Promotion and Protection of Human Rights and fundamental freedoms while countering terrorism

Terrorism has been the most serious threat to both the national and the international community since a long time now. There is hardly any place across the globe which has not witnessed the ghastly act of terrorism on its soil in one form or the other. It is not only a threat only to India's democracy but is affecting countries worldwide. Terrorism has slammed and affected almost every sphere of human life, be it economic or political or social life. Broadly, terrorism is the antithesis of independence, development and human rights. The frontier regions of India, especially regions bordering Pakistan are the worst affected regions by terrorism.

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. 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.
India has been consistently working towards fighting the menace of terrorism at both global and national front, thus adopting certain measures at policy level. At international level, India has proposed Comprehensive Convention on International Terrorism (CCIT) at United Nations General Assembly which is under negotiation. Upon its adoption, the convention would provide legal basis for criminalizing all terrorist activities. India, recently again gave a clarion call at the UN for strengthening efforts to adopt the long-pending global convention on international terrorism amidst increasing terror attacks on places of worship across the globe.

India has also voted in favour of Resolution 34/8 of the Human Rights Council on ‘Effects of terrorism on the enjoyment of all human rights’.

At national level, India has formulated and implemented laws like the Unlawful Activities (Prevention) Act, 1967, Prevention of Terrorism Act, 2002 etc. An amendment to the Unlawful Activities (Prevention) Act has been cleared by the Cabinet recently which will allow individual terrorists to be included in the schedule of "banned" entities. The Cabinet also approved a proposal to amend the NIA Act to empower the agency to register a case and investigate terror acts on foreign soil if Indian nationals or interests are harmed. The draft National Investigation Agency (Amendment) Bill seeks to widen the scope of cases the agency can investigate. New offences being added to the schedule of NIA Act include cyberterrorism cases registered under Section 66F of the Information Technology Act, 2000 as well as IPC crimes under Sections 370 and 371 relating to human trafficking that often have inter-state and international linkages.

A Central Scheme titled Central Scheme for Assistance to Civilian Victims of Terrorist/ Communal/Left Wing Extremist (LWE), Cross Border Firing and Mine/IED blasts on Indian Territory has been formulated. The broad aim of the Scheme is to assist families of victims
of Terrorist, Communal and Naxal violence. Recently the Government has increased the financial assistance from Rs.3 lakhs to Rs.5 lakhs.

In addition to the financial assistance, those permanent incapacitated and members of the family of the victims killed are entitled to a health card given by the District Health Society under the National Rural Health Mission. This would entitle the card holders to free medical treatment in respect of injuries and all other major illness caused due to violence.

Other initiatives include Welfare Scheme under which one seat each in the medical colleges is kept reserved for the kin of the victims from terrorism. The State initiates immediate action to transfer the injured persons to nearby hospitals to provide medical aid and borne all the costs of treatment. Some immediate relief in the form of cash compensation is provided by the Government to the victims to help the family to recover.

In the State of Assam, an initiative called 'Project Ashwas' was initiated. It provides financial assistance for the children of victims of terrorism to pursue their education in higher educational institute.

_The Government of India has been requesting the international community not to differentiate between good terrorism and bad terrorism and take all action required to completely wipe out the problem from the globe._

The NHRC has also been instrumental in denouncing terrorism as an act of violation of human rights. One of the major functions of the Commission under _Section 12(e) of PHR Act, 1993_ is to review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.

_The NHRC has intervened in many cases of human rights violations due to terrorist activities._ To mention some important cases, the Commission took suo-motu cognizance of the media report
that lax security had aided the terrorists in their attack on a langar in Jammu on 20.07.2003 which resulted in death of 7 Vaishno Devi pilgrims. The Commission also intervened in the case of terrorist attack on army official at Kulchak, Jammu on 14.05.2003. The Commission also condemned the killing of 40 CRPF personnel in Pulwama terrorist attack.

The position of NHRC on the issue of terrorism can be aptly summed up in the following statement of Justice J.S. Verma, Former Chairperson, NHRC:

"The Government should adopt strategies which balance the dignity of individual with national security. Human dignity must be placed along side the unity and integrity of the nation. Public interest will always outweigh individual interest but not to the extent that any one of them is rendered totally irrelevant. Any law enacted to tackle terrorism must be very closely scrutinized and must muster the strict approval of Constitutional validity, necessity and proportionality. The legislature must scrutinize whether there is at all any need for such law and whether it infringes civil liberties. Care should be taken to respect the human rights of citizens and avoid harassment of the innocent, lest the entire action be counter productive. Strategies must reconcile human dignity with the unity and integrity of the nation, which are the core values of the Constitutional philosophy. Laws alone will not help, and new laws will be needed only if supplementing of existing laws will not suffice. The Government has to consider whether the deficiency is in the law, or in the manner of its implementation, because if a situation is continuing it cannot be assumed that it is only the text of the law which is inadequate."

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