HUMAN RIGHTS OF VICTIMS OF TERRORISM

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Abstract

“There is a close link between Human Rights and terrorism. Terrorism obviously abuses the fundamental Human Rights of its victims, whether it is individual terrorism or state terrorism. The victims of terrorism are arbitrarily deprived of the fundamental Human Rights of life and liberty. Acts commonly covered under terrorism, whether committed by states or individuals are in fact, violations of fundamental Human Rights of those against whom they are perpetrated. But the dilemma of the situation is that those resorting to terrorism themselves call in aid the notion of Human Rights to support their claims for actions resorted to by them.”

INTRODUCTION

Terrorism is one of the most heinous crimes ever witnessed by mankind during the course of its history. It will be no exaggeration to say that it amounts to an act of sacrilege against humanity since its perpetrators pay scant or no regard to the inherent value and worth of human life. As a blood crime it may well be placed in the same category to which genocide and tyrannicide belong. In its aspect as an instrument of psychological warfare, it is in a class by itself since its principal targets are not the traditional power centres but the innocent masses as a whole. As a strategy, it seeks to undermine the authority of a regime by spreading a sense of insecurity among the members of the society whom the regime under challenge represents and for whose protection, security and well-being it is responsible.1

By its very nature, terrorism is “a ferocious violence of humans against humans.” Since the objectives of this violence is to instil a sense of insecurity among the masses, the term terrorism is used to refer to the international stimulation of fear psychosis, the inducement of mass scale terror or the causation of mortifying dread. One important fact about the nature of terrorism which deserves attention is that it is by its very character low profile symbolic violence carried out in accordance with a systematically conceived, highly organised purposive design. One isolated act, therefore, cannot be called terrorism. Any violence then, would qualify to be called terrorism only if it is organised in such a manner as to serve a particular set of objectives, say, for example, winning national freedom, establishing a race or religion based homeland, and bringing about fundamental political change. In other words, a violent act can be said to constitute terrorism only on the basis of the intentions behind it.2
“Terrorism is the systematic use of coercive intimidation, usually to serve political ends. It is used to create and exploit a climate of fear amongst a wider target groups than the immediate victims of the violence, and to publicise a cause as well as to coerce a target to acceding to the terrorists’ aims. Terrorism may be used on its own or as part of a wider unconventional war. It can be employed by desperate and weak minorities, by States as a tool of domestic and foreign policy, or by belligerents as an accompaniment in all types and stages of warfare. A common feature is that innocent civilian, sometimes foreigners who know nothing of the terrorists’ political quarrel, are killed or injured. Typical methods of modern terrorism are explosive and incendiary bombings, shooting attacks and assassinations, hostage-taking, and kidnapping and hijacking. The possibility of terrorists using nuclear, chemical or bacteriological weapons cannot be discounted.”

“Terrorism is not a philosophy or a movement. It is method. But even though we may be able to identify cases where terrorism has been used for causes most liberals would regard as just, this does not mean that even in such cases the use of terrorism, which by definition threatens the most Fundamental Rights of innocent civilians, is morally justified. Paradoxically, despite the rapid growth in the incidence of modern terrorism, this method has been remarkably unsuccessful in gaining strategic objectives. The only clear cases are the expulsion of British and French colonial rule from Palestine, Cyprus, Aden and Algeria. The continuing popularity of terrorism among nationalists and ideological and religious extremists must be explained by other factors: the craving for a physical expression of hatred and revenge, terrorism’s record of success in yielding tactical gains” (e.g. massive publicity, release of prisoners and large ransom payments), and the fact that the method is relatively cheap, easy to organise and carries minimal risk.

Economic inequalities, unemployment, population explosion, social exclusions, extremism, tribalism, suppression of ethnic minorities, religious and political oppression, if not solved, may lead to armed-violence, whether, we call it as insurgency, terrorism, militancy, tribalism, conflicts and so on. War begins in the minds of men and the like minded persons, who oppose or support their causes, live all over the world. Repercussions can, therefore, be felt only in the country of the origin of dispute, but elsewhere also. The lines between non-international armed conflicts, terrorism and criminology are now so thin and blurred and it is difficult to distinguish national terrorism and international terrorism. Many of the terrorists are willing to die while in action to achieve their objective, which they believe as just. They feel they are a deprived class with no hope for better future and do not want to live so that others shall also not live in peace and enjoy material benefits.

1.2.1 Meaning of Terrorism

“The word terrorism became popular during the 1790s of revolutionary France, when it was used to describe what is now known as the Jacobin excesses. The aristocracy was executed or escaped to involuntary exile during this era in order to survive. Many of the middle class were also persecuted. Terrorism at the
time referred to the period in the French Revolution broadly speaking between March 1793 and July 1794 and it was more or less a synonym for reign of terror. Subsequently it acquired a wider meaning in the dictionaries as a system of terror.\textsuperscript{vii}

Terror or terrorism is based on the Latin verbs ‘terrere’ and ‘deterre’. ‘Terrere’ means to cause to tremble. ‘Deterre’ means to frighten. These word forms are now quite adequate to describe the ubiquitous phenomenon of this generation as well. Terrorism then is a form of intimidation designed to influence politics and Government behaviour.\textsuperscript{viii} Literally, “terrorism” like other “ism” is a system of views or method or theory behind the method strongly believing in use of ‘terror’ towards achievement of certain objectives. ‘Terror’ in the ordinary parlance, means, intense, over powering fear and use of terrorising methods for governing, or resisting a Government has come to be known as ‘terrorism’.

“One of the earliest attempts to define terrorism was made by Hardman in Encyclopaedia of the Social Sciences, thus terrorism is a term used to describe the method or the theory behind the method whereby an organised group or party seeks to achieve its avowed aim chiefly through systematic use of violence. Terroristic acts are directed against persons who, as individuals, agents or representatives of authority, interfere with the consummation of the objectives of such a group. The terrorists do not threaten; death or destruction is part of their programme of action, and if they are caught their behaviour during trial is generally directed primarily not towards winning their freedom but towards spreading knowledge of his doctrines.\textsuperscript{ix} In Webster’s International Dictionary the expression terrorism is defined as, “Systematic use of terror as a means of coercion”.\textsuperscript{x} Terrorism is a social phenomenon originating from the unrest created by socio-economic and political causes resulting in voluntary actions to terrorise innocent people. The Convention for the Prevention and Punishment to terrorism, 1937 defines “acts of terrorism as criminal acts directed against the State or intended to create a State of terror in the minds of particular person or group of persons of the general public.”\textsuperscript{xi}

INTERNAL CONFLICTS IN INDIA

In India, most internal conflicts are built around economic disparities and controlled growth of population. These conflicts have now acquired a deadly pattern because of growing inter-caste and inter-religious antagonism. Religious, factional and ethno-lingual differences are manipulated by various political groups for electoral gains and over a period of time many complex factors, some with deep historical roots, have generated violence and encouraged separatist tendencies. The escalation of internal conflicts is also related to the gradual decline of the central authority after the Nehru era. Process of decline of central authorities and the rise of hardly regional groups with strong caste religious or ethnic bases have brought caste and religious confrontation to the forefront in the last two or three decades. Corruption in high places and entry of criminal elements in political battles has created political and administrative incompetence. The
manifestation of a variety of political and economic grievances, some real, other invented, has institutionalized the role of violence and the mobilization of violent groups for political purposes. Many regional groups have no real political agenda or national perspective: the main objective is to gain power by any means and acquire wealth for private use while power lasts.xii

Inequality of opportunity for economic progress provides the matrix of social unrest, which is directed into caste, religious and ethnic channels to strengthen regional support bases. The outbreak of violence manifests itself in well-known patterns in India. Communal strife involves Hindus/Muslims, Hindus/Sikhs and Hindus/Christians. The communal ideology has lately gained acceptability in larger sections of the population due to the manipulation of religious sentiments by various fringe groups of the communal parties. The demolition of a structure called the ‘Babri Masjid’ (mosque) by some fanatic Hindu organizations and inept handling of the ‘Sikhs’ problems in Punjab generated widespread violence, resulting in great loss of life and property. The fault-lines which developed due to these factors have yet to be cemented because communal ideologies are being adopted by a greater number of people than ever before. Both these events have reopened the wounds of partition and this threatens the unity and economic well-being of the nation. More than the strife and violence, the spread of communal ideologies spell danger for the unity and integrity of the country. The notion is being propagated that the secular interests of one sect or religion are divergent and clash with those of others, creating hostility and violence.xiii

TERRORISM AND HUMAN RIGHTS
“Terrorism brings suffering and miseries to human beings. It being immoral and inhuman act puts under threat the rights and freedoms of innocent people. It, therefore, abuses the Fundamental Human Rights of the victims, particularly, the right to life, the right to physical integrity and the right to personal freedom. The increasing number of innocent persons including women, children and the elderly has been killed, massacred or maimed by terrorists in indiscriminate and random acts of violence and terror which in no case can be justified. It has put a question mark on the most essential and basic human right of the people, i.e. right to life. The General Assembly has repeatedly expressed its deep concern about the worldwide escalation of the acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings.”xiv

“Terrorists acts and methods, on the one hand, do provoke or give an excuse for serious violation of Human Rights and fundamental freedoms by the Government which feels threatened by terrorism and on the other hand, it has put into a difficult situation in maintaining and safeguarding the basic rights of the individuals in accordance with the relevant International Human Rights Instruments. It shows that there is inescapable link between terrorism and Human Rights violations. Terrorism is clear threat to the concept of Human Rights and underlies the creation of the United Nations and to the life and dignity of the individuals.”xv
Relationship between Human Rights and Terrorism

“Human Rights emanate from human feelings. They grow out of the feeling of injustice which human beings experience when their rights are being abused or denied. Human Rights introduce the idea of justice in the natural order of the world, thereby giving human existence a higher sense of purpose. The first and foremost human right is the right to existence or right to life.”

“There is a close link between Human Rights and terrorism. Terrorism obviously abuses the fundamental Human Rights of its victims, whether it is individual terrorism or state terrorism. The victims of terrorism are arbitrarily deprived of the fundamental Human Rights of life and liberty. Acts commonly covered under terrorism, whether committed by states or individuals are in fact, violations of fundamental Human Rights of those against whom they are perpetrated. But the dilemma of the situation is that those resorting to terrorism themselves call in aid the notion of Human Rights to support their claims for actions resorted to by them.”

“Torture, mass execution, forced servitude, mysterious disappearances, etc., are the most usual forms of State terror, where repressive Governments seek to intimidate and control their civilian population. It is a sad but true commentary on state of Human Rights in many States in the present day world. And yet it is a cruel joke that those very States often justify resorting to those practices on the ground of safeguarding the Human Rights of their people. Thus, quite often, to meet the threat of terrorism, the States over-react and in the process of eliminating terrorism they curb the Human Rights not only of the terrorists, but also of the rest of the society. Thus, the Human Rights and liberties are certainly diminished in the process of discovering, apprehending and convicting the terrorists.”

Terrorism and Human Rights are both terms that defy precise definition because they make their colour from the cultural, political, social and economic milieu that exists in the specific situation and at the time they are sought to be defined. Both of them are directly correlated to the evolutionary state of human civilisation. Human Rights are linked to the highly advanced state of the developing socio-political order. Terrorism to the contrary grows out of backwardness and obscurantist beliefs. Both terrorism and Human Rights are influenced by the spectrum of political, social, cultural and theological beliefs of the people, misconceived religious beliefs generally play significant role in the making of terrorism.

While Human Rights are based on concept of humanism, liberty and freedom, terrorism is based on hatred, subjugation, aggression and obscurantism. It is cultivated through extensive and intensive brain-washing of the mind of the immature young people. They are made to believe that the “divine power” has issued a command that they were the chosen ones and had the sacred mission to make everyone follow the faith they followed. Their mission is to change the world by teaching and preaching, and, if necessary by using terror, violence and oppressive discipline. For the indoctrinated individuals the words of their masters, the faith-commanders, become a divine command and a guaranteed passage to heaven.

“There is a growing consciousness of the International community of the negative effects of terrorism in all its forms on the full enjoyment of the Human Rights, Fundamental Freedoms, on the
establishment of Rule of Law and democratic freedoms as enshrined in UN Charter and the International Covenants on Human Rights. All States are required to suppress all and any forms of terrorist activities within their borders as terrorism represented globalisation of fear and contempt for the role of International Law. In considering Human Rights dimension of terrorism, it is not only the number of victims that should be taken into account but also its impact on the victims, the society and the state. Killing innocent people, destroying their property and creating an atmosphere of terror and fear in their minds violates the Human Rights of these innocent victims.”

3.12 TERRORISM AND RULE OF LAW

“The primary objectives of effective counter-terrorism efforts are to safeguard Human Rights, strengthen democracy and uphold the Rule of Law. The response to terrorism can neither be selective nor lead to unleashing a wave of unbridled repression, which would, as a consequence, enormously infringe upon the rights of the citizens. Thus, it is critical to strike a just balance between ensuring the security and integrity of the country and safeguarding the Human Rights of the people. Indeed, there cannot be any compromise in the effort to root-out terrorism from the country. The state is expected to, and should, take all possible legal, security, social and economic measures to neutralise terrorist groups. What, however, needs to be kept in mind is that in India, the largest democracy of the world, Human Rights of citizens, which are non-alienable and are guaranteed by the Constitution, cannot be allowed to be sacrificed.” Importantly, Article 21 (Protection of life and personal liberty, or Right to Life), Article 20 (Protection in respect of conviction for offences, or Protection against Testimonial Compulsion) of the Constitution cannot be suspended even during an Emergency. “Therefore, counter-terrorism efforts of the State should, under any circumstances, uphold the Rule of Law, observe Human Rights and follow due processes. Failure on the part of the State to do so would only alienate large sections of the population and unwittingly help the terrorists.”

BIBLIOGRAPHY

ii Id. at p.72.
iv Ibid.
ix Ibid.

x Id. at p. 125.
xiii Id.at, p. 412.
Ibid.


Id.at p.216.


Ibid.
