Chapter I

TERRORISM AND HUMAN RIGHTS :
A CONCEPTUAL ANALYSIS
Violence is as old as our civilization. Like war one of the other form it has taken is terrorism. Moreover it has been rising in our times. Infact it has become a continuous source of insecurity, destruction and plundering, endengering our peaceful existence and inflicting unbearable consequences on our security. This phenomena of terrorism has been the subject of discussion and analysis particularly after the Second World War.

Inspite of the various attempts to study the phenomena, the term terrorism has neither precise definition nor one which is widely acceptable. It is due to the reason that it is a very complex phenomenon. It has almost as many views as there are scholars of the subject. The person defining it inadvertently inject his value judgement into the definition. The emotive nature of the subject is one of the major contributing factors to the complexity of the concept of terrorism. Moreover it is not only the phrase 'one man's terrorist is another man's patriot' that makes the subject of terrorism complex it is also its indiscriminate use by the scholars of the subject and the politicians as a synonym for rebellion, street battles, civil strife, insurrection, guerrilla war, kidnapping, highjaking etc. Some governments are prone to label as terrorism all violent acts committed by their political opponents, while anti-government extremists claim to be the victims of government terrorism. The indiscriminate use of the term not only inflates the statistics but makes understanding of the specific character of terrorism and how to cope with it more difficult.
Therefore the definition of terrorism in value free language is not obtainable. It is however imperative here to conceptualise the phenomenon of terrorism in order to obtain its working definition.

The imprecise nature of the subject makes it susceptible to any fear-producing action which can serve a variety of purposes. Inclusion of all such acts which produce terror within the scope of terrorism makes it indistinguishable from other kind of violence. It does not distinguish between the acts carried out by terrorists and the criminals. For example is a member of Al-Falah to be equated with someone who explodes bombs in a commercial location or a deranged murderer. These acts contain elements of terror. Can we treat them as instances of something called terrorism? Linking together all violent acts under the rubric of terrorism makes it problematic to understand the phenomenon of terrorism. It is against this background that vague generalisations set in but it goes without saying that a generally accepted definition of terrorism requires an element of terror. Delimiting the boundaries of terrorism is necessary for the understanding of it.

The Encyclopaedia of Social Sciences defines terrorism as "a term used to describe the method or the theory behind the method whereby an organized group or party seeks to achieve its avowed aims chiefly through the systematic use of violence." Terrorism, as described by Ajit Singh Bains is an act of intimidation of innocent
people threatening their lives, destroying their property, depriving them of their liberty and creating tension among them.\textsuperscript{4} The Rand Corporation defines terrorism by the nature of the act, not by the identity of the perpetrators or the nature of their cause. All terrorist acts involve violence or threat of violence, often coupled with specific demands. The violence is directed mainly against civilian targets. The motives are political. The actions are carried in a way that will achieve maximum publicity. The perpetrators are usually members of an organised group and unlike other criminals, they often claim credit for the act. And finally the act is intended to produce effects beyond the immediate physical damage.\textsuperscript{5} Defining terrorism by focusing on the nature of the act rather than on the identity of the perpetrators or the nature of their cause makes a substantial degree of objectivity. The Rand definition of terrorism implies that governments as well as individuals and groups may be terrorist. Moreover, the government often use the word 'terrorist' to describe their opponents even when these opponents have not used violence. Despite the ambiguity and subjectivity that may surround an act of terrorism, there are certain characteristics that differentiate terrorism from other violent criminal acts. While the indiscriminate murders and mayhem associated with terrorism often appear to result from irrational behaviour by the terrorist, it is important to assume that violence however, barbaric has its own rationality. Acts of terrorism are not to be treated as just another form of criminal violence.\textsuperscript{6}
Thornton believes terrorism is the use of terror as a symbolic act designed to influence political behaviour by extranormal means, entailing the use or threat of violence. In this view, an insurgent group has to disrupt the internal relationship between incumbents and citizenary. Here there is concentration on its extra-normal quality, which can be placed above political violence such as riots. It is the extra-normal nature of the use of terror that distinguishes it from other form of political violence. The problem with this situation is in defining extra-normal. Thornton and May divide the terror types into two: the enforcement terrorism which is the service of established order to suppress challenges to their authority, and the agitational terrorism employed by those against the state and movements who wish to disrupt existing order and ascend to power themselves.

Taking into consideration the link between terrorism and violence we can understand the meaning of terrorism. All violence is not terrorism, but all terrorism is violence, psychologically as well as physically. So terrorism is the use of threat of force to achieve a desired policy. It achieves its goals not through its acts but through the response to its acts. Terrorist victim is not the ultimate target. Terrorists kill a person or persons who have or do not have direct antagonism with them to pressurise another person to yield to their demands.

Terrorism is committed for several purposes. It may aim at bringing specific concessions such as the payment of ransom or release of fellow-prisoners. It may also attempt to gain publicity. It
may aim at causing widespread disorder, demoralising society, and breaking down social order. It may target the deliberate provocation of repression. It may be used to enforce obedience and cooperation. It also aims to punish. It may aim at changing the specific policy. It may also aim at seeking autonomy or self-determination-independence. Terrorism comes in several varieties. It may be indiscriminate or selective but it is generally indiscriminate.9

Terrorism as a purposeful human activity is primarily directed towards the creation of a general climate of fear designed to influence in ways desired by the protagonist other human beings, through them some course of events.10 If we insert the word political between words human and activity, we can avoid mixing provision with criminal intimidation or similar acts. One of the interesting features of terrorism is that its adherents and practitioners tend to prefer terming their acts as war against the state and consequently if captured, they say they shall be treated as prisoners of war rather than convicted criminals.11 To many scholars terrorism has clearly become a form of warfare.12 For them terrorism has become an integrated part of strategy in which there are well defined political and military objectives. Terrorists are now recognised as the spearhead of a developing theory and practice of surrogate warfare.13 It is seen as weapon of militarily weak who are short of resources to deal with the militarily strong. It is a kind of protracted warfare which is normally waged by the weak against the superior and organised enemy. Being
protected in nature any isolated terrorist incident/act can not therefore be called as terrorism. To make it a warfare the threat of occurrence of terrorism in future is implied. Moreover in describing an act of terrorism, there must be a terror outcome, or else the process could hardly be labelled as terrorism. This makes it a phenomenon which instils fear for political ends. In this way it gets media coverage. There is a Chinese saying, kill one, frighten ten thousand. This is what terrorists intends to do for the realization of their objectives.

Terrorism is a violence or threat of violence for achieving the desired objectives. It is a deliberate means to an end. Not an end in itself. Moreover, it is not a mindless violence. It is a consciously chosen way of fighting. It is a campaign that causes a threat of violence and fear among the targets to achieve its aim. In some instances, it is potentially more effective, especially from a cost-benefit perspective than conventional or guerrilla warfare. Unlike other forms of warfare, however the goal of terrorism is not to destroy the opposing side but by weakening the legitimate capacities of the administration and casting doubt on the concept of rights in society and the obligations of the state. Terrorism by its very nature disrupts the generally accepted norms and standards of decency. It attacks the very mechanism through which the nations exercise their normal control over their subjects. It makes the populace to shudder with a creeping sense of insecurity. It degrades the quality of life. It damages the welfare and economic advancement of society. It makes the normal
and democratic existence impossible wherever it erupts. It is against the very spirit of fundamental freedoms and human rights. It has become a serious challenge to the rights of man in society.

Terrorism is not a universal phenomenon having universal causes. It is a historical phenomenon emerging only at particular times due to particular developments in the people's consciousness. The fact is that it does not take place in vacuum. So the prevailing circumstances, situations and environment of particular times of history serve as a cause for terrorism. They initiate it, motivate it and shape it. At present terrorist activities have turned the whole world into battle field. Small bands of terrorists seek to achieve political goals through assault on people. Their victims are generally innocent and ordinary citizens whose death draw attention to the terrorists cause. In fact it has become war against the state.

The phenomenon of state terrorism is not something new. The origin of this term was the state terror of the so-called Reign of Terror in 1793-1794 during French Revolution when Committee of Public Safety executed thousands who opposed the revolution.15

State terrorism like the terrorism is also a complex issue. It is also susceptible to different meanings and connotations. This is because that different scholars of the subject see it from different perspectives. Whenever they define it they invariably inject their value judgments into the their description of the state terrorism. This
is a subjective matter where values play a defining role. So what constitutes state terrorism for one may not necessarily be the state terrorism for others. However in a comprehensive sense state terrorism is seen as related to the suppression of personal liberties of individuals or groups by a ruling authority. It has primarily two perspectives. One, it is born out of the responses of the ruling authority to the terrorism. Ruling authority as a response to the terrorist activities either institutes changes and reforms sought by the terrorists or it represses the terrorists. So the seeds of state terrorism lie in the repressive response of the Government to violence. The other is that it is employed by a ruling authority as a means of control to suppress those who are threat to the authority of the government. They may be individuals, groups or even ethnic/minority communities. So we can say that state terrorism is enforcement terror which is the service of the established order to suppress challenges to the authority.16

State terrorism, in simple words, is an act of intimidation of people, threatening their lives, destroying their property, depriving them of their liberty and creating tension amongst them. It is considered to be systematic use of intimidation to achieve some goals. The state uses this method in several ways. The first is the direct and indiscriminate use of terror by the state against the people as a killing through fake encounters, extra-judicial killings, torture of individuals in police stations and interrogation centres, extortion
through arrest or threats of imprisonment or rape and various other acts of violence against the people. So state terrorism is a means to intimidate those who offer opposition to those who are in authority. State terrorism appears in the form of fake encounters, kidnapping and abduction by policemen or armymen, torture and custodial deaths, unlawful detention and dealing with terrorists not in accordance with the rule of law but as per the wish of government and its agents. The phenomenon of terrorism can be defined as a strategy whereby violence is used to produce certain effects in a group of people so as to attain some political ends. One of the effects of such a strategy is often fear and terror. Both states seeking to maintain power, authority and non-state actors trying to attain some goals can resort to terrorism. States on the same lines as terrorist do spread a climate of fear among people than the direct victims, by means of false imprisonment, torture, death, disappearance destruction of property etc.

Though there is difference between state terrorism and terrorism by a group of people, but according to some, terrorism and state terrorism are the two sides of a coin, when the state terrorizes its own people, it commits an offence more intolerable even than the terrorism perpetrated by a group of people. Terrorism by state is thus an abuse of legitimate power. Terrorists commit acts of public terror while hiding their real identity; the state commit acts of secret terror. State terror acts directly against its own opponents - eliminating them,
having them 'disappear' or 'imprisoning them on doubtful charges. Not only this it sometimes becomes more pervasive and barbaric than individual or group terrorism. When a functionary of a government behaves like a terrorist, he becomes more dangerous than terrorists since the law works against terrorists, not against the government functionary who takes the law in his own hands. If the Government or rulers themselves direct their law enforcement officer to disobey laws, then there is no safeguard in legal machinery. This happens generally in societies under totalitarian regimes where governments rule by repressive terror rather than popular consent. It is noteworthy that ideological regimes and, in particular, post-revolutionary regimes have been responsible for some of the worst repression. State terrorism under such regimes ranged from oral intimidation, thought reform in special camps and even execution. This is not entirely limited to totalitarian regimes. Democratic governments also indulge into barbaric activities in the name of counter-terrorism.

Terrorism either committed by an individual or group or government is a means for achieving the desired purpose/objectives. The purpose in case of non-state-terrorism may range from seeking reforms to even independence. However the purpose of state terrorism can be enforcement of governmental authority threatened by either terrorists or by those who oppose the authority in totalitarian regimes either by agitational means or through subversive activities tantamounting to terrorism. The interesting thing is that while it is
easier for governments than terrorists to legitimise their activities; terrorists often strive for legitimacy. Governments are portrayed as having substantial resources and as rational beings whose actions serve a longer goal, while individuals have little social claim and are typified by meagre resources and unjust violence. Terror practiced by a government in office is seen as law enforcement, while terrorism on the other hand implies open defiance of law and is the means whereby an opposition aims to demoralise the government authority. While the terrorists group makes no pretence at legality, legitimate governments must atleast formally adhere to the law. In the absence of directly supporting legislations, government terror is made to appear justified by declaring a state of emergency and the issuing of decrees. Not only this draconian laws are legislated to enforce the authority of the government.

Human rights are the creation of human civilization. The concept of human rights introduced the idea of justice in the civilised world before which man either had absolute rights and freedoms or no rights/freedoms at all. They gave human life a sense and purpose. Human Rights are those inalienable rights which man refused to surrender at the time of making of state. Thus, human rights are those inalienable, indivisible and indispensable rights without which man can not seek his best in life or without which his life and liberty are not secure. At the same time they can not be taken away from man either by state or any private individual. With time the scope and extent of
these rights has increased. Human rights embrace within its fold three
main and inter-linked goals of human beings both as individuals and
as groups i.e. survival, sustenance and security. Since human rights
are inalienable rights which man refused to surrender while locating
the institution of state. The protection of these rights has traditionally
been a responsibility of state. Human rights are, thus, the obligations
of states towards individuals. They reflect the fundamental moral
commitments of the human civilization to equality of man,
inviolability of life and protection against fear, arbitrary exercise of
authority, exploitation and discrimination. They are inherent in and
integral to every human being essential for human life and its
development. They are recognised by international community. They
are as well incorporated in the constitutions of every civilised states.

Terrorism is a negation of life. All violence which contravenes
generally accepted norms of social order, human behaviour and right
to life, and equality of all men, violates the rights of man. Terrorist
regime have no claim to any immunity available under civil law or
the Universal Declaration of Human Rights. There is no freedom
which transcends freedom; there is no liberty which infringes liberty;
there are no rights which violate rights. The most important issue
before the international community today is to create and sustain a
balance between the power and authority of the state and democratic
rights of people to ensure welfare and development of all mankind
which includes universal respect for and observance of human rights
all without distinction on the basis of caste, creed, sex, religion, language etc. The rights of everyone are to be respected and protected. Every one has a right to be protected by the state and the people. Terrorism in all its forms is the greatest violator of human rights. It causes unlimited miseries to the hapless innocent and ordinary people whose death, injury, agony aimed at the destruction of human dignity and integrity. It challenges the authority and security of the states, it tries to establish the authority of the states when they employ terror as an instrument to intimidate those agitating against states. Though states pledge to protect the life, liberty, and security of their citizens and guarantee that no one would be enslaved and subjected to arbitrary arrest and detention or torture, these rights are being violated in every country on every day by terrorism and in the name of defeating terrorism.

Terrorism and human rights though two are entirely different concepts, they are in one way related with one another. Terrorism violates human rights. It has no respect for human life, human dignity and freedom. Moreover violation of human rights by state breeds terrorism. Not only this terrorism also provides an opportunity to the state to violate the human rights in the name of either defeating it or defending the totalitarian authority. This is a complex and controversial relationship that exists between these two phenomenas.
REFERENCES


