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Effects of Anti-Terrorism Law on Human Rights

KETAN JHA¹ AND SAURABH YADAV²

ABSTRACT

The paper argues that there are three simultaneous and interconnected prerequisites for the state to protect human rights while responding to terrorism: an objective understanding of terrorism, an unbiased assessment of the efficacy and boundaries of human rights, and a response to terrorism that is consistent with human rights. These are not only theoretical issues; rather, their significant practical ramifications imply that they ought to be recognized as the guiding concepts in practice and policymaking. With instances, the study also examines India's reaction to the issue of terrorism. The analysis highlights the necessity of the three criteria and demonstrates the basic and unbreakable connection between "fighting against terrorism" and "human rights."

Keywords: Terrorism, human rights, fighting, Ramification.

I. INTRODUCTION

India has had security laws in effect since gaining its independence in 1947. These laws are said to be focused on matters that pose greater and longer-lasting threats to daily living than, instance, minor crimes. These laws are intended to deter and penalize those who support or participate in organized crime, terrorist activities, separatism, and other socially harmful practices. In addition to federal regulations, several Indian states have their own laws governing similar risks. The strong and methodical criminal rules in India are enhanced by these safety laws. Government supporters of this kind of legislation contend that more focused action is required to address specific concerns, and that ordinary criminal law is insufficient to address them. This overt response is multiplied in a similar way, giving the law enforcement machinery more power than is allowed by ordinary criminal law. This appeal is rooted in the particulars of the Indian context, but it is also pertinent outside of India, especially considering the UN Security Council's call on members to monitor anti-terrorist laws at the beginning of a new century. One of the developing world's oldest constitutional democracies is India. Most South Asian legal and judicial systems are mostly based on Indian precedent. India's experience with security laws offers valuable insights into the vulnerabilities of other postcolonial democracies

¹ Author is a student at Thakur Ramnarayan College of Law, S.V Road Dahisar East, Mumbai, India.

² Author is a student at Thakur Ramnarayan College of Law, S.V Road Dahisar East, Mumbai, India.

in development and how to strengthen them in the creation of anti-terrorist legislation.³

The current procedures for government accountability under the Indian protection laws are inadequate and retroactive. To prosecute government employees who were working under security authorities, criminal charges must be specifically approved by the nation's governing bodies and cannot be pursued with the assistance of victims of human rights violations. The public rarely receives access to the best court's extraordinary powers of corrective and preventive judicial review, even though they may accomplish extraordinary things with them. Due to the requirement of paying criminal fees, delays are common when cases are brought before the highest court in New Delhi or any other Indian state capital. Any change to the nation's protection laws, whether it be procedural or substantive, would be challenging to implement because positive middle safety protections have resurfaced in multiple generations of Indian legislation. Modest modifications to government authority will, however, be easier to get support for than ones that eliminate it entirely. Such reforms stand a strong possibility of becoming universally accepted if they are enshrined in legislation. Even if the Supreme Court can display respect to the government, it has previously demonstrated that it is extremely reluctant to give up authority on issues relating to national security. The government has not presented any arguments to the court that would have eliminated its authority over executive authorities while taking security legislation into consideration. Owing to the natural political rivalry of a democratic election system, it is likely that the legislature will wish to maintain its own inspection and oversight powers. Even if they have mixed feelings regarding laws that curtail individual rights, opposing political parties are unlikely to back measures that weaken these authorities once they are established. Adding fine-grained checks and balances to protection legislation will not cause any delays in the intricate, rights-limiting operations. This will lessen the possibility that they will be employed to facilitate human rights abuses.

II. HISTORY⁴

National Anti-Terrorism Day is observed to pay tribute to former Indian Prime Minister Rajiv Gandhi, who was killed on May 21, 1991, at the hands of the terrorist organization Liberation Tigers of Tamil Eelam (LTTE).

The Indian government observed May 21 as National Anti-Terrorism Day in 1992 to honor Rajiv Gandhi.

⁴History (2023) Bloomberg. Available at: <https://www.bqprime.com/nation/national-anti-terrorism-day-2023-date-history-significance-bqc>.

III. SIGNIFICANCE

The national Anti-Terrorism Day is significant because it raises awareness of the pain of common people who have been hurt without cause, thereby alerting young people about the risks of terrorism. In the past, numerous anti-terrorism campaigns and programs had been organized to accomplish the goal. On National Anti-Terrorism Day, a variety of events and activities are planned to increase public awareness of the dangers that terrorism poses, particularly among young people. Seminars, workshops, open forums, discussions, and educational initiatives aimed at promoting harmony, peace, and resistance to terrorism are a few examples of these events. On this day, efforts and activities raising awareness are coordinated by the government, educational institutions, and non-governmental organizations.

(A) Eight signs of terrorism:

Terrorist acts can cause ripple effects through the economy that have negative impacts. The most obvious is the direct economic destruction of property and lives. Terrorism indirectly affects the economy by creating market uncertainty, xenophobia, loss of tourism, and increased insurance claims.

It is our civic duty as citizens to contribute to community protection in these uncertain and demanding times. We can contribute to Indiana's safety and security by being watchful and promptly reporting any odd behavior or occurrences.

Indicators of a potential event may occur weeks, months, or even years apart. Documenting details of events or behaviors witnessed is important, no matter how small or insignificant they may seem. Terrorist operations usually begin with extensive planning. You can help prevent and detect terrorism — and other types of crime — by watching out for suspicious activities and reporting them to the proper authorities.

The eight indicators of Terrorism listed below will be used to identify possible terrorist actions. A possible event's indicators can appear weeks, months, or even years apart. Whatever the size or significance of the events or actions observed, recording the specifics is crucial.

1. Monitoring

It is conceivable that during the preparation stages of an operation, terrorists will witness a targeted location. They take this action to ascertain the emergency personnel's capabilities, limitations, and potential response numbers. During this stage, suspicious activity could include someone using a vision-enhancing device, taking notes on maps or diagrams, recording, or monitoring activities, or possessing floor plans or blueprints of government buildings, financial

institutions, high-tech companies, or military installations. During the surveillance phase, routes to and from the target are also typically developed.

2. Questions⁵

Seeking additional information about a place, someone, or activity associated with the aim is the second indicator, inquiry. Terrorists may attempt to get details about a key infrastructure, like a power plant, water reservoir, marine port, military facility, bridge, or tunnel, by asking odd questions. Concerning usage and operations, they could pose inquiries. They might also attempt to place people in positions of actual employment at key locations to keep an eye on everyday activities and gather information to improve the efficacy of their strategy or goal.

3. Security Tests

Hackers may also use security tests to obtain information about a target. They might drive past the target, entering sensitive areas, and watching for a security or law enforcement response to accomplish this. They are probably evaluating the time it takes for staff to react to a security breach or the paths taken by responders to reach a certain spot. Terrorists may also try to breach physical security measures or obstacles to evaluate their advantages and disadvantages.

4. Obtaining money

Despite being one of the most difficult indicators to recognize, this one is crucial. Terrorist action will abruptly cease without funding. When it comes to acquiring, moving, and squandering money, terrorists are highly resourceful. Among the situations to watch out for are: (1) credit card fraud; (2) elder fraud; (3) strange requests for donations to respectable organizations; and (4) very big sums of money utilized in company activities.

5. Purchasing Materials

Terrorists may try to stockpile dangerous chemical equipment or buy or steal guns, ammunition, and explosives. They might also attempt to obtain the clothes, tools, or identifying marks of first including military personnel, to enter a protected place more easily. They might also attempt to get passports, other forms of identity, flight passes, or flight manuals. Should they fail to pilfer these kinds of items, they might try making fake replicas.

6. Suspicious or atypical Conduct

While it is incorrect to profile individuals, profiling habits might reveal questionable activity. Sometimes suspicious people simply "don't belong," or their actions appear strange. This could

⁵Significance (2023) Bloomberg. Available at: <https://www.bqprime.com/nation/national-anti-terrorism-day-2023-date-history-significance-bqc>

be someone who does not fit in at their place of employment, in a building, in a neighborhood, or at a business because of their mannerisms, the way they speak, or the questions they ask.

7. No-Go Runs

To

work out any glitches or unforeseen complications, terrorists may practice, or "dry run," before executing the final operation or plan. Though the planning stage of a terrorist attack usually involves multiple practice sessions in or around the target place, it might also center around a "dry run."

8. Terrorists may monitor police radio frequencies and emergency response times during a "dry run."

9. Allocating Resources and Assuming Position

An individual's last opportunity to notify authorities prior to the terrorist act taking place is during the mobilizing resources or positioning phase.

IV. INDIA'S ANTI-TERRORISM LAW AND THEIR APPLICATION⁶

India has had and continues to have many strict laws designed to fight terrorism, but state authorities frequently use them as an excuse to violate human rights. These laws include the Armed Forces Special Powers Act, the 1990-Armed Forces (Jammu and Kashmir) Special Powers Act, the Disturbed Areas Act, the Prevention of Terrorism Act, the Essential Services Maintenance Act, the Assam Preventive Detention Act, the National Security Act, and so on. The implications on the human rights of marginalized communities and vulnerable populations will be particularly severe in areas where the public has shown resistance to the laws, even if they are implemented consistently across India. There are serious human rights issues arising from India's antiterrorism laws. The Committee on International Human Rights of the Association of the Bar of New York did study on security laws in India. Despite occasional attempts to limit the application of these regulations, the general outcome since independence has been to maintain the pattern. Overall, this pattern has led to a propensity for the employment of extraordinary powers to become routine or institutionalized during times when they are not needed for emergencies. The report also notes that the following issues are brought up by Indian antiterrorism laws.

- clauses mandating that the presumption of innocent be violated in order for courts to make unfavorable conclusions about the accused.

⁶Evolution of India's Anti-Terrorism Law (2022) Centre for land warfare studies. Available at: <https://www.claws.in/evolution-of-indias-anti-terrorism-law/>.

- Excessive and ambiguous definitions of terrorism that fall short of fulfilling the legality principle.
- pre-trial inquiries and incarceration practices that compromise one's right to a fair trial, personal freedom, and due process.

Detention without accusation or trial over extended periods of time seems to have been the rule rather than the unusual exception in most jurisdictions. The Committee on International Human Rights of the association of the Bar of New York asserts that the application of these laws has differed significantly between states, permitting discriminatory and arbitrary enforcement based on caste, religion, and tribal status; infringements on free speech and associational rights; the misdemeanor prosecution of normal crimes as terrorist offenses and grave abuses and unlawfulness by the police, including torture.

V. ACT OF 1985 FOR THE PREVENTION OF TERRORIST AND DISRUPTIVE ACTIVITIES

TADA, which was in force until 1995 and whose provisions are still in effect today, defined a few new, substantive offenses related to terrorism that are applicable nationwide. These offenses could be prosecuted, by state government across the nation without the need for a central government declaration that the location of the offense was "terrorist affected."

The TADA's procedural regulations differed in a few ways from both standard procedure and criminal law. Confessions made to a police officer may be admissible as meaningful evidence, according to TADA. A substantial body of evidence indicates that TADA's broad authority permitted widespread incarceration and a range of police mistreatment, such as extortion and abuse, particularly in the Punjab Police mistreatment was common. Gujarat is one instance of this.

(A) The Prevention of Terrorism Act (POTA) and the Unlawful Activities Prevention Act (UAPA) enacted in 2002.

The TADA was replaced by the Prevention of Terrorism Act (POTA) of 2002. POTA contained several controversial TADA clauses. In 2004, the government repealed the Prevention of Terrorism Act (POTA) and strengthened the 1967 Unlawful Activities Prevention Act (UAPA).

A sunset provision in POTA allowed the Central POTA review committee a year to examine all cases that were already under review. To examine the cases filed under POTA, the government formed three central review bodies. By September 2005, the committees were supposed to review every case filed under POTA; nevertheless, the end of the year, many cases remained unreviewed, and at least 400 According to AI, people were still being held. In

addition, even after POTA was repealed, the government was still permitted to make additional arrests under its sunset provisions as long as they were connected to an ongoing POTA case.

Even if the government was not involved in the case, it was still possible for them to reopen it under POTA and issue a new indictment. It has the option to prolong the one-year review period, but as of the end of the year, it has not. According to the statute, all instances recorded under POTA must be reviewed by government-constituted review panels by September 20, 2005. The POTA review committee stated in its June 2005 report that 11,384 people had been falsely charged under POTA when they had been obligated to pay under ordinary law. POTA and UAPA provisions are still being used to detain individuals for protracted periods of time before official charges are brought. Human rights organizations stated that there were significant improvements between POTA and the new UAPA. For instance, it prohibits the admission of forced confessions as evidence in court.

The national human rights Commission released extensive arrest provisions in February 2005. These included proving guilt beyond a reasonable doubt, Protecting the dignity of the arrested and granting access to legal representation during questioning. Police frequently disregarded these directives.

(B) Human Rights Watch (HRW) Described The Special Public Protection Act (SPPA):⁷

Human Rights Watch claimed the statute jeopardizes the fundamental liberties and safeguards outlined in the constitution by ambiguously defining what "unlawful activities" are. The ordinance, according to the public union for civil liberties in India lawsuit, "may result in harsh and drastic punishment to innocent persons without hearing or remedy" and is "amenable to gross abuse and misuse, arbitrariness and partiality."

a. Rights of humanity and the war on terror

People may be prevented from exercising their rights to life, liberty, and physical integrity by terrorism, particularly those who have been harmed by it. It has the power to upend and destabilize entire societies, put safety and security in danger, and impede the advancement of social and economic conditions. It takes all necessary steps to achieve its goal of forcing the opinions of a minority upon the majority. The cornerstones of upholding human rights—democracy and the rule of law are the objectives of terrorism.

In addition to having a responsibility to protect state integrity and citizen lives, states must be

⁷Human rights watch - HRDN - human rights and democracy network (2019) HRDN. Available at: <https://hrdn.eu/human-rights-watch/>.

able to take the required measures to combat terrorism. The protections against terrorism offered by human rights law eliminate the necessity for a "trade-off" between human rights and successful counterterrorism strategies like other international human rights documents, the European Convention on Human Rights (ETS No. 5, "the Convention") may be construed to permit states to implement proportionate and reasonable measures to protect democracy and the rule of law from the threat of terrorism.

The entire foundation of international human rights is threatened by the false and counterproductive notion of a "war on terror." Though they are sometimes classified as crimes against humanity Terrorist are not soldiers; they are criminals, and their atrocities do not constitute acts of war.

Even though interim counterterrorism measures were deemed necessary at the time of their adoption, there is a risk that they will become permanent even after conditions have altered. If there are limitations on personal freedoms, it is important to keep assessing if they're still required.

The Parliamentary Assembly believes that the criminal justice organization with its built-in and well-proven trial secure to guarantee everyone is right to liberty and assumption of innocence, should be the primary mechanism for dealing with acts of terrorism. Coercive administrative actions for preventative purposes must be used sparingly, only as a last resort, and be subject to stringent guidelines that include minimal standards for evidence and proper judicial and political control. They must abide with international human rights law to the letter.

To make sure that the results of any counterterrorism program adhere to Council of Europe standards, particularly the European Convention on Human Rights as interpreted by the European Court of Human Rights, member states must periodically evaluate their domestic laws and procedures. A parliamentary investigation on Resolution 1822 (2011)'s reform of the Parliamentary Assembly is necessary.

VI. TERRORISM IN INTERNATIONAL LAW

The process of creating international legislation to combat terrorism has been fraught with difficulties, mostly stemming from the inability to agree upon a uniform definition of the term. A set of guidelines¹² regarding where to draw the line so as not to infringe upon other international treaties or accords has been published by the Council of Europe.

Key points included in the guidelines are as follows:

- adherence to the law regard for human rights and the outlawing of discrimination.

- Torture is strictly forbidden: "In all circumstances, the use of torture or inhuman or degrading treatment or punishment is prohibited."
- Personal data processing and collection must be legitimate and appropriate for the intended purpose.
- Policies that affect privacy must be covered under the law.
- Only when there are solid grounds for accusations of terrorist activity may someone be taken into custody, and even then, they must be told why they are being suspected.
- Anyone suspected of engaging in terrorist activities has the legal right to a fair hearing before an independent, impartial tribunal within a reasonable amount of time. They benefit from the presumption of innocence.

"A person deprived of his/her liberty for terrorist activities must in all circumstances be treated with due respect for human dignity."

"The extradition of a person to a country where he/she risks being sentenced to the death penalty or risks being subjected to torture or inhuman or degrading treatment may not be granted."

Sacred rights that states cannot violate are the right to life as guaranteed by these international instruments, the prohibition against the retroactive application of criminal law, the principle of the legality of sentences and measures, and the ban against torture and inhuman or degrading treatment or punishment.

VII. TERRORISM EFFECT JORDAN AND PALESTINE ECONOMY

As it has in many conflict-affected and unstable places, terrorism has had a major negative economic impact on both Palestine and Jordan. It's crucial to remember that depending on the type and intensity of the attacks, the effects of terrorism on these economies might change over time. Some of the general consequences are as follows:

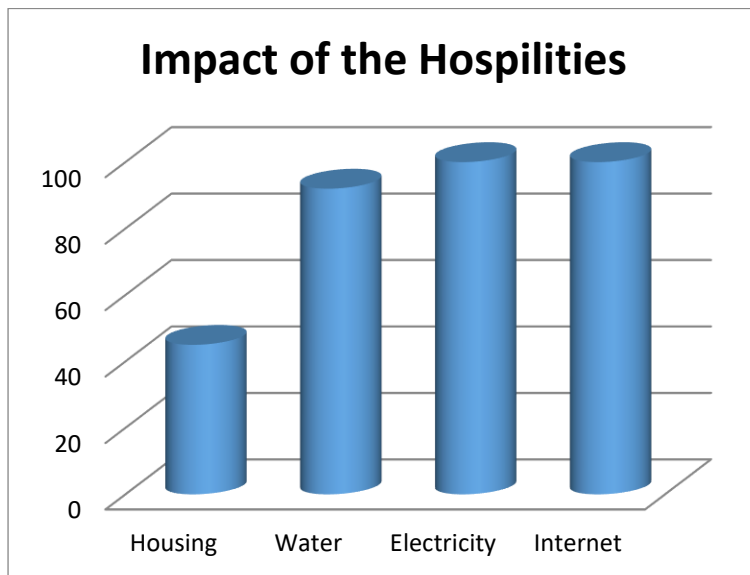
(A) Jordan:

- Tourism: Because of its closeness to conflict zones, the region is perceived as unstable, which has negatively impacted Jordan's tourism industry. Attacks by terrorists or unrest in the area may discourage travelers from traveling to iconic historical and cultural locations like Petra and the Dead Sea, which would reduce earnings from this significant sector.

- **Investment:** Foreign investment may decline because of terrorism. Economic growth may be hampered by investors' reluctance to allocate funds to an area they consider insecure.
- **Security Costs:** Fighting terrorism frequently requires governments to devote a considerable percentage of their funds to this endeavor. Alternatively, this money could be used to fund healthcare, education, or infrastructure projects.
- **Reduced Trade:** Because Jordan's economy depends on trade with its neighbors, terrorism has the potential to obstruct trade routes and reduce cross-border trade. **Job Losses:** As businesses struggle to operate in an environment of uncertainty, job losses may occur in industries like tourism, transportation, and hospitality.

(B) Palestine:

- **Infrastructure Damage:** Roads, utilities, and buildings have all sustained major damage because of the ongoing violence and terrorism in Palestine. The economy is hampered by the cost of reconstruction.
- **Decreased Investment:** Foreign investment may be deterred by the ongoing threat of terrorism and political unrest. Less money will be available for employment growth and economic development as a result.
- **Unemployment:** Palestine has a long history of high unemployment rates, which can be made worse by the financial fallout from terrorism since it is difficult for companies to operate in a conflict area.
- **Human Capital:** The growth of human capital can be impacted by terrorism and conflict, which can cause disruptions to health and education systems. Economic progress depends on having a workforce that is both healthy and educated.
- **Help Dependency:** Because of the prolonged conflict and political climate, the Palestinian economy is highly dependent on international help. Aid reliance may result from the redirection of resources to deal with the aftermath of terrorism.



BASIC SERVICES

- 11th days stock left
- Health: **1/3** Hospital shut
- 2/3 Primary health care shut down.
- 7703 dead
- 19450 injured
- At least 1700 peoples trapped under rubble

VIII. CONCLUSION

Although we can draw the conclusion that the law and its implementation may need some adjustments, doing away with it poses a greater risk to national security because, as a major country in South Asia with neighbors that have erratic political and military regimes, we are plagued by an influx of terrorists, necessitating the need for legislation to prevent it. A law of this kind would also be able to restrict fundamental rights more freely than other acts or laws, given its seriousness and significance for the country's security. However, while a potential change or a comprehensive investigation is conducted against the act's flaws and potential misuse, a program aimed at restoring residents' faith should be implemented to allay their fears. anti-terrorism measures. This can only be accomplished by the fast and unbiased implementation of the law in reaction to any hint of a developing situation. When it gets to this stage, the issue becomes much too complex for the police to handle alone, without the assistance of security professionals and the application of specific laws. Strategies for combating terrorism combine military, political, and diplomatic measures. However, India's main strategy is to

deploy force, which is ineffective and exacerbates political violence. This needs to change.
