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# Terrorism and Human Rights in Sri Lanka

## Introduction

Sri Lanka has proved to be a rich laboratory of several experiments in the recent past. The centre of these experiments has been the defeat of terrorism decisively through legitimate means. The defeat of terrorism within a pace of three years disproved the 'theory of inviolability' of terrorist organisations, and in this case, the Liberation Tigers of Tamil Ealam (LTTE). The claim of the terrorist apologists, directly or indirectly, was that terrorist organisations based on ethnic grievances cannot or should not be militarily defeated. They said that peace could be and should be achieved only through negotiations with the terrorists. The peace process prior to 2005 was based on the basis of that theory, primarily imported from the West, and propagated largely by the non-governmental organisation (NGO) circles in the country.<sup>1</sup>

At first glance, there was no apparent fault in the theory. Anyone who treasured peace or sympathised with the grievances of the minorities tended to experiment or support the theory in good faith. After all, if peace could be achieved through negotiations or without the use of force, even today, that could be the best. Sri Lanka had the example of the Buddha transforming the murderous Angulimala into a peaceful man. The analogy however was incorrect.<sup>2</sup> There is also the possibility that some of the advocates used the theory in bad faith. But, it could not be helped until their bad faith was abundantly proven wicked, like in the case of the LTTE. During the period between 1990 and 2004, there was a growing support for the peace process, hoping that everything could be settled through patience, tolerance and negotiations

(Uyangoda and Perera, 2003). This was irrespective of the killing of one President in 1993 and an attempted assassination of another in 1998. This was in addition to many other killings. The end result of the flawed peace process was more and more killings, mayhem and destruction of life and property. The development of the country was the most affected, which should be the basis of long-term peace in any country. The experiment of the peace process failed. That was like a laboratory experiment in the negative.

On the contrary, the experiment of the defeat of terrorism was successful, and it was successful within a very short period of time. There are countries which have so far failed in combating terrorism. One reason for their failure has been the apparent half-hearted determination. This weakness was not there in Sri Lanka. A major change of policy came after the presidential election in 2005. Although, some efforts at negotiations were attempted first, those were done on a principled basis. The principles were outlined in the *Mahinda Chinthana* manifesto. When the LTTE viciously closed down the water supply at Mavil Aru to over 30,000 farmers in the East in June 2006, it gave the obvious justification to go ahead with an all out war against terrorism in an uncompromising manner. Mavil Aru was on top of all terrorist activities that they have been perpetrating in previous times. It was a 'just war' and hence called a 'humanitarian operation.' Its humanitarian character was abundantly clear when finally 285,000 civilians were rescued from the LTTE control in April-May 2009. As the President Rajapaksa has explained before a Parliament session after the defeat of terrorism on 19 May 2009:

"The soldiers had to fight carrying a gun in one hand, and the human rights charter in the other".

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## Focus of the Article

Obviously, terrorism is quite the opposite of human rights. However, the lesson of this opposite is not always put into practice by the international community. There are myths, illusions, fallacies and false theories shrouding the connection between the two. The connection is confused also by purpose. The objective of this article is to discuss these anomalies or expose them for the benefit of those who want to know the truth.

The 'just war' against terrorism in Sri Lanka was successful, because, it was based on the objective of safeguarding human rights of all in their overall and ultimate meaning.<sup>3</sup> This may not be the way, some of the Western advocates and their disciples in Sri Lanka understand human rights, unfortunately. Their understanding of human rights is superficial and conjectural. Their approaches are the most suspicious. To safeguard some selective human rights of one or two or a few, for example, they in fact sacrifice the human rights of large sections of the people or just ignore them. Although the present article does not intend to be merely a polemic against the Western views on human rights, any discussion on 'terrorism and human rights' might naturally venture into some of these areas and themes. As Sri Lanka has been a living laboratory of all these social forces during the last decade or so, this rich experience should be a basis for a frank

discussion on many of these theoretical and practical matters on a constructive basis.

### Defining Terrorism

The danger of being lenient on terrorism is one lesson that Sri Lanka could offer to the outside world. This leniency was initially apparent in Sri Lanka, which is not uncommon in the world. Perhaps Sri Lanka learnt this leniency from outside. There are various reasons for this leniency; misunderstanding or misinterpretation being the most prominent. That is why some focus on defining or interpreting terrorism is important.

The perception of terrorism is considered completely subjective and not objective. This is the main misunderstanding. The common cliché has been "one's terrorist is another's liberator." This may be correct when liberation fighters are unjustifiably called 'terrorists' by ruling regimes like what happened in apartheid South Africa or Israel. But, there are objective criteria to judge terrorism. The cliché is abundantly disproved in Sri Lanka as the LTTE terrorists perpetrated terror against their own people. Still it is possible that some people might consider the LTTE as 'liberators' for subjective reasons, but not objective ones.

Terrorism is not dissent. It is not legitimate opposition either. It is not constructive, but destructive. The US Law Code defines terrorism as "premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents." Walter Laqueur (1999) gave a more poignant definition when he said "Terrorism constitutes the illegitimate use of force to achieve a political objective when innocent people are targeted." The term terrorism is supposed to have first emerged after the French revolution when a terrorist group called Jacobins unleashed terror against the people

(Wilkinson, 1976). Use of force, coercion and violence were the means that they employed. That was a time when democracy was not in proper existence. Even that did not give any justification for terrorism. Terrorism without that name has been there even before. The early origins of terrorism can be traced to the Roman period. Zealots were the most prominent, and some of the terror tactics that they employed were very much similar to the present day terrorists and particularly to LTTE terrorism (Fernando, 2008). There is an interesting account of terrorist activities conducted by the Zealots during the Roman Empire written by Flavious Josephus (translated in 1981).

Terrorism has not been a common phenomenon in Eastern societies until recently. There had been bandits, criminals and deviants, but not terrorists. This is not to say the Eastern societies were perfect. But, there had been, by and large, some form of order and harmony under the principles of Dhamma and rule of law. There had been instances of violence on the part of the rulers and some of them were brutal. Yet, what can be called state terrorism was not in existence. State terrorism became a prominent phenomenon in the West under Fascism and even otherwise. But, the state by its very definition or necessity has and had a right to use coercion when necessary to maintain law and order. Only Anarchists or utopian liberals reject this authority, and at times, give way to terrorism. Marxists also made a mistake by approving violence, and at times, terrorism as a tactic. The LTTE is known to have learnt some tactics from Maoism.

Terrorism is not mere violence. It is consistent use of violence indiscriminately against even the ordinary population and opponents. This is not a characteristic of liberation organisations, although the use of violence even by any organisation cannot be condoned. Terrorism is

detected when pervasive violence is detected. Terrorism cannot exist without a terrorist organisation or network. While there are various varieties of terrorist organisations in today's world, there are common aspects or elements as well. Fanaticism is one. Blind faith to the cause or the leader is another. Terrorism repels democracy and human rights. The common trademarks of present day terrorism are suicide bombing, assassination, mass killing, ethnic cleansing, child recruitment and the use of terror as the main tactic. All these trademarks were there in the LTTE in a composite fashion.

### Danger and Damage of Terrorism

The danger of terrorism is not understood properly. There have been efforts to differentiate terrorism on many grounds. The classification of terrorism is necessary for academic and scientific purposes; but not to find 'good terrorists' out of the 'bad ones.' As the President of Sri Lanka has announced, "all terrorists are the same; there are no good ones or the bad ones." The danger is the same, and differentiation on quality is quite dangerous. The announcement was also a warning to any other intended terrorists on all sides of the ethnic divide. There is no ethnic differentiation to terrorism. Terrorism in itself is harmful to all communities irrespective of ethnic or religious divide.

There has been a better understanding of terrorism 'as a danger' after the 9/11 events in the USA, which somewhat favoured Sri Lanka's struggle against terrorism. While some people still tried to find 'good terrorists' based on their 'pronounced objectives' as a criteria, others did not agree. The LTTE was banned in many countries as a terrorist organisation. Nevertheless, the outfit and its many front organisations were allowed to operate because of the West's half-hearted policy on the matter. The understanding was lopsided. The danger was considered a

threat mainly to the Western world or their civilisation coming from Islam. While the LTTE was banned in their own countries, the West wanted the Sri Lankan government to negotiate with the LTTE. This was contradictory and hypocritical.

The danger of terrorism is for all humanity. It is like a cancer in the body polity both national and international. If the cancer is not properly treated or operated out, it would eat into the whole body of civilisation, marking its demise and death. There is a major difference between terrorism at the beginning of the twentieth century and today. It is not a difference of time, but a difference in scale and intensity. Terrorism was an isolated phenomenon then. It is a pervasively common phenomenon today. It was rather romantic then. It is dangerously prosaic now. No country is free from the terrorist menace today. The latest news, as this is written, comes from Australia where the authorities rightly clamped down on a Somalian-linked terrorist attempt to blast a military installation in Victoria. The Sri Lankan example seems to be working. This is also true in the case of Pakistan. After Sri Lanka, the country is resolutely determined to clamp down terrorism. It might take time, but it will work.

The danger and damage of terrorism are abundantly clear from the Sri Lankan experience. It started on a small scale in July 1983 by ambushing and killing 13 soldiers in Chellakili, Jaffna (Swamy, 2003). It achieved its objective by triggering an ethnic backlash in the form of Black July instantaneously. The other objective was long-term ethnic disharmony in the country. The Sinhala extremists at that time were its unintended ally. Terrorism could not be curtailed through communal violence against the innocent Tamils. It could finally be defeated by the concerted and legitimate force of the State which also necessitates long-term reconciliation between all ethnic communities. Terrorism is political. It

created its political Diaspora in the West and refugees in India and both of those groups were exploited for terrorist purposes thereafter. It created links with other terrorist organisations. For example, their allies in Pakistan were responsible for the intended attack on the Sri Lankan cricket team in Lahore in March this year (2009). Terrorism is more dangerous because of its networks and links with similar terrorist organisations.

Some basic facts and figures might highlight the shocking damage of terrorism in Sri Lanka (Box 1). It repeatedly terrorised the country for over three decades. The first terrorist assassination was in 1975. The psychological damage to the children who grew up in the affected areas was immeasurable, irrespective of their ethnicity. The overall number killed directly related to terrorism undoubtedly exceeds 80,000. They are Sinhalese, Tamils and Muslims. Around 30,000 died when a semi-terrorist organisation in the South waged war against the State, aftermath of the Indian intervention in the country in 1987. The events were related to terrorism. Over 25,000 people are, at present, disabled both from the armed forces and among the civilians, and it is a loss for the country's workforce. Among the former terrorists, now living under custody and in camps, majority are supposed to be disabled.

Almost throughout the period, internal displacement fluctuated between 50,000 and 200,000. It peaked up to 300,000 when the terrorists took hostage of the civilians as human shields in the Wanni, beginning 2009. They are now in government welfare camps soon to be relocated in their original villages. The daily expenditure to cover their three

meals a day alone is calculated as a US dollar million. This is in addition to many other expenses for education, health, recreation, etc. In 1990, around 100,000 Muslims were forced to leave the North by the terrorists, and they are still languishing in Puttalam with welfare facilities provided by the government. At least, now, the war is over; and terrorism is defeated. What Sri Lanka should look forward to is development.

Sri Lanka could have achieved a better growth in the economy, if not for the terrorist menace in the last three decades. Irrespective of that predicament, growth has been rather encouraging, although the development has been uneven between provinces. Terrorism attempted, not only to separate the country, but also the economy. This has been colossal, particularly for the people living in the North and the East. Their livelihood and children's education have been pathetically damaged. Terrorism has made the most damage to its own Tamil people that it was 'supposed to liberate' than to any other community of the Sinhalese or the Muslims.

#### Issues of Human Rights

While the facts and figures of terrorist danger and damage in Sri Lanka were abundantly clear as stated above, the so-called international community did not seem to be convinced about defeating terrorism. Most of the objections came on superficial human

#### Box 1 Record of Terrorist Atrocities

*First assassination 1975*  
*Killing of 13 soldiers 1983*  
*Retaliatory killing of Tamil civilians 2,000*  
*No. killed during LTTE terrorism 80 – 90,000*  
*No. killed during JVP insurrection 30 – 40,000*  
*Eviction of Muslims (1990) 100,000*  
*Displacement fluctuation between 50,000 and 200,000*  
*Displacement in May 2009 300,000*  
*No. disabled 25 – 30,000*

rights grounds. The international community can be called 'so-called' because those who claim to represent that community are a mere minority consisting of some Western countries. This does not mean that their opinion should be totally neglected or disregarded. Sri Lanka should not be that impolite or ungrateful, because at least they still supply some aid and assistance to the country, at least through NGO channels. At the same time, they may have some brilliant points on human rights and terrorism matters. But, they should have understood better their limitations and possible misconceptions within themselves before sermonising to the whole world.

There was a time that the Western advocates on human rights, both governments and non-governments, were only accusing the third world governments for human rights violations whether those are perpetrated by the states or non-state entities. Their linear logic was that, after all, the states are finally responsible for all what happens within a state territory. Another argument was that all UN human rights instruments are binding on the states and not others. The second is true in a technical sense as only the states or governments are members of the UN and party to various conventions. But, this should not preclude the advocates of human rights to 'name and shame' the actual perpetrators when violations are committed. 'Naming and shaming' were the devices that the West invented to expose human rights violations which had very serious cultural implications when the 'shaming' is done from a different cultural pulpit. They were not sensitive to these cultural issues.

To be fair by the Western advocates of human rights, it must be said that they did change their policy in the late 1980s, at least to an extent and started denouncing or 'shaming' the entities,

like the LTTE, when obvious violations were perpetrated. There are several reports by the Amnesty or the Human Watch, documenting atrocities of the LTTE since then. However, they could not properly get over the hangover from the previous policy of castigating the Third World governments whatever occurs in their territories for some reason or the other. For example, when 17 aid workers were found killed in Muttur during Army-LTTE confrontations in August 2006, they jumped on the conclusion that it was done by the government forces. They first tried to force the government to give up military operations against terrorism in the East. They finally managed to get an independent inquiry to which the French NGO, Action Against Hunger, responsible for the aid workers, did not come to give evidence. The killing of the 17 aid workers undoubtedly was a major human rights violation, whoever perpetrated that crime. But, to force a government to give up anti-terrorist campaign, in view of the assumption that similar things could happen in the future, was completely unacceptable. What they failed to see was the larger picture of 'terrorism as a mortal threat to human rights' while focusing on specific incidents or violations even without establishing who was responsible for their perpetration.

During Sri Lanka's fight against terrorism, in both military and other terms, there were many accusations levelled against the government about violations largely on hearsay, circumstantial stories or assumed basis. No one could have expected, by any means, a struggle against a ruthless outfit like the LTTE to be conducted without firing a shot. There is no denial on the part of the armed forces that they in fact used the most sophisticated weaponry to defeat terrorism on land, in sea and from air. But there was no apparent reason to target civilians or destroy their habitat during operations because the armed forces knew that

there could be serious repercussions. They were, by and large, sensitive to human rights issues. The morale of the soldiers was high, and they believed they could defeat terrorism within the given targets, and they were all along confident. There was no single battle lost, not to speak of the overall war, for them to go berserk. The soldiers were comprehensively given instructions on human rights law, and particularly humanitarian law, and the command structures were tight. Indiscipline was something that the commanders did not tolerate. Simply said, there were no intentions of violating human rights during the campaign against terrorism.

On the other hand, there was nothing wrong on the part of the Western governments, the UN agencies or the non-governmental organisations, if they had cautioned the government for possible excesses or violations, or even expose them if they had firm and reliable evidence. The accusations that became transmitted through the international electronic media of the CNN, the BCC and Aljazeera were baseless. For example, the doctors who gave information about 'shelling of hospitals' and 'killing of civilians' later revealed that they were under duress of terrorism to do so. The purpose is not to vouch that no violation occurred, but to argue that the approach should have been completely different given the conditions of terrorism and its continuous threat to human rights in the country.

#### Fallacy of Western Approaches

Why the West behave in the way they behaved on human rights issues or war during Sri Lanka's struggle against terrorism is a question. Sri Lanka has proved to be a litmus test for Western approaches on human rights in recent times. There are a couple of propositions that can be advanced as explanation for the puzzle of their strange behaviour. The first is a simple proposition that 'the West is like that,'

utterly prejudiced against the Third World and always try to find fault with our countries. This may be correct or may not be. Mere questioning of the motive as an explanation of the cause of a particular action is not a good method. It is hardly scientific.

The second proposition, perhaps, is more plausible. The Western countries were the main advocates of the peace experiment in Sri Lanka during 2002 and 2005, or even before, and they were not ready to admit the failure. In contrast, India silently admitted the failure and acted accordingly. For some, the LTTE was the 'under dog' who should be supported. It is possible that some countries even materially supported the LTTE, disregarding its terrorism. It is also possible that some countries or their representatives came to prior conclusions about what kind of political solution should be suitable to Sri Lanka. That was a gross disregard of the political will of the people in this country. The two main documents of the peace process, the *Ceasefire Agreement (CFA)* and the *Interim Self Governing Authority (ISGA)*, were almost blue prints for a partitioned Sri Lanka. Perhaps, the LTTE was given too many hopes. Otherwise it is difficult to understand why Vellupillai Prabhakaran remained in the battle front until the last moment. There were hopes that some intervention could be devised to rescue the situation, and it meant finally rescuing terrorism.

Why there was a failure to understand the true nature of terrorism is also a puzzle. This failure is apparent among some academics inside the country rather than outside. Too much 'sociology' and too little 'political science' is one explanation. *Terrorism* pretends, but does not have much social roots. The roots of terrorism are mostly subjective and ideological, and support bases are created through propaganda and coercion.<sup>4</sup> Another related reason is the misplaced theories of conflict resolution. There were too many conflict resolution theorists for Sri

Lanka, local and overseas. They finally caught the wrong 'fish' and reluctant to admit the mistake even after it was abundantly clear.

The Western human rights lobby and the conflict resolution theorists are related at the international level. They are like twin brothers, and both seem to suffer from some serious congenital diseases. Human rights and conflict resolution are academic fields at university levels. While both have considerable validity as academic fields, the Western biased advocacy of human rights and conflict resolution has immensely devalued and distorted their rigorous scientific character. Terrorism is something that the theorists of human rights as well as the theorists of conflict resolution so far have not come to grips with properly. This weakness is also there at the UN level when it comes to functionaries, some experts and many personnel at the Secretariat. They more or less behave as NGO people. Sri Lanka's experience leads us to seriously rethink the present human rights discourse advocated, mainly by the Western campaigners.

#### Concluding Argument

It is clearly apparent that some of the present Western concepts and many of the approaches exacerbate human rights issues (or even violations) rather than resolving them.<sup>5</sup> A major problem seems to be that the West even does not want to listen or discuss other peoples' views on human rights. When 'Asian values' were raised by some Southeast-Asian countries, the whole effort was denounced as antithetical to human rights. This does not mean that the way the Asian values were raised was completely correct. But, there was no room even for a discussion.

The centre of the controversy between the West and the East on human rights is the connection between rights and duties. The West advocates human rights without reference to duties or responsibilities. When the Universal

Declaration of Human Rights (UDHR) was at the drafting stage, the Director General of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), Julian Huxley, tried to solicit views of some of the world leaders on the matter. Mahatma Gandhi was one. Gandhi said the following, highlighting the importance of the connection between rights and duties:

'I learnt from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and Woman and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be usurpation hardly worth fighting for'.<sup>6</sup>

However, Gandhi's idea was not incorporated in the UDHR in any manner. Or otherwise, the Universal Declaration should have been a Universal Declaration of Human Rights and Human Duties. The Western advocacy of human rights since then, without any emphasis on duties, has provoked many rebellions and insurgencies leading to large-scale conflicts, violation of human rights and deterioration of human rights conditions without improving them.

There are many misconceptions in the Western human rights discourse (Cranston 1973; Donnelly 1989) and all cannot be discussed in this article. Some of them in brief are the following. The Western discourse gives too much emphasis on the individual to the extent it creates disharmony between the individual and society. The social cohesion is thus undermined. A trend is promoted to view everything from a point of view of rights, and as a result, many other considerations and values are neglected. Without creating balance-minded personalities, the discourse risks the creation of rights fanatics divorced from other values.

It is common place that the Western emphasis is on civil and political rights of the few at the expense of economic, social and cultural rights of the great masses. Although this is claimed to be changed, it is still the same in practice. The right to development of many developing countries is neglected by the UN itself. There is a common antipathy for developing countries, their systems, the states, their leaders, and the cultural heritage and history of these countries. There is a sharp contrast between what the general masses think and what the Western advocates wanted them to think.

At the initial stages of their advocacy of human rights after the Second World War, individual rights were emphasised, denying the group rights. Suddenly, there had been a change, emphasising even the rights of ethnicities. Minority rights were emphasised completely, neglecting the rights of the majority communities. The effort was like a conspiracy to promote one against the other, in an effort to divide and rule, which was common place in colonial times. The result was complete disharmony in societies where states found it difficult to maintain law and order or rule of law. Then the states were castigated as failed states and R2P and other theories were promoted to intervene in these societies (Evans, 2008).

It would be an interesting study to undertake how far the above kind of lopsided human rights theories were responsible for instigating 'first rebellion and then terrorism' among the Tamil youth which created disastrous consequences for the whole country. Unfortunately, even the Universal Declaration seems to have given some justification for these types of uprisings and insurgencies. It says in the Preamble,

..."it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against

tyranny and oppression, that human rights should be protected by the rule of law..."

The implication of the above is that 'violation of human rights is the sole reason for rebellion.' This proposition disregarded many other reasons for rebellion or terrorism such as power, conspiracy, fanaticism or mere misunderstanding of human rights among other reasons.

It says that if human rights are not protected, people are compelled to rebel. Inversely it is argued or assumed, if there is rebellion, the reason is human rights violation. This is a common Western orthodoxy. It is not by accident that the defenders of the 1971 JVP Insurrection in Sri Lanka invoked the above proposition as a legal defense of the rebellion.<sup>7</sup> The same effort was again and again used by the LTTE to defend its course of action politically. Therefore, what transpires is that while human rights are valid political principles applied to many circumstances, the misuse of them, or the use of them in isolation to duties, can lead to situations where even terrorism is reinforced. Western advocacy of human rights in Sri Lanka during the terrorist insurgency is the clearest case in point.

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#### Footnotes:

<sup>1</sup> The terms 'West' or 'Western' are used in this article in general terms to mean the ideas or influences coming from Western European or North American countries without any prejudice to their people or governments. Names are not given to avoid personalisation of arguments.

<sup>2</sup> Angulimala was a single individual. He was not a terrorist in the modern sense, and did not represent an organisation with political objectives.

<sup>3</sup> Ronald Glossop (1983) said: "An important part of the 'just war' theory is the notion that the means must be proportional to the ends which can be expected. If a little violence, not too destructive, can get rid of a great deal of injustice, then such violence may be justified."

<sup>4</sup> A recent example of propaganda is Kumaran Pathmanadan's interview to Channel Four (London) in July, claiming there are 15,000 combatants still in jungles. If not for his arrest, the Diaspora could have believed the story and possibly channel funds to the now so-called new-LTTE.

<sup>5</sup> There are alternative viewpoints put forward, for example, cross-cultural perspective (An-Naim 1990) and political science approach (Fernando 2002).

<sup>6</sup> *Human Rights Teaching* (UNESCO) 4 (1), p. 4.

<sup>7</sup> Bala Tampoe's defence of Rohana Wijeweera (Alles 1979). ■