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## IMPACT OF INTERNATIONAL LAW AND TERRORISM ON SOCIETY: INDIAN PERSPECTIVE

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### ABSTRACT

“Terrorism has become the systematic weapon of a war that knows no borders and rarely has a face and its primary objective has not been to kill the thought, but to demoralize a society so that it collapses from within.” The emergence of Western political institutions and culture laid the groundwork for modern international law. Definitions of terrorism dates back as far as crime, warfare and also the battles between men to defend their tribes as well as lands. In order to combat terrorism, many nations, including India, have strengthened their legal systems. For instance, India has passed legislation like the National Investigation Agency Act, 2008 and the Unlawful Activities (Prevention) Act, 2019. International Terrorism Treaties like International Convention for the Suppression of the Financing of Terrorism, 1999 and International Convention for the Suppression of Terrorist Bombings, 1997 which have set forth main objective to incorporate crimes into the International Law. Cyberterrorism has also become a major threat with the development of technology and the internet. The rise of European concepts of sovereignty and the independent nation-state produced a gap which required a workable plan for conducting inter-state relations in accordance with universally recognized norms of conduct. Improved national security is experienced by states who take an active role in international counterterrorism initiatives, work cooperatively with other nations, and successfully exchange intelligence. The researcher has undertaken the topic to study the impact of Terrorism in regards to international regime, which is impacting on Indian societies, particularly in areas prone to terrorism, conflict and its effect on social harmony which causes tensions within various groups.

**Keywords:** Cyberattacks, International Conventions, Social Harmony, Terrorism, Unlawful Activities Prevention Act

## **I. Introduction**

The concepts and regulations that regulate interactions between sovereign states are known as international law. It creates guidelines and expectations for behaviour, offers conflict resolution procedures, and encourages international collaboration. Terrorism is a major obstacle that international law must overcome. The term "terrorism" describes violent acts carried out by non-state actors, frequently against civilians, with the intention of causing fear and having an effect on society or politics. It requires a thorough legal response since it poses a serious danger to global peace and security. Terrorism is addressed by international law through a number of frameworks and accords. The fight against terrorism has been led by the United Nations (UN). Giving money or resources to assist terrorist operations is illegal according to the 1999 UN General Assembly adoption of the International Convention for the Suppression of the Financing of Terrorism. Preventing the use of nuclear materials for terrorist objectives is the goal of the International Convention for the Suppression of Acts of Nuclear Terrorism. An essential function of the International Criminal Court (ICC) is to prosecute those accountable for acts of terrorism. It has jurisdiction over offences related to terrorism, including crimes against humanity, war crimes, and genocide. Furthermore, legal tools have been used by regional organisations like the African Union and the European Union to tackle terrorism inside their own domains.

It is primarily the duty of states to stop terrorism and bring terrorists accountable within their borders. It is necessary for them to implement laws at the national level that make acts of terrorism illegal and to guarantee efficient collaboration with other governments concerning inquiries, extraditions, and information sharing. International human rights standards must be followed by counterterrorism measures in order to prevent fundamental freedoms and the rule of law from being violated. In this situation, striking a balance between security concerns and the defence of individual rights is crucial. International law offers guidelines for achieving this difficult equilibrium. Terrorism is still a complicated problem with no simple answers, despite international efforts. Terrorist groups modify their strategies when new dangers surface. In order to handle this global problem, international coordination and collaboration are essential. To effectively combat terrorism, it is imperative to

strengthen legal frameworks, improve intelligence sharing, and address core causes including political discontent and poverty.

## **II. India's historical and contemporary experience with terrorism.**

India has a complex and multifaceted history with terrorism, encompassing various historical, political, and socio-cultural dimensions. Here's a brief overview:

### **Historical Context:**

**Partition and the Birth of Pakistan (1947):** The partition of British India in 1947 led to the creation of Pakistan, and the ensuing communal violence displaced millions and resulted in significant religious tensions. Kashmir, a princely state with a Muslim majority but a Hindu ruler, became a flashpoint.

**Kashmir Conflict:** The Kashmir issue has been a longstanding source of conflict between India and Pakistan. The insurgency in Kashmir, fuelled by separatist sentiments and alleged support from Pakistan, has resulted in a protracted conflict with terrorist activities.

### **Contemporary Challenges:**

- a) **Mumbai Attacks (2008):** The Mumbai terror attacks, orchestrated by Lashkar-e-Taiba, marked a watershed moment. Ten Pakistani militants conducted a series of coordinated attacks, killing 166 people and injuring hundreds. The incident heightened concerns about cross-border terrorism.
- b) **Insurgency in Northeast:** Various northeastern states have witnessed insurgencies by separatist groups seeking autonomy or independence. While some groups have engaged in peace talks, others continue to pose security challenges.
- c) **Terrorism from Across the Border:** Pakistan-based militant groups, such as Jaish-e-Mohammed and Hizbul Mujahedeen, have been accused of carrying out attacks in various parts of India. The alleged support from elements within Pakistan has been a major source of contention.

- d) **Counterterrorism Measures:** India has implemented various legislative and security measures to counter terrorism. The Unlawful Activities (Prevention) Act, National Investigation Agency (NIA), and other anti-terrorism laws have been enacted to enhance the state's capabilities to deal with threats.
- e) **International Cooperation:** India has actively engaged with the international community to address terrorism. It has advocated for joint efforts to combat terrorism and has sought support in designating certain groups and individuals as terrorists.
- f) **Cybersecurity Concerns:** With the rise of technology, India faces emerging threats in the form of cyberterrorism. The government has been working on strengthening cybersecurity measures to protect critical infrastructure and sensitive information.
- g) **India's experience with terrorism** reflects the complex interplay of historical, political, and regional factors. While the country has made strides in addressing these challenges, the threat remains dynamic, requiring ongoing efforts to ensure national security and stability.

### **III. Impact of International law on India's counter-terrorism efforts.**

Examining the impact of international law on India's counter-terrorism efforts is crucial for several reasons, reflecting the interconnected nature of global security and the importance of cooperation and adherence to legal norms. Here are key reasons highlighting the importance of this examination:

- a) Terrorism frequently crosses national boundaries, with networks and operations happening outside the borders of a single nation. International law offers a foundation for national collaboration in the successful handling of cross-border risks. Comprehending and upholding international legal norms improve India's capacity to work with other countries to counteract acts of terrorism that may have their roots or affiliations overseas.
- b) International law creates the legal framework for extradition, mutual aid, and

cooperative investigations, enabling nations to work together on counterterrorism initiatives. In accordance with international legal norms, bilateral and multilateral agreements facilitate information exchange, the extradition of suspects, and the coordination of law enforcement efforts.

- c) When it comes to combating state-sponsored terrorism and foreign assistance to non-state entities, international law is essential. India is able to discreetly resolve concerns about governmental backing for terrorist operations by interacting with international legal bodies. Law plays a crucial role in addressing state-sponsored terrorism or support provided to non-state actors by other nations.
- d) The difficult balance between protecting human rights and maintaining national security must be negotiated by counterterrorism initiatives. Respecting the norms set forth by international human rights legislation is essential to upholding the rule of law and preventing violations committed in the name of counterterrorism.

#### **IV. United Nations Conventions**

The United Nations has played a central role in developing a legal framework to combat terrorism. Several key conventions have been established to address various aspects of terrorism, ranging from financing to the suppression of specific terrorist acts. Some of the most notable UN conventions related to terrorism include:

1. International Convention for the Suppression of the Financing of Terrorism (1999):  
Aims to criminalize and prevent the financing of terrorist activities and requires states to take measures to freeze and confiscate funds used for terrorism.
2. International Convention for the Suppression of Acts of Nuclear Terrorism (2005):  
Focuses on preventing and punishing acts of nuclear terrorism and encourages international cooperation in the investigation and prosecution of offenders.
3. International Convention Against the Taking of Hostages (1979):

Addresses the crime of hostage-taking, considering it a grave offense under international law and calls for the prosecution or extradition of those involved in hostage-taking.

4. Convention on the Physical Protection of Nuclear Material (1980):

Aims to ensure the physical protection of nuclear material in international transport and encourages states to establish measures to protect nuclear facilities and material.

5. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (1973):

Focuses on crimes against internationally protected persons, including diplomats and requires states to establish jurisdiction over these offenses and provides for the prosecution or extradition of offenders.<sup>1</sup>

**India's Commitment and Compliance:**

India has demonstrated a strong commitment to combating terrorism on both domestic and international fronts. The country has ratified and actively participated in various UN conventions related to terrorism. Key points regarding India's commitment and compliance include:

- a) India is a party to several UN conventions related to terrorism, including the International Convention for the Suppression of the Financing of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism.
- b) India has enacted and amended domestic legislation to align with the provisions of these conventions. For instance, the Unlawful Activities (Prevention) Act, amended in 2008 and 2019, incorporates measures to combat terrorist financing and address nuclear terrorism.
- c) India has established legal mechanisms to extradite individuals involved in terrorism and to prosecute those committing offenses covered by these conventions.
- d) India's commitment to combatting the financing of terrorism is also demonstrated through its participation in the FATF, an international body that sets standards for combating money laundering and terrorist financing.<sup>2</sup>

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<sup>1</sup> *Permanent Mission of India to the UN*, available at [https://www.pminewyork.gov.in/pdf/menu/submenu\\_\\_1173178539.pdf](https://www.pminewyork.gov.in/pdf/menu/submenu__1173178539.pdf) last seen on 12/11/2023

<sup>2</sup> *India\_United\_Nations\_new*, Ministry of External Affairs, available at

- e) India actively engages in international cooperation and coordination to prevent and combat terrorism. This includes sharing intelligence, participating in joint investigations, and cooperating with international organizations and agencies.

## V. Bilateral and Multilateral Treaties

India has entered into several treaties and agreements to combat transnational terrorism, aiming to foster international cooperation, share intelligence, and coordinate efforts to address cross border threats. Some key treaties and agreements include:

### 1. SAARC Convention on Suppression of Terrorism (1987):

- a. India, as a member of the South Asian Association for Regional Cooperation (SAARC), is a party to this convention.
- b. Aims to enhance regional cooperation in combating terrorism and includes provisions for the extradition of terrorists.

### 2. Bilateral Extradition Treaties<sup>3</sup>:

- a. India has signed bilateral extradition treaties with various countries, allowing for the surrender of individuals accused or convicted of terrorism-related offenses.
- b. These treaties facilitate the legal process for bringing terrorists to justice.

### 3. United Nations Convention against Transnational Organized Crime (2000) and its Protocols:

- a. India is a party to the UN Convention against Transnational Organized Crime, also known as the Palermo Convention, and its protocols, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

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[https://www.mea.gov.in/Images/amb/India\\_United\\_Nations\\_new1022.pdf](https://www.mea.gov.in/Images/amb/India_United_Nations_new1022.pdf) last seen on 12/11/2023

<sup>3</sup> *Indian Treaties Database*, Ministry of External Affairs, available at <https://www.mea.gov.in/treaty.htm>, last seen on 14/11/2023

- b. These treaties address not only terrorism but also related crimes that often intersect with terrorist activities.

#### **4. Mutual Legal Assistance Treaties (MLATs):**

- a. India has entered into MLATs with various countries to facilitate cooperation in legal matters, including the exchange of information and assistance in investigations related to transnational terrorism.

#### **5. United Nations Security Council Resolutions:**

- a. While not treaties in the traditional sense, India, as a member of the UN, complies with Security Council Resolutions that call for international cooperation in combating terrorism.
- b. Resolutions may include measures such as sanctions against individuals and entities associated with terrorist activities.<sup>4</sup>

### **Effectiveness of these Agreements:**

#### **1. Challenges in Extradition:**

- a. While India has extradition treaties with numerous countries, challenges may arise in securing the extradition of individuals due to differences in legal systems, domestic laws, and diplomatic considerations.

#### **2. Uneven Implementation:**

- a. The effectiveness of these agreements can vary based on the commitment and capacity of partner countries to implement and enforce them consistently.
- b. Some countries may face challenges in effectively implementing measures against transnational terrorism.

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<sup>4</sup> *List of Convention Agreements ratified by India*, pmindiaun, available at <https://pmindiaun.gov.in/pageinfo/NDA5>, last seen on 14/11/2023



### 3. Need for Consistent Legal Frameworks:

- a. The effectiveness of these agreements is contingent on consistent and robust legal frameworks in both India and partner countries.
- b. Harmonizing legal systems and ensuring compliance with treaty obligations is essential for effective cooperation.

## VI. Legislative Measures and Judicial Responses

### Legislative Measures

India has enacted several laws to address the challenges posed by terrorism, both domestically and internationally. Two key legislations central to India's counter-terrorism efforts are the Unlawful Activities (Prevention) Act (UAPA) and the National Investigation Agency (NIA) Act.

#### I. Unlawful Activities (Prevention) Act (UAPA):

Enacted in 1967 and amended multiple times, the UAPA aims to prevent unlawful activities that threaten the sovereignty and integrity of India. It provides law enforcement agencies with extensive powers to combat terrorism, insurgency, and secessionist activities.

##### 1. Key Provisions:

- a. The government can designate organizations and individuals as terrorists, leading to the freezing of assets and other punitive measures.
- b. The Act empowers the government to ban organizations involved in unlawful activities, including terrorism.
- c. The UAPA prescribes severe penalties, including life imprisonment and death penalty, for various offenses related to terrorism.<sup>5</sup>

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<sup>5</sup> *The Unlawful Activities (Prevention) Act, 1967*, India Code, available at <https://www.indiacode.nic.in/handle/123456789/1470> last seen on 18/11/2023

## 2. Controversies and Criticisms:

- a. Critics argue that the broad and vague definitions of terms like "unlawful activities" and "membership of a terrorist organization" may lead to abuse and misuse.
- b. Limited Judicial Oversight: Concerns have been raised about the limited judicial oversight in the process of designating individuals or organizations as terrorists.<sup>6</sup>

## 3. Effectiveness:

- a. The UAPA has been effective in providing legal tools for law enforcement agencies to combat terrorism, freeze assets, and prosecute individuals and organizations involved in unlawful activities.

## Judicial Responses

Several landmark court cases related to terrorism in India have shaped the legal landscape and influenced counterterrorism efforts. It's important to note that legal situations can evolve, and new cases may have emerged since then. Here are some notable cases up to that point:

### 1. Afzal Guru Case (2001 Parliament Attack):

Background: Afzal Guru was convicted for his role in the 2001 attack on the Indian Parliament. The attack led to the death of several security personnel and the assailants.

Court Decision: Afzal Guru was sentenced to death by the trial court. The Supreme Court of India upheld the death sentence in 2005. Afzal Guru was executed in 2013. The case raised concerns about the fairness of the trial and the use of the death penalty.<sup>7</sup>

### 2. Ajmal Kasab Case (2008 Mumbai Attacks):

Background: Ajmal Kasab was the lone surviving gunman from the 2008

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<sup>6</sup> *arup-bhuyan-v-state-of-assam*, Live Law, available at [https://www.livelaw.in/pdf\\_upload/234-arup-bhuyan-vstate-of-assam-24-mar-2023-465396.pdf](https://www.livelaw.in/pdf_upload/234-arup-bhuyan-vstate-of-assam-24-mar-2023-465396.pdf) last seen on 18/11/2023

<sup>7</sup> 727092, Supreme Court Of India available at <https://main.sci.gov.in/jonew/judis/27092.pdf>, last seen on 24/11/2023

Mumbai attacks. The attacks resulted in numerous casualties and raised questions about India's preparedness to handle such incidents.

Court Decision: Kasab was found guilty and sentenced to death by the trial court. The Bombay High Court and the Supreme Court upheld the death sentence. Kasab was executed in 2012. The case highlighted the need for swift and efficient response mechanisms to deal with terror attacks.<sup>8</sup>

### 3. ICJ Case: India vs. Pakistan (1971):

While not specifically a terrorism case, the International Court of Justice (ICJ) was involved in a case between India and Pakistan in 1971. India accused Pakistan of supporting terrorism in its eastern state of East Pakistan (now Bangladesh) during the Bangladesh Liberation War. The ICJ dealt with the issue of genocide during the conflict.<sup>9</sup>

These cases underscore the challenges in investigating and prosecuting terrorism-related offenses while upholding the principles of justice and fair trials. The legal outcomes reflect the complexities of dealing with terrorism within the framework of the rule of law.

## VII. Proposals for enhancing global collaboration in the fight against terrorism

Enhancing global collaboration in the fight against terrorism is crucial, and India can play a proactive role in proposing and supporting initiatives to address this global challenge. Here are some proposals:

1. Advocate for the creation of an international convention on counterterrorism that establishes a common legal framework, definitions, and mechanisms for cooperation. This convention should address jurisdictional issues, extradition processes, and information sharing.

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<sup>8</sup> 2012\_vi\_8, Supreme Court of India available at

[https://main.sci.gov.in/pdf/SupremeCourtReport/2012\\_v8\\_pii.pdf](https://main.sci.gov.in/pdf/SupremeCourtReport/2012_v8_pii.pdf), last seen on 24/11/2023

<sup>9</sup> Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan), International Court of Justice

<https://www.icj.org/case/54#:~:text=OVERVIEW%20OF%20THE%20CASE,territory%20by%20Pakistan%20civil%20aircraft.> last seen on 24/11/2023

2. Propose the establishment of a global task force comprising representatives from various countries, intelligence agencies, and international organizations. This task force could facilitate real-time information sharing, coordinate joint operations, and enhance collaboration in addressing transnational terrorism.
3. Work towards the development of standardized international protocols for addressing cyberterrorism. This should include measures to prevent and respond to cyberattacks, as well as the sharing of threat intelligence related to cyber threats.
4. Strengthen regional and bilateral partnerships with neighbouring countries and key allies. By fostering closer ties with other nations, intelligence agencies can collaborate more effectively, share insights, and coordinate efforts to combat cross-border terrorism.
5. Advocate for and participate in international initiatives aimed at capacity building and training for law enforcement agencies, intelligence services, and judicial systems. This would enhance the ability of countries to prevent, investigate, and prosecute acts of terrorism.
6. Strengthen international cooperation on tracking and combating the financing of terrorism. Support the development and implementation of mechanisms for sharing financial intelligence, freezing assets, and prosecuting individuals and entities involved in funding terrorist activities.
7. Support the establishment of multilateral information-sharing platforms where countries can exchange intelligence and share best practices in countering terrorism. Such platforms could involve not only governments but also involve relevant non-governmental organizations and private sector entities.
8. Collaborate on initiatives to address the root causes of terrorism, including efforts to prevent radicalization and extremism. This may involve sharing successful strategies for community engagement, education, and social programs that promote inclusivity and tolerance.
9. Advocate for a more proactive role for the United Nations in coordinating global

counterterrorism efforts. This could involve enhancing the capabilities of the UN Office of Counter-Terrorism (UNOCT) and encouraging member states to fully implement relevant UN Security Council resolutions.

10. Engage in diplomatic initiatives to build consensus among nations on the need for collective action against terrorism. Utilize international forums, such as the United Nations General Assembly, to garner support for comprehensive and coordinated efforts.
11. Encourage public-private partnerships to combat terrorism. Engage technology companies, financial institutions, and other private sector entities in sharing information, developing innovative technologies, and implementing best practices to counter terrorist threats.

### **VIII. Conclusion:**

In conclusion, the intersection of international law and terrorism in the context of India underscores the multifaceted challenges and imperative for global collaboration. The evolving nature of terrorism, characterized by its transnational reach and diverse forms, necessitates a comprehensive and adaptive legal framework. India, as a key player in the global fight against terrorism, faces distinct challenges that demand a nuanced approach within the international legal arena.

The absence of a universally accepted definition of terrorism remains a persistent hurdle, hindering cohesive global action. Addressing this issue and fostering consensus on a common understanding of terrorism should be a priority to facilitate smoother international cooperation. Cross-border terrorism, exemplified by incidents such as the Mumbai attacks, emphasizes the need for improved jurisdictional coordination and streamlined extradition processes.

Human rights considerations further complicate the legal landscape. Striking a delicate balance between preserving individual liberties and ensuring national security requires ongoing scrutiny and refinement of counterterrorism measures. The potential for abuse and overreach underscores the importance of robust legal safeguards.

Technological advancements, especially in the realm of cyberterrorism, pose additional challenges for legal frameworks. As technology evolves, so too must legal responses to ensure the effective prevention and prosecution of new forms of terrorist activities.

India's diplomatic initiatives can play a pivotal role in advocating for global partnerships. Proposals for standardized international protocols, collaborative task forces, and strengthened regional cooperation demonstrate a commitment to collective action. Additionally, addressing the root causes of terrorism, both domestically and internationally, is crucial for long-term success.

While landmark cases, such as the Mumbai terror attacks, underscore the gravity of the threat, ongoing legal developments and initiatives signal a commitment to enhancing the global legal response. By actively engaging in diplomatic efforts, supporting international conventions, and advocating for the refinement of legal instruments, India can contribute significantly to the shared goal of countering terrorism within the bounds of international law.

In essence, the challenges at the intersection of international law and terrorism demand a collective and adaptive response. As nations work together to strengthen legal frameworks, foster collaboration, and address the root causes of extremism, they move closer to a more secure and just global order.

## **IX. References**

### **A. Websites:**

1. <https://www.mea.gov.in/treaty.htm>
2. <https://main.sci.gov.in/>
3. <https://www.icj-cij.org/home>
4. <https://blog.ipleaders.in/>
5. <https://www.livelaw.in/>

### **B. Books:**

1. International Law and Human Rights by Dr. S.K.Kapoor
2. International Law by Malcolm N.Shaw