human rights violations committed by the state and its institutions have been brought to the forefront by both the judiciary and the NHRC. If we start the legal impact analysis of some of the primary legislations in India we shall come to the conclusion that most of them require serious reviews and proper enforcement of the same.

Important legislations that have been used for regulating terrorism and concerned activities are TADA (Terrorist and Disruptive Practices Act) 1987, Prevention of Terrorist Activities Act, 2002 and Unlawful Activities Prevention Act, 1967. These laws led to with respect to the human rights violation of the accused as well as the victims as a whole. The analysis of TADA, The act owes its genesis to Punjab, where in order to fight against the terrorist activities this Act was enacted. TADA depicts grave violations of some of the basic conventions pertaining to international human rights. India is a signatory and party to the international covenant on civil and political rights. However the legislation of TADA is a violent deviation against this global obligation. Article 2(3) of the covenant provides that any person whose rights and freedoms are breached shall have an effective remedy even if the violation is by one in his official capacity. Article 9 objects to arbitrary arrests or detention and the arrestee or the detainee shall be brought promptly before the judge and shall be entitled to trial within a reasonable time or to the release. Article 14 further states that every one shall be entitled to a fair and public hearing by an independent and impartial tribunal. The exclusion of the press and the public are light heartedly ignored by TADA. The judicial response to the same has been in the direction of upholding the basic human rights.⁹



If we have a look on the data available to us then we found that under the Terrorist and Disruptive Activities (Prevention) Act, 1987, the total number of detainees was around 76,000. Of these, 25% were dropped by the police without charges; trials were completed in only 35% of the cases and 95% of these trials ended in acquittals. The conviction rate was less than 1.5% and there were reports of human rights violations committed by the police abusing their excessive powers under the Act. This law was allowed to lapse in 1995 after pressure from national and international civil society groups, as well as the UN Human Rights Committee which monitors countries' compliance with the International Covenant on Civil and Political Rights.

Dr A.S Anand in *Hitendra Vishnu Thakur* once said that —every terrorist may be a criminal but every criminal cannot be given the label of a terrorist only to set in motion the more stringent provisions of TADA. Supreme Court lawyer Prashant Bhushan said that most of the cases of TADA were in states like Gujarat, which were not affected by terrorism. The arbitrariness of TADA is evident from the fact that only one percent of the arrested was convicted. *D.K. Basu vs. state of West Bengal* the

Supreme Court held that: —State terrorism is no answer to combat terrorism. State terrorism would only provide legitimacy to terrorism: that would only be bad for the state, the community and above all the Rule of Law. The State must, therefore, ensure that the various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto them.

There is no lack of reports of it being abused for politically motivated arrests and torture. Cases such as many tribal women and children in the state of Jharkhand, were arrested and placed in custody for long periods under this law and many Muslims were held under the law in the state of Gujarat after anti-Muslim riots. The convictions in the state of Punjab under TADA though were less but the number of detentions was alarming. In Punjab there were 14,451 and in the state of 14049 were detained in a state of Gujarat. It has been argued by opponents that this Act has been used against trade unions and for detaining Sikhs, Muslims, Dalits and political



opponents. Over 76000 people were detained under the TADA however the conviction rate is below 1%. The absence of a well formulated legislation is often seen as a reason for anarchy and lawlessness in the society.

The cases under TADA continued to exist long after the act got repealed, the newspaper reports of 1999 suggested that 3000-7000 cases still remained to be decided even 3 years after the TADA had been repealed in the state of Assam, nearly 1000 detenues were in prisons, until 2000, five years after the lapse of the act, trials had yet to be completed in 4,958 cases, of which 1,384 were still being investigated. One of the staggering realities that this act presents before us is that despite total arrests of 26000 only 14 had so far been convicted. There is dire need for defining terrorism because it assumes great threat to the world

The prevention of terrorism act, 2002 act was passed subsequent to the law commission report on prevention of terrorism bill, 2000. The act like its predecessor in TADA was alleged to violate human rights and the basic tenets of human existence. Number of petitions were filed in the apex court regarding the same, The petitioners' main arguments that POTA lacked legislative competence and violated Articles 14, 19, 20, 21 and 22 of the Indian Constitution. The petitioners argued that POTA fell, in its pith and substance, under Entry 1 of List-II (the States' List); that is, POTA falls under "Public Order," upon which only the state governments, but not the central government, is competent to legislate. After the repeal of the POTA Legislation, the

Unlawful Activities Prevention Amendment Ordinance Act, 2004 was promulgated. If we analyze some of the state legislations one is reminded of the Maharashtra Control of Organized Crime Act, 1999, which boasts of a 76% conviction rate as opposed to paltry conviction rates under the central legislations dealing with terrorism.¹⁰



Conclusion

In short, it is vivid that Terrorism is a major issue of concern for Indian society as well as all around the world. Hence, government of India should need a prudent approach to overcome this problem. Some effective steps must be followed which are:-

- (i) India should play a proactive role to neutralize any threat of terrorism.
- (ii) Addressing UN High-Level conference on Heads of Counter Terrorism, Indian Special Secretary, Internal Security) extended a five point formula-
 - (a) Exchange of timely and actionable intelligence.
 - (b) Prevention of misuse of modern communication through collaboration with the private sector.
 - (c) Building capacities for improved border controls.
 - (d) Sharing of info related to the movement of passengers.
 - (e) Designation of Counter-Terror focal points to fight global security.



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