

CROSS BORDER CRIMES – A GROWING THREAT TO GLOBAL SECURITY

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Mobilization is a concept that is too good for the people of the world, at large, to be entrusted with. It is in sync with the concept of giving a serial killer a loaded rifle and leaving him free in a crowd of people at Times Square. A fort knox on steroids, mass casualties being the outcome. It essentially involves putting the killing thing right at his thumb and giving him all the power to take as many down as he can; this is a metaphor. Now let's take a literal look at this concept - at the globally pervasive plague of cross-border crimes and how mobilization appears to be acting as the promoter and catalyst in this mass degenerative reaction.

Terrorism, in and of itself, is a persistent cross-border crime that has become so rampant that we seem to have become sensitized to it now. Over the years, terrorism has become a way of life for people in two antagonistic ways wherein the victims spend their time and resources, recuperating from the loss of blood, lives and peace while preparing for the next time, and the perpetrators just watch the world burn while collecting more gasoline, for the next time. The major conflict that impedes the governing system from effectively dealing with this problem is the existing system of law or lack thereof, as the case may be. I would like to analyse the intricacies of my assertions with the help of some examples and then emphasise upon why this nagging concern needs to be combatted with utmost urgency.

¹The Italian Marines Case of 2012 is one of the most controversial cases of crimes committed in international waters in recent times. Two fishermen, natives of Kerala, were gunned down by two officers of the Italian Navy in the seas of Ambalapuzha, on the pretext and flawed belief that they

¹ Italian Marines Case, The Hindu, <https://www.google.co.in/url>

were pirates. This case underwent multiple deliberations over the course of 3 years, from quashed FIRs to allegations of arbitrariness and toying with the law, and ended with the perpetrators returning home for Christmas in a chartered flight. Yeah. A very Happy New Year for the families of the Italian Navy officers, and an endless struggle for the families of those two innocent fishermen whose lives were ravaged because their bread-winners strayed too far from home.² The charge-sheet filed by Kerala police seemed to lack authenticity, so to speak, because seemingly, Indian courts had no jurisdiction to try this matter in consonance with the fact that India had ratified the United Nations Convention on the Law of the Sea. So now, justice has territorial constraints. Literally. So many domestic laws, so many international conventions and treaties, and yet this case fell out of the jurisdiction of them all. The potent hypocrisy that is very striking in this case is that somehow, every attempt at offering monetary compensation for the damage delivered was conveniently set aside by the governments of both countries, in turns. It had almost morphed into a game wherein the Italian government was trying to flaunt its wealth and benevolence by suggesting international arbitration in the form of hefty compensatory amounts, while India turned it down because apparently, 'Justice can't be bought'. In this case, neither was justice bought nor was it rightfully earned. Injustice, however, was successfully sold, free of cost. Kind of like an end-of-season sale. Why? Because trying an Italian criminal within the purview of domestic Indian law is 'not legal', and any international law to deal with the same, does not exist. So what's the point? In a world that desperately needs law and order, the existing laws are not good enough, drafting new ones is a tedious process and even then, criminals cannot be held liable under ex-post facto laws. Why are the innocent being left to suffer because of the incompetency and inadequacy of domestic and international legal forums?

India has been at the focus of cross-border terrorism for as long as can be remembered. Terrorist groups like Al-Qaeda, Taliban, ISIS are less driven by motivation than a severe existential crisis arising from a lack of belongingness and confused nationality mingled with the notion that they're not being rightfully given what's theirs. This problem is only rising and morphing in nature because as conventional rebel groups come in contact with already established and funded terror

² Sagnik Chowdhury, Italian Marines Case (2016), <https://www.google.co.in/url>

organizations due to umpteenth means of communication and mobility, more and more citizens are falling victim to this merciless scourge. Concerns only magnify when legal and political agencies, after identifying fruitless gains, become involved with organised cross-border and enterprise crime. Working away from the limelight, the entities responsible for maintaining national integrity and sovereignty become the ones who transgress these ideals. Cynicism and lack of faith in domestic and global legal forums sets in when international criminals like Dawood Ibrahim manage to commit crimes without ever being seen or caught. It has turned into a grotesque and all-consuming war between ghosts and shadows and it seems rather deliberate as to how any and every remedial means is failing. It took years for the US Government to track down Osama-bin-Laden and put him to rest, but his successors are still carrying forward his infamous legacy. If the set-up of crimes appears so easy, then why is it so difficult to pack up? Is it truly due to the absence of laws, or due to the perpetual unavailability of the guardians of those laws, because they're too busy exploring greener pastures on the other side?

Another potent example of how vicious cross-border terrorism can be the life of David Coleman Headley. An American by birth, he converted to Islam after being driven by an intense hatred for India, and he went on to join Lashkar-e-Taiba. He was one of the men responsible for the 26/11 Mumbai attacks, sitting in another continent altogether. Isn't this enough to make us realize the hazards of cross-border terrorism, and the fact that the construction of the China-Pakistan Economic Corridor will be the harbinger of doom for Indians? Sure, that maybe on a completely different note, but terrorism is an entity; it doesn't matter who succumbs to it- the loss is always of innocent lives.

The primary concerns that need to be addressed in this regard are in close pertinence with national and global security because cross-border terrorism is a disease that is plaguing the world at large. Some important questions that need to be answered are- what are the matters that fall within the purview of domestic law and how are they different from matters falling out of its bounds? Which forum must be assigned to deal with criminal matters occurring in-between borders, to ensure speedy justice and a fair trial to those involved in the crime; be it the victims or the perpetrators. What is the most effective mechanism to try cross-border criminals? What kind of a system needs

to be established so as to ensure transparency between the general public and those in command so as to minimise governmental authorities from indulging in cross-border crimes? Should a unified criminal legal system be established, with all cross-border criminals being subject to its jurisdiction, or should the conflicting nations have a provision of establishing a cross border treaty, as per the need of the hour, in order to avoid transgressions into sovereignty while still upholding the sanctity of justice and fair legal trials? It is imperative to realize that national sentiment and integrity should not be allowed to tamper with the due process of law, in the absence of which, any cross-border trial would be fuelled solely by nationalistic tendencies and not by the spirit of law. In order to ensure global law and order and to effectively combat cross-border terrorism, all global players need to analyse the status-quo and then go about building a system that can be neutrally applicable to all cross border criminals to avoid conflict with respect to place and fairness of a trial, and to ensure the efficacy of such a system, global cooperation is the primary step, to begin with.

