



## HUMAN RIGHTS AND TERRORISM

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**Dr. Mukta Dwivedi**

**Lecturer , Political Science**

**Govt. College, Ajmer**

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### ABSTRACT

"The promotion and preservation of human rights for everyone and the rule of law are vital to all components of the Strategy, understanding that successful counter-terrorism measures and the promotion of human rights are not competing aims, but This material can be found within the setting of scholarly journal articles, academic monographs, academic chapters in scholarly books, popular newspaper and magazine pieces, and books written for general audiences. In a broad sense, this study may be broken down into qualitative and quantitative approaches. Research that is done for popular audiences should be differentiated in a way that is nuanced but essential from research that is done for the academic or scholarly community. It is generally agreed upon that the work done for the later audience is more rigorous, but it is possible that it lacks the thrill and spectacular appeal necessary to maintain a larger interest. In spite of this, there is a mutually beneficial interaction between authors who write for the general public and those who write for academic journals; at various times, they rely on or use research from one another. Researchers may occasionally do exhaustive assessments of the research that has been done on terrorism as well as the methods that have been employed by investigators. These works are not designed to be comprehensive because the instances they draw upon are illustrative; rather, they are meant to be illustrative since that is their purpose. I will discuss significant contributions made in the fields of qualitative and quantitative methods to the study of terrorism.

**Keywords:** *Human right, Terrorism against humans.*

### INTRODUCTION

There is no denying that terrorism has a very real and direct impact on human rights, with catastrophic implications for the victims' ability to enjoy their rights to life, liberty, and bodily integrity. Terrorism may, in addition to these human costs, destabilise governments, damage civil society, put the peace and security of an area in jeopardy, and harm the social and economic growth of an area. All of these things have an effect, both positive and negative, on a person's ability to exercise their human rights. The right to personal safety is one of the most fundamental of all human rights; hence, the protection of persons is one of the most essential obligations of government. Therefore, states have a commitment to uphold the human rights of their citizens as well as those of other people by adopting preventative steps to shield their populations from the dangers posed by terrorist attacks and by prosecuting those responsible for carrying out terrorist attacks. In recent years, however, the measures implemented by states to resist terrorism have often created major threats to human rights and the rule of law in and of themselves. This trend has been particularly prevalent in the western world.

To combat terrorism, some states have resorted to torture and other forms of ill-treatment, even though there are legal and practical safeguards available to prevent torture. These safeguards include the regular and

independent monitoring of detention centres. However, these safeguards have frequently been ignored. Other states have violated the international legal obligation of non-refoulement by returning individuals suspected of engaging in terrorist activities to countries in which they face a real risk of torture or other serious human rights abuses. In doing so, these other states have committed a breach of the principle of non-refoulement. In certain areas, the independence of the judiciary has been compromised, and the use of special courts to trial civilians has had an influence on the efficiency of ordinary court systems. Both of these problems have arisen as a result of the usage of exceptional courts. The voices of human rights activists, journalists, members of minorities and indigenous communities, as well as members of civil society, have been stifled via the employment of repressive methods. The economic, social, and cultural rights of a great number of people have been compromised as a result of the reallocation of resources that are often earmarked for development aid and social programmes.

These activities, especially when used together, have a corrosive effect on the rule of law, good governance, and human rights. This effect is especially pronounced when taken collectively. They also undermine both national and international efforts to fight terrorism, which is another reason to avoid them. <sup>2</sup> It is imperative that the worldwide struggle against terrorism be built on a foundation of respect for human rights and the rule of law. This necessitates the formulation of national counter-terrorism plans with the goals of preventing acts of terrorism, bringing those guilty for such criminal actions to justice, promoting and protecting the rule of law as well as human rights, and so on. It entails taking steps to address the conditions that are conducive to the spread of terrorism, such as the absence of rule of law and violations of human rights, discrimination based on ethnicity, nationality, or religion, political exclusion, and socio-economic marginalisation; 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 counterterrorism efforts. This Fact Sheet was created with the intention of enhancing readers' comprehension of the intricate and multi-faceted nature of the connection that exists between terrorism and human rights. It outlines the important human rights principles and standards that must be followed at all times, but especially in the context of counter-terrorism, and it addresses some of the significant human rights concerns that are highlighted in the context of terrorism.

It is directed toward state authorities, national and international nongovernmental organisations (NGOs), national human rights institutions, legal practitioners, and individual citizens who are concerned with ensuring the protection and promotion of human rights in the context of terrorism and counterterrorism. Specifically, the Fact Sheet is intended to do the following things:

- 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;
- Illustrate specific human rights challenges in countering terrorism.

Law, particularly international law, always ends up becoming a reflection of the community it was created to protect. It should serve the interests of the community in settling conflicts among its members in line with

the ideals that they have stated and it is a reflection of the community's values and its organisational structure. The law is merely one of many ways to define and address issues that arise within a community; nonetheless, in the absence of well-defined legal concepts and efficient legal procedures, the community is missing a very important stabilising factor. Human rights and terrorism are wide phenomena, not merely legal concerns, and the legal viewpoint is most certainly not the only one that is important to an explanation of their significance in current international relations.

However, legal analysis may assist to the development of workable solutions, and a knowledge of the legal perspective is just as vital for those responsible for formulating public policy as an understanding of other views is for international attorneys.

In order to combat terrorism, the United Nations has drafted a total of twelve conventions, the most recent of which are the Convention for the Suppression of Terrorist Bombings (1997), the Convention for the Suppression of Financing Terrorism (1999), and the International Convention for the Suppression of Acts of Nuclear Terrorism (International Convention for the Suppression of Acts of Nuclear Terrorism) (2005). These Conventions and others establish that governments are under the responsibility to take the necessary steps to protect the basic rights of everyone under their jurisdiction against acts of terrorism. This obligation applies to all individuals who fall within the jurisdiction of the state. In addition to the Geneva Conventions and the Rome Statute of the International Criminal Court, these Conventions include virtually every type of terrorist conduct that can be imagined.

In spite of the abundance of laws and policies that have been enacted to combat terrorism, it has been challenging to get worldwide agreement on a definition of the term "terrorism." Opponents of government programmes may be categorised as terrorists in the same manner that, for instance, certain regimes in the 1970s designated perceived 'dissidents' as communists. A precise definition is required because without it, repressive governments violate human rights in regard to security. The High-Level Panel on Threats, Challenges, and Change was founded in 2003 by the UN Secretary General in order to produce fresh ideas about the policies and structures that are essential for the UN to be effective in the 21st century. In its report, the Panel acknowledged that the failure of the United Nations to reach consensus on an anti-terrorist Convention that would include a definition of terrorism has hampered the organization's capacity to build a comprehensive plan to combat terrorism.

According to the Report (paragraph 164), the Panel suggested that a definition of terrorism should include the following elements:

- (a) Recognition in the preamble of the fact that the use of force by a state against civilians is governed by the Geneva Conventions and other international instruments, and that such use, if it is of sufficient scale, constitutes either a crime against humanity or a war crime committed by the persons concerned;
- (b) A restatement that acts committed in accordance with the 12 anti-terrorism conventions that came before it constitute terrorism, as well as a declaration that such acts constitute a crime in accordance with international law; a restatement that the Geneva Conventions and Protocols prohibit terrorism during times of armed conflict;
- (c) A reference to the definitions that may be found in the International Convention for the Suppression of the Financing of Terrorism from 1999 and resolution 1566 from the Security Council from 2004;

- (d) A description of terrorism as "any action, in addition to actions already specified by the existing conventions on aspects of terrorism, the Geneva Conventions and Security Council resolution 1566 (2004) that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing a certain thing." This definition applies

## **OBJECTIVES**

1. The study of terrorism reveals that it is most successful in settings characterised by hopelessness, humiliation, poverty, and political persecution.
2. The study of violent extremism and violations of human rights; its prevalence also increases in certain circumstances.

### **The nature of human rights**

Human rights are a set of universal values and legal guarantees that protect individuals and groups against actions and omissions, primarily on the part of state agents, that infringe upon fundamental freedoms, entitlements, and human dignity. Human rights protect individuals and groups against actions and omissions that interfere with fundamental freedoms, Respect, protection, and fulfilment of civil, cultural, economic, political, and social rights, as well as the right to development, are all components of the whole spectrum of human rights. This includes the right to development. Human rights are universal, which means that they essentially belong to each and every human person. In addition, human rights are dependant on one another and cannot be divided.

### **The nature of States' obligations under international human rights law**

The primary effect of human rights legislation is to compel states to perform some actions and prohibit them from carrying out others. The obligation to respect, defend, and uphold human rights rests squarely on the shoulders of the nation-states. To show respect for human rights, the first step is to avoid interfering with people's ability to exercise their rights. The concept of protection centres on the practise of taking active measures to prevent other parties from interfering with the exercise of rights. In order for states to be able to meet their legal commitments and hence fulfil their human rights obligations, it is necessary for states to implement suitable measures, which may include legislative, judicial, administrative, or educational measures. It is possible for a State party to be held accountable for the interference of private individuals or entities in the enjoyment of human rights if the State party does not exert reasonable diligence in protecting against such conduct. For instance, in accordance with the International Covenant on Civil and Political Rights, state parties have an obligation to take proactive measures to ensure that private persons or entities do not inflict torture or other cruel, inhuman, or degrading treatment or punishment on others within their power. This obligation applies even if the individuals or entities are not subject to the International Covenant on Civil and Political Rights.

### **The 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. The destructive impact of terrorism on human rights and security has been recognized at the highest level of the United Nations, notably by the Security Council, the General Assembly, the former Commission on Human Rights and the new Human Rights Council.<sup>7</sup> Specifically, Member States have set out that terrorism:

- Threatens the dignity and security of human beings everywhere, endangers or takes innocent lives, creates an environment that destroys the freedom from fear of the people, jeopardizes fundamental freedoms, and aims at the destruction of human rights;
- Has an adverse effect on the establishment of the rule of law, undermines pluralistic civil society, aims at the destruction of the democratic bases of society, and destabilizes legitimately constituted Governments;
- Has links with transnational organized crime, drug trafficking, money-laundering and trafficking in arms, as well as illegal transfers of nuclear, chemical and biological materials, and is linked to the consequent commission of serious crimes such as murder, extortion, kidnapping, assault, hostage-taking and robbery; <sup>8</sup>
- Has adverse consequences for the economic and social development of States, jeopardizes friendly relations among States, and has a pernicious impact on relations of cooperation among States, including cooperation for development; and
- 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 and security, and must be suppressed as an essential element for the maintenance of international peace and security.

International and regional human rights law makes clear that 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.<sup>13</sup> This, of course, includes terrorist threats. In order to fulfil 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 themselves also comply with States' obligations under international law, in particular international human rights, refugee and humanitarian law.

## CONCLUSION

The fight against terrorism calls for increased vigilance on concerns of security as well as a heightened awareness of the fact that our freedoms serve not only as the basis of our societies but also as the most effective form of immunisation against terrorism. The greatest way to defend oneself is to protect and disseminate the benefits of enjoying all of one's human rights, including spirited discussions held by active civil societies, free newspapers, open colleges, and a profound appreciation for variety and tolerance. The youth's access to quality education is critical. The combination of this with increased protection and respect for economic, social, and cultural rights through more equitable development would reduce disparities and ensure that at the very least the United Nations Millennium Development Goals, if they are met on time, will undercut the appeal of terrorist organisations. Along with the required activities including information gathering, financial management, and law enforcement, giving people hope and the feeling that they have a future and a stake in it can assist prevent terrorism.

## References

- [1]. The terrorist attacks that took place in New York and Washington on September 11, 2001 elevated the battle against terrorism to the top of the political agenda for nations all around the world. On 28 September 2001,
- [2]. The terrorist attacks that took place on trains in Madrid in 2004 and on the London transportation system in 2005 served as a reminder to the leaders of the globe that terrorism constitutes a significant risk to the lives, freedom, and security of residents all over the world. Resolutions 1530 (2004) and 1611 were both passed (2005)
- [3]. the Convention for the Suppression of Terrorist Bombings (1997), the Convention for the Suppression of Financing Terrorism (1999), and the International Convention for the Suppression of Acts of Nuclear Terrorism (1997) all came into effect in order to put an end to terrorist bombings (2005).
- [4]. In 2009, the International Commission of Jurists issued the study of its Eminent Jurists Panel on Terrorism, Counter-terrorism, and Human Rights titled "Assessing Damage, Urging Action."

- [5]. The Convention for the Prevention of Terrorism is an important legal document that deserves special consideration (2005).
- [6]. The Organization of American States (OAS) ratified the "Declaration of Panama on the Protection of Critical Infrastructure in the Hemisphere in the Face of Terrorism" in the month of March in 2007.
- [7]. The European Parliament issued a call to the Member States and the institutions of the European Union, requesting that they conduct exhaustive investigations, as well as collaborate with them by disclosing information and ensuring that secret services are effectively scrutinised by parliament (P6 TA(2009)0073).
- [8]. The Convention on the Prevention and Combating of Terrorism was approved in the African context in the year 1999, and it went into force in the year 2002.
- [9]. the definitions that may be found in the International Convention for the Suppression of the Financing of Terrorism from 1999 as well as resolution 1566 from the Security Council (2004).
- [10]. Article 55 (c) of the Charter of the United Nations, as well as Article 10 of the Universal Declaration of Human Rights.
- [11]. Draft articles on Responsibility of States for Internationally Wrongful Acts, with remarks, published by the International Law Commission in 2001 (United Nations, 2008), Commentary to Article 26 Paragraph Five and Article 40 Paragraph Three - (5). See also: Prosecutor v. Furundija, Case IT-95-17/1, Judgement Issued on December 10, 1998 by the International Criminal Tribunal for the former Yugoslavia.
- [12]. General Comment No. 31 (2004) of the Human Rights Committee on the Characteristics of the Overarching Legal Obligation Imposed on States That Are Parties to the Covenant