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TERRORISM AND INDIAN LAWS

INTRODUCTION:

Terrorism has gained worldwide aspect, and the entire world seems to have become a threat. Terrorism activities are on the rise, cross-border terrorist attacks are intensifying, and there are rebel groups in different areas of the country. Terrorism has now expanded globally and is becoming a threat to the world today as a whole. The spectrum and tactics implemented by terrorist organizations and groups take benefit of modern forms of communication and technology, using high-tech equipment present in the form of communication networks, transport, advanced weapons, and numerous other forms. This has allowed them to attack at will and generate fear among individuals. India faces numerous challenges when it comes to maintaining its internal security. India is one of the world's also most affected countries in contexts of terrorism. India has been one of the regions affected by the shameful acts of international terrorism globally. The Mumbai attacks of 26/11, which lasted for three days, have been said to have been one of the world's most brutal acts of terrorism ever recorded.

MAJOR TERRORIST ATTACKS IN INDIA:

The Pulwama attack of 2019 is one of the major terrorist attacks. One of the fatal terrorist incidents on our valiant armed groups in Pulwama, Jammu, and Kashmir startled the country on 14 February 2019. At least 40 CRPF staff lost their lives in the incident. Massively equipped rebels accused of being from Pakistan-based JeM attacked a military base in Uri in Kashmir on 18 September 2016, the very worst strike on the Army, killing 17 jawans. This incident is generally referred to as the 2016 Uri Attack. 26/11 The 2008 Mumbai attack was indeed one of the most devastating attacks in the country's history. On 26 November 2008, 10 massively loaded LeT-

Indic Legal Law Journal

based Pakistani terrorists caused havoc in Mumbai, killing about 166 people and injuring over 300. It was a planned shooting and bombing operation at five significant places in Mumbai.

Lashkar-e-Taiba (LeT) and Jaish-e-Mohammed (JeM) terrorists assaulted the Parliament premises on 13 December and started firing, killing about nine people. After 1980, terrorist activity in India escalated. India has fought various wars against terrorism, and we've lost more than 6000 lives in these battles. We have lost more than 70000 civilians already. Moreover, we have lost over 9000 security officers. In this nation, nearly six lakh people have now become homeless as a consequence of terrorism. There are many acts passed in India against terrorism due to the numerous terrorist attacks.

TERRORISM AND IPC:

Section 121 of the Indian Penal Code 1860 deals with the crime against the Indian government of fighting or trying to launch a war or promoting war. "It notes that" Whoever brings war upon the government of India, or tries to declare such war, or promotes the waging of such conflict, shall be punished with execution or life sentence and shall be a conviction to a penalty as well". Terrorist actions have been held to fall within the limits of the crime of starting a war or trying to wage war or encouraging war under Section 121 of the IPC. The Delhi High Court held this in the case of the State of Delhi v. Mohd. Afzal and Ors¹. This high court of Delhi's judgment was upheld by the Supreme Court on appeal. Mohd. Afzal, also known as Afzal Guru, has been convicted under this provision by the Supreme Court. He was one of the plotters of the December 2001 terrorist attack on the parliament of India.

There has been some uncertainty as to whether the term "whoever" encompasses foreign nationals in this segment. In the case of Mohd. Afzal, it was established that section 121 of the IPC also referred to foreign citizens. The judgment of the Delhi High Court in this context was reinforced by the Supreme Court when it ruled that "We see no good reason why foreign nationals should not be held liable of starting a war within the scope of Section 121 if they stealthily invade Indian territory with an aim to perverting the working of the government and destabilizing society."

¹ State (NCT) of Delhi v. Mohd. Afzal, 107 (2003) DLT 385

Indic Legal Law Journal

The provision must not be limited to those who owe allegiance to the existing government on its plain terms.

Therefore, the court has now affirmed the question of whether Provision 121 of the Indian Penal Code 1860 extends to foreign nationals. The Indian Penal Code, though, suffers from some inherent disadvantages concerning the provisions surrounding terrorist activities and offenses relating to terror acts. The first thing is that the term "terrorism" is not described anywhere in the Indian Penal Code.

TERRORISM AND THE NATIONAL INVESTIGATION AGENCY [NIA] ACT, 2008:

The key attractions of the Act are as follows: the law will be applied to all of India, to people of India, and outside India, in public service, anywhere they can be, and to people on aircraft and ships licensed in India. NIA members will have all the rights, freedoms, and responsibilities that policemen have in relation to the investigation of any crime. The NIA's authority shall be vested in the Indian government and the administration shall be vested in the officer named by it on that behalf. Upon issuance of the notification of the crime, the police commanding officer of the police station shall transmit it to the government, which shall in turn transmit it to the Central Government. Where the central government considers the crime to be a listed offense, it shall guide the agency to investigate the offense. Other crimes associated with the Listed Offence may also be prosecuted by the NIA. The National Investigation Agency (NIA) investigates terrorist attacks and crimes linked to nuclear power, transportation, marine transport agitation, missiles of massive damage, and left-wing extremism.

There is no question that the development of the NIA is a significant move in countering terrorism-related offenses, but it is unlikely to be a solution for preventing terrorist acts. For, it would be an organization that only analyses and prosecutes terrorist acts after they occur. Although the NIA will certainly lead to a proper picture of how the strikes were organized and carried out, of the ties among terror networks inside and outside the country, of the method of operation of terrorist networks and organizations, etc., terrorist attacks are unlikely to be prevented. One drawback of the Act is that it has so many characteristics that offer authority to the Centre, and that it compromises our nation's federal structure and the superiority granted to the Centre under the Act would invade the authority of state governments.

Indic Legal Law Journal

THE UNLAWFUL ACTIVITIES [PREVENTION] ACT, 1967:

The object of this act is to prohibit and penalize illegal and terrorist activities that constitute a risk to India's independence and sovereignty. It also grants the national government wide-ranging powers to classify organizations as terrorist groups and also provides for punishments for engaging in the operations of such organizations. In 2019, some changes to the Act were passed by Parliament and the same was announced on 8 August. The most important reform made by the Amendment was that it amended Section 35 and gave the Union government the authority under Schedule IV of the Act to designate a person as a 'terrorist.' Only organizations may have been defined in this way before the Amendment, and people were not included.

PREVENTION OF TERRORISM ACT, 2002:

The Prevention of Terrorism Act, 2002 (POTA) was a law that was passed in 2002 by the Indian parliament to improve counter-terrorism operations. The Act was enacted as a result of several acts of terrorism in India, especially in reaction to the strike on Parliament. The Prevention of Terrorism Ordinance (POTO) of 2001 was substituted by this Act. Many accounts emerged of the legislation being grossly violated after the act came into effect. It was suspected that POTA was unfairly used to target political adversaries. A month before its expiration date, the Prevention of Terrorism (Repeal) Ordinance, 2004 repealed the Act on 21 September 2004.

CONCLUSION:

Extraordinary laws are suggested to be a reaction to exceptional situations that occur mainly because of the transparency and equality that democracy allows. They are central to its operation and serve significant purposes of regeneration, healing, and correction. An increasing global agreement on countering terrorism is also forming. It should be made so strict in a country like India if legislation on terrorism is passed that the perpetrator is taken to the book and should not be free only because of flaws or loopholes in the ordinary law. Even as a constructive measure of coping with terrorism, the new era of citizens who need to be taught about what it means to combat terror in a democratic setting need not only laws that counter-terrorism, but most importantly. In view of the exploitation of power, we should build a mechanism to avoid misuse of it. UNO rightly remarked that "Respect for human rights, fundamental freedom and the rule of law are the essential tools in the effort to combat terrorism."