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**TERRORISM: A HUGE CHALLENGES FOR THE  
PROTECTING OF HUMAN RIGHTS**

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The protection and promotion of Human Rights is basic for civilized existence because these rights are demands to protect our only common identity as human beings. In democratic societies fundamental human rights and freedoms are put under the guarantee of law and therefore, their protection becomes an obligation of those who are entrusted with the task of their protection. There has been a growing consciousness amongst citizens all over the world against violation of human rights. Strong national and international movements have emerged.

In their correct perspective, it needs to be pointed out that human rights of citizens which are first of all ethical norms for treatment of an individual in the society are non-negotiable and non-derogable. No compromise with violations of the same is permissible in any civilized society. These rights recognize the essential worth of a human being and acknowledge the dignity inhering in all human beings, irrespective of their race, sex or economical level of living. While this is a historical fact, it is also a reality that the cult of terrorism strikes at the very root of human rights of innocent people. Terrorism and human rights are natural enemies with no possibility of their co-existence. No person who supports human rights can support terrorism, which results in a grave violation of human rights of innocent citizens. The growing menace of terrorism is a fight between barbarism and civilisation and is a morally degrading means of struggle, with no justification whatsoever. It is not merely a heinous criminal act it is more than mere criminality. It poses a formidable challenge to the enjoyment of human rights.

Traditional thinking has been that it is the State that violates human rights but the violation of human rights by the terrorist is a reality, which poses a serious problem. Terrorism, in all its form, is the greatest violator of human rights. It is a clear and present danger to world today; it strikes a fatal blow to human rights of innocent citizens. The ruthless, barbaric, inhuman killing of innocent people is carried out by the terrorists with a view not only to challenge the authority of the Government, but also to put the security and sovereignty of the country in jeopardy and bring trauma and perpetual grief to the families who suffer from such killings. Their grief and trauma cannot be adequately expressed but only sensed. It is, to say in one word, terrible. The right to life, which ensures enjoyment of all other rights, is of crucial significance for every person, every group of people, every class and every nation and as a matter of fact, for all humanity. Terrorism is a frontal assault on the



most basic human rights namely, right to life and liberty, by faceless murderers whose sole aim is to kill and maim human beings, whether they are innocent young children, elderly men or women. This very right to life of the innocent people is the target of terrorism.

The World Conference in Vienna (1993) was a significant landmark in recognizing terrorism as a threat to human rights. It stated that:

*“The acts methods and practice of terrorism in all its forms and manifestations...are activities aimed at the destruction of human rights...The international community should take the necessary steps to enhance cooperation to prevent and combat terrorism.”*

Different aspects of terrorism have been a concern of world community. Though there have been as many as 12 conventions and a declaration dealing with the subject but it was the killing of Israeli athletes at the Munich Olympics which led to the inscribing of international terrorism on the agenda of the United Nations General Assembly in 1972 at the request of the then Secretary General of United Nation and the problem of international terrorism was confronted both politically and legally rather than concentrating on any specific acts of terror. It is worth recalling that major part of the debate in the General Assembly concentrated on the causes of terrorism versus measures against terrorism.

Terrorism has been the subject of a huge debate over the years but as yet there is no universally acceptable definition of what is “terrorism”, against which we have to fight. Indeed, despite definitional difficulties, we can recognize terrorism in action since it is an assault on a civilized society.

While an acceptable definition of terrorism still eludes the international community, the Supreme Court of India, as far back as in 1994, dwelt at length on it and drew a distinction between a ‘merely criminal act’ and a ‘terrorist act’. In its Judgment in *Hitendra Vishnu Thakur v. State of Maharashtra* [(1994) 4 SCC 602], the Supreme Court of India said:



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“.... It may be possible to describe it (Terrorism) as use of violence when its most important result is not merely the physical and mental damage of the victim but the prolonged psychological effect it produces or has the potential of producing on the society as a whole. There may be death, injury, or even deprivation of individual liberty in the process but the extent and reach of the intended terrorist activity travels beyond the effect of any ordinary crime capable of being punished under the ordinary penal law of the land and its main objective is to overawe the Government or disturb harmony of the society or “terrorise” people and the society and not only those directly assaulted, with a view to disturb even tempo, peace and tranquility of the society and create a sense of fear and insecurity.”

There is indeed a clear and emphatic relationship between national security and the security and integrity of the individuals who comprise the state. Between them, there is a symbiosis and no antagonism. The nation has no meaning without its people. The worth of a nation is the worth of the individuals constituting the nation. This is the emphasis laid in the Constitution of India, which holds out the promise to secure both simultaneously. Just as there can be no peace without justice, there cannot be any freedom without human rights.

Terrorism has today emerged as a serious threat to the humanity. It poses a serious challenge to the international community. It is a strange paradox that while on the one hand, higher and better international human rights and humanitarian standards have evolved over the past five or six decades, on the other hand conflicts and newer forms of terrorism, which threaten human rights of people the world over, are on the rise and becoming more and more dangerous. One also finds resort to the use of deadlier and more and more lethal weapons, deliberate targeting of civilians, forced starvation of civilians and resort to rape and other sexual violations besides taking hostages etc. Scientific and technological developments as well as the global network of communications are being viciously exploited by terrorists. What is a matter of serious concern is the existence of trans-national networks of terrorist organizations, which have a nexus with arms and drug traffickers and crime syndicates. Today’s terrorists have modern technology to help them, permitting rapid international communications, travel and the transfer of monies. They have links with others of like



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mind across international borders. What makes it even more dangerous are recent media reports that they may well have access to weapons of mass destruction including biological weapons.

I must, however, acknowledge that though nothing justifies terrorism, far too many people live in conditions where it can breed. It is common knowledge that systemic human rights violations for long periods of time are often the root cause of conflicts and terrorism. When there is tyranny and wide spread neglect of human rights and people are denied hope of better future, it becomes a fertile ground for breeding terrorism. The existence of social, economic and political disparities in a large measure contribute to the eruption of conflicts within the State and beyond. The importance of promoting Economic, Social and Cultural Rights to contain such conflicts must, therefore, be realized and appreciated. The protection and promotion of Economic, Social and Cultural Rights must go hand in hand with protection of Political Rights for giving human rights a true meaning. The neglect of Economic, Social and Cultural Rights gives rise to conflicts and emerging forms of terrorism which are threatening the democratic societies worldwide. It cannot be denied that disillusionment with a society where there is exploitation and massive inequalities and whose systems fail to provide any hope for justice are fertile breeding grounds for terrorism, which more often than not thrives in environments where human rights and more particularly Economic, Social and Cultural Rights are denied by the State and political rights are violated with impunity both by the State and non-State actors. Systemic denial of Economic, Social and Cultural Rights, like right to food, health, education etc. are causative factors of conflict and terrorism. Any worthwhile strategy to resolve conflicts and terrorism will have to ensure enjoyment of the full range of Economic, Social and Cultural Rights.

One other factor leading to violations of human rights is the ever-growing fundamentalism in all its forms and manifestations and use of terrorist activities for imposing their “so called religious or ideological will”. While all faithful believe in harmony and brotherhood in religion, it is the misguided fanatics who do not value human life and in the name of religion resort to all types of attacks on human rights. These include forcible imposition of self-righteous social code and undermining of freedom of expression and belief. Fundamentalism is sometimes used to exploit innocent citizens in the name of religion to secure “political” advantage over the rivals, unmindful of



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the harm their actions may cause to the nation by such exploitation. They contribute to a climate of religious bigotry, which leads to discrimination, harassment and attacks on all those who do not follow their dictates which may be right or wrong, on believers of other faiths. In doing so, they violate human rights of fellow citizens without any justification whatsoever. Terrorism grows and thrives on 'hatred policy' – be that of rival political groups or fundamentalists or enemy agents. Society's response to such type of terrorism has to be clear and effective. Indifference of the society to such acts encourages fundamentalists — Loud and positive condemnation of their activities by the society, on the other hand is bound to discourage them. A violent group whatever its politics, has no right to kill, and no claim to such a right must ever be allowed. Today the vast majority of fatalities through terrorism are caused by attacks on unarmed civilians who are going around about their peaceful and lawful business. What more fundamental attack on human rights can there be than to deprive the innocent of the right to life? Does murder cease to be murder just because the killer believes human life is expendable in pursuit of some particular species of fanaticism?

Our experience shows that the rubric of counter-terrorism has often been misused to justify acts in support of political agendas, such as the consolidation of political power, elimination of political opponents, inhibition of legitimate dissent. Labeling adversaries as terrorists is a notorious technique to de-legitimize political opponents. It is during anxious times that care has to be taken that state does not take recourse to bend the Rule of Law to accommodate popular sentiment for harsh measures against suspected criminals. An independent judiciary and the existence of an effective human rights institution are indispensable imperatives for protection of fundamental human rights in all situations involving counter-terrorism measures. It provides vital safeguards to prevent abuse of counter- terrorism measures. Counter- terrorism or anti-terrorism measures must, therefore, always conform to international human rights obligations. It must stand as a caution that in times of distress, the shield of necessity and national security must not be used to protect governmental actions from close scrutiny and accountability where the same affect enjoyment of human rights.

It has been noticed that to check terrorism, the State sometimes adopts counter-terrorism measures, which may also be violative of human rights of those engaged in such activity. Terrorists often employ human rights as an instrument of psychological warfare. Therefore, State Terrorism is



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no answer to combat terrorism. It may on the other hand provide legitimacy to terrorism for the citizen would not know who violates whose human rights. An excessive and unplanned response by the security forces to provocation by terrorists constitutes violation of human rights. It is bad for the society, the State and the Rule of Law. The need to foster a climate of discipline and adherence to democratic values cannot but be emphasized. We need only recall the caution administered by the Supreme Court of India in *DK Basu vs. State of West Bengal*, [JT 1997(1) SC 1]. It said:

“State terrorism is no answer to combat terrorism. State terrorism would only provide legitimacy to terrorism: that would be bad for the State, the community and above all for the rule of law. The State must, therefore, ensure that the various agencies deployed by it for combating terrorism act within the bounds of law and not become law unto themselves”

Let us be very clear that while the State has a right and an obligation to protect itself and its people against terrorist acts, proper observance of human rights is not a hindrance to the promotion of peace and security. Rather, it is an essential element in any worthwhile strategy to preserve peace and security and to defeat terrorism. The purpose of anti-terrorism measures has to be to protect democracy, rule of law and human rights, which are fundamental values of our society and the core values of the Constitution.