

INTERNATIONAL HUMANITARIAN LAW AND OTHER SOCIAL WAYS COMBATING TERRORISM

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ABSTRACT

The International Humanitarian Law (IHL) mainly protects those countries which do not involve in it the activities of hostilities and also keep under control the method and system of warfare. This paper deals with the meaning, definition and purpose of International Humanitarian Law and highlights the fact that IHL takes measures concerning with armed struggle between states which can either be at international or non-international level. This Law aims at providing protection to combatant and non-combatant who have been disabled during conflict. Given that this body of law applies during times of extreme violence. Implementing the law will always be a matter of great difficulty. Therefore, striving for its effective compliance remains as urgent as ever to protect the combatant against the acts of violence and terrorism. Terrorism has become a problem of global proportions. It kills people, threatens democratic institutions, undermines the economy and destabilizes regions. The paper seeks to clarify the term terrorism as a social phenomenon. It is an ideology, policy and social practice adopted by groups or individuals with a view to attaining a particular goal through unlawful, violent methods. The author elaborates that social problems, if left untreated, can lead to the emergence of a deep social divide, wide disparities in material welfare and human rights and can serve as a precondition for public frustration, social disadvantage and marginalization. Terrorism has its roots in socio-cultural malfunction. This research paper also throws light on the scourge of terrorism and the circumstances and the states in which it has haunted Indian policy-makers since independence. In our country some of the states, particularly the bordering states, having different cultural and ethnic composition from the heartland suffered from a real or perceived sense of neglect and lack of good governance. India's experience in combating insurgency or terrorism in those states has generally been of finding a military solution to a political problem. Central and state governments have responded with various actions, mostly

military, within own borders but lacked a coherent policy to combating terrorism. This paper is an attempt to look at the scope of applicability of IHL, changing dynamics of terrorism, threat of terrorism to national security, and suggests some socio-cultural measures that might form part of a possible counter terrorism strategy for India. It is vital that military, political and legal mechanisms for combating terrorism be supplemented by other methods based on anti-terrorist social and cultural engineering.

Keywords: International Humanitarian Law; Combatant; Insurgency; Strategy; Political and Legal Mechanisms; Cultural Engineering.

INTRODUCTION

Legal sociology has paid significant attention to human rights, but in contrast to legal anthropology, little focus has been given to humanitarianism. Humanitarianism is many things to many people. As described by Miriam Ticktin¹, humanitarianism is ‘an ethos, a cluster of sentiments, a set of laws, a moral imperative to intervene, and a form of government’; it is ‘one way to do good or to improve aspects of the human condition by focusing on suffering and saving lives in times of crisis or emergency; for instance, humanitarians provide temporary shelter, food, and medical care during wartime or immediately after disasters’. The actors involved include affected populations, civil society, host governments, the private sector, international organizations, humanitarian practitioners, the international humanitarian sector and donors.

As academics, it is our task to re-conceptualize this humanitarianism in terms of power, legitimacy and regimes of control and surveillance both from an internal perspective concerned with humanitarian accountability in the global emergency zone, and from an external perspective that conceptualizes humanitarianism as a form of governance and social fact in global society.

¹ In the name of Humanity – The Government of Threat and Care, Ilana Feldman & Miriam Ticktin, Editors, Duke University Press, Durham & London, 2010.

An important aspect here is that as the humanitarian sector continues to expand, the field is legalizing. Beyond international humanitarian law, humanitarian action is increasingly compelled and constrained by a plethora of soft law and legal discourses, and what was once a largely unregulated field of practice is now emerging as a transnational humanitarian space where authority, governance, legitimacy and power is progressively invoked through law.

As scholars specifically focused on the legal aspects of humanitarian space and the evolving law of humanitarian action, we are interested in normative constructions and contestations regarding conceptualizations of aid, agency, crisis, responsibility and rights within and across different social fields of regulation and governance. Some students of sociology and law argue that legal sociology is of central analytical value to the prism of humanitarian, as it focuses on the study of rules, standards, norms; the evolving role of the legal profession and the legalization of conflict resolution in humanitarian governance. Legal sociology can also offer important perspectives on the relative lack of regulation of the humanitarian space, and on the normative orderings that occupy this space in competition with, as a substitution for, or in parallel to legal norms.

The questions must be asked about the role of global and national publics in holding states and humanitarian actors accountable for how they contribute to end/endanger human suffering. In the human rights field, social movements and legal mobilization are central for holding states accountable. However, while contemporary humanitarianism began as a series of social movements – including the anti-slavery movements, honor for women national campaign, missionary engagements and the internationalization of Red Cross societies, present-day humanitarians appear to have a deeply ambivalent attitude to enlist bystanders, i.e. the general public, beyond fundraising and social media support. On the other hand, with the present difficulties facing humanitarians with respect to access to humanitarian space and the declining enthusiasm and respect for international humanitarian law, ideas about public engagement may be shifting. The re-conceptualization of humanitarian worker identity entails new language such as ‘Be Well, Serve Well’.

MEANING OF INTERNATIONAL HUMANITARIAN LAW

This law takes measures concerning with armed struggle between states which can either be at international or non-international level. It aims at providing protection to combatant and non-combatant who have been disabled during conflict. IHL has three parts, namely:

- Geneva Convention
- Hague Convention
- Customary International Law
- Geneva Convention

Since the adoption of Geneva Convention 1949, people have experienced number of armed conflicts. It aims at providing legal protection to people who do not participate in hostilities anymore.

Before 1949 there was nothing that restricted the use of force by armed group within state. Although there was International Humanitarian Law which dealt with war as well as peaceful situation but after World War II it was realized that problem of internal character has accrued, which violated Human Rights due to which the need to regulate conduct of war was felt.

Hague Convention

In 19th century the beginning of codification of customary principles of war conduct was done. In this convention IHL prescribes special rules for the conduct of war anywhere on land, at sea and in the air. Hague convention not only prescribed rules but also address the issue such as, which enemy should be attacked. They also made sure that unarmed civilians and their property are to be respected and to treat the wounded and prisoners humanely. Hague convention also codified the prohibition of use of weapons which cause unnecessary suffering.

Customary International Law

Customary laws play an important part in the evolution of IHL. These laws are based on general and consistent practice carried out by the nations which give the sense of legal obligation. IHL acknowledges jus cogens norms which also known as peremptory norms. They are such

principles of International Law which are so fundamental that no nation may ignore them or act in contrary.

In the light of the above discussions it can be said that “International Humanitarian Law applicable in armed conflicts” means international rules, established by treaty or custom, which are specifically intended to solve humanitarian problems that arise directly from international or non-international armed conflicts. For humanitarian reasons, these rules protect persons and property that are, or may be, affected by conflict by limiting conflicting parties’ rights to choose their methods and means of warfare. The expression “international humanitarian law applicable in armed conflict” is often abbreviated to International Humanitarian Law or Humanitarian Law.² Though the military tends to prefer the expressions “Laws of Armed Conflicts” (LOAC) or “Laws of War”, these two expressions should be understood as synonymous with “IHL”.

WHAT INTERNATIONAL HUMANITARIAN LAW IS NOT?

Humanitarian law does not determine whether a war is legal. This is the role of the UN Charter. Humanitarian law is concerned with the effects of war, **not its** legality. It applies irrespective of who started the war or who is the attacker.

ORIGIN OF INTERNATIONAL HUMANITARIAN LAW

The main objective of this paper is study of contemporary international humanitarian law. Nevertheless, it is necessary to briefly examine the evolution of that body of law. One can say that the laws of war are almost as old as war itself. Even in ancient times, there were interesting — although rudimentary — customs that today would be classified as humanitarian. It is interesting to note that the content and aim of these customs were the same for almost every civilization around the world. This spontaneous generation of humanitarian standards, at different times and among peoples or states that possessed limited means of communication

² Definition elaborated by the International Committee of the Red Cross and generally accepted. Source: Commentary on the Additional Protocols of 8 June 1977, ICRC, Geneva, 1987, p. XXVII

with each other, is also an important phenomenon. This phenomenon lends credence to the historical argument regarding:

- The necessity of having rules that applies to armed conflicts;
- The existence of a feeling in many civilizations that, under certain circumstances, human beings, friend or foe, must be protected and respected.

Although scholars generally agree that the birth of modern IHL was in 1864, with the adoption of the First Geneva Convention, it is also clear that the rules contained in that Convention were not entirely new. In reality, a large amount of the First Geneva Convention was derived from existing international customary law. In fact, there were rules protecting certain categories of victims in armed conflicts and customs concerning the means and methods of authorized or prohibited combat during hostilities as early as 1000 BC. Although these ancient and often very rudimentary rules were not established for humanitarian reasons, but rather for purely economic purposes, their effect was humanitarian.

For example:

- The prohibition against poisoning wells (reaffirmed in 1899 in The Hague) was originally made in order to permit the exploitation of conquered areas;
- The first reasons for the prohibition against killing prisoners (reaffirmed and developed in the Third Geneva Convention of 1949) were to safeguard the lives of future slaves or to facilitate the exchange of prisoners.

Such prohibitions can be found in many different civilizations, throughout the world and throughout history. For example, in many parts of Africa there were specific rules regarding the commencement of hostilities between different peoples that correspond, to a large extent, to the classical European traditional obligation of declaring war. Moreover, in a treatise called “The Arts of the War”, written in 500 BC, the Chinese writer Sun Tzu, expressed the idea that wars must be limited to military necessity, and that prisoners of war, the wounded, the sick, and civilians should be spared. Likewise, in the Indian subcontinent, similar rules can be found. For example, in the Code of Manu written in 200 BC, one finds rules relating to behaviour in combat. The Code declared that barbed or poisoned weapons were prohibited, that wounded soldiers had to be cared for, and that surrendering combatants must be spared. Since then the

IHL evolved with the pace of time and need of the nations. Its progressive development was happened during the last fifty years.

WHEN DOES IHL APPLY?

International Humanitarian Law (IHL) applies in two very different types of situations: international armed conflicts and non-international armed conflicts. Any difference arising between two States and leading to the intervention of armed forces is an armed conflict ... even if one of the Parties denies the existence of a state of war.” Although the treaties of IHL systematically refer to different types of “armed conflicts”, they do not provide for a general definition of that concept. The first comprehensive definition has been developed by the International Tribunal for the former-Yugoslavia (ICTY). According to this definition “(...) an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State”³ This definition is now widely accepted and has since been used in a number of military manuals and in numerous court cases (which demonstrate how judicial decisions can become sources of IHL).

INTERNATIONAL ARMED CONFLICT

IHL relating to international armed conflict applies “to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.”⁴ The same set of provisions also applies “to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no resistance”.⁵ According to traditional doctrine the notion of international armed conflict was thus limited to armed contests between states. During the Diplomatic Conference which led to the adoption of the two Additional Protocols of 1977, this

³ See ICTY, *The Prosecutor v. Tadic*, Jurisdiction, § 70, available at: <http://www.icty.org/x/cases/tadic/acdec/en/51002.htm>

⁴ Art. 2, common to the 1949 Geneva Conventions.

⁵ *Ibid*

conception was challenged and it was finally recognized that “wars of national liberation”⁶ should also be considered international armed conflicts.

NON-INTERNATIONAL ARMED CONFLICT

Traditionally non-international armed conflicts (or, to use an outdated terminology: civil wars) were considered purely internal matters for states, for which no international law provisions applied. This view was radically modified with the adoption of Article 3 common to the four Geneva Conventions of 1949. For the first time, the community of States agreed on a set of minimal guarantees to be respected during non-international armed conflicts. In spite of its extreme importance, Article 3 does not offer a clear definition of the notion of non-international armed conflict.⁷ During the Diplomatic Conference which held four sessions from 1974 to 1977, the need for a comprehensive definition of the notion of non-international armed conflict was reaffirmed and dealt with accordingly in Article 2 of Additional Protocol II. According to that provision, it was agreed that Protocol II “Shall apply to all armed conflicts not covered by Article 1 of Protocol I and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.” This fairly restrictive definition applies only to the situations covered by Additional Protocol II. The definition does not apply to the situations covered by Article 3 common to the four Geneva Conventions.⁸ Practically, there are thus situations of non-international armed conflicts in which only Article 3 will apply, the level of organization of the dissident groups being insufficient for Protocol II to apply. Conversely, common Art 3 will apply to all situations covered by Additional Protocol II. Other situations IHL is not applicable in situations of internal violence and tensions. This point has been clearly made in Article 1 (2) of Additional Protocol II, which states, “This Protocol shall not apply to situations of internal disturbances

⁶ Situations defined, in Article 1 (4) of Additional Protocol I, as “armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self determination.”

⁷ Art. 3 merely states that it is applicable “[I]n the case of armed conflict not of an international character occurring on the territory of one of the High Contracting Parties [...]”

⁸ Art. 1 of Additional Protocol II: “This Protocol, which develops and supplements Article 3 common to the Geneva Conventions [...] without modifying its existing conditions of application [...]”

and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.”⁹

The Basic Rules of IHL¹⁰

- 1) The parties to a conflict must at all times distinguish between the civilian population and combatants in order to spare the civilian population and civilian property. Neither the civilian population as a whole, nor individual civilians, may be attacked. Attacks may be made solely against military objectives.
- 2) People who do not or can no longer take part in the hostilities are entitled to respect for their lives and for their physical and mental integrity. Such people must in all circumstances be protected and treated with humanity, without any unfavourable distinction whatsoever.
- 3) It is forbidden to kill or wound an adversary who surrenders or who can no longer take part in the fighting.
- 4) Neither the parties to the conflict nor members of their armed forces have an unlimited right to choose methods and means of warfare. It is forbidden to use weapons or methods of warfare that are likely to cause unnecessary losses or excessive suffering.
- 5) The wounded and sick must be collected and cared for by the party to the conflict which has them in its power. Medical personnel and medical establishments, transports, and equipment must be spared. The Red Cross or Red Crescent or Red Crystal on a white background is the distinctive sign indicating that such persons and objects must be respected.
- 6) Captured combatants and civilians who find themselves under the authority of the adverse party are entitled to respect for their lives, their dignity, their personal rights, and their political, religious, and other convictions. They must be protected against all acts of violence or reprisal. They are entitled to exchange news with their families and receive aid. They must enjoy basic judicial guarantees.

⁹ The notion of internal disturbances and tensions has not made the object of precise definitions during the 1974-1977 Diplomatic Conference.

¹⁰ These rules, drawn up by the ICRC, summarize the essence of international humanitarian law. They do not have the authority of a legal instrument and in no way seek to replace the treaties in force. They were drafted with a view to facilitating the promotion of IHL. See: http://www.icrc.org/eng/assets/files/other/icrc_002_0703.pdf

PROBLEM OF TERRORISM

November, 26 is our Constitution Day but how can the nation forget that on this very day nine years.

ago (26 Nov to 29 Nov 2008), terrorists had launched an attack on Mumbai. The country remembers and bows to those brave citizens, policemen, security men and each one who lost their lives then. This country can never forget their sacrifice. Terrorism has taken an ugly shape and has become a global threat almost as a daily routine. We, in India, are facing to lot for the last 40 years on account of terrorism. Thousands of our innocent people have lost their lives. But, a few years ago, when India used to talk about the severe threats of terrorism many people in the world were not ready to take it seriously, Now that, terrorism is knocking at their doors, every Government in the world, those who believe in humanity, Governments having faith in democracy are seeing this as one of the biggest challenges. Terrorism has threatened humanity across the globe. Terrorism has challenged humanity. It is bent upon destroying the humanitarian forces. So, not only India but all humanitarian forces will have to keep fighting unitedly to defeat the menace of terrorism. Lord Budha, Lord Mahavir, Guru Nanak, *Sir Syed Ahmad Khan Bahadur* and Mahatma Gandhi – this is the land which gave the message of love, *devotion, knowledge* and non-violence to the world.¹¹

Terrorism and extremism are trying to weaken and destroy our social fabric. That is why; the need of the hour is that humanitarian forces should become more alert and cautious.¹²

DEFINITION OF TERRORISM

Most definitions of terrorism attempt to characterize the phenomenon by focusing on the apparent goal of terrorist organizations, which most analysts presume (but seldom empirically establish in an objective manner) is to inflict, or spread a sense of —terror or general psychological distress in their victims for politico-ideological purposes. Terrorism from this point of view is simply the most adequate —means to the actualization of those goals. From this perspective, it is taken for granted that the intended aim of terrorists is to terrorize, and

¹¹ P.M. Modi's Mann Ki Baat on 26th November, 2017;(italics edited.)

¹² Ibid

thus most people attempt to define what terrorism is by defining what terrorizing is, which usually involves some mention of intimidation, —influence and —coercion¹³ The U.S. Department of State defines terrorism as —politically motivated violence perpetrated against noncombatant targets by sub national groups or clandestine agents, usually intended to influence an audience.¹⁴ Extranormal violent behaviour, therefore can only be taken in the context of defining terrorism to mean illegitimate¹⁵, illegal or as Tilly puts it, —outside of the routine forms of political [and I would add military] struggle¹⁶. In O'Sullivan's words, terrorists resort to —methods which...subvert or ignore the requirements of domestic and international law;¹⁷ this is in consistent with an understanding of institutions as rules that assign cognitively constituted actors to certain types of actions and preclude certain actors from engaging in certain types of actions.¹⁸ However, socially agreed upon definitions of legality evolve and vary through time and space¹⁹, which would make a definition which focused on the legality of the type of violence subject to the charge of nominalism and historical relativism. In this respect, even though —brutality or its status as —extranormal is not a useful criterion with which to arrive at a useful definition of terrorism, Jenkin's²⁰ and Tilly's²¹ suggestion that what is characteristic of terrorism is its very illegitimacy and non-routineness appears as a more promising—and less essentialist—pathway.

Given two equivalent actions (such as a surprise attack against a state), one performed by a recognized actor in the international system (such as Japan in during World War II), and another by a loosely defined network of infra-national actors (informal groups, non-state affiliated organizations), the first would be characterized as an act of war while the second would most likely be referred to as a terrorist attack. Conversely, a civilian who kills another

¹³ Enders, Walter and Todd Sandler. 2002. "Patterns of Transnational Terrorism, 1970–1999: Alternative Time Series Estimates." *International Studies Quarterly* 46:145-165

¹⁴ Quoted by Ruby, Charles L. 2002, "The Definition of Terrorism." *Analyses of Social Issues and Public Policy* 2:9-14. Sanguinetti, Gianfranco. 1982. *On Terrorism and the State*. London: Chronos Press.

¹⁵ Gibbs, Jack P. 1989. "Conceptualization of Terrorism." *American Sociological Review* 54:329-340.

¹⁶ Tilly, Charles. 1990. *Coercion, capital, and European states AD 990-1992*. Malden: Blackwell. 2004. "Terror, Terrorism, Terrorists." *Sociological Theory* 22:5-13.

¹⁷ O'Sullivan, Noel. 1986. "Terrorism, Ideology and Democracy." Pp. 3-26 in *Terrorism, Ideology & Revolution*, edited by N. O'Sullivan. Brighton, Sussex: Wheatsheaf Books.

¹⁸ March, James G. and Johan P. Olsen. 1989. *Rediscovering Institutions*. New York: Free Press.

¹⁹ Durkheim, Emile. 1997[1933]. *The Division of Labor in Society*. New York: The Free Press

²⁰ Jenkins, Brian Michael. 2001. "Terrorism and Beyond: A 21st Century Perspective." *Studies in Conflict and Terrorism* 24:321-327

²¹ Tilly, Charles, op.cit.

civilian is a murderer, not a terrorist. But a civilian who kills another civilian and then posts an elaborate rationale on the internet for his actions connecting his victim to a prestigious corporate entity (such as a nation state) would immediately be branded a terrorist. Conversely, if an individual as a representative of a nation state kills a civilian, then we can say that an episode of state terrorism has taken place. In all of these cases, focusing on the kinds of actors (and the institutionalized rules that constitutively define certain actors as —representative of certain macro-actors in the interstate system) instead of the kinds of action (which remains constant), allows us to get away from the thorny normative and conceptual issues that come to the fore during any attempt to arrive at a definition of terrorism by focusing on the —terror part of the output of terrorist organizations.

In the light of the above discussion it may be said that ‘terrorism is the systematic use or threatened use of violence to intimidate a population or government for political, religious, or ideological goals’. Further, the act which is only destructive and inflicts suffering both on oneself and others is terrorism. In such an act, human values are lost in the process of achieving a goal.

CHARACTERISTICS OF TERRORISTS

- **Alienated Intelligentsia:** The sociologists believe this can provide a good explanation. If you look at some of the high profile conflict areas and the individuals involved, you almost always see that there is an intellectual class that rules the hordes of fanatics. There is a brain behind all the bombings you see, isn't there? And in most cases, these are educated, well-to-do people who have everything in life but have a sense of disaffection or alienation. They aren't happy with the way the world is at present and want to do something about it. These are the most dangerous terrorists, far more than any of the foot soldiers who carry out the actual attack. These are the brains who brainwash young and confused men and quite often children as well.
- **Indoctrination:** What happens when you teach a kid that X, Y, and Z are your enemies and that they mean no good to your people. That these other people are in fact the devil. Can you expect a well-rounded young man to emerge out of all of this? Don't think so. What you can expect to get with this kind of tutoring is in fact a Taliban who has a

worldview akin to a frog living in a well. No wonder then that these guys can do the worst atrocities and yet justify it on the basis of religion.

- **Charities That Aren't Charities:** There are countless of these charities that collect funds in the name of various causes but what they in fact do is fund terrorism. As with any business, the business of terrorism needs funds and this is by far the best way for fanatics to obtain funds; others being collecting ransom money, drug money, etc. There are also many countries that support these charities in the name of religion. They have millions of dollars to spend and they do so by funding these charities and religious schools, which in fact use these funds to fund terrorist activities and building more schools of indoctrination.

Myths:

- **Poverty:** One of the most popular explanations is that poverty breeds terrorism. Researchers don't think this is true at all. You can find Robert J. Borro's article titled "The Myth that poverty breeds Terrorism" that details relatively well-off (rich or middle class, well-educated) extremists, who've carried out or planned to carry out strikes. So, scholars now don't really buy this connection between poverty and terrorism. There are also many poor places around the world where there are no terrorists at all (parts of South America, Africa, and Asia come to mind), so this idea is just a favorite catch line of some intellectuals who can't find a better explanation.
- **Ethnicity:** Some argue that ethnicity and injustices (perceived or real) are one of the root causes. Well, perhaps this is true, but not totally. While one may be brainwashed into thinking that your people are being persecuted when in fact they are not, the truth is that there are millions who are killed by their own same ethnic group and religion. Saddam Hussein killed his own people for example and one can argue that he perpetrated more atrocities than any other foreign power, yet he was viewed as a hero in his part of the world by people of countries surrounding Iraq. Why? This again demonstrates the fact that ethnicity has nothing to do with it.

MEASURES TO PREVENT OR SUPPRESS TERRORIST ACTS

States can take several measures to prevent or suppress terrorist acts, such as:-

- **Intelligence gathering:** As terrorism continues to plague the world through the global Salafi jihad movement some countries will forever serve as a critical target for various organizations who seek to spread "pure" Islam. Through patience and vigilance, such enemies continue to further their cause through the understanding of the society. Thus, it becomes imperative citizens do the same. It is also imperative people continue to learn about those who choose to attack their freedoms and way of life, and the law enforcement agencies will have to take the lead in this ongoing war. Indeed, the law enforcement community must develop transparent communication and intelligence links. While the days of fighting conventional crime are still at the forefront, our modern foes have defiantly presented us with a challenge that must be met with extreme prejudice if we are to successfully protect our nation and its citizens. The collection of intelligence will prove invaluable in this success, but we must learn to properly use this important tool at the strategic, operational, and tactical levels and it starts with training and utilizing every facet of our law enforcement agencies.
- **Police and judicial cooperation:** The Security Council urged States to develop broad law enforcement and judicial cooperation in preventing and combating trafficking in cultural property that might benefit terrorists or terrorist groups, and also requested the Counter Terrorism Executive Directorate, with the assistance of the United Nations Office on Drugs and Crime (UNODC) and in consultation with the Counter-Terrorism Implementation Task Force to prepare a report on the current state of international law enforcement and judicial cooperation related to terrorism, identifying major gaps, with recommendations to the Counter Terrorism Committee. Thus, Police and judicial cooperation is a must in combating terrorism.
- **Extradition:** The Secretary of the International Institute for Justice and the Rule of Law, said efforts to bring individuals to justice required the sharing of evidence across jurisdictions. That was particularly true for foreign terrorist fighters and relevant evidence related to their travel, communications, and recruiting activity through social

media. International cooperation between judicial authorities must ensure that evidence was gathered in a form that could be used in court. He said a key part to making such a system work was the role of central authorities, the national entities responsible for mutual legal assistance and the extradition of individuals. All Member States should establish a central authority to concentrate experience and resources, reduce bureaucracy and ensure visibility and accountability. Member States should also empower their central authorities to facilitate the judicial aspect of extradition requests. After the briefings speakers hailed the unanimous adoption of resolution 2322 (2016) as a milestone in the fight against terrorism, noting that judicial cooperation in addressing issues such as foreign terrorist fighters, financing of terrorism, extradition and exchange of evidence were transnational issues that required a global approach.

- **Criminal sanctions:** Further encourages States to cooperate in the implementation of targeted financial and travel sanctions against terrorist groups and individual terrorists under United Nations Security Council resolution 1373 (2001) and the implementation of targeted financial and travel sanctions and arms embargo against those listed under resolution 2253 (2015) by sharing information with other relevant States and international organizations about such individuals and groups to the greatest degree possible, consistent with international and national law.
- **Financial investigations :** “*Calling upon* Member States to continue exercising vigilance over relevant financial transactions and improve information-sharing capabilities and practices, in line with applicable international and national law, within and between governments through relevant authorities including judicial authorities and channels, including law enforcement, intelligence, security services, and financial intelligence units, and also *calling upon* Member States to improve integration and utilization of financial intelligence with other types of information available, such as that provided by the private sector to national governments, to more effectively counter the terrorist financing threats posed by ISIL, Al-Qaida, and associated individuals, groups, undertakings and entities, including through actions related to investigative techniques, evidence gathering and prosecution. Despite the implementation of legislation related to money laundering the results in terms of convictions are

unsatisfactory. The European Commission intends to support the integration of financial investigation and financial criminal analysis so as to become a standard part of the investigation a law enforcement technique throughout the Member States for all serious and organised crime cases.

- **The freezing of assets:** “Recalling that the obligation in paragraph 1(d) of resolution 1373 (2001) also applies to making funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of terrorist organizations or individual terrorists for any purpose, including but not limited to recruitment, training, or travel, even in the absence of a link to a specific terrorist act, This logic is particularly necessary when fighting against international organisations. It is not merely sufficient to imprison the perpetrators in these organisations, for their wealth can indirectly contribute to the thriving of the organisation and the recruitment of new members. To this extent, the freezing of assets aims at forbidding targeted individuals from disposing of their economic resources as a preventive measure. As a consequence, they lack the necessary means to perform their criminal activities. The term freeze means “to prohibit the transfer, conversion, disposition or movement of funds or other assets” It is necessary to stress the difference between asset freezing and confiscation. Confiscation implies that a sentence has been passed by a court whereas the freezing of assets is a preventive measure. The two processes are closely linked, as confiscation is supposed to be the outcome of an asset freezing measure, the same way imprisonment is linked to pre-trial detention. As it is patent from its definition, asset freezing represents a true threat to fundamental rights and especially property rights and the free movement of goods. The freezing of assets has been a useful tool in facing the rising threat of terrorism. To fight terrorism, the international community pointed out the need to identify and cut financing channels. “Terrorists seldom kill for money but they always need money to kill”, said Terry DAVIS, Secretary General of the Council of Europe between 2004 and 2009. For example, according to Iraqi religious cleric Sheikh Abu Saad al-Ansari, the jihadist group Islamic State (ISIS) estimated its 2015 budget at two billion. That is why it is necessary for states fighting terrorism to prevent this organisation from using its resources, such as oil wells in Iraq. The system currently in place regarding the freezing of assets does not give satisfaction as far as the

protection of human rights and freedoms is concerned. To fight terrorism is like fighting the Lernaean Hydra and like Hercules; States need to use more effective means which are both preventive and repressive. However, as democracies, Member States have to guarantee the “state of justice”. To that end, it is important to guarantee a sufficient protection of fundamental rights. In the case of the freezing of assets, the scales are clearly tipped in favor of efficiency. The comparison between judicial and administrative freezing of assets shows a degree of difference in protecting individual rights. Whereas individuals facing the judicial freezing of assets are protected by the guarantees provided in judicial procedures, the ones being targeted by administrative sanctions are denied the same protection. Asset freezing is a sanction aimed at depriving criminal organisations of their economic resources.

CONCLUSIONS AND SUGGESTIONS

Humanity is religion. In the words of former President of India Dr. S. Radhakrishnan: “I prefer to be human.” He also believed that “Religion consists in doing justice, in loving mercy and in making our fellow creatures happy.” He further said that, he suffered when pure personal relationships as a human are spoiled and betrayed. About religious truth he also believed that, all truth about God has its source in God. For him, the end of religion was an essential knowledge of God. However, he was also of the opinion that religion must establish itself as a rational way of living. Religion must express itself in reasonable thoughts, fruitful action and right social institution. The foundation of Humanitarian principles must be laid deep and preserved worthily if ever the spirit is to be benevolent, full of compassion and at home.

The International Humanitarian Law has global and avowedly benevolent ambitions. One of its main aims is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It intends to ordering and eradicating crisis, manifested through a global system of organizations, operating within, in parallel with, above and across the domestic state system, and legitimated by moral universals i.e. neutrality, impartiality, universality, humanity etc. It is also a field epitomizing global divisions and inequalities. The ICRC renders its best humanitarian efforts to continue to cooperate with actors and organizations that share its vision of independent humanitarian activity, setting up consultation

means that lend additional credibility to humanitarian endeavour as a whole. Simultaneously, humanitarianism is expanding as a transnational practice field and a cluster of cosmopolitan sentiments. Growing consciousness and anxiety about human rights throughout the globe is a clearly perceived phenomenon now days. Recognition of the inherent dignity and equal as well as inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the society irrespective of its nature.

The attacks against lawful targets constitute the very essence of an armed conflict and should not be legally defined as "terrorist" under another regime of law. To do so would imply that such acts must be subject to criminalization under that legal framework, therefore creating conflicting obligations of States at the international level. This would be contrary to the reality of armed conflicts and the rationale of IHL, which does not prohibit attacks against lawful targets

Labeling acts that are lawful under IHL as "terrorist" is likely to render the implementation of Article 6(5) of Additional Protocol II – whose objective is to grant the broadest possible amnesty to persons having participated in the hostilities without having committed serious violations of IHL – more difficult. For obvious reasons, the prospect of an amnesty is diminished where even lawful acts of war have been qualified as acts of terrorism. This can ultimately prove to be an obstacle to peace negotiations and reconciliation efforts.

The Comprehensive Convention on International Terrorism (CCIT) was proposed by India in 1996. The original draft that was tabled in 1996 and discussed until April 2013, included following major objectives:

- To have a universal definition of terrorism that all 193-members of the UNGA will adopt into their own criminal law.
- To ban all terror groups and shut down terror camps.
- To prosecute all terrorists under special laws.
- To make cross-border terrorism an extraditable offence worldwide.

Further, remedial steps to prevent terrorist activities are suggested as under:-

- Inculcate a broader perspective of life -- value life more than race, religion and nationality.
- Educate people in human values – friendliness, compassion, cooperation and upliftment.
- Teach methods to release stress and tension.
- Cultivate confidence in achieving noble aims by peaceful and nonviolent means.
- Create spiritual upliftment which can weed out destructive tendencies.

Above all the remedies to terrorism are rationalism and secularism. Understand about terrorists; the solution is to find out the problem. Why a terrorist doesn't feel guilty and why he was forced to be a terrorist. It may be some injustice done to him. Hatred spreads hatred only. It may be conquered by love, cooperation, forgiveness and mutual respect only. Most importantly, anti terrorism strategy for combating insurgency or terrorism may be successful by way of social and cultural engineering and by providing proper ethical education and suitable employment to the youths and unemployed people.