

Negative Effects of Terrorism on the Enjoyment of Human Rights

Terrorism is a forceful and unlawful method to achieve the desired goal and affects almost every sphere of human life, be it economic, political or social. In broad sense, terrorism is the antithesis of independence, rendering it meaningless. In the Indian context, terrorism has been inspired by political, ideological and ethnic factors that threaten to destroy the social fabric. Thus, it becomes pertinent to check terrorist activities to enable the citizens enjoy their social, economic and political rights.

India in the past has faced many terrorist attacks. 2017 Amarnath Yatra attack in Jammu and Kashmir, 2016 Uri Attack, 2008 Mumbai attacks were some of the most violent terrorist attacks perpetrated by the terrorist agencies to instil intimidation amongst the citizens of India. Terrorism found in India includes ethno-nationalist terrorism, religious terrorism, left-wing terrorism, narco-terrorism and cross border terrorism. The parts of India seriously impacted by terrorism include Jammu and Kashmir, the northeast Indian states, and parts of central India where Maoists remain active.

India has time and again formulated laws to deal with terrorism. Currently, the **Unlawful Activities (prevention) Act, 1967 (UAPA)** is the primary anti-terrorism law in force in India. This law was enacted by Parliament in 1967 to enable the imposition of reasonable restrictions on the rights to freedom of speech and expression, peaceful assembly, and formation of associations or unions in the interest of sovereignty and integrity of India. The original Act was targeted at unlawful activities of a general nature, and stringent provisions on terrorism were added only later through various amendments starting in 2004, following POTA's repeal. It was subsequently amended in 2008 in response to the Mumbai terrorist attacks. The amended UAPA incorporated the definition of a 'terrorist act' under section 15 and created new terrorist offences. It also increased the period of detention without bail and changed the presumption of innocence to that of guilt where certain conditions were met, thus bringing in the stringent provisions for which POTA was earlier criticised.

The most recent amendments were made in 2013, which dealt largely with the economic and financial aspects of terrorism. A person may be punished under the UAPA even where the offences punishable under the Act are committed outside India. The rationale behind such a provision is that a legislation dealing specifically with acts of terrorism must take into consideration the possibility that the acts could have their source of planning or funding outside the territory of India. Acts occurring outside India could still threaten the unity, integrity, security, economic security, or sovereignty of India, which is what constitutes a 'terrorist act' as per the definition under section 15. Similarly, section 1(5) of the Act also applies to Indian citizens outside India; persons in government service, wherever they may be; and persons in ships and aircrafts

registered in India, wherever they may be. In addition to the UAPA, there are other Central and State laws intended to deal with specific public order and security situations in a localised area. The controversial **Armed Forces (Special Powers) Act, 1958 ('AFSPA')** is one such law enacted by Parliament to check insurgency in the North East by giving additional powers to the armed forces in areas declared 'disturbed areas'. These provisions were extended to Jammu & Kashmir in 1990 through the enactment of the Armed Forces (Jammu & Kashmir) Special Powers Act. State legislatures have also enacted laws intended to address organised crime and militancy. These laws include the **MCOCA**, applicable in Maharashtra and Delhi; **the Karnataka Control of Organised Crime Act, 2000 ('KCOCA')**, and **the Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005 [Chhattisgarh Special Public Safety Act] ('CVJSA')**.

Negative effects of terrorism on Economic, Social and Cultural rights:

- The impact of terrorism and war is always negative for the economy. Terrorists target the productive resources that might have generated valuable goods and services. The targets of their attacks include telecommunication towers, roads, mining infrastructure, railway properties, government buildings, schools, roads, bridges, etc. Several times, Maoists have tried to disrupt road construction by launching attacks on security forces and damaging the roads, and vehicles and machines used in the work. The deadly attack on Central Reserve Police Force (CRPF) personnel on March 13, 2018 in Sukma (Chhattisgarh) is the latest example of Maoists' attempt to disrupt the road network being laid there.
- Terrorist activities threaten to disrupt the flow of tourist arrivals in the country. India experienced terror attack on its financial and entertainment capital Mumbai on 26 November 2008. There were 12 coordinated shooting and bombing attacks which lasted four days, killing 164 and injuring several hundred. After the 2008 Mumbai attacks, there was a significant decline in the number of foreign tourists arriving in India; 3.3 per cent drop in foreign tourist arrivals in the country in 2009 from the previous year (Minister of State of Tourism in a reply to question in Lok Sabha), thus impacting the economy.
- For achieving their goal, terrorists select iconic symbols as targets to destroy them with unmatched ferocity. This is what was witnessed in Mumbai 2008 attacks where the targets selected were the heritage buildings of Taj Mahal Palace, Victoria Railway Terminus apart from Oberoi-Trident Hotel, thus threatening cultural spaces and cultural rights.
- In the Indian context, terrorism has been inspired by political, ideological and ethnic factors. But in its worst form it has aimed at destroying the

social fabric, creating a sense of loss of security and generating an intractable conflict situation, thus impacting the social and cultural rights of the citizen.

Recommendations to prevent the negative effects of terrorism on the enjoyment of economic, social and cultural rights, and how to redress, restore and protect these rights in the aftermath of such terrorist attacks:-

- The Commission is of the firm view that proper observance of human rights is not a hindrance to the promotion of peace and security. Rather, it is an essential CHAPTER 4 28 National Human Right Commission Annual Report - 2014-2015 element in any worthwhile strategy to preserve peace and security and to defeat terrorism. The purpose of anti-terrorism measures must, therefore, be to protect democracy, rule of law and human rights, which are fundamental values of our society and the core values of the Constitution.
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- The Commission from time to time has reiterated that terrorism creates an environment that destroys the right of people to live in freedom from fear. Terrorism's goal is to destroy the very fabric of democracy. It has today emerged as a serious threat to humanity. India remains an important ally in the global war on terrorism. It has fought against terrorism for over fifty years and has learnt a great deal from its success and failures. The endeavour of the Commission is to call on the international community to co-operate in combating terrorism. At the same time, the Commission has always emphasized that in doing so, the approach should be humane, rational and secular.
- The Commission has always taken up the cause of the victims of acts of terrorism and has taken steps for providing relief and rehabilitation to them. It is the firm view of the Commission that though the terrorism threats we are facing now are of an unprecedented scale, since the rationale of anti-terrorism measures is to protect human rights and democracy, counter-terrorism measures should not subvert these values

through violation of human rights in contravention to the rule of law. While fighting the war against terrorism, the State cannot be permitted to be either selective in its approach or go overboard and declare a war on the civil liberties of the people.

- **India strongly supports all efforts, especially within the purview of the United Nations that strengthen international and regional cooperation in the fight against terrorism.** The success in the fight against terrorism goes hand-in-hand with progress in strengthening counter-terrorism cooperation and exchange of information at the international, regional and sub-regional level. The Global Counter Terrorism Strategy agreed by the UN member states in 2006 is a unique and universally agreed strategic framework to counter terrorism.
- India is party to the 13 sectoral conventions on terrorism adopted by the UN. With the objective of providing a comprehensive legal framework to combat terrorism, **India took the initiative to pilot a draft Comprehensive Convention on International Terrorism (CCIT) in 1996. Largely as a result of India's active pursuance, a draft text of the CCIT emerged in 2007, which is agreeable to most States. But few States still have problem over a few issues, negotiations for the resolution of which are undergoing.** India attaches importance to the work undertaken by the Ad-hoc Committee on Terrorism established by the General Assembly towards negotiations of the Comprehensive Convention on International Terrorism (CCIT). India looks forward to early conclusion of the CCIT.
- The major domestic response to Mumbai has been an emphasis on streamlined coordination between agencies across state and federal lines, and the creation of a new **National Investigation Agency (NIA)**. The aim of the NIA is to empower a federal agency to investigate major crimes such as terrorism and organized crime without having to be asked to do so by the states. There will be special courts that can rapidly hear terror-related cases. The NIA will be filled out by new staff drawn from existing intelligence and law enforcement agencies throughout India. An infusion of funding and personnel into the overall security apparatus has also been promised, and the NSG has been deployed throughout the country to offer a quicker response to future attacks. These steps represent a useful beginning.
- It is important to give justice to innocent victims of terror attack and reparation to their families in case they lose their lives or are disabled in terror attacks.
- NHRC believes that prevention is always better than cure. However, strategies of prevention should cover both the preventive and the curative

aspects. This can be done by deterrence of the potential criminals by means of efficacy and expedition of the curative measures; prompt detection followed by speedy and efficient investigation of crimes; competent prosecution and speedy trial.

- As part of India's continuing commitment to strengthen multilateral efforts to counter terrorism and support the work of the newly established UN Office for Counter Terrorism (OCT), the Indian government in 2018 announced a voluntary contribution of USD 550,000 for the OCT.