



Recognizing and Defending Terrorism in India

* Dr Panchakshari Gouda B Patil ** Dr Shivalingappa S Angadi *** Dr Theju Kumar C

* Teaching Assistant, Department of Criminology & Forensic Science, Karnatak Science College, Dharwad.

** Teaching cum Research Officer(Criminology) Rashtriya Raksha University, Shivamogga Camopus Shivamogga

***.Associate Professor, Dept of Criminology & Forensic Science, Acharya Institute of Graduate Studies, Affiliated to Bengaluru City University, Bengaluru

ABSTRACT: The terrorists not only endanger the ideals of democracy and independence but also pose a serious challenge to humanity's existence, prosperity and growth. Today terrorism has become the latest threat to world peace, and especially to the national security of India. Terrorists are increasing their complexity and expertise in all facets of their activity. Weapon technology has become more and more available, and terrorist organizations' purchasing power is growing with the ready availability of both equipment and trained staff to operate it. Stringent protection is needed to prevent terrorism. If a legislation against terrorism is enforced in a nation like India, it should be made so stringent that the guilty party is taken to jail and is not scot-free just because of gaps or lacunas. The need for special laws to combat terrorism cannot be ignored, in fact the problem resides with the enforcement of laws and the abuse of powers bestowed on the authority under the specific legislation.

KEYWORDS: National Investigation Agency, Criminal Justice System, Malimath Committee Report, Anti-terrorism Legislation, Extraordinary Laws.

INTRODUCTION

Today terrorism has become the latest threat to world peace, and especially to the national security of India. The threat of terrorism, whether perpetrated by individuals, groups or forces of state, is a crime against humanity that has wounded societies around the world. The terrorist not only threatened the ideals of democracy and freedom but also created a serious challenge to humanity's existence, progress and development. Terrorism is not recent and although it has been seen from the beginning of recorded history it is difficult to define. The Judean Zealots were the earliest known group. The Assassins were the next group to show recognizable characteristics of terrorism, as we know today. Though both Zealots and Assassins operated in antiquity, they are relevant today as forerunners of modern terrorists in aspect of motivation, organisation, targeting and goal and although both were ultimate failures still they are remembered hundreds of years later. Modern technology has also added a new layer to extremism, since the highly sophisticated arms are now easily available to terrorist groups.

WHAT IS TERRORISM?

In order to describe a person, group or party as 'terrorist,' it is necessary to know what 'terrorism' is. The

term 'terrorism' derives from the French word 'terrorisme,' which is based on the Latin verb 'terrere' which means 'to cause tremor.' The 1989 terrorism is a policy intended to intimidate or cause terror, according to Oxford English Dictionary Second Edition. The Encyclopaedia Britannica defines terrorism as the systematic use of violence to create a general climate of fear in a population, and thus to achieve specific political goals. Terrorism is violence, or other harmful acts committed (or threatened) for political or other ideological purposes against civilians. The European Union defines terrorism as an act "to destabilize or destroy a country's fundamental political, constitutional, economic or social structures." The U.S. Federal Bureau of Investigation Code defined terrorism as "the unlawful use of force and violence against persons or property to intimidate or coerce a government, a civilian population or any segment of the population; The FBI further describes terrorism as either domestic or international according to the terrorists' origin, base, and goals. The term 'terrorism' has more than 100 definitions; these are used by the United Nations Organization (UNO), the European Union, the United States and other nations. The current word terrorism is highly problematic.

The United Nations states that "the issue of a definition of terrorism has for decades haunted the debate between states." A first attempt was made under the League of Nations to arrive at an internationally acceptable definition but the Convention drafted in 1937 never came into being. A definition has still not been agreed by UN member states. The lack of agreement on a terrorist concept was a major impediment to effective foreign countermeasures.

REASON OF TERRORISM

The following causes for the different insurgent / terrorist movements in India can be deduced on proper analysis:

Economic Causes: prime examples include Andhra Pradesh, Madhya Pradesh, Chhattisgarh, Orissa, Bihar and West Bengal. The economic factors include a lack of land reform, rural unemployment, landless labourer exploitation, etc. These economic grievances and gross social injustice led to ideological terrorist groups like Maoist groups operating under various names.

Political Causes: It is seen in Assam and Tripura that, owing to the government's failure to control large-scale illegal immigration of Muslims from Bangladesh, the demand for economic benefits for the soil's son and daughters.

Ethnic causes: It is seen primarily in northeastern states such as Nagaland, Mizoram and Manipur because of the feelings of ethnic separation that led to terrorist groups such as ULFA etc.

PREVENTION OF TERRORISM THROUGH LAW

Since 1937, the League of Nations and the United Nations Organization have tried to define a unanimous definition of terrorism through various Conventions in order to legislate a uniform law for anti-terrorism activities. The United States and the United Kingdom have both implemented effective anti-terrorism laws in the United States following the terrorist attacks of September 9, 2001. The United Kingdom had implemented the Prevention of Terrorism Act, 1974, the Terrorism Act, 2000, the Anti-Terrorism Crime and Security Act, 2001, the Prevention of Terrorism Act, 2005, the Terrorism Act, 2006, the Counter-Terrorism Act, 2008. In the Belgium Anti-Terrorism Act of 2003, the Australia Anti-Terrorism Legislation of 2004, the Australian Anti-Terrorism Act of 2005, the New Zealand Terrorism Suppression Act of 2002, the South African Terrorism Act of 1967. The Anti-Terrorism Act as amended in 1999 is even in force in Pakistan Anti-Terrorism Act, 1997.

The National Investigation Agency (NIA) is a new federal agency authorised for fighting terror in India by the Indian Government. Without special permission from the authorities, the Authority is allowed to deal with terror related offences through Authorities. The provisions of this Act relating to the investigation shall not affect the State Government's powers to investigate and prosecute any scheduled offenses or other offenses. The Unlawful Activities (Prevention) Amendment Act, 2008, introduces a number of substantive and procedural changes to empower the National Investigation Agency Act, 2008 to act effectively and

decisively on activities related to terrorism. This Act incorporates some of the provisions of the earlier terrorism law, such as 30-day detention in police custody and extension of the maximum period for filing an indictment sheet to 180 days if the court is satisfied with the Public Prosecutor's report on delay in completing the investigations. The new laws have doubled the length of time suspects are allowed to detain militants without charge. National Investigation Agency will conduct the toughest component of UAPA, 2008 [6]. There is no question that the 2008 NIA Act ignited fresh aspirations by establishing a network of dedicated federal police force to fill the gap left by the State Police Administration.

CRIMINAL JUSTICE REFORM AND TERRORISM

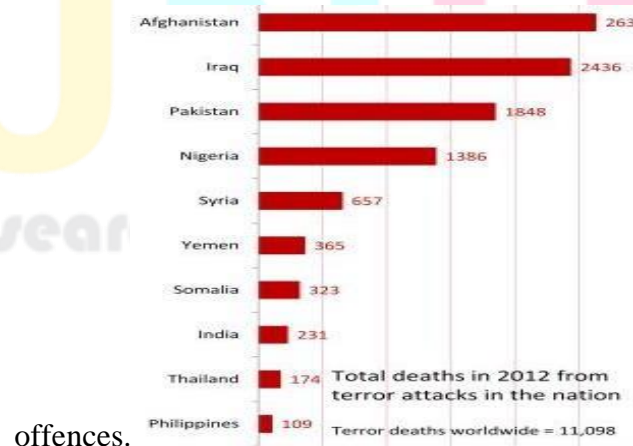
The menace of terrorism is a crime against humanity which has wounded societies all over the world. The terrorists have not only threatened the ideals of democracy and freedom but also caused a serious challenge to the existence, progress and development of mankind. In this regard I would like, along with the report of the Malimath Committee on the overhaul of the Criminal Justice System, to provide some clarification to the suggestion of the Law Commission on the India regarding of relevant laws to counter extremism and anti-national crime and the National Commission on Human Rights on this matter.

To order to evaluate the importance of a robust antiterrorist law, the Indian Law Commission conducted a protection report. Similar legislation was taken into account in other nations, two seminars on 20 December 1999 and 29 January 2000 were conducted in order to give a view, and India required a comprehensive anti-terrorism law with no further pause [8]. After the expiry of TADA, the Law Commission was entrusted with the task of enacting a suitable legislation for combating terrorism and other anti-national activities.

The Law Commission also proposed a revised edition of the TADA, Prevention of Terrorism Bill, 2000. However, subsequently Prevention of Terrorism Ordinance, 2001 was promulgated by the President. The National Commission for Human Rights (NHRC) voted against the resolution of bill proposed by a Law Commission and emphasized the need, both of them key valves in the Constitution, to protect and preserve "national integrity" and "individual dignity." The challenge addressed by the NHRC in India is

- (a) Thorough investigation,
- (b) Successful judicial jury prosecution, and
- (c) Lengthy days of court awards and punishment.

In the sense of the NHRC, the criminal justice system is involved. None of the problems could be addressed, however, by introducing legislation to eliminate protections designed to prevent the arrest and imprisonment of innocent people, or by creating a more stringent disciplinary mechanism for some



offences.

Terror Death worldwide

CONCLUDING REMARK

In May 2003, Amnesty International argued "that, by curtailing international law and keeping governments

from being scrutinized, the war on terror has far from made the world a safer place." The 2004 study also claimed that: "The US Administration's global security policy is unsustainable and unprincipled. Violating home freedoms, distracting eyes of abuses overseas and using armed protective action, which has destroyed justice and freedom and made the world a dangerous place, when and if it chooses. The International Human Rights Federation (FIDH) has also condemned the United States for the PATRIOT Act and the United Kingdom's anti-terrorism legislation, stating that the statutes are "a serious breach of the ICE RDA, because they prohibit the full enjoyment of fundamental human rights by people outside the country." The Actions breach Section 26, which calls for prejudice on grounds of national origin, as well as the European Civil and Political Rights Agreement.

REFERENCES

- [1] S. Ashford, "Terrorism," in *Encyclopedia of Applied Ethics*, 2012.
- [2] A. H. Kydd and B. F. Walter, "The strategies of terrorism," *Int. Secur.*, 2006, doi: 10.1162/isec.2006.31.1.49.
- [3] R. Borum, "Radicalization into Violent Extremism I: A Review of Social Science Theories," *J. Strateg. Secur.*, 2011, doi: 10.5038/1944-0472.4.4.1.
- [4] A. P. Schmid, "Frameworks for conceptualising terrorism," *Terrorism and Political Violence*. 2004, doi: 10.1080/09546550490483134.
- [5] W. F. Shughart II, "An Analytical History of Terrorism, 1945–2000," *Public Choice*, 2006, doi: 10.1007/s.
- [6] J. A. Piazza, "Poverty, minority economic discrimination, and domestic terrorism," *J. Peace Res.*, 2011, doi: 10.1177/0022343310397404.
- [7] F. M. Moghaddam, "The staircase to terrorism a psychological exploration," *American Psychologist*. 2005, doi: 10.1037/0003-066X.60.2.161.
- [8] A. Abadie and J. Gardeazabal, "The economic costs of conflict: A case study of the Basque country," *Am. Econ. Rev.*, 2003, doi: 10.1257/000282803321455188.
- [9] S. Bandyopadhyay, T. Sandler, and J. Younas, "Foreign direct investment, aid, and terrorism," *Oxf. Econ. Pap.*, 2014, doi: 10.1093/oep/gpt026.
- [10] L. Weinberg, A. Pedahzur, and S. Hirsch-Hoefler, "The challenges of conceptualizing terrorism," *Terror. Polit. Violence*, 2004, doi: 10.1080/095465590899768.

