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# Law and Policy Against Terrorist Activities in India: A Critical Study

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## ABSTRACT

*Terrorism has emerged as a contemporary menace to global tranquility, specifically posing a significant risk to India's national security. Terrorists are enhancing their intricacies and capabilities in every facet of their operation and assistance. The accessibility of weapon technology has significantly upsurging, and terrorist organizations are gaining more purchasing power due to the easy availability of both technology and skilled persons to operate it. Terrorists pose a momentous threat not only to the verity of democracy and freedom, but also to the survival, strides, and growth of humanity. There is a requirement for Onerous measures to avoid terrorism. If a law concerning terrorism is implemented, it should be crafted with such strictness that the offender is held accountable and does not escape vengeance due to any legal loopholes or gaps. The necessity of enacting herculean legislation to address terrorism should not be underestimated. However, the issue lies in the execution of these laws and the potential misuse of authority granted to the authorities under such legislation.*

**Keywords:** *Onerous measures, Vengeance, Stringent legislation.*

## I. INTRODUCTION

Terrorism has become a global phenomenon, affecting almost every country and leaving very few untouched by its pernicious impacts and repercussions. Terrorism has become a highly troubling entrenched issue due to the upsurging frequency of terrorist acts in recent decades. Today, terrorism has become a prominent concern that directly impacts both individuals and governments worldwide. Almost all countries have been subjected to the actions of these wrongdoers. Terrorists have significantly influenced and altered international relations on the global stage over the past thirty years. These terrorist organizations participate in various types of activities that capture the public's attention and promote their causes. They engage in acts such as assassinations, kidnappings of diplomats and politicians and their family members, bombings of crowded areas, embassies, businesses, and places of worship, hijackings, piracy,

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and threats of nuclear terrorism. These actions have instilled significant fear and uncertainty in public life, ultimately disrupting global peace, tranquility, security, and order.

Due to globalization and advancements in technology, terrorism has expanded beyond national borders and now operates on an international scale. There is currently no universally recognized definition of terrorism, which is considered a deficiency. Terrorism can be defined as the deliberate utilization of force, or the expression of a forceful intention, with the aim of instilling fear in individuals as a means to accomplish a political, social, or religious objective.

It is a performance that has an impact on the audience that goes beyond the immediate victims. The primary objective of these terrorist attacks is to induce a sense of dread among the general population, leading to an exaggerated response, and to highlight the government's inadequacy in addressing such actions. These incidents are designed to manipulate the public's psychology rather than to achieve the goals of the terrorist activity. Terrorists typically employ psychological tactics to manipulate governments by infringing upon the rights of the civilian population and compelling them to comply with their demands. Over the years, terrorism has undergone significant changes, and numerous countries worldwide have fallen victim to these crimes, with only a handful of nations remaining unaffected. In light of its context, the current research will provide an overview of the origins and specifics of terrorism. It will also examine the legislation pertaining to terrorism, namely TADA, POTA, and UAPA, as well as the circumstances surrounding their repeal. The current law in effect, the NIA Act, will be analyzed to assess its effectiveness in combating terrorism within the country. Additionally, this analysis will assess the legislation concerning terrorism within the international framework, as well as the laws belonging to the United States. The effect of terrorism, which involves the infringement of human rights, will provide a more comprehensive perspective on the subject. In the dynamic global landscape, characterized by widespread warfare and terrorist actions, this study aims to provide a catalyst for comprehending the issue of terrorism and propose effective strategies for countering such crimes.

Over the past three decades, the menace of terrorism has significantly increased. The proliferation of technology has heightened the peril of terrorist activities. Only a small portion of the surrounding remains unaffected and undamaged by the current allure of terrorism. Terrorism is the act of using violence against the general public in pursuit of political or religious goals. Terrorist and its acts are orchestrated to garner significant pivot. Terrorists employ acts of hooliganism to instill fear in a group of people or exert pressure on the government to comply with their demands or refrain from certain actions. Several nations provide assistance and lethal weaponry to terrorist organizations with the intention of

undermining other countries. Terrorism typically involves minor factions engaging in armed conflict against more prominent and better-equipped governments. Terrorism has become a global phenomenon. Currently, the world is confronted with numerous factions of terrorists. The primary cause for the formation of terrorism is the exploitation of the less privileged and impoverished segments of society by the affluent and influential. Their pacifist endeavor to engage in nonviolent protest proved fruitless. Therefore, they chose to employ violence in order to achieve the desired outcomes. These actions of violence are also referred to as terrorist activities. Terrorism can be motivated by several factors such as religious beliefs, linguistic differences, or the desire to establish a new form of governance.

### **(A) Meaning**

Terrorism derives from the French term "terrorisme," originally denoting State-sponsored acts of terror perpetrated by the governing body of France during the "reign of terror" from 1793 to 1794. The French term "terrorisme" is derived from the Latin verb "terreo," which means "I frighten." The terror cimbricus denotes a moment of intense fear and urgent crisis that took place at Rome in 105 BC, triggered by the imminent arrival of troops from the Cimbr tribe. The Jacobins cited this as an illustration while implementing a "reign of terror" during the French Revolution. Following the loss of power by the Jacobins, the term "terrorist" started being used to slander or mistreat individuals. The term "terrorism" originally denoted violent actions perpetrated by governmental entities. Nevertheless, it is currently prevalent to characterize the intentional selection of non-military individuals for social, economic, and political reasons, with the aim of attracting media coverage. The modern concept of terrorism can be attributed to "Sergey Nachayev," who self-identified as a terrorist.<sup>4</sup>

Terrorism is a belligerent and illegal action that has a pervasive effect, impacting not just the immediate target but also the broader population. Terrorists utilize acts of violence as a strategy to capture the attention of local inhabitants, governments, and the global population in order to promote and bring awareness to their cause. The effectiveness of a terrorist act does not just depend on the degree of brutality, but rather relies on the reaction of both the general population and the authorities in question. At the 1972 Munich the Olympic Games, the terrorist group called the "Black September Organization" executed an assault that led to the killing of 11 Israelis. Although the Israeli players were directly affected, the main target associated with this terrorist act was the wider audience who watched the game on television. The assailants sought to induce terror in the spectators, which was their primary goal. Terrorism can instill dread due

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<sup>4</sup> Crenshaw, Martha, *Terrorism in Context*, 77 (Pennsylvania State University Press, 2007)

to the possibility of physical harm, deadly outcomes, or destruction of property. In November 2004, the Secretary General of the United Nations issued a report that defined terrorism as a purposeful act intended to cause death or serious physical harm to civilians or non-combatants. The primary goal of terrorism is to create fear among a population or exert pressure on a government or international organization to act or abstain from certain actions. The international community does not have a universally agreed-upon legal definition of terrorism. Terrorism, as often defined, is specifically to acts of violence that are intentionally directed towards individuals with the purpose of inducing fear, with the ultimate goal of attaining religious, political, or ideological objectives. Modern definitions are expanding to include acts of violence and warfare. Criminal organizations frequently utilize such strategies to protect their illegal operations, which are generally not categorized as acts of terrorism. However, if these exact criminal acts are perpetrated by a politically motivated organization, they may be classified as acts of terrorism. The phrase has been subject to criticism due to its inclination to exclusively identify it with Islamism or Jihadism, while dismissing non-Islamic organizations or persons.

## **II. HISTORICAL BACKGROUND**

Throughout history, terrorism has been a well-documented phenomena. In the past, numerous entities and situations have been directly or indirectly associated with terrorism, whether rightfully or erroneously. The term "terrorism" is inherently controversial and lacks a universally agreed-upon definition. It has been characterized as a form of violence that arises from conflicts. The origins and utilization of terrorism can be traced back to the 1st century. During the AD period, there were Sicarri Zealots. In the region of Judea, there were instances of intergroup hostilities that were classified as acts of terrorism. The initial appearance of modern terrorist cells was demonstrated by the fanaticism in the region of Judea. They clandestinely executed a covert operation to eradicate the Roman occupation forces and the Jews, whom they perceive to be aligned with the Romans. They were unwilling to make any compromises. Their objective was rooted in the belief that it is impossible for them to maintain loyalty to Judea while living as Romans. In the end, the extremists' campaign became public, and they were ultimately overwhelmed and compelled to engage in mass suicide. Another group that was identified as a terrorist organization was the Assassins. They defined and described the contemporary form of terrorism that is recognized in the present day. In Shia Islam, a distinct faction employed the strategy of politically executing rival leaders. This branch of Islam was affiliated with the Nizari Ismaili group. They held the belief that limited powers have the capacity to deter open conflict. Their leader founded this religion in the mountainous regions of

Northern Iran. The plan involved deploying a lone someone who was prepared to sacrifice their life in order to assassinate their adversary. It instilled profound terror among their adversaries. Despite their ancient origins, these groups remain significant and important in modern times as precursors of contemporary terrorist organizations. They have similarities in terms of inspiration, motivation, association, targets, ambitions, and objectives. Another factor contributing to their importance is the lasting psychological impact caused by these organizations. Throughout this period, the fundamental components of terrorism were not present. Warfare and battles were primarily characterized by horror, fear, and brutality. Prior to the Treaty of Westphalia in 1648, there was a lack of organized society and governing powers. The infrastructure and communication were inadequate and limited. The underlying causes of terrorism primarily stem from unresolved conflicts. Upon the establishment of the monarchy, they possessed sufficient resources to combat terrorism and enforce their power.

The terms "terrorist" and "terrorism" were initially employed by the revolutionary government during the French Revolution in 1795, specifically referring to the period known as the "Reign of Terror." The committee of Public Safety and the National Convention had hired agents. Their appointed role was to execute the policies and programs of terror. This revolution served as a model for the state in repressing its own citizens. The revolution provoked a hostile response from the royalists and other adversaries, who resorted to tactics of elimination and terrorization as acts of terrorism. The Parisian populace played a significant role in the major matters of this revolution. The perpetration of extrajudicial operations, such as the assassination of prominent government officials and elite leaders in gruesome public displays, began well before the use of decapitation as a method.

### **III. KINDS OF TERRORISM**

Various scholars, policymakers, and security experts have provided distinct definitions of terrorism. In 1970, American researchers began to distinguish between several forms of terrorism. Over the course of ten years, numerous international and domestic terrorist organizations proliferated. During that period, contemporary terrorist organizations began employing various methods of terrorism such as bombings, hijackings, assassinations, and diplomatic kidnappings to achieve their objectives. This marked the first recognition of these groups as genuine threats to Western nations, as acknowledged by researchers, politicians, law enforcement agencies, and legislators. In order to combat terrorism, they began to categorize and distinguish between different types of terrorism.

#### **a) Cyberterrorism**

In this form of terrorism, the culprits utilize information technology to influence the wider community and attract attention to their goals. This suggests that they utilize information technology, including telecommuting, machines, and the internet, to coordinate a conventional attack. Cyber terrorism refers to the intentional utilization of technology in order to cause significant disruption to internet-connected services. For example, cyber terrorists has the capability to penetrate networks that house vital financial information or impair interconnected emergency systems. Cyber terrorism is the use of the internet to carry out terrorist activities, specifically by causing major ruckus to electronic networks, especially those interconnected to the Internet, by deploying virus software.

#### b) Nuclear Terrorism

Nuclear terrorism encompasses the diverse methods by which terrorists utilize nuclear material. The activities included in the aforementioned group involve specifically targeting nuclear installations, obtaining or creating nuclear weapons, or acquiring radioactive materials with the purpose of spreading them. The deliberate act of terrorism directed towards a nuclear research facility or nuclear power reactor has the capacity to lead to the emission of radioactive substances. An assault on a nuclear research facility or nuclear power station could result in repercussions that are equivalent to or surpass the impacts of the 1986 Chernobyl catastrophe in the Soviet Union. The catastrophe led to 30 fatalities due to radiation sickness, 1800 instances of pediatric thyroid cancer, the displacement of a significant number of individuals, and the widespread radioactive pollution of a vast expanse of territory across numerous nations. Terrorists can use radioactive materials by building a deadly device that combines a conventional explosive with radioactive chemicals. The detonation of the bomb would result in the dispersal of things. Terrorists possess the capability to get already present nuclear weapons through illegal means.

#### c) State Terrorism

This form of terrorism involves the perpetration of violent acts by one nation against another country or towards the people of their own country. This form of terrorism differs from state-sponsored terrorism, where a nation supports terrorist organizations that wield power within a country. State terrorism refers to the deliberate and organized use of intimidation by a government to exert control over its populace. The 1793 French Revolution, during which numerous individuals were executed, is commonly cited as the initial manifestation of state terrorism. Throughout history, every autocrat has employed this form of terrorism as a means to exert control over their populace. A more current example would be the utilization of violence

by Saddam Hussein against the Kurds, or the repression of democratic demonstrators in Syria.

d) **Religious Terrorism**

This sort of terrorism involves terrorist groups carrying out acts of terrorism based on religious verities. For millennia, acts of terrorism have been carried out with the intention of promoting or imposing a certain religious belief or position on others. This form of terrorism does not necessarily pertain to a particular theological perspective, but rather typically reflects the beliefs or interpretations of teachings held by certain groups of individuals.

#### **IV. LAWS RELATED TO TERRORISM**

The escalated transnational disruption has brought terrorism to its peak. The internal security apparatus constantly faces the challenge of upholding peace, law, and order. India has enhanced its safety system, communication infrastructure, transportation network, and advanced weaponry and ammunition. The Indian judiciary has not yet been modernized to effectively eliminate these illicit acts. Upon careful examination of these abhorrent acts of terrorism, the legislative body has determined the need to establish laws in order to address and prevent the illegal activities of terrorists.<sup>5</sup> Periodically, India has implemented new and targeted legislation to combat terrorism.

**1) Unlawful Activities Prevention Act, 1967**

This act was stipulates to address turmoil, groupings and actions that challenged the sovereignty, integrity and demureness of the country. The scope of the Act enumerates to take tyrannous action on menace which creates ruckus, turmoil and hamper the integrity of India. The Act consisted of a comprehensive set of rules that deemed separatist societies as illegal. It established a tribunal to handle legal matters, regulated the curb the financial allocations and workplaces of these illegal associations, and imposed penalties who are involved. The Act has consistently been implemented comprehensively and falls entirely under the 7th Schedule of the Constitution. The change was enacted in the Act in 2004.

**2) Unlawful Activities (Prevention) Amendment Act, 2004**

This act does not articulately demonstrate the term "terrorist," rather it provides a definition for the term "terrorist act." Terrorist act is defined in the Act as - Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other

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<sup>5</sup> Manas Mohapatra, Learning Lessons from India: The Recent History of Antiterrorist Legislation on the Subcontinent, 324 (95 *The Journal of Criminal Law and Criminology* (1973), 2004).



explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defense of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.<sup>6</sup>

### **3) Terrorist and Disruptive Activities (Prevention) Act, 1967 (TADA)**

The TADA Act marked the initial measure undertaken by the government which delineates to counter and extinct terrorism. The policy was implemented in 1985 and became effective in 1987. This legislation aims to establish specific measures to prevent and address acts of terrorism and disruptive activities, as well as related problems. The Act was anticipated to alleviate the issue, but, it only remained in effect for a mere two years. The legality of the Terrorist and Disruptive Activities (Prevention) Act (TADA) was extended in 1989, 1991, and 1993. However, the Act finally expired in May 1995. When the TADA was implemented, it was brought before the highest court in the country and questioned on the grounds of being unconstitutional. In the case of *Kartar Singh vs State of Punjab*,<sup>7</sup> the Supreme Court of India confirmed that the statutory powers given to some individuals are valid under the constitution, based on the belief that those individuals who work bonafide and for the betterment of the public. Nevertheless, there were umpteen occurrences of power being misused for other objectives. The police were granted extensive authority to apprehend individuals believed to be involved in criminal activity, and the responsibility of providing evidence rested with the accused. The chorus of discontent emerged in response to charges of TADA misuse, which were seen as a danger to the country's democratic foundation. The data indicates that up to 1994, a total of 76,166 individuals were apprehended under the Act, with 18,708 of them not facing any formal charges. Only a mere four percent of the individuals who were prosecuted under the Act were ultimately convicted. The prominent case was Sanjay Dutt, who has been accused under the TADA (Terrorist and Disruptive Activities) Act for his alleged involvement in the

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<sup>6</sup> Section 15 of Unlawful Activities (Prevention) Amendment Act, 2004.

<sup>7</sup> (1994) 3 SCC 569

1993 Mumbai bomb bombing.

## **V. CONCLUSION**

Spectacular laws are believed to be a reaction to exceptional circumstances that arise mostly due to the transparency and liberty that pertains it. It play a Vital role in its operation and serve momentous purposes in restoring, healing, and rectifying. Furthermore, there is an increasing global agreement to address the issue of terrorism. Although there are international treaties and anti-terrorism measures established by the United Nations, their effectiveness is limited due to states prioritizing their own self-interests and being unable to make compromises. I believe that it is prerequisite for rigorous measures to be put in the synchronization to avoid acts of terrorism. If a Ordinance concerning terrorism is implemented in a country like India, it should be made tyrannous and onerous to ensure that the offender is held accountable and not allowed to escape comeuppance due to any weaknesses or loopholes in the existing legal system. Furthermore, it is important to acknowledge that our neighboring country, Pakistan, is responsible for committing terrorism in India. Pakistan has also implemented strict regulations, which India should also adopt conscientiously. Combating terrorism is a collective obligation of the national, state, and local governments.

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