

Terrorism and State Responsibility: Legal Implications for Counterterrorism Measures

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ABSTRACT

This research paper explores the intricate legal dynamics between terrorism and state responsibility, shedding light on the nuanced implications for counter-terrorism measures. Analyzing international legal frameworks, it addresses the challenges and responsibilities faced by states in mitigating terrorism, emphasizing the need for a balanced approach that ensures both security and adherence to human rights. The paper navigates the evolving landscape of counterterrorism, offering insights into potential legal reforms and cooperative strategies to enhance global efforts in combating terrorism while upholding the rule of law. The paper also delves into the historical context of terrorism, tracing its evolution and examining the changing nature of terrorist threats, it also scrutinizes state-sponsored terrorism, emphasizing the complex legal landscape and the challenges faced by states in navigating this issue. The paper also advocates the evolution of terrorism through different case studies of distinguished terror attacks during 19th century till the present. It also includes the aspect of state funding to the terrorist groups through different case studies of the distinguished countries with respect to respective terrorist organization and incidents. In the end it talks about the measures, law and policies made by the different states around the world through treaties, international laws and conventions regarding counter-terrorism.

CHAPTER 1- INTRODUCTION

Terrorism has been evolved frequently since its inception during the French Revolution till 2024 and has impacted the world in a way that has not been experienced by the international community from any of the disaster even if it is a natural disaster as a natural disaster or calamity possesses the power to unite states and people around the world to cooperate and solve the issues behind it but terrorism has been seen as a disaster which only resulted into disintegration and destruction. It has evolved in a way that states are not even now have come on a common platform to take measures against these acts of destruction, it is a known fact that even after facing too many issues from terrorism resulting into social, political, technological and cultural destruction, all the states present in the world are not able to come at an amicable solution as there are few states carrying an ideology of either tolerating these acts or supporting these acts, as these type of terrorist activities have certain motive behind it and if it equates with the motive and objectives of any of the states, they try to act in coalition in certain cases. In this aspect of international order, it is expected from the states to act in the most responsive way to counter these acts and supersede the issue of terrorism and the most prominent examples of counterterrorism measures have been the numerous nof treaties and conventions which have been ratified and agreed by majority of the states. Since, a new aspect of terrorism i.e. state-sponsored terrorism is taking place around the globe, the states having more powerful strata over the international realm, are taking stand against this set of terrorism. The United Nation is taking many steps to counter the state-sponsored terrorism by signing and creating

various treaty and conventions, as the 9/11 attack has made a dark mark over the international organizations acting against terrorism attracted more states to come and involve for taking strict measures by adopting strict laws for countering the fearless terrorist organizations.

AIMS AND OBJECTIVES:

- Examine the historical trajectory of terrorism, identifying key turning points and shifts in its manifestations.
- Analyze the evolving nature of terrorism, considering contemporary challenges and emerging trends.
- Investigate the legal framework governing state responsibility in the context of counterterrorism measures, with a focus on international law and human rights.
- Scrutinize instances of state-sponsored terrorism, evaluating the complexities and legal implications involved.
- Assess the effectiveness of current counterterrorism strategies in balancing security imperatives with respect for human rights.
- Propose legal reforms and cooperative strategies that address gaps and challenges in the global counterterrorism framework.
- Contribute to a more comprehensive understanding of the legal dimensions surrounding terrorism and state responsibility, offering guidance for policymakers, legal practitioners, and scholars.

LITERATURE REVIEW:

BOOKS:

“Terrorism and International Law: Accountability, Remedies, and Reform”, Author: Beth Van Schaak; Year: 2013¹- The book written by the European author envisages upon the circumstances faced by the international community at the time of rise of Islamic terrorism by the terrorist organizations of Asia and Middle-east and also talks about the counter-terrorism measures taken by the European Union and United States by cooperation and conventions.

“The Oxford Handbook of Terrorism” Editors; Erica Chenoweth and Richard English; Year: 2019²- The book clearly shows the ideology and efforts taken by the west and South Asian countries to combat the regional terrorism and the evolving nature of terrorism seen by the international community. It also throws light upon the UN conventions and Treaties which made for countering terrorism, specifically it shows reports of different forms of terrorism actively conducted at the International level.

RESEARCH PAPERS:

“Terrorism and State Sponsorship in World Politics”

Authors: David. V. Cater and Saurabh Pant; Year: 2019³- The paper throws light upon the evolving aspect of terrorism i.e. state-sponsored terrorism and its phases. It also envisages the causes and effects of this aspect of terrorism and how the states are responding to this issue and what should be the ideal ways of responding to this critical issue.

¹ Beth Van Schaak, TERRORISM AND INTERNATIONAL LAW: ACCOUNTABILITY, REMEDY AND REFORM, Oxford International Press, 2013

² Erica Chenoweth and Richard English, THE OXFORD HANDBOOK OF TERRORISM, Oxford University Press, 2019

³ David. B. Cater and Saurabh Pant, TERRORISM AND STATE SPONSORSHIP IN WORLD POLITICS, Oxford Handbook of Terrorism, 2019

“Global Implications of State-Sponsored Terrorism”

*Author: Dr. Arvind Kaushal; Year: 2015*⁴ The paper throws light upon the causes of state sponsored terrorism i.e. what are the needs of the states that are being fulfilled by sponsoring terrorism through assistance and support. Also, the evolving conditions of this aspect of terrorism and how the affected countries are taking measures against the same, how the powerful countries are using this method for dominating the Least Developed Countries and preventing them to grow at a higher pace.

REPORTS:

“Human Rights, Terrorism and Counter-terrorism”

*Publisher: Office of the United Nations High Commissioner for Human Rights; Year: 2013*⁵ - The report published by an official authority of UN throws light upon the aspect of relationship between Counterterrorism measures and Human Rights by specifying various UNSC and UNGA resolutions and meetings that how the states have responded on this particular issue and how the states are wanting to go further on this issue. The report also provides some suggestions for a legal framework that should be there to cater the issue of protection of human rights while countering terrorism.

ARTICLES/BLOGS:

“International Law Aspects of Countering Terrorism”

*Published By: United Nations Office on Drugs and Crimes (UNDOC); Year: 2015*⁶ - The article as being published by the official body under UN, it talks about all the conventions and treaties signed for countering terrorism and also the jurisdiction of ICC for the acts of terrorism. What the law says and how is it implemented has been put-forth by this article that which states have taken the initiative and how the nature of terrorism evolved with respect to gaps and lacunas in International Law regarding terrorism.

“Overview of State-Sponsored Terrorism”

*Published By: Home of State Affairs, USA; Year: 2009*⁷ - The article published by the official gazette of Home Affairs of the US, it talks about the list published by the US intelligence agency FBI which compiled all the states which are sponsoring terrorism in some or the other way and how the middle eastern countries are promoting terrorism through assisting terrorist organizations by financing their needs and assets they need.

*“The Changing Nature of Terrorism: History and Evolution”*⁸

*Published By: UN Office of Counter Terrorism*⁸ - The article talks about the history, facts and events concerning to terrorism that how it has emerged and what is the history of the term terrorism. Also it throws light upon various counter terrorism measures used to taken by the states in past and terrorism has evolved its form throughout the timeline.

⁴ Arvind Kaushal, GLOBAL IMPLICATIONS OF STATE SPONSORED TERRORISM, SSRN Electronic Journal, 2015

⁵ United Nations High Commissioner for Human Rights, HUMAN RIGHTS, TERRORISM AND COUNTERTERRORISM, Office of High Commissioner for Human Rights, Rep. No. 32, 2013

⁶ United Nation Office of Drugs and Crime, INTERNATIONAL LAW ASPECTS OF COUNTERING TERRORISM, Office of Counterterrorism, UN, 2015, <https://www.unodc.org/documents/terrorism/Publications/FAQ/English.pdf>

⁷ Home of State Affairs, OVERVIEW OF STATE SPONSORED TERRORISM, Office of Home Affairs, 2009, <https://1997-2001.state.gov/index.cfm>

⁸ Office of Counterterrorism, THE CHANGING NATURE OF TERRORISM, United Nations, 2018, <https://www.un.org/counterterrorism/search/node/state%20sponsored%20terrorism>

CASE STUDIES TO BE REFERRED:

Lockerbie Bombing(1988):

Examining the legal implications of state-sponsored terrorism in the context of the bombing of Pan Am Flight 103 and its aftermath, involving Libya.

9/11 Attacks(2001):

Investigates the responses of states to the unprecedented terrorist attacks on the World Trade Center and the Legal dimensions of the subsequent global counterterrorism efforts. *State-Sponsored Terrorism in Syria:*

Analyses the legal challenges surrounding state-sponsored terrorism in the Syrian Conflict, exploring the role of the Syrian government and its impact on international law.

RESEARCH METHODOLOGY:

The author for this research paper has opted for ‘doctrinal’ form of research which means that the research and analysis is based upon the interpretation of the author which has been carved out from already published research papers, blogs, articles, reports etc, published by official recognized government bodies or recognized authors of officially recognized journals working under the subjects of International Law and International Relations.

RESEARCH QUESTIONS:

- How has the historical landscape of terrorism evolved, and what key factors have contributed to its changing nature?
- What are the International legal frameworks governing states’ responsibility in the context of counterterrorism, and how have they adapted to evolving threats?
- What is the issue of state-sponsored terrorism observed at the international level?
- How counterterrorism is connected with human rights, and what could be a standard approach to balance out counterterrorism actions and human rights?
- How Cyberterrorism has affected the globe and evolved as the new form of Terrorism in the International Sphere?

CHAPTER 2- RESEARCH AND ANALYSIS**1. How has the historical landscape of terrorism evolved, and what key factors have contributed to its changing nature?**

In different time phases, terrorism has been defined at a different perspective but it was first coined in the 1790s during the French Revolution and terrorism was used refer the “Reign of Terror” by the revolutionaries against their opponents. As the Jacobin party of France started the Reign of Terror by conducting mass executions of people by guillotine. However, by this logic the definition of terrorism can be inferred as the act of violence by the Government on its domestic enemies by conducting mass violence but since the 19th century, it has been evolved as something very different from what it was earlier as the earlier definition was very easy to be influenced and manipulated against the government itself and the decline of monarchy and constitutional monarchy, the earlier definition of terrorism also faced a decline in the International sphere.

Although, terrorism has not been legally defined anywhere in any jurisdiction commonly which means there is no common stand against terrorism with respect to the definitions given to it by different laws

pertaining to terrorism but some common elements can be found while defining terrorism for example it involves “the use or threat of violence” and “seeks to create fear” not just within the direct victims of such acts but also the wide audience who are the observers of the acts.

Terrorism is being practiced by state and non-state actors throughout the history, even though the way of practicing terrorism was different in early stages but it can be witnessed for example the effectiveness of psychological warfare against enemy community are written in the text of ancient Greek historian Xenophon (c. 431-c.350 BCE) also the history has the evidences to show act of banishment and expropriation of property conducted by the Roman emperors like Tiberius(reigned 14-37 CE) and Caligula(reigned 37-41 CE) to discourage the enemies who were supposed to takeover their crown. But the most evident and commonly known acts of terror, is the act of violation conducted by the Jewish Zealots, also known as the Sicarii (Hebrew “Daggers”), who used to conduct frequent violent attacks on the other Hebrews who were suspect of doing collusion with the Roman authorities. Similarly, the act of terror was advocated by Robespierre during the French Revolution, and the Spanish Inquisition used arbitrary arrest, torture, and execution to punish what it saw as religious heresy.

There was group formed by the defiant southerners “Ku Klux Klan” by the end of the American Civil War (1861-65) just to apprehend the supporters of Reconstruction (1865-77) and the newly independent former slaves. After the first half of the 19th century, terror was adopted in the Western Europe, Russia and the USA by supporters of anarchism, whose belief was that the best way to bring socio-political change was by assassinating people in power. Consequently, between 1865-1905 huge number of kings, presidents, prime minister and other political officials were killed by the bombings of anarchists.⁹

After that, the 20th century witnessed huge changes in the use and practice of terrorism. It became the symbol of huge number of political movements which started from extreme right and ended up at extreme left in the political realm. The major factors of these changes and evolution were emerged as technological advances, such as automatic weapons and compact, energy driven explosives which provided terrorists an easy mobility and access to the use of violent materials and the rise of air travel gave the way to rise of terrorism in the 20th century as it gave a new way of conducting act of terror and apprehend the people. In the first half of 20th century, terrorism was virtually an official policy of totalitarian states such as those of Nazi Germany under Adolf Hitler and the Soviet Union under Stalin. In both of these states the act of terror included mass genocide, torture, violence and execution without any legal framework being provided just to create an atmosphere of apprehension in the hearts of the people who do not match with the national ideology of the state. The evolution of terrorism from French Revolution to the contemporary international realm has been changed the scope of terrorism where the wrongdoer was used to be the state of people in power itself but at present the state suffers the act of terror by the terrorist groups against itself, but we can observe many examples when the state itself has aided certain terrorist groups but was attacked by them in a later stage for example in the case of Osama Bin Laden, many evidences show that his group Al-Qaeda was aided by USA but it became exploitative for USA in a later stage when 9/11 was planned by Osama Bin Laden and then USA realized and conducted the Anti-terrorist actions. The point which has to be noted here is that earlier the state itself conducted the act of terror but now as there is an established International Law and also there is an established political system all around the world the states have started a new way of conducting these actions i.e. “Aiding” these terrorist groups and most of the members in these groups are young and easy to get influenced so just for the sake of money and power

⁹ John Phillip Jenkins, TERRORISM: HISTORY AND SOCIETY, Encyclopedia Britannica, 2024, <https://www.britannica.com/topic/terrorism>

these people are conducting these terror acts. In conclusion, it is rightly to say that the acts of terror has been evolved in the terms of execution as in earlier there was only one way that was violence through bombings and weapons on the people by the state itself patently but at the contemporary times it has been evolved as the act done by some psychopaths but aided and supported by some handful of powerful states. The motive, scope and functioning has evolved as the key changes in the political system and International order can be seen and there are many laws and statutes are being created against terrorism but it is prevalent nowadays as well and it is difficult to combat this aspect of the world unless and until there is a common motive of all the states to eradicate it.

2. What are the International legal frameworks governing states' responsibility in the context of counterterrorism, and how have they adapted to evolving threats?

The counter-terrorism instruments started getting prevalent after 1960s, when the western countries, basically the so-called powerful countries around the globe started facing the issues regarding act of terror against their civilians and when they started facing highly effective consequences then the United Nations realized to create legal instruments for countering terrorism at the global level. Since 1963, the international community has made nineteen international legal instruments for countering terrorism. The instruments were created by the support and guidance of the United Nations and the International Atomic Energy Agency (IAEA), and are open to participation by all member states.

Below is the summary of all the legal instruments made by UN in the recent years:

- 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft¹⁰
 1. The Convention applies to the acts which can affect the in-flight safety of a passenger.
 2. The convention also gives power to the aircraft commander to take any reasonable measure including any type of restraint on any one on whom he has the reason to believe that the person has committed or is can commit such an act, which could harm the safety of the aircraft.
 3. It provides for the responsibility of the contracting states to take the custody of any such offender and to return the control of the aircraft to the lawful aircraft commander.
- 1970 Convention for the Suppression of Unlawful Seizure of Aircraft¹¹
 1. The convention made the act of unlawful seizure or forceful control of aircraft by threatening or by exerting any type of intimidation on board an offence also the attempt of acting in such manner regarded as offence.
 2. The states who were signatory to the convention had the responsibility to make hijacking a severe offence by inflicting severe penalties on the hijackers.
 3. The states had also the responsibility to have the custody of the offenders and prosecute them either by extradition or by submitting them to the home state.
 4. The states had also the responsibility to assist each other and co- operate in such circumstances.
- 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation¹²
 1. The convention made unlawful and intentional act of violence against anyone on board or aircraft in flight an offence or if the act can endanger the safety of the aircraft or if any one places explosives on an aircraft or even attempting such acts or to be an accomplice in such acts an offence.
 2. The states got the responsibility to make the aforementioned acts punishable with severe penalties.

¹⁰ Convention on Offences and Certain Acts Committed on Board Aircraft, 14th Sept 1963

¹¹ Convention for the Suppression of Unlawful Seizure of Aircraft, 14th Oct, 1971

¹² Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 23rd Sept, 1971

3. The states could themselves prosecute the offenders by extradition or can submit them to the Home State. \
- 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
 1. It extended the laws made under Montreal Convention to encompass terrorist acts at airports serving international civil aviation.
 - 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation¹³
 1. Usage of civil aircraft as a weapon to cause death, injury or damage was made an offence.
 2. Usage of civil aircraft for discharging biological, chemical and nuclear (BCN) weapons or any similar substance which could cause death or act of using such substance for attacking the civil aircraft was made an offence.
 3. Any cyber attack on air navigation facilities was made an offence.
 4. Conspiracy to commit such offence or its equivalence was made an offence.
 - 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons¹⁴
 1. The convention defined the “internationally protected person” as a Head of any State or International Organisation who is entitled to special protection.
 2. The states got the responsibility to criminalize the acts relating to intentional murder, kidnapping or other attack on such person and inflict grave penalties.
 - 1979 International Convention against Taking of Hostages¹⁵
 1. The Convention criminalized any act under any person seizes or detains and threatens to kill, to injure, or to continue to detain another person for compelling any third person who is a State, and Intergovernmental Organization or any person whether natural or juridical to abstain or to do any act as an condition for the release of such hostage.
 - 2005 Amendments to the Convention on the Physical Protection of Nuclear Material¹⁶
 1. It made binding on all the states to protect their nuclear facilities and material in domestic use, storage as well as its transportation.
 2. Requested states for expanded cooperation between States for rapid measures in locating unlawful smuggling and transportation of nuclear material through sabotage.
 - 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Protocol-1988 & 2005)¹⁷
 1. Established the legal regime for all the acts punishable with respect to the aircraft in the context of ships.
 2. Extended the scope according to evolution of laws relating to Seas.
 - 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection¹⁸
 1. The convention was made for controlling and limiting the use of unmarked and undetectable plastic

¹³ Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 10th Sept, 2010

¹⁴ Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 14th Dec, 1973

¹⁵ Hostages Convention, 18th Dec, 1979

¹⁶ Convention on the Physical Protection of Nuclear Material, 3rd Mar, 2005

¹⁷ Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 18th Mar, 1988

¹⁸ Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1st Mar, 1991

explosives.

2. The states were given responsibility of controlling the unmarked plastic explosives in their respective territories.
 3. Each state was given the responsibility to take necessary and effective measures to prohibit and prevent the manufacture of the unmarked plastic explosives in or out of its territories.
- 1997 International Convention for the Suppression of Terrorist Bombings¹⁹
 1. Created a law of universal jurisdiction regarding the unlawful use of explosives at public place for the intention of mass killings and mass destruction.
 - 1999 International Convention for the Suppression of the Financing of Terrorism²⁰
 1. It gave states the responsibility to prevent the financing of terrorists whether direct or indirect, either through claiming to have charitable funding or which also indulged into drug trafficking or gun running.
 2. The states have the responsibility to penalize such acts severely.
 3. Also, the states have to identify, freeze and seize such funds allocated for such activities.²¹

United Nations Global Counter-Terrorism Strategy which was signed by the consensus by the General Assembly on 8th September, 2006 for enhancing global legal instrument against terrorism and to make a global platform to check the reports for anti-terrorism acts conducted by different states every 2 year.

Also, the Plan of Action which has been put forth by the UN Secretary-General in 2016 called for the comprehensive approach for encompassing and for making a consensual solution regarding the terror attacks conducted by different terrorist groups. It talked about a platform for addressing the issues related to Terrorism also the General Assembly encouraged the Member states to consider implementing relevant recommendations from the Plan of Action, and to develop their own national and regional plan of actions. After mentioning all the legal framework above mentioned as the UN is the largest IO in the world and 194 nations accept and cooperate with UN, it can be clearly inferred that these conventions were need of the hour and they have evolved through times which means the way terrorist groups changed their path of destruction, on the similar way UN tried to evolve its conventions and giving states responsibility shows the acceptance of the nations to them. But, the problem has not been solved fully, the evolution of psychological terrorism and cyberterrorism is a threat and the states have to talk about it to cure these problems before them becoming a disease for the world.

3. What is the issue of state-sponsored terrorism observed at the international level?

There are many ways to define terrorism as it has many variants in itself and has risen in many ways and process throughout then years, be it psychological, biological, physical or nuclear acts of terror, terrorism has paved its way to a next level despite of the laws and conventions made by the states around the globe. The acts of terror and the functioning of the terrorist groups are not decreased rather is taking a different way altogether, the picture of terrorism has also embarking the Information Technology realm of the world, the term cyberterrorism is coming into picture. But, all the efforts made by the globe is diminishing one

¹⁹ International Convention for the Suppression of Terrorist Bombings, 15th Dec, 1997

²⁰ International Convention for the Suppression of the Financing of Terrorism, 9th Dec, 1999

²¹ *Office of Counterterrorism, THE CHANGING NATURE OF TERRORISM*, United Nations, 2018, <https://www.un.org/counterterrorism/search/node/state%20sponsored%20terrorism>

or the other way because of the character of terrorism becoming strong by the support of the governments of the different states altogether.

The term state sponsored terrorism means the way through which the states provides the financial assistance to the terrorist groups to commit such acts within the state itself or externally. The state sponsored terrorism is a combination of social, political, psychological and religious causes of terror or sometimes the consequences. In this aspect the prevention of these acts become so difficult for the international platforms themselves but nevertheless there are reasons, anything does not happen.

There are many factors and prospects of the state sponsored terrorism as the scope is very much complex and it varies from case to case so, it is very difficult to make an inference out of it to rely upon an objective and permanent factor which contribute to result into state sponsored terrorism. However, the author has tried to make a difference and look upon these complexities and conclusively after reading so much of literature, the author differentiates the state sponsored terrorism in two different aspects i.e. firstly, the internal state sponsored terrorism and secondly the external state sponsored terrorism. The internal way of sponsorship includes the assistance to the terrorist groups by the governments or NGO(with cooperation of government) to conduct certain act within the country itself just for disturbing the peace and order of the state itself but in contemporary times we can see the examples of the terrorist groups made by a state unofficially but after some time, the terrorist group go against the state itself, so here, it has to be understood that in majority scenerios the particular state created certain person just for the sake of greedy politics involved in the system. The best example here can be given is Bhindrawala who started the Khalistani movement in India, many evidences are present which shows that Bhindrawala was himself aided and assisted by the then UPA government of India and the Punjab state government made him and created him silently by hiding certain conduction of acts but in 1980s he himself made a threat to the nation and killed the then PM Indira Gandhi which shows the aid and assistance got failed after he gained certain level of public acceptance and fame. Osama Bin Laden is another example for the aspect of state sponsored terrorism and at the end becoming detrimental for the sponsor state itself as many evidences in the International realm shows that Osama Bin Laden was being raised by the then US government just for creating a tool for conducting acts of terror for disregarding and destroying peace in the LDCs as US being the most powerful country of the world never wanted that the LDCs like South Asian countries and most prominently US continued its practice in the states which were rich in terms of resources but were not that rich and powerful in terms of defence, just for using those countries as tool for resources US tried to destroy management in those countries to create a political instability through aiding these militant groups with powerful and high technology weapons just for weaken the states' government and make them surrender to US that's what allegedly US has done in many of the African countries and middle east as well. After, this particular point all the powerful countries were aiding these militant groups for weakening the sovereignty of these less powerful states just for exploiting the resources but as soon as these powerful western states started being adversely affected by the militant group whom they themselves created or assisted directly or indirectly, they started realizing that there is a need of a framework and some methods of acting against these terrorist groups. It is very difficult to understand state sponsored terrorism as a whole as defining state sponsored terrorism as holistic support of the states to the terrorist organization is itself a flawed argument and for this purpose state sponsored terrorism is not a category and neither it can be classified into categories rather understanding the state sponsored terrorism as a "spectrum" as there are many phases and variants of it which lies between two conditions "incapacity" and "direct control". The figure below attached shows the same spectrum in the sense of involvement of states into terrorist

organization and the level of assistance it provides so here, in the left side the spectrum is bounded by ‘incapacity’ which means that state has no capability in assisting the terrorist organization in conducting any activity and on the right it has ‘direct control’ which means that state is exercising complete control over the terrorist organization which includes ideology and operations. The ‘incapacity’ side shows that the organization is successfully working within the boundaries of the state as the state is incapable to prevent or handle and the organization is able to work due to state’ inaction. Going to right, the involvement of the state is increasing factor by factor while moving to right as it shows the states assistance to the organization by providing an increasing quantity and quality of tangible good and services.



Figure 1. Spectrum Depicting the level of Involvement between a State Sponsor and a Terrorist Organization

The step after complete ‘incapacity’ is “Toleration”. This happens when the state is known to the fact about the existence of the terrorist organization working within its boundaries but supports to it through its wilful inaction. The next level of involvement is ‘Support’. Here the state provides assistance and support to the organization by its active role as it provides a tangible form of support but there is no control over the organization by the state. As the last step of involvement comes into picture the state adds its ideology and exercise high amount of control over the organization and a simultaneous support and cooperation.

The steps of involvement under the spectrum with International example:

- **Incapacity-** Any state may do not support these organizations by its willingness but the incapacity of the state to exercise its control over its territory itself can rise up to these problems. The classic example of this scenario is Lebanon in 1970s, which was facing serious internal disturbances in the form of civil wars coupled with the constant external conflict with Syria resulted into its partition among warlords and generals, militias and armies, much like a turf of urban gangs. As such, the government, to the limit it actually existed, was not able to stop the terrorist groups of Palestine from establishing the bases of the organizations’ base and operation within the Lebanon’ territory. The Palestinian terrorist groups used to stage guerilla raids and mortar attacks into the Northern Israel. After many continuous years of bearing with these attacks without any support and help of Lebanese government the Israeli government had to take a stand in 1982, in that rapid military action of Israel swept into southern Lebanon and occupied the country for many years. The aforementioned situation depicts the states’ incapacity to act within its own territory.
- **Toleration-** ‘Incapacity’ becomes ‘Tolerance’ when the state has the power and capability to prevent these terrorist groups to act but it chooses to remain silent and not to act in the ideal way. A prime example of toleration by state is Canada and Liberation Tigers of Tamil Eelam (LTTE). The purpose

of LTTE is to make an independent country for the ethnic Tamils of Sri Lanka. Specifically, Canada is the home to approximately 200,000 Tamils and 90 % of them living in Toronto. In the beginning, LTTE started getting realized that it needs international attention and support so it had to take efforts for recognition so it started sending operatives to other countries to organize the Tamil diaspora and send funds and weapons back to Sri Lanka. In 2004, the LTTE's Canadian version 'Snow Tigers' was one of the largest foreign bases of support raising as much as 1 million USD per month. In 2006, the conservative government of Canada banned the LTTE but the organization continued to wield considerable power within Canadian politics. This act of Canada shows that even it had the power to prevent and destroy the camps of LTTE from its territory but it did not do so as it tolerated these acts of terror.

- **Support-** The active role of the state in the acts of terror conducted by the organizations and a tangible form of assistance without any exercise of control over the organization is 'support'. In 1980s, Libyan leader, Colonel Muamar Qaddafi was the leading supporter of terrorism. One of the most prominent factor which shows his support to terrorism is his statement for Provisional Irish Republican Army(PIRA) stating that "we do not consider the PIRA a terrorist organization rather noble strugglers" and in furtherance to this he also provided massive amounts of weaponry to the PIRA. According to some evidences, during the mid 1980s the PIRA took delivery of some five to ten tons of Semtex-H plastic explosive and this particular weapon was with the Libyan army.

The major distinction of Support and Sponsorship is the control and authorization over the organization, in the aforementioned case Qaddafi assisted the PIRA by financing them and by transporting weapons to them but it had no ideological ties with PIRA rather he was supporting PIRA just for acting against USA and UK and it also had no control over PIRA which does not qualify his act to Direct Control.

- **Sponsorship-** The prime example of 'sponsorship' is the relationship between Pakistan and Lashkar-e-Tayyiba formed in the early 1990s, LT had the aim to free Kashmir from Indian control to make it an independent Islamic country. Pakistan supported LT through a series of means and events, throughout the 1990s, Pakistan allowed the LT to make its base in Lahore, Siakot and Islamabad. They also allowed LT to train, work and continue its operations within Pakistan's territory. In furtherance to this, it is very clear and well known fact that Pakistani intelligence agency 'ISI' did provide arms, ammunition, supplies for combat and even it supported the LT with financial aid and training. This particular situation is similar to 'Support' but the only thing which is differentiating this from being 'Support' is the ideology and control of Pakistan over LT as both had the same aim i.e. freeing Kashmir from the sovereign borders of India and this common intention matched the ways of Pakistan and ²²LT, furthermore, the assistance and financial aids provided by ISI shows that there was a sort of control of ISI over the actions conducted by LT.

²² *Jeremy R. Reeves*, A NEW TYPOLOGY FOR STATE-SPONSORED INTERNATIONAL TERRORISM, Pg No. 9-17, Naval Postgraduate School Journal, 2018

4. How counterterrorism is connected with human rights, and what could be a standard approach to balance out counterterrorism actions and human rights?

Human Rights and Counterterrorism:

As the author has mentioned about the impacts of terrorism on the society and the world and why there is a need for countering terrorism by states action as the states have the duty to act in such a way that the practice of terrorism shall be prevented as earliest as possible and in order to act upon the same grounds there are certain consequences which is faced by the people not being indulged in these terrorist activities. As, the legal frameworks mentioned above are very strict and have been implemented in such a way to totally end the existence of terrorism in the international sphere but when terrorism affects the Human Rights the counterterrorism acts by states also affects Human Rights and this chapter focuses on the relationship between counterterrorism and Human Rights examining more specifically States' obligation to ensure that all counterterrorism measures themselves comply with human rights standards. As mentioned above in the previous research questions, the UNSC has acted swiftly and strongly after the 9/11 attack on WTC, USA just to strengthen the legal framework for international cooperation and common approaches against the threat of terrorism to prevent it to become an integral part of the international sphere. After that there have been made various committees on Counter Terrorism and various regional organizations for combating the acts of terror conducted by the regional terrorist organizations, there has been a proliferation of security and counterterrorism legislation and policy throughout the world since the adoption of Security Council resolution 1373(2001), which also has impacted on the enjoyment of human rights. Most countries, when meeting their obligations for countering terrorism by going through various legislative and practical measures, in its process have created negative issues for the civil liberties and fundamental human rights.

The Central Role of Human Rights and State' obligations when countering terrorism:

States all over the globe have committed to adopt measures that ensure the existence and enforceability of human rights and prevailing rule of law while carrying on the fight against terrorism by adopting the "UN Global Counter-Terrorism Strategy" by the UNGA in its resolution 60/288. The states have resolved the issue of exploitation of Human Rights and lack of rule of law in acting against terrorism and ensured that any counterterrorism measure that will be taken by the states will not affect the rule of law and fundamental human rights. In furtherance to this, the World Summit Outcome which was adopted by the UNGA in 2005 also had the discussions on respecting human rights while countering terrorism and all the states concluded that any measure that would be taken by the states in order to counter terrorism would be in conformity with the international humanitarian law. The UNSC has also acted in the same way by initiating the declaration set out in its resolution 1456(2003), in which the security council meeting with the ministers for Foreign Affairs, and stated that "States must ensure that while combating terrorism the compliance with all their obligations under international law should be given utmost importance. This particular position was reaffirmed by the in the resolution of UNSC 1624(2005), the UNSC Secretary-General described human rights as essential to the fulfilment of all aspects of counterterrorism strategy and emphasized that effective counter-terrorism measures and the protection of human rights is not the combination of conflict rather they are complementary or they shall be complementary for each other."²³

²³ *United Nations High Commissioner for Human Rights, HUMAN RIGHTS, TERRORISM AND COUNTERTERRORISM, Pg No. 45-54, Office of High Commissioner for Human Rights, Rep. No. 32, 2013*

Limitations of the UN initiative regarding Human Rights and Counter-terrorism:

- a. Prescription by law-** The most common problem for the protection of human rights with regards to the counterterrorism measures taken by states is what stand the law has on this particular issue as in many international, regional and national legal provisions has the limitation to the human rights in itself as by providing prescription by law as the exceptions to these fundamental human rights and this prescription of law neither has been explained by the law nor by any international or national legal framework. So, the prescription of law puts a limit on the enjoyment of human rights and the counter terrorism measures are themselves conducted by the state' authority which itself prescribes that particular limitation to the enjoyment of human rights so, by this argument it can be inferred that this particular aspect some or the other way gives states' the liberty to act upon the way which limits the aspect of Human Rights in consonance with Counterterrorism measures.
- b. In the pursuance of a legitimate purpose-** This is the aspect which is the most prevalent practice which limits the civil liberty and human rights. As, the permissible legitimate purposes for the state intervention against the terrorist activities as the major subjects on which the states take such measures are national security, public safety, public order, health, morals, and the human rights and freedoms of others. The most important objective for counterterrorism is many times used to broaden the state powers in other areas. The offences which are not under the realm of terrorism must not be the subject of counterterrorist legislation. Now, here any act which does not qualify for the act of terror as per the international standards or even the municipal standards, the person shall not be prosecuted as per the counterterrorist measures even if he has alleged to have committed any such act in past as the action shall be in consonance with the present act committed by such person.
- c. Necessity and Proportionality-** This particular aspect of limitation shows that the measures taken by the states shall be in consonance with the objective of such act which means that undoubtedly, certain rights are being curtailed in order to take any counter-terror step by the state but the states shall take the objective behind that step in utmost consideration as there can be many situations when the state has the objective to achieve a certain point but in order to put an impact it goes beyond the objective so, it is very important for the states to act in such a way for fulfilling a particular objective as per the necessity of that particular step with consonance of the circumstance therein faced by the state. The overactive role of state many times can violate the human rights of the people present at the disturbed area.

The specific Human Rights Challenges in the Context of Counter-Terrorism:

- The Right to Life.
- Challenges to the absolute prohibition against torture.
- Transfer of individuals suspected of terrorist activity.
- Liberty and security of the person.
- Due process and the right to a fair trial.
- The principle of legality and the definition of terrorism.
- Freedom of expression and the prohibition of incitement to terrorism.

- Freedom of making association.
- Surveillance, data protection and the right to privacy.
- Economic, social and cultural rights.

5. How Cyberterrorism has affected the globe and evolved as the new form of Terrorism in the International Sphere?

Since, the inception of 21st century terrorism has become entirely different from what it was actually till the first decade of 21st century with regards to the forms of terrorism which has been experienced by the international community, it started with weapons and bombings then state sponsored terrorism and in the contemporary times when most of the states around the globe have taken strong and strict measures for preventing the terror activities by entering into cooperative treaties and convention, the UN itself has initiated 19 conventions since terrorism became prevalent among the international community. A new form of terrorism is rising around the globe which is “Cyberterrorism” and it is basically defined as any premediated and a politically motivated attack which is against the information systems, programs and data that apprehend for violence or which results into violence.

The Cyberterrorist acts are being carried out through computer services or any other service which is available in public via internet, the main targets of these type of attacks are the safe and secured government networks or databases which are bound to be confidential within the territory of the state itself but as the author has contended in the previous chapters that in contemporary times the main objective of terrorist organizations is to catch publicity just for the sake of being attracted by the states throughout the globe and this particular objective takes these organizations to attack on the states’ official and confidential e-information available on internet.

Many of the states have not defined cyberterrorism and included it within the general meaning of cybercrime and this makes it a grey area even though the acts committed within the meaning of cyberterrorism come under the meaning of cybercrime automatically but making cyberterrorism a distinct offence could help the states to counter the rising form of terrorism efficiently because without coming on a common platform for preventing this new born form it would be very difficult for the states for resisting it by themselves individually.

Methods used for Cyberterrorism:

The only intention of the cyberterrorist groups is to create chaos in public and destroying critical information by supporting political activism or hacktivism, or inflict damage which is physical in nature as well and even loss of life. And these objectives are being fulfilled by these activists by certain methods including:

- Advanced persistent threat (APT) attacks which is being done in a very sophisticated manner, by penetrating methods to gain network access. Once, the attackers come inside the network they stay their for a reasonable time being without doing any such act which can detect them as a cyberterrorist and gradually steal the particular sensitive data silently without making any chaos and disturbance. The organizations having high value information for example defense, manufacturing, health services and any type of financial industries are the most prominent targets of the APT attacks.
- Computer Viruses including worms and malware which target IT control systems. The utilities, transportation systems, power grids, critical infrastructure, government departments and military

systems are the most prominent targets of these type of cyberattacks.

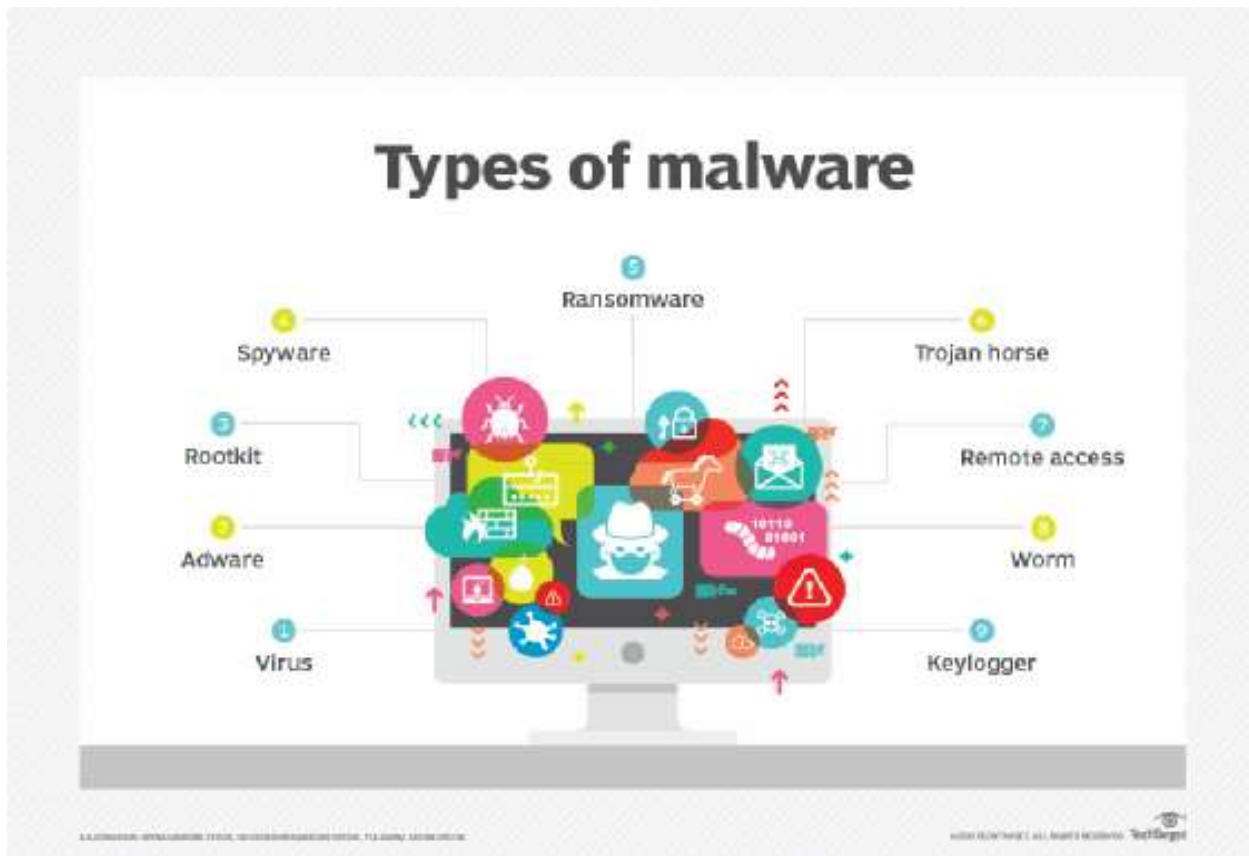


Figure 2 depicting some prominent examples of malware

- Denial of Services (DOS) attacks which prevents the users authorized for having access in the targeted computer systems, devices, or websites. These type of attackers at intervals target the critical infrastructure and governments.
- Hacking which seeks to gain the access to steal critical data without the legal authorization. It targets governments and also the huge business corporations.
- Ransomware, it is a type of malware which aims to hold data or information systems hostage (usually through encryption) until and unless the victim pays the certain ransom.
- Phishing attacks which tries to gather information via target' email, and by using that particular information it tries to have access in the systems or steal the victim' identity.²⁴

²⁴ Rahul Awati and Robert Sheldon, CYBERTERRORISM, Tech Target, 2018



Figure -3 depicting the most prominent attacks by cyberterrorists.

Major examples of Cyberterrorism:

- Disruption of important websites- The intent is to stop traffic to websites that serve large numbers of users and whose disruption could cause widespread public inconvenience.
- Unauthorized access- Attackers often aim to gain access to specific systems or alter communications that control military systems or other critical technologies.
- Disruption of critical infrastructure systems- Threat actors attempt to paralyze or disrupt cities, cause a public health crisis, endanger public safety, or cause massive panic and death, for example, by targeting a water treatment plant, causing a regional power outage, or disrupting an oil or gas pipeline.
- Cyber espionage- Rogue governments or nation-states conduct or sponsor cyber espionage attacks to

²⁵ Ryan Shandler, PUBLIC OPINION AND CYBERTERRORISM, Pg No. 42, Oxford International Press, 2023

spy on rival nations and collect sensitive, classified or confidential information, such as troop locations or military strategies.

International efforts for combating Cyberterrorism

The National Cyber Security Alliance which is a public-private partnership organization just formed for promoting the knowledge and education for cybersecurity throughout the world for spreading awareness to create a common platform for the whole world to fight against the widespread cyberterrorism.

On the similar ground the DHS which is U.S. Dept. of Homeland Security which also coordinating with other public and private agencies throughout the world to share information regarding potential terrorist activity specially cyberterrorism and explain how the states can counter and what are the adequate and proportionate steps.

The Budapest Convention on Cyber Crime and Cyberwarfare is the world's first ever treaty made specifically for this rising form of terrorism which helps the countries to cooperate with each other by sharing information and harmonizing the municipal laws through special adoption. As of now, 69 countries have ratified the particular convention and another 22 states are invited to succeed with this convention.

The UN has also proposed a major anti-cyberterrorism treaty that would address most of the issues regarding cyberterrorism which would include the international cooperation and access to digital evidence by law enforcement authorities, and procedural safeguards. The provisions and draft of the treaty is likely to be finalized in 2024 itself and the International sphere is hoping to address this particular issue with full of effectiveness and cooperation.²⁶

CHAPTER 3- HYPOTHESIS:

The evolving nature of terrorism, coupled with the intricate legal dynamics of state responsibility, presents a complex landscape that significantly influences the effectiveness and legitimacy of counterterrorism measures. By analyzing historical patterns, the changing nature of terrorist threats, and instances of state-sponsored terrorism, this research hypothesizes that a nuanced and balanced approach to counterterrorism, aligned with international legal frameworks, is crucial for addressing the challenges posed by terrorism while upholding human rights and rule of law.

CHAPTER 4- CONCLUSION AND SUGGESTION:

Terrorism has been a major threat to the international community since its inception as it creates a burden on the states to gather at a common platform but this world full of diversity with respect to ideology and culture some or the other way fails to unite completely. However, United Nations has taken all its efficient efforts to counter all the forms of terrorism but it can be inferred by the research that it is also dominated by the major superpowers of the world which means that UN will never concentrate on the aspects of terrorism conducted or assisted by USA and European countries which creates a dilemma and contradiction. These contradiction and discrimination are also the causes of terrorism and the evolution of this threat to humanity, the evolving nature of terrorism is not only a threat to humanity but also the sovereign leaders acting on behalf of these people. The author suggests that there shall be a strict and strong legal framework for defeating the act of terrorism completely and there shall be a platform which addresses the aspect of "Cyberterrorism" as the world is going towards the end of weapon and hot wars,

²⁶ *Office of State Affairs, COUNTERING CYBERTERRORISM, Pg. no. 22-25, Home of State Affairs, 2023*

the era would be dominated by artificial intelligence in the coming future and the attributes of terrorist organization shows that they change their way very frequently according to the circumstances and situations. The movement of terrorism would never end as there is always an ideology behind these acts and the ideology is itself supported by many people across the globe which means that terrorism will not end till the ideology will not end, so it is important for the states to create a platform for countering the new form of cyberterrorism as earliest as possible to prevent these organizations to attack the critical information base of the states which also includes all the information of the people. According to the author, the problem cannot be solved only through the sovereign states organizations rather as the world is going to the era of AI and Capitalism, the support and cooperation of the major private players of the states also have to be included in the realm of counterterrorism.