Introduction

This chapter deals with the issue of human rights, United Nations and terrorism. How they are connected with each other and what is the impact of terrorism on the enjoyment of human rights. The only successful strategy of counter-terrorism will be one that recognizes the essential principle of real security can only be maintained through the promotion and protection of human rights. As a result, human rights should always be main streamed into all elements of counter-terrorism policies. It was proclaimed by the United Nations and Member States have agreed that any counter-terrorism measures must support to the established and recognized principles and provisions of the international human rights law, humanitarian law and refugee law. Most of the powerful states who called themselves as the protector of the human rights and democracy were responsible for the death of civilians in Afghanistan and Iraq by declaring ‘War on Terror’. All of these trends diminish the real value of human rights.

The issue of terrorism, the concept of human rights and the United Nations were interlinked with each other. Terrorism has a direct impact on human rights and violates human rights in many aspects. The Charter of the United Nations is the first international treaty that acknowledges human rights. The United Nations has made many efforts at different periods of time to counter terrorism and to protect human rights or in other words to protect human rights while countering terrorism.

The Charter of United Nations made many references to the concept of human rights. According to the Preamble of the Charter:

We the people of United Nations, determined...to reaffirm faith in fundamental human rights, in the dignity and worth of human persons, in the equal rights of men and women of nations large and small...have resolved to combine our efforts to accomplish these aims.1

The United Nations Charter has given the responsibility of defining human rights to the General Assembly and the newly instituted UN Commission on Human Rights. Since its inception, the United Nations has adopted several human rights instruments and treaties which are approximately 100 in number including entire range of human relationship. These instruments, inter alia, deal with the rights of women, children, refugees, migrant workers, disabled persons, indigenous people, stateless persons, minorities, prohibition of torture, slavery, genocide, racial or religious discrimination,
right to development, right to peace and so on. Among all these instruments the most significant one are the Universal Declaration of Human Rights (UDHR) (1948), the International Covenant on Civil and Political Rights (ICCPR), the first (1996) and the second (1991) Optional Protocol to ICCPR on Individuals Right to Petition and on the Abolition of Death Penalty respectively. The five human rights instruments mentioned above are called as the “International Bill of Human Rights.”

The Charter of the United Nations recognized human rights in numerous articles such as Article 1 (3), 55 (c), 62 (2), 68 and 76 (c). In pursuance of the articles, specifically of Article 1 (3) of the Charter, the United Nations General Assembly (UNGA) adopted at its 183rd meeting on December 10, 1948, a Universal Declaration of Human Rights. All the people of the world, according to the Covenant have the right to self determination and citizenship, to vote and set their form of governance, and also to make their own laws which guarantees equality and equal protection of law.

Article 1(3) explains that respect for human rights and fundamental freedom for all is one of the main purposes of the United Nations without distinction as to race, sex, language, religion. According to Article 8, the United Nations shall ‘not put any restriction on the eligibility of men and women to participate in any capacity in the principal and subsidiary organs of the United Nations’. In accordance with Article 55, the United Nations shall ‘promote universal respect for, and the observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.’ According to Article 56 ‘all members of the United Nations pledge themselves to take joint and separate action in cooperation with the organization for the achievement of the purposes set forth in Article 55.’ Article 55 and 56 should be read together to formulate what one learned commentator has termed as ‘[probably] the only clear legal obligation in the Charter on members to promote respect for human rights.’

Terrorism and Human Rights

Under Article 68 of the U.N. Charter, the Commission of Human Rights was established for the promotion of human rights. It has been working since many years as an independent organ of the United Nations and also act as a protector and guardian of fundamental human rights and freedoms.
The words of Kofi Annan, former Secretary General of the United Nations, explicitly show that terrorism is a threat to human rights and the United Nations is an international organization responsible for protecting human rights and other fundamental principles of law and order:

By its nature, terrorism is an assault on the fundamental principles of law, order, human rights, and peaceful settlement of disputes upon which the United Nations is established. In recent years, terrorism has become so much globalized that it affects human rights with devastating consequences which restrict the enjoyment of rights to life, liberty, and physical integrity. Besides effecting human rights, terrorism can also destabilize governments, weaken civil society, imperil security and peace, and endanger social and economic development. All of these also have real and direct impact on the enjoyment of human rights.

The Office of the United Nations High Commissioner for Human Rights in a study has noted the fact that the counter-terrorism procedures adopted by States frequently pose serious threat to human rights and the rule of law.

Amnesty International, a global voluntary movement and perhaps the largest network of human rights activists and scholars founded in 1961. Since 1961 it was functioning to improve the protection of human rights around the world. The Amnesty International operates on behalf of the Universal Declaration of Human Rights and other international instruments and participates in the larger promotion and protection of human rights in the civil, political, economic, social, and cultural aspects. Other than criticizing the acts of terrorism in recent years, the Amnesty International has also condemned about the unending war on terror:

The “war on terror” has led to an erosion of a whole host of human rights. States are resorting to practices which have long been prohibited by international law, and have sought to justify these practices in the name of national security and counter-terrorism.

The Amnesty International also stressed the fact that the actual security against terrorism can only be attained through strengthening the framework of human rights and not through subverting it by resorting to illegal practices. The erstwhile Secretary General of the United Nations Kofi Annan pointed out the fact about terrorism, counter-terrorism, and human rights “that those who are willing to give up liberty for security will end up with neither security nor liberty.”
a) What Are Human Rights?

The concept of human rights is not new; it is as old as the human civilization itself. Human rights existed even before the establishment of the State. These rights are the gift of nature to man without any discrimination of colour, race, sex and religion. Human rights can also be illustrated as those fundamental rights which every man or woman living in any part of the world should be entitled merely by virtue of having been born as human being. These rights are non-transferable, non-negotiable and it is mandatory for the maintenance of freedom, justice and peace in the world to respect human rights.11

According to the traditional concept of international law, human rights are violated as well as protected by the States, generally speaking, human rights comprises obligations of State towards individuals. The entire movement for the protection of human rights took place as an attempt to redress the balance between the power of the State, to impose duties on individuals and the powerlessness of the individuals to ensure correlative respect for their rights. The matter of the responsibility of non-state actors as perpetrators of human rights abuses has therefore become important; in that context it is being pointed out that it was somewhat sarcastic to talk about the enjoyment of human rights in conditions of enormous killings by terrorist groups.12

Human rights are those rights which belong inherently to all human beings and are interdependent and indivisible.13 In other words, human rights are universal values and legal guarantees protecting individuals and groups against actions and omissions which interfere with fundamental freedom and human dignity.14

Today the world is more conscious of human rights than ever in the history of the world. In fact, human rights and human survival are inalienably connected like the terms civil rights and civil liberties and fundamental rights and fundamental freedoms and expressions. Human rights has no fixed definition, even the Charter of the United Nations does not define human rights in specific terms. While the exact meaning of human rights differs from country to country its important elements remained the same in all countries and all ages despite depredation of history. In the history of the world, some nations conferred human rights on their citizens either as a result of historical struggle or by forced circumstances. The earlier example includes Magna
Carta (1215), Bill of Rights of man declaration (1789), Reform Act (1832), and the Factories Act in 19th century Europe. The League of Nations (1920) ushered a new era in the history of human rights.

The Impact of Terrorism on Human Rights

Terrorism results in distress and sufferings to human beings. These are such an immoral and inhuman acts which puts under threat the freedoms and rights of innocent people. Therefore, it exploits the fundamental human rights of the victims, specifically the right to life, the right to physical integrity, and right to personal freedom. The larger numbers of innocent people including women, children and elderly have been massacred, killed or maimed by terrorist’s indiscriminate and random acts of violence and terror which can never be justified.

Terrorism has affected the most essential and significant and basic human right of the people i.e. right to life. The General Assembly frequently expressed its intense concern about the global rise of acts of terrorism in all its forms, which put at risk the lives of innocent humans, jeopardize fundamental freedoms and seriously diminish the dignity of human beings.15

As mentioned earlier terrorism has a direct impact on the enjoyment of fundamental human rights. The disastrous impact of terrorism on human rights and security has been recognized at the highest level of the United Nations, significantly by the Security Council, the General Assembly, the former Commission on Human Rights and the new Human Rights Council. Particularly, Member States have pointed out that terrorism:

- Threaten the dignity and human security everywhere, put at risk the lives of innocent peoples, creates an environment of fear and intimidation, its aim is to destruct human rights and to jeopardize fundamental freedoms;
- It has harmful effect on the establishment of the rule of law, weakens pluralistic civil society, democratic base of society has been destroyed, and destabilized legally constituted government;
- Has connection with transnational organized crime, drug trafficking, money laundering and trafficking in arms as well as illicit transfers of nuclear, chemical,
biological materials, and is linked to the commission of serious crimes such as murder, extortion, kidnapping, hostage taking, assault and robbery.

- Has adverse consequences for the economic and social development of States, jeopardizes friendly relations of cooperation among States, including cooperation for development; and

- Threatens the territorial integrity and security of States, constitutes a serious violation of the Purpose and Principles of the United Nations, is a threat to international peace and security, and must be repressed as a vital element for the maintenance of international peace and security.\(^{16}\)

The United Nations has profoundly looked into the numerous dimensions and aspects of terrorism. From the viewpoint of human rights, the United Nations principal concern was not only the victims of terrorism but it has also given proper consideration to victims of human rights violation in this context. It is imperative to note that victims of terrorism are not only those who have been directly suffered from actions of terrorists but also those who may endure at the hands of State at the time of dealing with terror. Therefore, the United Nations in order to handle this situation has attempted to fix the responsibility of State towards its citizens on the basis of several human rights laws. For example, the Declaration on Basic Principles of Justice for Victims of Crime of Abuse of Power inflicts several duties and delineates the minimum standards for the treatment of victims.\(^{17}\)

From the perspective of human rights, support for victims of terrorism is a supreme concern. Numerous endeavours made instantaneously following the events of September 11, 2001 largely failed to give due consideration to victims of human rights, there is a need of recognition on the part of international community to fully take into account the human rights of all terrorist victims. In 2005 World Summit outcome (General Assembly resolution 60/1), for example, Member States emphasized “the importance of assisting victims of terrorism and of providing them and their families with support to cope with their loss and their grief.” Similarly, the United Nations Global Counter-Terrorism strategy reflects the assurance by Member States to “promote international solidarity in support of victims and foster the involvement of civil society in a global campaign against terrorism and for its condemnation.”\(^{18}\) The General Assembly in 2005 adopted the Basic Principles and guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of
International Human Rights Law and Serious Violation of International Humanitarian Law which further stressed the need for victims to be treated with humanity and respect for human rights and their dignity. It also emphasized on numerous measures to guarantee their safety, physical and psychological well being and privacy as well as those of their families.\textsuperscript{19}

Terrorism not only poses a serious threat to the enjoyment of essential human rights it also jeopardizes collective goods such as national security and public order. The Special Rapporteur Kalliopi Koufa of the U.N. Sub Commission on the Promotion and Protection of Human Rights describe this phenomenon in her report on Terrorism and Human Rights as a direct and indirect connection between terrorism and human rights:

the connection is directly when terrorist kill or injure innocent civilians, deprive them of their freedoms, damage their property; the connection is seen indirectly when a state’s response to terrorism leads to the adoption of policies and practices that impinge on fundamental rights.\textsuperscript{20}

Michael Freeman has observed that “human rights are most needed when they are most violated.”\textsuperscript{21} In the context of terrorism one can understand that it not only violates the basis of human rights but it also gives a chance to the organs of state to prevent from having the basic human rights and civil liberties to its citizen and also to undermine the recognized and established principles of justice. Therefore, it is mandatory that counter-terrorism techniques must be planned and implemented keeping in view the basic principles of international humanitarian law. Terrorism in any circumstances should not become a reason to interrupt internationally recognized human rights. Justice V.R Krishna Iyer has correctly observed that “human rights are those irreducible minima which belong to every member of human race when pitted against the state or other public authorities or group and gangs and other oppressive communities.”\textsuperscript{22}

Terrorism has a dreadful impact on human rights. Furthermore, by attacking civilians and innocents it creates an ambience of fear and uneasiness in which it becomes difficult to fully enjoy human rights and civil liberties. On the contrary, terrorist attack by non-State actors bestows an opportunity to the State to increase its oppressive powers and suspended human rights in the name of law and order and security and integrity. This is truly manifest from the current anti terror legislations, policies and programmes in numerous countries in the wake of terrorist attacks.
against United States on September 11, 2001. Conversely, violence and terrorism unleashed by States can have catastrophic impact on human rights of its citizens. It is clearly evident from several historical events that State sponsored terrorism end into genocide.\textsuperscript{23}

Terrorism and human rights are opposite to each other. This fact is clearly shown in the sagacious study by the Office of the United High Commissioner for Human Rights:

Terrorism aims at very destruction of human rights, democracy and the rule of law. It attacks the value that lie at the heart of the Charter of the United Nations and other international instruments; respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among people and nations; and peaceful resolution of conflict.\textsuperscript{24}

Thus, the study clearly shows that terrorists have directly affected the enjoyment of number of human rights specifically the right to life, liberty, physical integrity of an individuals.

The International Commission of Jurists, in its Declaration of Berlin of 2004, entitled “Upholding Human Rights and the Rule of Law in Combating Terrorism” expressed that “the world faces a grave challenge to the rule of law and human rights. Previously well−established and accepted legal principles are being called into all regions of the world through ill conceived responses to terrorism. Many of the achievements in the legal protection of human rights are under attack.”\textsuperscript{25}

Terrorism has become a global problem which requires a global solution. It is a crime against humanity. The presence of this menace anywhere leads to anxiety and fear everywhere. As the peace is the prerequisite for the enjoyment of human rights and civil liberties and that condition of peace mostly disturbed by the influence of terrorism. In the contemporary world the international terrorism not only created immense fear but it has also estranged nations and communities. It has given rise to mutual suspicion and significantly destabilized communal harmony and spirit of peaceful co−existence between societies and communities. Therefore, it is clear that terrorism can create conditions under which attainment of human rights and refutation of fundamental freedoms directly gives rise to circumstances contributing to the rise and growth of terrorism. In its 1987 publication, \textit{Human Rights: Questions and Answers}, the United Nations stated:
The denial of human rights and fundamental freedoms not only is an individual and personal tragedy but also creates conditions of social and political unrest, sowing the seeds of violence and conflict within and between societies and nations. As the first sentence for the Universal Declaration of Human Rights states, respect for human rights and human dignity is the foundation of freedom, justice and peace in the world.26

The international law against terrorism includes U.N. treaties, Security Council and General Assembly resolutions. All of these are meant to preclude, repress and eliminate every form of terrorism. This also consists of several regional treaties from the African Union, the European Union and the organization of American states. These documents criticise all acts of terrorism and affirm the threat of terrorism to democracy.

The connection between terrorism and human rights and specifically the impact of counter-terrorism measures on human rights has been given extensive attention at the international level since 9/11 attacks. The growing concern over human rights and counter-terrorism is however not a new phenomenon. Even before the deadly event of September 11, 2001 there was significant attention paid in international jurisprudence to the questions of respect for human rights in circumstances regarding acts of terrorism.27

The contemporary national and international instruments stress that human rights that must be respected are not only the rights of those charged or guilty of terrorist offences, but also the rights of sufferers, or potential sufferers of those offences. In this prospect, numerous provisions regarding the protection, compensation, and support of victims of terrorism are in harmony with the current developments in international law, for example manifested in the European Convention on Compensation of Victims of Violent Crimes, the Council of Europe Guidelines on Human Rights and the Fight against Terrorism and additional Guidelines on the Protection of Victims of Terrorism, the New Warsaw European Convention for the Protection of Terrorism and many United Nations Security Council Resolutions including Resolution 1566 of October 8, 2004 and Resolution 1642 of September 14, 2005.28

The current international law has been formulated with fundamental recognition of sovereignty of the State and recognition of its monopoly over means and use of violence. Simultaneously, there are numerous components of international law that
acknowledge certain universally accepted human rights and impose responsibility on state to protect them. As terrorism has very real and direct impact on a number of universally recognized human rights, it is the basic obligation of States to defend their nationals against the threats of terrorist acts and bring the executor of such acts to justice. Therefore, to adopt appropriate counter-terrorism measure is an international duty of States. Nevertheless, it is historically established that counter-terrorism measures adopted by States have frequently resulted in refutation of universally accepted human rights norms. The Office of the United Nations High Commissioner for Human Rights observed in its study *Human Rights, Terrorism and Counter-Terrorism*:

In recent years...the measures adopted by states to counter-terrorism have themselves often posed serious challenges to human rights and rule of law. Some states have engaged in torture and other methods to counter-terrorism, while the legal and practical safeguards available to prevent torture, such as regular and interdependent monitoring of detention centres, have often been disregarded. Other states have returned persons suspected of engaging in terrorist’s activities to countries where they face a real risk of torture or other serious human rights abuse thereby violating the international legal obligation of non-refoulement.

The study further drew attention to the disrespect for human rights and principles of natural justice in anti terror legislations and policies adopted by the states. The weakening of independence of judiciary and regular court systems through creation of exceptional courts to try civilians indicted in terrorist activities was condemned in the study. The intrinsic discrimination and suppression in anti-terrorism measures adopted by states have been highlighted in these words:

Repressive measures have been used to stifle the voices of human rights defenders, journalists, minorities, indigenous groups and civil society. Resources normally allocated to social programmes and development assistance have been diverted to the security sector, affecting the economic, social, and cultural rights of many. 29

**Can Terrorists Claim any Human Rights for themselves?**

If terrorism means deliberate and systematic murder, maiming and menacing of the innocent or to generate state of fear in its victims because it is cruel and not conforms to humanitarian norms, then surely the claim of terrorist to seek any of the human rights stand on very weak footing. Terrorism and violence has no place in a society which follow democratic values as those activities not only oppose the ideals of democracy and freedom but also pose a serious challenge to the social, economic and
other human rights of the people, their progress and development of terrorist affected region.

The survival of individuals and peace depends on a well organized peaceful society. It is an eternal truth that without society individual existence is impossibility because it constitutes the very basis of human existence. Nevertheless, surely individual liberties or rights of terrorists, cannot be regarded as sacrosanct as to over ride the demands of corporate good or good of the society as a whole. Moreover, there is a well known jurisprudential affirmation, that one cannot have rights without duties. The present international humanitarian law impose obligations not only on States but also on individuals and groups to observe and respect human rights.

Article 29 of the UDHR (Universal Declaration of Human Rights) contains a language most susceptible of interpretation as imposing duties on individuals. It reads:

a) Everyone has duties to the community in which alone and free and full development of his personality is possible.
b) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of security, due recognition and respect for the rights and freedoms of others and of meeting the requirement of morality, public order and general welfare in democratic society.
c) These rights and freedoms may in no case exercised contrary to the purpose and principles of the United Nations.\(^{30}\)

Article 30 of the UDHR also clearly postulates that “nothing in this Declaration may be interpreted as implying for any state, groups or persons any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms.”\(^{31}\)

The above enumeration of duties and obligations of individuals as postulated by the Universal Declaration of Human Rights makes it abundantly clear, that all persons including the terrorists should be restrained from acting to destroy, the human rights of others that visibly disturbed by the spurt in terrorist attacks on innocent people, grave concern was expressed at the human, social and economic cost to normal national and international intercourse in the areas of travel, commerce and diplomatic relations.
Counter–Terrorism Human Rights and the Role of United Nations

The United Nations has always been concerned about the issue of terrorism and human rights. Following the event of September 11, 2001 and rapid increase of terrorism globally it has become even more urgent for the international organization to actively intervene for the protection of human rights. While criticizing terrorism unequivocally and recognizing the responsibility of States to guard all those living inside their authority from terrorism, the United Nations has put a primacy on the question of protecting human rights in the context of counter–terrorism measures.

The United Nations has not only made an audacious appraisal of the circumstances and conditions but it has also laid down norms, principles and procedures to respect human rights during counter–terrorism measures. The United Nations has stressed that States must make sure this fact that measures taken to combat terrorism comply with their obligation under international law, specifically international human rights, refugee and humanitarian law.\(^{32}\)

The issue of counter–terrorism and human rights has become the focus of attention since the establishment of the Counter–Terrorism Committee (CTC) in 2001. Security Council resolution 1373 (2001), which established the Counter–Terrorism Committee (CTC) makes one reference to human rights, calling upon the States “to take appropriate measures in conformity with the relevant provisions of national and international standards of human rights, before granting refugee status, for the purpose of ensuring that asylum seeker has not planned, facilitated or participated in the commission of terrorist acts.” The resolution’s preamble also affirms the need to combat by all means “in accordance with the Charter of the United Nations, “threat to international peace and security caused by terrorist acts.”\(^{33}\)

The committee’s preliminary policy on human rights was expressed by its first Chairman in the briefing to the Security Council on January 18, 2002:

the Counter–Terrorism Committee is mandated to monitor the implementation of resolution 1373 (2001) monitoring performance against other international conventions, including human rights law, is outside the scope of the Counter–Terrorism Committee’s mandate. But we will remain aware of the interaction with human rights concerns, and we will keep ourselves briefed as appropriate. It is, of course, open to other organizations to study state’s reports and take up their contents in other forums.\(^{34}\)
The Secretary General of the United Nations in his report “Uniting against Terrorism: Recommendations for a Global Counter Strategy” explain human rights as necessary for the fulfilment of every aspect of the strategy and stressed that effective counter-terrorism measures and the protection of human rights have not divergent goals but complementary and jointly reinforcing ones.\(^{35}\) The United Nations Global Counter-Terrorism Strategy has stressed respect for the rule of law and human rights at the centre of the counter-terrorism endeavours at every level. The Security Council has also recommended to the member states to guarantee that counter-terrorism measures comply with international human rights law and humanitarian law in many of its resolutions. Similarly, various regional treaty based bodies have continuously emphasized that all counter-terrorism measures must conform to the international human rights law.\(^{36}\)

The United Nations Secretary General in October 2001 established Policy Working Group on the United Nations and Terrorism whose aim was to discover the long term implications and wide policy dimensions of terrorism for United Nations and the international human rights regime and to frame recommendations on steps that the United Nations system ought to take to address the issue. The report of this Policy Working Group observed that the United Nations have to guarantee the protection of human rights while formulating international counter-terrorism measures.\(^{37}\)

In 2002 the Policy Working Group observed that:

**Terrorism often thrives where human rights are violated, which adds to need to strengthen action to control violations of human rights. Terrorism itself should also be understood as an assault on basic human rights. In all cases, the fight against terrorism must be respectful of international human rights obligations.**\(^{38}\)

In subsequent year, the Secretary General noted that protection of human rights was the most effective strategy for dealing with terrorism.\(^{39}\)

To show the importance of human rights norms in the counter-terrorism arena, the United Nations Commission for Human Rights in 2005 appointed a U.N. Special Rapporteur on Human Rights and Counter-Terrorism. The report on Terrorism and Human Rights published by the Inter-American Commission on Human Rights pointed out:
It is notable in this respect that the provision of this body of law that require states parties to investigate, prosecute and punish terrorist crime coincide with the doctrine under international human rights law according to which states are obliged to investigate the acts and punish those responsible whenever there has been a violation of human rights.40

The Counter–Terrorism Committee established through resolution 1373 in the wake of September 11, 2001 attacks is mandated to examine the implementation of the resolution. It is outside the scope of the Counter–Terrorism Committee (CTC) to check the monitoring of against the other international conventions including human rights. Nevertheless, the Counter–Terrorism Committee (CTC) is cognisant of the interaction of its work with human rights concerns, inter–alia through the contact the CTC has established with the Office of the High Commissioner for Human Rights (OHCHR). The CTC welcomes parallel examining of observance of human rights duties. The CTC is also functioning clearly and openly so that NGO’s with concern can bring them to the CTC’s notice or follow up within the established machinery of human rights. In its statement to the United Nations Security Council on October 4, 2002 at the event of the one year anniversary of the CTC, the Secretary General of the United Nations said: “by their very nature, terrorist acts are grave violation of human rights. Therefore, to pursue security at the expense of human rights is short sighted, self contradictory and, in the long run self defeating.”41

Although the decisions of Security Council are binding on all States, there were some limitations on the powers of Security Council with regard to counter–terrorism policies. The limitation can be found in the Charter of the United Nations Articles 2 and 24 (2), respectively, in which there was an obligation on U.N. and particularly on the Security Council, to “act in accordance with the Purposes and Principles of the United Nations.” Those purposes and principles consist of “promoting and encouraging respect for human rights and fundamental freedom.” There was an argument by some of the commentators about the vagueness of the provision which they regard does not serve as a limit to the actions of the Security Council. Nevertheless, notwithstanding its breadth, the requirement obviously does serve as a limitation. The Security Council have to accomplish its main role of maintaining peace and security while sticking to the Purposes and Principles of the United Nations. Though the Security Council may be able to limit the objectives contained in the Purposes and Principles, it cannot destroy its “core content.” In the context of
1267 regime established by the Security Council through Resolution 1267, this limitation means that the basic human rights norms cannot be eroded by the regime.\textsuperscript{42}

The U.N. Charter’s thorough reading suggests that States might reject to implement the features of the 1267 regime which oppose the human rights obligations present in the Charter of the United Nations. Article 25 of the U.N. Charter obligates States to “carry out the decisions of the Security Council in accordance with the present Charter.” But this article can be construed in several ways, its meaning is clear when read with Article 2(5), which establish that States “shall give the United Nations every assistance in any action it takes in accordance with the present Charter.” The aim of both the articles is only to bind states in order to implement the decisions of the Security Council which are made in accordance with the Charter. Consequently, if the 1267 regime breaches core human rights, the Security Council would be acting outside the Charter, and states would not be forced to follow it.\textsuperscript{43}

In April 2005, the Commission of Human Rights in Resolution 2005/80 make a decision to appoint, for a period of three years, a Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. This mandate was taken up by the Human Rights Council (General Assembly Resolution 60/25), like other Special Procedures, and continued for one year, subject to re-examine and to be assumed by the Council (Human Rights Council decision 2006/102).\textsuperscript{44}

The Human Rights Council extended the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for a period of three years by resolution 15/15 on 30\textsuperscript{th} September 2010 and more extended for another period of three years by resolution 22/8 on 21\textsuperscript{st} March 2013. In these resolutions, the Council requested the special Rapporteur:

a) To make concrete recommendations on the promotion and protection of human rights and fundamental freedom while countering terrorism, including at the request of states, for the provision of advisory services or technical assistance on such matters;

b) To gather receive and exchange information and communication from and with all relevant sources. Including Governments, the individuals concerned and their families, representatives and organizations, including through country visits, with the consent of states concerned, on alleged violation of human rights and fundamental freedoms while countering terrorism.

c) To integrate a gender perspective throughout the work of his/her mandate.
d) To identify, exchange and promote best practices on measures to counter-terrorism that respect human rights and fundamental freedoms.

e) To work in close coordination with other relevant bodies and mechanism of United Nations, and in particular with other special procedures of the council, in order to strengthen the work for the promotion and protection of human rights and fundamental freedoms while avoiding unnecessary duplication of efforts.

f) To develop a regular dialogue and discuss possible areas of cooperation with Governments and all relevant actors, including relevant United Nations bodies, specialized agencies and programmes, with inter alia, the Counter-Terrorism Committee Implementation Task Force, the Office of the United Nations High Commissioner for Human Rights, The Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and treaty bodies, as well as non-governmental organizations and other regional or sub-regional international institutions, while respecting the of his/her mandate fully respecting the respective mandates of the above mentioned bodies with a view to avoiding duplication of effort;

g) To report regularly to the council and to the General Assembly.45

The Counter−Terrorism Committee Executive Directorate (CTED) which established through Security Council resolution 1535 start moving towards a more pro-active policy on human rights. Counter−Terrorism Committee Executive Directorate (CTED) was mandated to liaise with the Office of the U.N. High Commissioner for Human Rights (OHCHR) and other human rights organizations in matters related to counter-terrorism (S/2004/124), and the expert of human rights was appointed to the staff of CTED. In its report to the Security Council submitted as a part of its comprehensive reviews of the work of CTED, which were afterwards endorsed by the Council, the Committee said that CTED should take into account of relevant human rights. Afterwards CTED adopted its policy guidelines and it was provided that CTED is mandated to:

a) Provide advice to the Committee, including for its ongoing dialogue with States on their implementation of resolution 1373 (2001), on international human rights, refugee and humanitarian law, in connection with identification and implementation of effective measures to implement resolution 1373 (2001)

b) Advice the Committee on how to ensure that any measures States take to implement the provisions of resolution 1624 (2005) comply with their obligations under international law, in particular , and international human rights law, refugee law, and humanitarian law, and

c) Liase with the Office of the High Commissioner for Human Rights and, and, as appropriate, with other human rights organizations in matters related to counter-terrorism.46

It is clear that that all terrorist acts limit the rights of the individuals, but on the other side the counter−terrorism policy may also limit the rights of the people. Therefore it
is necessary to adopt such policy guidelines which protect people from any further violation of their universally recognized human rights standards.\textsuperscript{47}

The United Nations promotes a human rights based approach to fighting terrorism. In words of Secretary General:

We should all be clear that there is no trade off between effective action against terrorism and the protection of human rights. On the contrary, I believe that in the long run we shall find that human, along with democracy and social justice, are one of the best prophylactics against terrorism.

This statement was made amidst about the erosion of fundamental rights in countries involved in the fight against terrorism since the attacks of September 11, 2001; there has been a propensity to resort to a war model of fighting terrorism. However, when we look at successful methods against terrorism since September 11, 2001, we discover that criminal justice measures have been prominent. Anti terrorist measures should be built on four pillars:

1) Good governance
2) Democracy
3) Rule of law
4) Social justice

Why these four? The reason for this is simple:

a) When governance is not good, the opposition against the corrupt rule gain the followers and support.

b) When unpopular rulers cannot be voted away in democratic process, advocates of political violence find a large audience.

c) When rulers stand over the law and use the law as a political instrument against their adversary, the law loses credibility.

d) When a long standing injustices in society are not sorted out but allowed to carry on for years without any light insight at the end of the tunnel, we should not be surprised that desperate people and others championing their cause are ready to die and to kill for what they perceive to be a just cause.

These then, are the basis on which one should construct policies aimed at deterrence and commitment of terrorism. These views were expressed by the late U.N. High
Commissioner for Human Rights (HCHR) who himself become victim of terrorist attack. The late UNHCHR Sergio Vieiro de Mello said in October 2002:

On March 6, 2003, the Counter–Terrorism Committee convened a special meeting with some fifty international and regional organizations and at the end of the day the participants agreed that they would remain aware of the interaction between their activities and human rights concerns, and of the need for respect for the rule of law and human rights obligations.48

The remarks of U.N. Secretary General Kofi Annan in 2002 were an early effort to make sure that human rights concerns would start to be reflected in the process of the United Nations Committees. The credibility of the Secretary General on the topic of human rights promotion was great. His close connection with a period in a United Nations history when it had been very much active with regard to human rights and when he himself had argued that priority should be given to individuals over state sovereignty ensured that. In October 2001, he had established a “Policy Working Group on the United Nations” which had a sub group devoted to the results of human rights partly as a consequence of this, the report of the Group, issued in August 2002, endeavoured to put human rights strongly at the centre of the U.N. role in countering terrorism. As it stated:

The United Nations must ensure that the protection of human rights is conceived as an essential concern. Terrorism often thrives where human rights are violated which adds to need to strengthen action to combat violations of human rights. Terrorism itself should be understood as an assault on basic human rights. In all cases, the fight against terrorism must be respectful of international human rights obligations.49

Thus, the United Nations has taken operational role in this context and has cautioned of the growing violations of human rights in the name of counter–terrorist policies. There have been numerous resolutions by General Assembly calling on the High Commissioner for Human Rights to take effective role in investigating the subject of the protection of human rights and fundamental freedom in the context of measures to combat terrorism and to synchronize efforts to promote coherent approach on this issue.

The Office of the High Commissioner for Human Rights (OHCHR) has made many contributions on the question of protection of human rights in the context of counter–terrorism initiatives including Report of High Commissioner for Human
Rights to the 58th session of the Commission on Human Rights, “Human Rights: A Uniting Framework.”\textsuperscript{50} and Guidance notes to the Counter−Terrorism Committee of the Security Council.\textsuperscript{51} The High Commissioner for Human Rights persistently highlighted the role of respect for human rights as an essential part of the comprehensive counter−terrorism strategy.\textsuperscript{52}

Most important, perhaps is, in connection to the U.N. commitment to countering terrorism from a multi disciplinary view point in the launching of its Global Strategy for Fighting Terrorism. The chief elements of that strategy and the role of the United Nations within it are:

- First, to deter disaffected groups from choosing terrorism as a tactic to attain their objectives;
- Second, to deny terrorists the means to carry out their attacks;
- Third, to dissuade states from supporting terrorists;
- Fourth, to develop the capability of state in order to prevent terrorism; and
- Fifth, to protect human rights in the struggle against terrorism.

In relation to the last point, the then U.N. Secretary General Kofi Annan, in launching the strategy, emphasized the importance of human rights in combating terrorism. He regretted that:

[...] international human rights experts, including of the U.N. system, are unanimous in finding that may measures which states are currently adopting to counter−terrorism infringe on human rights.\textsuperscript{53}

Within the system of the United Nations, a number of actions and procedures can be taken against states that violate human rights. These include:

- Make a decision that the state in question should be subject to “advisory services” which advised concern over human rights situations and proffers U.N. assistance towards its resolution;
- Adopting resolution in the General Assembly or other U.N. body which might ask for further information, ask for a governmental response, criticize the government, or ask the government to take particular action;
- Appointing a rappoteur for particular countries, independent, expert, envoy or delegation to consider the situation. There are several rapporteurs, for example,
for Democratic People’s Republic of Korea, Myanmar, the Palestinian territories conquered since 1967, and Sudan, as well as independent experts on Burundi, Democratic Republic of the Congo, Haiti, Liberia, and Somalia;

- Asking the Secretary General of the United Nations to appoint a special representative to the state in question;
- Calling upon the Security Council of the United Nations to take action under Chapter VII mandate with regard to the maintenance of international peace and security. The Security Council has imposed economic sanctions and other specifically targeted sanctions (such as an arms embargo) or even authorized military action in response to some human rights violations. The different (rapporteurs. Experts. Working groups) have several main functions:
  - Fact finding and documentation
  - Providing expert advice and expert opinion
  - Providing recommendations to governments
  - Publicity and
  - Conciliation

Counter-terrorism, security, human rights and law enforcement are inter-linked with each other. In the situation of threat of terrorism, they should be framed in such a way to operate mutually. In many of the conditions, they cannot effectively work independently of each other. The measure of counter-terrorism requires human rights standards to make sure that their execution does not weaken their objective, which is to protect and sustain a democratic society. In the same way human rights standards might require counter-terrorism measures to guarantee that human rights can flourish. What is sure is that human rights are not an elective extra or luxury to any counter-terrorism strategy; it must be at centre of that strategy.

In November 2001, a joint statement by OSCE’s Office for Democratic Institutions and Human Rights (ODIHR), the U.N. High Commissioner for Human Rights, and the Council of Europe reminded governments that:

While we recognize that the threat of terrorism require specific measures, we call on all governments to refrain from any excessive steps which would violate fundamental freedoms and undermine legitimate dissent. In pursuing the objectives of eradicating terrorism, it is essential that states strictly adhere to their international obligations to uphold human rights and fundamental freedoms.
The terrorist acts can be countered in such a way that maintains human rights standards. In 2005 the Secretary, General Kofi Annan stressed that:

Human rights make ample provision for counter terrorist action, even in the most exceptional circumstances. But the compromising human rights cannot serve the struggle against terrorism. On the contrary, it facilitates achievement of the terrorist’s objective—by ceding him the moral high ground, and provoking tension, hatred and mistrust of government among precisely those parts of the population where he is most likely to find recruits. Upholding human rights is not merely compatible with successful counter–terrorist strategy. It is an essential element.\(^{56}\)

The significance of human rights values while combating terrorism have also been acknowledged by the senior judicial figures. For instance, U.S. Supreme Court Justice Sandra Day O’Connor, argued in 2004:

It is during our most challenging and uncertain moments that our Nations commitment to due process is most severely tested; and it is those times that we must preserve our commitment at home to the principles for which we fight abroad.\(^{57}\)

In 2002, the Council of Europe Secretary General, Walter Schwimmer highlighted:

The temptation for government and parliament in countries suffering from terrorist action is to fight fire with fire setting aside the legal safeguards that exist in a democratic state. But let us be clear about this: while the state has the right to employ its full arsenal of legal weapons to repress and prevent terrorist activities, it may not use indiscriminate measures which would only undermine the fundamental values they seek to protect. For a state to react in such a way would be fall into the trap set by terrorism for democracy and the rule of law. It is precisely in situations of crises such as those brought about by terrorism, that respect for human rights is even more and that even greater vigilance is called for.\(^{58}\)

Although it is the fundamental responsibility of State to act within the framework of human rights at all times, there may occur some exceptional national situations in which some logical limitations on the enjoyment of some human rights might be allowed. Some of the rights restricted by States comprise the right to freedom of expression, the right to freedom of association and assembly, the right to freedom of movement and the right to respect for one’s private and family life.\(^{59}\) But, in order to suspend or to limit these rights numerous conditions are to be satisfied by the State.\(^{60}\) Simultaneously, there were some human rights which are recognized and identified by the international human rights law and which are non–derogable in any conditions whatsoever. These rights include the right to life, freedom from torture or cruel, inhuman or degrading treatment or punishment, the prohibition of slavery and servitude, freedom from imprisonment for failure to fulfil a contract, freedom from
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retrospective penalties, the right to be recognized as a person before the law and freedom of thought, conscience and religion.\textsuperscript{61} Moreover, the Human Rights Committee in its general comment no. 29 has recognized certain rights and freedoms under customary international law that may not be ignored even if not listed in Article 4 (2). These customary laws include:

- the right of all persons dispossess of their ability to be treated with humanity and with respect for intrinsic dignity of the human person
- the prohibition against taking of hostages, kidnap or unacknowledged confinements
- the international protection of rights persons belonging to minorities, banishment or forcible shift of population without grounds permitted under international law
- and the ban against propaganda for war or in advocacy of national, racial or religious hatred that would create incitement to discrimination, hostility or violence.\textsuperscript{62}

The Human Rights Committee has also stressed that the guarding of those non-derogable rights necessitates that particular procedural protections comprising judicial guarantees are available in all circumstances. The Committee has also highlighted the point that only a court of law may try and convict a person for an illegal crime and that a person should be presumed innocent if not proved otherwise.\textsuperscript{63}

The study by the United Nations High Commissioner for Human Rights has examined the particular Human Rights challenges in the context of Terrorism and Counter-Terrorism.\textsuperscript{64} The following are some of the human rights which are under threat by terrorism and counter-terrorism.

\textbf{a) The Right To Life}

Under international law and regional law it has been recognized that it is the responsibility of the States to give security of life to individuals under their authority. Nevertheless, in many of the situations states themselves involved in extra judicial killings in the garb of protecting individuals from the menace of terrorism. The study finds out “deliberate” or “targeted killings” to exterminate particular individuals as an alternative to arresting them and bringing them to justice. In other situations states have adopted “shoot to kill” law enforcement procedures as a reaction to perceived
terrorist threats. This procedure is very frequent in developing countries. The countries like Egypt, India, Pakistan, Sri Lanka, Saudi Arabia, Israel, and numerous other countries have involved in extra judicial killings as highlighted from the annual report of Amnesty International. In the present scenario the issue of fake encounters have become major political issues in India which include minorities, dalits, and tribals. In the same way, the United States and its supporters in War on Terror have been constantly eliminating the suspected terrorists in Afghanistan, Iraq, Pakistan, and Somalia and in several other countries.65

b) Prohibition of Torture

Many of the States themselves are involved in torture and treat their individuals with cruelty despite the fact that the protection against torture and other cruel or humiliating treatment or punishment is completely restricted under international law. Actually prohibition against torture is the most deliberately violated human right in the War on Terror. The description of physical, psychological and sexual abuse together with torture, rape sodomy, and homicide of prisoners held in Abu Gharib prison in Iraq by the Army of the United States including U.S, governmental agencies is even now fresh in the memories of all concerned people worldwide.66 The detention camp is also established by the United States at Guantanamo Bay where prisoners are treated with cruelty and their conditions are so brutal which are against the provisions of international human rights and humanitarian law. The detention camps resemble the concentration camps established by Nazis at the time of Hitler in Germany. The defenders of human rights have brought to light the cruel, inhuman and degrading treatment of prisoners at Guantanamo Bay. The prisoners not only face the physical torture but their religion is also abused which include the disrespect of their Holy book. Their Holy book Quran was flushed in the toilet, defaced and comments and remarks were written on it. Pages were torn and detainees denied the copy of the Holy Quran. This inhuman and cruel treatment was reported in the media.67

Although many states endeavoured to hide the facts, torture and custodial deaths are frequently reported from numerous countries of the world. The recent war on terror has significantly enhanced the power of the States that over and over again they resort to torture and other cruel means to obtain information or to pressurize an accused to accept the charges.
c) Transfer of Individuals Suspected of Terrorist Activity

The legal framework of international human rights needs firm stickiness to human rights and rule of law to hold and transfer of detainees. The detainees should also be informed of the reason for their detention and notified promptly of the charges levelled against them, and should be given approach to legal counsel. Nevertheless, in the wake of 9/11 “some states have reportedly extradited, expelled, deported or otherwise transferred foreign nationals some of them asylum seekers, suspected of terrorism to their country of origin or to countries where they allegedly face risk of torture ill treatment in violation of the principle of non-refoulment.”68 This is a grave breach of international law which should be corrected by the bodies concerned. The terms like refugee and asylum seekers will otherwise lose their meaning and essence in international law.

d) Profiling and the Principle of Non−Discrimination

The principle of equality and non−discrimination are at the centre of human rights law which are recognized as norms of jus-cojens.69

Profiling based on national or ethnic basis of an individual is a main problem generated by the recent bout of terrorism and counter-terrorism. Many of the Muslims residing in Western countries where they are living as minority have become the prey of this kind of profiling. The Committee on the Elimination of Racial Discrimination in its general recommendation No. 30 (2004) has called on states to make this fact sure that any measure taken in order to combat terrorism do not breach the principle of non−discrimination. It has also stressed that non citizens should not be subjected to racial or ethnic profiling or stereotyping.70 At the regional level the Inter American Commission on Human Rights has cautioned that “any use of profiling as similar devices by a state must comply strictly with international principles of governing necessity, proportionality and non−discrimination, and must be subject to close judicial scrutiny.”71 Nevertheless, it is seen that after 9/11 several states have chosen to profile Muslims as they are wrongly regarded as political terrorist.72 This type of profiling based on stereotypes has added to mental sufferings as well as needless harassment of thousands of peace loving Muslims residing in various Western countries.
e) Due Process and the Right to Free Trial

This is another right which is also internationally recognized and is under risk in the wake of terrorist attacks in numerous countries. Most of the countries have made anti-terrorism laws which are not in consonance with international human rights norms of free and fair trial. The protection of human rights for individuals accused of criminal offences including terrorism include the right to presumed innocent, the right to hearing with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, and the right to have conviction and sentence reviewed by a higher tribunal satisfying the same standards.\(^\text{73}\)

Besides the above mentioned fact, the study by the United Nations High Commissioner for Human Rights identified thrust to liberty and security of the person, freedom of expression, right to privacy and economic, social and cultural rights as main challenges of human rights in the context of terrorism and counter-terrorism. The study has also discover the fact that due to the lack of a comprehensive definition of terrorism there is a possibility of inadvertent human rights abuses and the term will also be misused by the states deliberately.\(^\text{74}\)

The Amnesty International in its report published in 2003 recognizes that current terrorism needs to be addressed urgently and firmly. Nevertheless, security for all means human rights for all. Actual security can only be attained through full respect for human rights. Under international law nobody should be able to pick and choose their obligations. A combination of security forces is seeking to roll back the human rights gains of the last five decades in the name of security and counter-terrorism. These constraints have not essentially led to increased dividends on safety. A safer world in the view of Amnesty International demands “a paradigm shift in the concept of security, a shift that recognizes that insecurity and violence are best tackled by effective, accountable States which uphold, not violate human rights.” Effective countering of terrorists depends upon knowing where to look and how to look. Governments are not entitled to respond with. The New York based Human Rights Watch makes the following statement with regard to human rights:

Believe anything goes in the name of their cause. The fight against terror must not buy into that logic. It must reaffirm in principle that no civilian should ever be deliberately killed or
abused. But for too many countries the anti-terrorist mantra provides new reasons for ignoring human rights.\textsuperscript{75}

**War on Terror and Human Rights**

In the area of how human rights affected by terrorism, there is a little consensus as to which rights are not affected the most which rights are even affected at all. Some scholars argue that terrorist attacks at the transnational level have an impact on the use of repression, on the other hand some scholars argue that terrorism at the domestic level has a strong impact on the use of repression. There is also divergence of opinion about which rights are repressed and which type of terrorism has a stronger impact on the use of repression. Many scholars argued that the deadly event of September 11, 2001 following the ‘War on Terror’ caused a major impact on the international human rights regime. It has been reasoned “that the American ‘War on Terror’ whatever its justification and achievement, has provoked a one dimensional ideological campaign that has marginalized human rights in much the same, although somewhat less intensely, as the crusade against communism did during the Cold War.”\textsuperscript{76}

Jonathan Sacks says that “war is fought on the battle field. Terror has no battle field. It has become global. Though it can be continued by physical measures, ultimately it must be fought in the mind. In the short term, conflicts are won by weapons. In the long run, they are won by ideas.” In these irreversible words of Sacks one can find the bareness and uselessness of the ongoing and may be unending War on Terror led by United States and supported by several countries as a reaction to 9/11 attacks. The recent War on Terror has numerous dubious distinctions—it was not mandated by the United Nations but declared by United States without any discussion with the United Nations. The United States and its allies invaded Iraq and Afghanistan and formed an international Coalition against Terror with catastrophic consequences for these war ravaged countries. The uneven use of force and violation of the provision of international human rights law is evident from the number of civilian deaths, torture and deportation of persons suspected of terrorist activities. The War on Terror reveals the unilateralism of the United States and its disrespect for the United Nations. The War on Terror has also caused climate of fear and vulnerability around the globe. The relatively small and weak States felt that their sovereign independence was under threat.\textsuperscript{77}
The counter-terrorism measures adopted by the United States and United Kingdom at the local level encouraged many countries to adopt coercive anti-terror legislations generating a crisis of civil liberties and human rights around the globe. The bloodshed committed by the International Alliance against terror has made Al Qaeda a feasible option for many who have lost their loved one in the wake of War on Terror. In short it is proving to be counterproductive.

The strategy of counter-terrorism which was named as War on Terror by the United States has drawn criticism from several quarters. The former foreign Secretary of Britain David Miliband argues “that the use of the War on Terror as a Western rallying cry since the September 11, 2001 attacks has been a mistake that may have caused more harm than good.” He goes on to say that “democracies must respond to terrorism by championing the rule of law, not subordinating. It is the argument he links directly with the Guantanamo Bay and it is why we welcome president Obama’s clear commitment to close it.”

The famous Indian author and activist Arundhati Roy criticised the ‘War on Terror’ in these words: “It is absurd for the U.S. government even toy with the notion that it can stump out terrorism with more violence and oppression. Terrorism is the symptom, not the disease.”

She further suggests:

Terrorism as a phenomenon may never go away. But if it is to be contained, the first step if for America to at least acknowledge that it shares the planet with other nations, with other human beings, who even if they are not on T.V, have loves and grief and stories and songs and sorrows and, for heaven’s sake rights.

Sue Mahan and Pamela L. Griset alerted in the context of War on Terror that history suggest that retaliation begets retaliation and they call for a fresh look on the U.S. foreign policy dealing with international terrorism.

To succeed in the long run, domestic counter-terrorism strategies in the United States and in other democratic societies must preserve cherished principles of liberty and equality and government official must resist the temptation to diminish the freedom on which democracies are based.
Concluding Observations

From the detailed discussion on Terrorism, Counter−Terrorism, Human Rights and the United Nations following four conclusions emerge: First, it may be concluded that there is close connection between all of them. Terrorism has a direct impact on the enjoyment of human rights. The only successful strategy of counter−terrorism will be one that recognizes the essential principle of real security can only be maintained through the promotion and protection of human rights. Therefore, human rights should always be mainstreamed into all elements of counter−terrorism strategies. To ensure the effectiveness of this approach, counter−terrorism proposals should be examined carefully and reviewed regularly to assess their impact upon all human rights standards and obligations.

Second, terrorism is a source of victimization of civilians who are not guilty. The devastating results for the enjoyment of the right to life, liberty and physical integrity of victims of terrorism has been recognized by the innumerable popular bodies which includes United Nations and many of its organs and agencies. Nevertheless, it must be stressed that terrorism is of two types: one committed by non−state actors and the other committed by States themselves. But it is evident from the historical instances that State terrorism is more dangerous. It can start from the refutation of certain rights and liberties for a section of population and can degenerate into communal and ethnic slaughter or genocide. Therefore, it can be said that it is the responsibility of international community to take notice of state terrorism frequently practiced in the name of law, order, security and integrity of the state.

Third, it is true that particularly after 9/11 the United Nations and international community at large have started taking profound interest in counter−terrorism measures. However, in present strategy of counter−terrorism, state seems to be chiefly responsible for the execution of programmes and policies to repress terrorism. In this condition it is frequently seen that many of policies adopted by States in order to prevent terrorism results in the serious violation of human rights such as torture, custodial deaths, extra judicial killings. Many States have also established secret prisons in which victims are inhumanly treated and have denied access to fair trial and justice. The United Nations has proclaimed and Member States have agreed that any counter−terrorism measures must corroborate to the established and recognized
principles and provisions of the international human rights law, humanitarian law and refugee law. Nevertheless, the practice of denying asylum and harassing refugees is often being reported post 9/11 period. Several states have extradited or deported persons to the countries where they face danger of torture and other cruel treatment thereby violating the principle of non−refoulment.

Finally, many of the powerful states who called themselves as the protector of the human rights and democracy were responsible for the death of civilians in Afghanistan and Iraq by declaring War on Terror. All of these trends compromise the real value of human rights. In the struggle against terrorism it is essential to maintain the respect of human rights and it should not be sacrificed in the counter−terrorism measures. Therefore, it is advised that all counter−terrorism measures must be supervised by the United Nations and Member States should firmly follow the principles and provisions of the International Human Rights and Humanitarian Laws while Countering Terrorism.
Notes

1 Preamble of the United Nations Charter (1945)


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15RenuSaini, Ranjit Singh, n. 12, p.33.

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17M. Mohibul Haque, n. 10, p. 115.

18n. 7, p. 9.

19M. Mohibul Haque, n. 10, pp.115-116.


22Cited in n.15, pp.1-2.

23M. Mohibul Haque, n.10, pp. 110-111.

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29n. 7, p.1.
30Article 29 of Universal Declaration on Human Rights 1948.
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