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Human Rights, Understanding Terrorism and Counter Terrorism

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ABSTRACT

Human rights are the basic rights and freedom that is prescribed to every human from the time he/she is born. These rights can't be taken away and are based on the principles of dignity, fairness, equality and respect. In the contemporary world, Terrorism is the illicit use of brute force to overawe the government, the civilian population, any segment thereof to achieve political objectives. Terrorism are the worst rated crimes to exist and it's results are shambolic that results to the loss of human lives, economy fluctuating and so on. Pre-emptive actions need to be taken in order to combat terrorism. United Nations have been condemning terrorist attacks and organizations like NATO are combating terrorism with Counter-terrorism. The concept of Counter terrorism is to basically retaliate and eliminate terrorist groups. But implementing counter-terrorism is of a great difficulty. Human rights activists believe that counter-terrorism is of a great threat to the civil liberties and it involves illegal detention and restriction to right to freedom. For the prevention of terrorism through counter terrorism it is necessary that the security personnel's have a good knowledge about weapons and terrorist tactics. Security personnel are people who are high ranked security officers with a deep and vast knowledge of their field. In India especially these forces play an important role in guarding the border and controlling civil unrest. Security personnel enjoy the right to preventively detain anyone they find suspicious, question the detained. They may even go on to search and seize good of any person under their jurisdiction who they find to be a subject to any terrorist group. But with these rights comes restrictions and United-General Assembly adopted on 1979 that Security Personnel shall respect human life as they have to abide by the International covenants against torture and other cruel punishments.

Keywords: UN (United Nations), Human Rights, USA, Terrorism, Counter-terrorism, Administration

I. INTRODUCTION

Human Rights a highly prevailing word in the 21st century. The gambit of human rights is huge and each and every individual is entitled to their own respective human rights. The history of

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Human Rights can be dated back to just after the World War 2 ended, the catastrophic loss of human lives brought the United Nations into action to constitute its own document, the UN Charter in 1945. Thus from here on Human Rights was firmly fostered into International Law and since then promotion and encouragement of human rights can be observed through various International organizations and NGO's who are committed to fundamental freedoms of the individual. Since then the United Nations adopted various models and treaties to ensure and protect Human Rights and the most notable among all of them being the Universal Declaration on Human Rights which it adopted in 1948. The UN also has appropriated several other bodies for the implementation of Human Rights like Human Rights Council. There are many ways as to which Human Rights are violated for instance – Genocide, Torture, Execution, Arbitrary Arrest and even Terrorism. These violations mostly occur during the time of war and result in huge human loss. Terrorism has a proportional effect on human rights with aftereffects of it on Human Life, and the right to life and liberty and physical integrity of one.

II. TERRORISM

Terrorism is the use of brute forces and is a global phenomenon, it varies in its shape and form. Terrorism can be a violent attack, it can be the use of bio-chemical, it can be to wage an economic war and so on. The motive and intent of terrorism remains the same even in different forms that is to overawe the government and instil a sense of fear among the general public. Terrorist attacks can destabilize and imperil a society and threaten economic integrity and social life, it attacks the pillars of democracy. Terrorism is essentially a group activity rather than individual activity, these terrorist groups run an agenda against the government leaders and policies. Terrorism however is not something that emerged just decades before, it can be dated back to 1917's when a bomb planted by a group of Anarchists killed 9 Police officers in Milwaukee. Then in 1919 some Anarchists planted some set of bombs across 8 cities including the House of Attorney General. After all the events of World War I and World War II, in the period of 1960's religious sentiments started taking over and the formation of groups started. These groups had the vision of instilling fear and rise in power. The extremist groups of Palestine – The Al Fatah, for instance began to target innocent civilians. The extremist Palestine groups were also responsible for the Munich 1972 events, where they kidnapped and killed Israeli Athletes. Further the Iranian revolution of 1979's was a turning point in the history of terrorism as it led to the birth of many radical Islamist groups. The groups were post jihad, and trained militants with barbaric style of killings and no mercy, they recruited young volunteers and taught them the ways of battling and jihad. The whole decade between 1979-1989 was the period of stimulation in the growth of terrorism. A Syrian state sponsored group and Iran backed

– Hezbollah was killing civilians and spreading their ideology. Hezbollah launched the use of Suicide bombers in the middle east, and was also responsible for the killing of 241 US Marines in Beirut. They were even kidnapping and assassinating U.S State officials and civilians. Even in India, terrorism prevailed during that period with the regular Hijacking's of flights with the motive to release prisoners, the assassination of Prime Minister, the attacks on Mumbai and many more. Furthermore, the disintegration of Soviet Union made it easy for Terrorists to do their activity, with the areas of Balkan, Africa and Afghanistan facing instability due to the government and de-colonization, the recruitment and smuggling and trafficking of drugs and weapon became easy. With the transportation route and communication being convenient it became easy for the terrorists to carry out more potential lethal attacks. Many groups in Afghan region grew to power for instance the Taliban, but even prior to Taliban there were Al Qaeda led by Osama Bin Laden and other local groups. However the world caught it's eye to the most mainstream terrorism attack that is the 9/11. The hijacking of 4 flights that eventually led to the first two crashing in the World Trade Centre and other one crashing in Pentagon and the last one at a field in Pennsylvania. This attack was carried by the Osama Bin Laden led Al Qaeda. These attacks are considered as one of the most atrocious terrorist attacks ever with almost 3000 casualties and more than 25k+ injuries reported, and it also inspired other series of attacks in Madrid, Bali, London and others. This was one of a major attack of human rights with the violation of enjoyment to right to life, physical integrity and liberty of an individual. It also destabilized U.S for the damage it faced.

(A) Religion and terrorism

The goal of Osama Bin Laden was to create a pan-Islamic Caliphate throughout the world. He wanted to overthrow the western regime and establish Islam. He even went on to issue a warrant (fatwa) in 1998 stating that all Muslims should kill American citizens. Osama even finance his activities and he had about 300million for that. Osama directly established the link between religion and terrorism. Terrorism motivated by religion is what we see in today's world and it is totally a menace. As per data, 20percent of 50 well known terror groups are religion driven. Be it ISIS, Taliban, Lashkar-E-Toiba every of these groups are inspired by religion. In 2019, on Easter Sunday Mass Bombings were done by the ISIS in Sri Lanka on a day that is supposed to be a big festival for the Christians.

III. COUNTER-TERRORISM

The horrors and aftereffect on 9/11 shocked the World entirely. It awakened the world to come together, unite and defeat terrorism. As a part of fighting terrorism and new foreign policy post

9/11 George. W. Bush the then President of US proclaimed the right to wage preemptive wars against the states that threatens the territorial integrity of US. “Preemptive” means striking in advance. The immediate way of retaliation was the US-led coalition of Afghanistan in 2001 that disassembled the Taliban and AL-Qaeda infrastructure, and also were able to capture the operational leader behind 9/11 that was Khalid Sheikh Mohammed in 2003 and the most famous killing of the mastermind behind 9/11 Osama Bin Laden in 2011 in his native home (under the Presidency of Barack Obama). This method of retaliation is the concept of Counter Terrorism, it is basically fighting terrorism and countering it. Its basic aim is to eliminate terrorist groups or leaders. For United States Armed Forces, it’s a foreign internal defence system. To fight the common threat using counter-terrorism, military agencies need to be trained, conduction of joint operations and training need to be organized, advancement of technology is an essential so as to track terrorists and one must have expertise in it. Since the September 11 attacks there has been an expanding relief in the government funds for counter-terrorism. Commando Raids are another pillar of Counter-Terrorism, these are state sponsored air striker or raids by trained commanders to hunt down terrorists, and these type of raids also decreases the risk of injury on civilians and increases the accuracy of the attacks. Another way of fulfilling the counter-terrorism is Assassination though not much appreciated by the Human Rights experts. The best example of this is the Israel way of battling and assassinating terrorists during the Munich 1972 massacre. With the codename of “Wrath of God” these Israeli forces eliminated the leaders and followers of “Black September” the group that was responsible for the kidnapping of athletes. The killing of Osama Bin Laden was a joint and military raid operation. Last but not least, Diplomacy is the option that always remains open, normally terrorists demand something from government and if government officials need to talk they can negotiate the demands or fulfil it or reach a common consensus. This is diplomacy, though many countries don’t negotiate with terrorists or refuse to do so, this was prevalent during the Nixon Administration and even during the governance of Indira Gandhi. In 1980’s India had flights hijacked by extremist groups and they demanded the release of prisoners and money. Mazood Azhar the most wanted terrorist was released after the flight IC-814 was hijacked in 1999, he not only was released he went on to regroup his terrorist organization the Jaish-e-Mohammed and launched a set of deadly attacks on the Indian Parliament in 2001 and Mumbai in 2008. Obama administration introduced “Drone strikes” as a new way to keep it lowkey and battle terrorism, in this kind of attacks air force missiles were used and drones were sent to keep an eye on leaders. In July 2015, a missile fired from an UAV killed the Al-Qaeda leader Mushil Al Fahdri in Sarmanda in Syria. But these drone and missile attacks are considered controversial in the eyes of many, they can be mistimed

and have some un accuracy and tend to hit the wrong target, or it can have a large impact to kill the surrounding humans and neighbours. Even India responded to the Pulwama attacks of 2019 with air strikes in Balakot. There were many differences in the ideologies of the counter-terrorism of Obama administration and Bush administration. While the Bush administration was known for its aggression it followed the policy of Unilateral use of force so as to make world a better and safer place. By this it means, to immediately respond back to imminent threats, it was essential for the self defence and welfare of the country and to eliminate all the dangerous elements. It relied on the Cold War policy of “deterrence”. Deterrence is the method of discouraging an action through instilling fear in the mind of enemy. Meanwhile, the Obama administration was all about investing in the State’s military and advancing technology, for him a strong national system begins at home so to empower it completely and invest in it. He strengthened the military and sent them to Afghanistan as a part of his campaign, more than unilateral Obama followed the way of Multilateral attacks which includes forming and attacking in alliances. Big international organization like NATO has a unit for counter-terrorism as well, NATO is basically a security alliance of countries from North America and Europe. It was formed during the cold war era. NATO is very strict towards protecting all of it’s member state’s and any attack on one is considered an attack on all. NATO guides the Iraqi forces and is a member of Global Coalition Mission to defeat ISIS. The United Nations has a separate body that is United Nations Office of Counter Terrorism (UNOCT), to battle terrorism, it works in a way so as to the Human Rights are complied and preserved as well. It has set up border security forces in the vulnerable areas and also monitors cyber threats. The UN mainly works for human rights, so it doesn’t necessarily use violence and threat to combat terrorism. In the Russia war of Ukraine, UN imposed heavy economic sanctions and ban on trade resources of Russia and economically funded Ukraine to battle. UN even went on to impose heavy sanctions against Iraq in 1990, after they invaded Kuwait. The original motive was to let these sanctions persist Iraq to withdraw their invasion. UN expressed the goals of elimination of weapons of mass destruction from Iraq and withdraw troops and condemned the attacks, it also forced Iraq to pay heavy debts. In 2011, under the UN Charter’s chapter VII, The United Nations Security Council put sanctions against Libya for the use of violence and force against common civilians. These are just common examples of how UN battles terrorism without the use of any force.

(A) Counter-terrorism and violation of human rights

Counter-terrorism though a necessity to eliminate terrorism has many a times violated the grounds on which human rights is based on. The primary example of it can be showcased through the case study of Guantanamo Bay. The Guantanamo Bay was a detention camp in the

coast of Cuba. The camp was established by the US President George. W. Bush following the 9/11 attacks and his policy to fight terrorism. Indefinite detention without any proper trial was taking place and hence this camp was considered to be a major breach to the human rights by Amnesty International. The Bush administration ensured that the detainees of the camps were not entitled to any protections under the Geneva Conventions (it ensures humanitarian treatment during the times of war). The prison was used to house Muslim Militants and suspected terrorists captured by US during the invasion of Afghanistan and Iraq. Guantanamo Bay was a place of unparalleled monstrosity, with the improper ways of torture and other inhuman, cruel, animal like treatment against the hundreds of men that were bought here and snatched with their basic fundamental and human rights. More than hundreds of people were detained in this camp as soon as it opened without any proper reason and legally without any means to challenge the detention. The camp was heavily criticized by the human rights organizations like- Amnesty International, Human Rights Watch, International Committee of the Red Cross for the alleged violation of human rights and cruelty during the interrogation. Even though the Bush administration denied of these claims, Susan J.Crawford who was appointed by Bush to review DoD practices and oversee trials became the first person to enclose that Torture in fact did occur. He said “We tortured Mohammed Al-Qahtani” one of the prisoners arrested. Though many equations changed after Obama came into presidency in 2009, his whole campaign being based on the closure of Guantanamo Bay, the process got delayed but initially it did happen in 2013 with 166 detainees of the camp getting transferred or released.

Soon after the attacks the United States began to arrest the people who were a good fit to the profile of hijackers – mostly male, Arabic or Muslim immigrants/non-citizens. According to a survey more than 1182 were arrested as of 1 month after the attacks. After some years of the release some detainees (name undisclosed) shared their experience – one said that he got arrested just because he seemed anxious to buy a car, another one was arrested just because he was working on a school construction site. Yashin Aref a person who was arrested lived 15 years in Jail due to the US Islamaphobia.

Another con of Counter-terrorism is the harm it can incur to the common civilians. Often, during the raids or attacks on terrorists, the capacity of the attack is such that it harms the adjoining neighbours and people as well. The attacks and raids on countries to fight terrorism post 9/11 has taken a massive toll on the lives of citizen. Estimated 300k+ have died violently during war. Usually these are people living in War zones, and have been killed by dangerous weapons like IEDs and Drones, sometimes they tend to step on cluster mines and bomb. My heart goes to all living in these zones.

IV. SECURITY PERSONNEL AND RIGHTS

Security Personnel are the high ranked officials entrusted to guard any organization, building, political leaders etc. Their work is to be on their toes 24/7 and look out for any potential threats that can harm the integrity of the country. Security Personnel's are required to go through a tough phase of training and generally have to be more skilled than the normal soldiers. They should have a good knowledge of – terrorism, physical security concepts, security equipment and machinery's, martial arts and so on. They should also be efficient in the approach towards bomb, searching and defusing it up. Israel has Mossad, US has CIA these organizations have top most and best security personnel in the world. With so many responsibilities come's many certain rights which a security personnel is free to perform under his jurisdiction. He/she is free to arbitrarily arrest anyone as prevention also known as preventive detention, interrogate the accused and withing the course of interrogation the right to seize the property of the accused. Another right is the use of weapons and arms when needed for self defence or as a measure of necessity. They can even search the person they doubt whenever they wish to. They have such vast responsibilities under their shoulders but the United Nations General Assembly on 1979 adopted that they should comply with human rights and the international covenants against cruel punishments so as to these powers are not misused by them. Many security personnel can go on their way to abuse and torture someone during the course of interrogation, hence these strict laws.

V. CONCLUSION

Terrorism is a truly evil phenomena that needs to be fully eliminated in my view but there are better way to counter terrorism that doesn't affect the common civilians and don't violate any human rights as well. In order to achieve this I think imposing sanctions are the best options or keeping it lowkey and assassinating the deadly terrorists, just like the Mossad way which is the Israeli security agency. Cruel Punishments in my opinion are just a way too much as sometimes there is no clarity as to the one who is arrested. I think even security personnel play an important role in wellbeing but they should just stick to their jobs and not misuse their powers.

VI. REFERENCES

- <https://ncert.nic.in/vocational/pdf/iesg102.pdf>
- <https://www.corteidh.or.cr/tablas/r32535.pdf>
- <https://www.tandfonline.com/doi/abs/10.1080/09546551003689399>
- <https://www.nytimes.com/interactive/2021/us/guantanamo-bay-detainees.html>
