

# Anti-terrorism Laws in India: Issues and Challenges

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## Abstract

*Terrorism is, as we all know, one of the most serious problems we face on a global scale. Terrorism is not a new phenomenon in society; it has existed for decades. Many horrible or horrifying terrorist assaults have occurred around the world. To combat terrorism, each country has its own anti-terrorist legislation, and there are numerous worldwide platforms where governments collaborate to combat terrorism. The North Atlantic Treaty Organization (NATO) is similar to the "United Nations Organization" (UNO) (NATO). However, the question remains as to whether these regulations are capable of combating terrorism.*

*This study examines constructive criticism of existing anti-terrorism laws, including the reasons for their failure and terrorist acts that have occurred as a result of their failure. There are also some proposals for closing the gaps in anti-terrorism legislation.*

**KEY WORDS:** Terrorism, Hostage, Hijack, Bombing, Nuclear bombing, Security Council, Violence.

## I. INTRODUCTION

Terrorism is defined as the use of unlawful force or violence against the public or private property. According to the legislation, there are two types of terrorism: national and international terrorism. Terrorism is a generic term for the use of bombings, armed attacks, assassinations, and hostage situations to convey a political message.

"Acts of terrorism" are referred to as "criminal acts directed against a state" in the Terrorism Convention (1937) under article 1(2) by the League of Nations. Acts of this nature must be "planned or calculated to induce dread in the minds of specific persons, a group of individuals, or the general public."

A provision in the United Nations General Assembly Resolution titled "Measures to Eliminate International Terrorism" (adopted on December 9, 1994) defines terrorism as "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons for political purposes, regardless of considerations of a political, philosophical, ideological, racial, ethnic, religious, or any other nature that may be invoked."

Terrorism is defined by the Arab Convention to Combat Terrorism as any act or threat of violence, regardless of motives or objectives, committed in the course of developing a personal crime programme by individuals or groups who seek to frighten people, induce fear of harming them, or endanger their life, liberty, or security, or

who seek to cause environmental damage-damage to the environment, to facilities, to public or private property, or to occupy or appropriate it.

Resolution 1556 (2004) of the United Nations Security Council says Acts of crime are committed with the goal of instilling fear in a society, a set of societies, or an individual, and preventing the government from carrying out its duties, by criminal acts such as bodily injury, kidnapping, hostage taking, bombing, and so on.

On March 17, 2005, a United Nations panel defined terrorism as "any act intended to cause death or serious bodily harm to civilians or non-combatants with the intent of intimidating a community or pressuring a government or an international organization to conduct or refrain from conducting any act."

Aside from that, other states and their laws provide further descriptions. Terrorism is defined by the Union of Europe as a set of criminal offences against people and property that, due to their nature or context, may seriously harm a country or an international organization. Terrorism, according to the United Kingdom's Terrorism Act of 2000, is an act or philosophy that involves means and methods to interfere with and destroy the existing electronic system. Violence is not recognized as a factor in this act.

Terrorism is defined in the United States as an act designed to substantially tamper with or disrupt an electronic system. Under this act, violence cannot be a necessary component of terrorism. Terrorism is defined under the United States' Federal Criminal Code. Terrorism is defined under title 18 of the United Nations Code, which also includes the crimes associated with it. Terrorism is defined as "activities involving violent or life-threatening acts that are a violation of the criminal laws of the United States or of any State and appear to be intended:

- i. To intimidate or coerce a civilian population;
- ii. To influence the policy of a government by intimidation or coercion; or
- iii. To affect the policy of a government by intimidation or coercion."

Terrorism, according to the US Patriot Act of 2001, encompasses behaviours such as threatening or plotting to hijack planes, buses, or other vehicles. Terrorists engage in behaviours such as threatening and conspiring against persons who are supposed to be protected, such as 'government officials.' Terrorism is defined as any crime involving "the use of any weapon or dangerous device," or when the crime is undertaken with the intent of compromising public security or causing serious bodily damage rather than for "mere personal monetary gain."

Under Prevention of terrorism bill, 2000 "Terrorism" means

*1. The use of people's fears and force to justify political, religious, or ideological cause.*

*(a) inflicts serious bodily harm or property damage on any person or property,*

*(b) puts another person's life at jeopardy, or*

*(c) it can cause harm to the people and also create major threat to public safety.*

*(2) In subparagraph (1)*

*(a) "Action" refers to actions which are taken outside the territory of UN.*

*(b) The activities which is related with the person or property or that person property located in any place & associates with peoples refers to the people of nation apart from United Kingdom.*

*(3) all the action taken to benefit a proscribed organisation included in the definition of activity performed for the purpose of terrorism.*

## **II. CRITICAL ANALYSIS OF ANTI-TERRORISM LAWS**

There are different types of anti-terrorism laws in different countries:

### **A. The Unlawful Activities (Prevention) Amendment Act , 2019**

Mr. Amit Shah, India's Minister of Home Affairs, introduced the Unlawful Activities (Prevention) Amendment Bill on July 8, 2019, which was approved by the Lok Sabha on July 24, and the Rajya Sabha on August 2, 2019. The Act sets unique procedures for dealing with terrorist activity, among other things.

### **Who can be considered as involved in terrorism:**

According to this Act, the central government can declare a group a terrorist group if it:

- (i) Perform or engages in an act of terrorism,
- (ii) Arrange things for terrorism,
- (iii) Help terrorism, or

The bill also gives the government the power to label people as terrorists on the same reasons.

### **Investigation under this Act**

Under the Act, in ranking order only Deputy Superintendent of Police or a police officer of same position may conduct an investigation of a case;

- (a). In the case of the Delhi Special Police Establishment, which was established under the sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946, in ranking order only Deputy Superintendent of Police or a police officer of same position may conduct an investigation of a case.
- (b). Assistant Commissioner of Police or higher in the Mumbai, Kolkata, Chennai, and Ahmedabad metropolitan areas.
- (c). when the circumstance is not related to clauses (a) or (b) than lower than the position of Deputy Superintendent of Police or an same rank of police officer.

Officers of the National Investigation Officers (NIA) with the rank of Inspector or higher were also empowered to probe the matters under this act.

### **Criticism on Unlawful Activities (Prevention) Amendment Act**

However, the difficulty is that the act is occasionally misunderstood by the central government and police personnel; the statute grants the government absolute jurisdiction to designate a person as a terrorist if the government has reasonable grounds to believe he or she is a terrorist.

There is a difficulty with section 35(2) of the UAPA, which states that the government has the authority to declare any individual or group of people as terrorists through its jurisdiction, and that no FIR can be filed and no judicial trial can be held. Suspicion of being a terrorist is the only basis for conviction here. (Langade & Saini, 2021) Law enforcement officials take advantage of this section. It is possible that a person has been unfairly imprisoned. Part III of the Indian Constitution (Articles 20, 21, and 22), as well as the concept of equality established in Article 14 of the Indian Constitution, which is one of the most important articles enforced by the courts, are available to protect people in detention. (Rawat & Avnish, 2016)

All defences are invalidated when a person is called a terrorist. There are no safeguards in place to prevent an individual from abusing the system.

A person is deemed innocent until proven guilty in Indian criminal law. Justice Krishna Iyer defined the law on bail in the case of State of Rajasthan vs. Balchand, declaring, "The rule is bail, not jail." The UAPA Act, on the other hand, provides an exception to the court's rejection to issue bail. (Bhatia, 2022)

In the instance of Safoora Zargar, she was arrested on suspicion of conspiring with protesters and instigating them with her words. To substantiate the charges, the Delhi Police produced numerous pieces of evidence in the Patiala House Court in Delhi. A slingshot, glass bottles, and a Whatsapp message were among the evidence. These objects have nothing in common with explosives or bombs. Despite this, the court denied the bail motion, flagrantly violating Section 15 of the UAPA Act. Safoora Zargar was later granted bail by the Delhi High Court, but solely on medical grounds, not on the merits of the case. This is the beginning of the legislative process. The second phase is that the act's impact has fallen short of expectations. The Unlawful Activities (Preventive) Amendment Act is thought to function as a counter-terrorism tool. However, it appears that this act is mainly preventative in nature, and anyone found assisting a terrorist, preparing for a terrorist attack such as a bombing, hacking, hijacking, or committing terrorism shall be arrested and punished quickly, according to UAPA 2019. Furthermore, anti-terrorism legislation is adaptable. The "Ajmal Amir Kasab case," involving a Lashkar-e-Taiba

operative who was part in the 26/11 Mumbai Attack, is one of the best examples of delayed justice. (Hedge, 2019) The Mumbai Police captured Kasab on November 26, 2008, and he was hanged on November 21, 2012. Why has Kasab's punishment been delayed while everyone knew he was involved in the Mumbai terror attack of 26/11? What was the rationale for delaying his execution for four years? The UAPA Amendment Act of 2019 expressly states that anyone who commits a terrorist conduct will "be punished with death or life imprisonment if such act has resulted in the death of any person." However, the grant of justice takes far too long (due to the flexibility of the laws).

## **B. United Nation Organization**

The United Nations (UN) is an international organisation that promotes world peace and security by ensuring peace among nations and cooperation between states. The United Nations has established the "Security Council" to oversee concerns concerning national security and terrorism.

### ***Counter Terrorism Committee***

The UN Security Council's Counter Terrorism Committee, which has 15 members, was established by Resolution 1373(2001) of the Security Council on September 28, 2001. Under the 4th Chapter of the United Nations Charter, the Security Council issued a resolution on international peace and security. This committee fosters international collaboration and the fight against terrorism among member governments, as well as assisting them in using the Global Platform to combat terrorism.

### ***What counter terrorism committee does?***

The major goal of this committee is to encourage member governments to fight terrorism, to develop a worldwide counter-terrorism strategy, and to put that strategy into action. The anti-terrorism committee's responsibilities are as follows:

#### **1. Strategic leadership:**

The Secretary-General participates in UN decision-making and guarantees that resources and influence in the cross-cutting movement of terrorism are embodied in UN activities under the strategic leadership of UN counter-terrorist operations.

#### **2. Coordination & coherence:**

In December 2018, the United Nations Secretary-General presented the Global Coordination Treaty against Terrorism, a coordinating framework that brings together 38 United Nations entities, as well as INTERPOL and the World Customs Organization, to strengthen coordination and coherence. To give an ALL-of-UN approach to the system's work on countermeasures, it works through the Coordinating Committee and eight inter-agency thematic working groups, all of which were re-established in April 2019. Terrorism is a vector of terrorism, as is the prevention of violent extremism.

#### **3. Border security:**

Raising awareness and understanding of established "best practises" aids in the prevention of cross-border movement of foreign terrorist fighters. This helps governments incorporate such approaches into their national counter-terrorism strategies and action plans, as well as improve the skills of border agents.

#### **4. Prevents Terrorists from Obtaining Weapons:**

Chemical, biological, radioactive, and nuclear items should not come into the hands of terrorists, according to all countries. To combat various forms of terrorism, the United Nations Convention on the Prohibition of Nuclear Weapons (UNCCT) established the Weapons of Mass Destruction/Chemical, Biological, Radioactive, and Nuclear (WMD/CBRN) Program, which strives to increase nuclear weapons knowledge. Terrorists constitute a threat to all of the EU's member nations. The UNCCT developed the above programme in response to member states' requests to protect and preserve member states from the repercussions of this type of terrorism and to respond to them through this programme.

The UNCCT programme strives to empower partnerships and offer Member States with the necessary assistance when they request it. These collaborations focus on border and export controls, trade restrictions, human

trafficking, CBRN materials and infrastructure protection, incident response and emergency management, and forensics, to name a few. The following conventions have been convened to combat terrorism:

**1. *Prevention and Punishment of Crimes against Internationally Protected Persons , including Diplomatic Agents:***

The United Nations General Assembly passed a treaty on December 14, 1973, to prohibit and punish crimes against diplomats. Despite widespread concern about terrorist attacks in general, a majority of states believed that, due to the traditionally protected status of diplomats in international law, a convention focusing on the diplomatic victim would be more effective than one attempting to protect humanity as a whole from terrorist attacks.

Nonetheless, the Convention is the first legally binding instrument for preventing terrorist activities of any kind—and this is where its true significance resides. Its primary objectives are to prosecute terrorists who target diplomats.

**2. *Convention on the Taking of Hostage :***

The Hostage Treaty, which went into effect on December 17, 1979, states that those who kidnap hostages would be tried or extradited if they are found inside the borders of a signatory state. States that have ratified the treaty will also need to work together to avoid hostage takings by putting in place internal preventive measures, exchanging information, and coordinating actions.

**3. *Convention on suppressing the bomb blasting by the terrorist:***

It was adopted by the United Nations General Assembly on December 15, 1997, and it took effect on May 23, 2001. The purpose of this convention is to increase international collaboration between countries in developing and implementing efficient and practical counter-terrorist measures. Many bombing instances have occurred around the world, hence this agreement was established to protect people from such acts of violence.

**4. *Convention on financing the terrorism:***

It was accepted by the United Nations General Assembly on December 9, 1999, and it took effect on April 10, 2002. The International Convention for the Suppression of Terrorist Funding (the convention) aims to improve the financing of terrorism and to penalize those who finance terrorists and support them with weapons.

**5. *The disruption of nuclear terrorism by the New York:***

On April 13, 2005, the convention was ratified. The goal and goals of this agreement are to promote international peace and security, as well as good neighborliness, friendly relations, and collaboration among states. Individuals, groups, and organizations who incite, advise, manage, know about, or participate in the commission of the offences will be held accountable under article 7 of this convention if they continue to engage in terrorist activities.

**III. Failure of UNO & other terrorist Convention:**

Throughout its history, the United Nations has consistently failed to avoid conflict and carry out its peacekeeping missions. Since the United Nations was created in 1945, millions of people have been slaughtered or relocated around the planet.

Here are a few of the UN's most scathing indictments:

**1. *Israeli occupation : (1949-now)***

The United Nations has failed to keep the peace in Israel since 1948. Between 1947 and 1949, 15,000 Palestinians were massacred, amounting to 60,000 people out of a population of 2.0 million forced to flee their homes. Even the US attempted, but failed, to use its veto power to prevent UN Security Council resolutions. Bombings continue to kill innocent people, many children have lost their parents, and many people are unable to sleep peacefully, but what is the UN doing about it?

**2. *Kashmir Dispute(1948-Now)***

With rape, arrest of leaders and activists, torture, and disappearances of Kashmiris, the Kashmir war has burst into one of the world's greatest human rights crises. On opposite sides of the hilly terrain, India and

Pakistan are located. Both countries have claimed Kashmir as their own since gaining independence from British conquerors in 1947. The Kashmir issue has yet to be resolved by the United Nations. As a result of these differences, several terrorist incidents have occurred in India. On the Jammu-Srinagar highway near Lethpora in Pulwama on 14 February 2019, a jeep filled with explosives attacked a convoy of buses transporting security personnel, killing 40 Central Reserve Police Force members.

### **3. *Syrian civil war (2011- now )***

President Bashar al Assad threatened to employ fatal force "relentlessly fight terrorist organisations" – a reference to active democracy protesters – after Syria's administrative began a huge invasion on nonviolent protestors who took to the streets in March 2011. Despite the fact that approximately 6.5 million people had been displaced from Syria by the end of last year, the UN has failed to maintain the country at peace, and people continue to die and be killed on a daily basis.

### **4. *Afghanistan Taliban takeover***

Taliban took control of Afghanistan on August 15, 2021. The Taliban rule the country, and the militants have gained control of all ministries. We're talking about preventing terrorist attacks, yet terrorism has taken control of an entire country, and the United Nations has failed to defend its own member states from terrorists. This is the United Nations' largest failure; the Taliban has reclaimed all women's rights; no women can work, and they are not permitted to attend schools or universities for education. Women with advanced degrees are forced to burn their diplomas. For them, there are no core fundamental rights, and everything is governed by terrorism.

### **5. *Russian-Ukraine War***

The United Nations' mission is to ensure world peace and security, yet once again, the UN has failed. Many innocent people have been slain by the Russian army, civilians are powerless, and the war between Russia and Ukraine continues, with the United Nations remaining silent.

## **IV. DATA ANALYSIS OF TERRORISM**

According to the NCRB report on terrorism in India for the period 2017-2019, the use of UAPA has increased. The overall number of cases filed under the UAPA increased from 922 in 2017 to 1,182 in 2018, 1,948 in 2019, and 1,321 in 2020. With 361 (Uttar Pradesh), 346 (Jammu and Kashmir), and 225 (Manipur) cases reported under the Unlawful Activities (Prevention) Amendment Act (UAPA) in 2021, the top three states and Union Territories with the highest number of crimes are Uttar Pradesh, Jammu and Kashmir, and Manipur (287 or 36 percent were alone in Jammu & Kashmir). In 2020, crime in the states of Bihar, Maharashtra, Meghalaya, Punjab, and West Bengal increased compared to 2019. (Crime In India 2020 Statistics, 2020)

Afghanistan, Iraq, Somalia, Syria, and Nigeria are the top five countries with terrorism activities, according to the Global Terrorism Index 2022, with scores of 9.109, 8.511, 8.398, 8.270, and 8.250. In 2021, terrorism-related deaths decreased by 1.2 percent, while the number of incidents increased by 17 percent. Myanmar was the most affected by terrorism, with deaths increasing by 23 times to 531 people, followed by Niger, where deaths doubled (increased from 257 in 2020 to 588 in 2021). According to the research, IS and its affiliates are the world's deadliest terrorist organization, with 2,066 deaths.

## **V. CONCLUSION & SUGESSTION**

It is evident from the preceding material that laws are simple to create but complex to implement. Many anti-terrorism laws exist in many countries, yet they all fail to achieve their goals. Many international conventions on counter-terrorism have been passed by the United Nations, however they are useless because the conventions and anti-terrorism laws include loopholes that prevent them from fully fulfilling their goal. Some provisions of the legislation are abused by authorities for their personal benefit. The anti-terrorism law needs to be properly guided so that no one may take advantage of it in a negative way.

We cannot deny that we have numerous laws at both the national and international levels; however, the current focus should be on proper application of those laws.

The following are some additional actions that can be taken:

1. Active participation of countries in international forums such as the United Nations, and adherence to laws and provisions.
2. No one is born a terrorist; nonetheless, there are a few circumstances that force someone into that darkness, and the causes are poverty and religious misinterpretation. Apart from drafting laws, the government and international organizations should concentrate on this.
3. Terrorism can be combated at the national level by informed citizens, decent administration, and proper law enforcement.

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