



Use of Youths for Terrorist Activities : Protection Under Various International Conventions and Protocols

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Article Info

Volume 8, Issue 2

Page Number : 117-126

Publication Issue :

March-April-2025

Article History

Accepted : 05 April 2025

Published : 24 April 2025

Abstract : In various countries around the world, youths are being used for terrorist activities against the Armed Forces and various Government establishments. Youths have been forcibly used and radicalized to carry out attacks, including suicide attacks. Youths are also being recruited by many terrorist Groups by alluring or terrifying their parents. Not only boys but minor girls are also being pushed in such terrorist activities. These children are being trained for lobbing grenades, firing and carrying out suicide attacks on security forces, VVIPs/ VIPs, vital installations and other Government setup of a Country.

Keywords - Terrorist, Activities, Protection, Various, International, Conventions, Protocols

Introduction- There are many terrorist and extremist Groups, operating in various regions in the world. These Groups are recruiting children for their malicious motives. These Groups exploit the innocent mind of the youths to use them as instrument for spreading terror and violence. Youths specifically girls are facing sexual and mental exploitation during being with such terror Groups. As per Black's Law Dictionary, 5th Edition by Henry Campbell Black, the word "youths" includes children and young persons of both sexes.

Social media platforms drastically changed the modus operandi of the terrorist Groups from that of the old terrorism phenomenon. In the past, militants remained in hiding and away from the limelight, either for the lack of access to media or to avoid getting caught by security forces. It has been learnt that now militant Groups are adopting a new trend by using social media for making a public display of their involvement in armed actions. These social media platforms are triggering youths, who had not even reached adulthood at the time of recruitment to join various terrorist outfits.

Reasons of Recruitment of Youths by Terrorist Groups-

Strong hold of terrorist Groups in areas of conflict- Terrorist Groups have strong control over territory and population in the conflict areas. Usually, members of these terrorist Groups belong to the local territory, so can easily interact with the local population and promulgate their ideology amongst the youths. The burning

examples are ISIL and Boko Haram Groups. These Groups are using schools situated in the area, which is under their control, as Recruitment Centers.

An Islamist group named Al-Shabab had abducted civilians in Somalia region and forced the locals to send their children for military training in their centers. Al-Shabab had recruited many children, as their frontline fighters in last decades. Many young children had fled away from their homes to save themselves from forced recruitment by the Group.

Emotional manipulation- Many Groups prey youths from weakened social societies by using propaganda. Active members of these Group misguide youths by organizing lectures, screening of hate videos and speeches in public spaces. These Groups spread their ideology by using religious places on special days of prayer. These Groups portrait pictures depicting Government machinery failure and discrimination in social structure, as root causes of poverty in the society. Groups call youths to join their Groups to fight against the so-called discrimination by the defunct Government setup. A child soldier of ISIS in Syria revealed that ISIS attracts children through Jihadi songs, which are played in Kiosks. Youths are rewarded when they participate in such activities.

The former DGP of J&K Policeslams Pakistan for corrupting children and turning them to militancy. He urged that strict action should be taken against individuals involved in such acts and those helping them.

Lack of sense of protection in youths- Children are facing lack of sense of protection from both the fighting ends. The forces, are operating indiscriminately, causing un-repairable damages to the innocent minds, under their operational limitations. On the otherhand, youths are also being used by the terrorist Groups to carry out various terrorist activities against forces. A report by United Nations office on Drugs & Crimes reveals that the children are being used by the Boko Haram extremist group for suicide attacks against the forces. Lake Chad crisis is a burning example of massive violations of children's rights. Children caught in that incident told to the interviewers that-

"Boko haram attacked my village and they killed my parents and my brother. They kept killing people for three days before I could run away". (Pauline, age 11 years)

"They came to our house. We thought they would just kill us. But they had other plans; they wanted me to marry to one of them. They told my grant mother that she must pay them if she did not hand me over for marriage otherwise, they would just abduct me, and kill her. After having made them offer they left the house, saying they would come back. My grandmother gave me some food for the way and told me to run". (Tabita)

Under these fearful compelling situations many youths resort recruitment in the Terrorist Groups to buy some life for them and their loved ones.

Recruitment of youths by Terrorist Outfits in India- According to data available in the J&K police records, at least 24 children below the age of 18 were recruited by various militant Groups from 2010 to 2018. A news report i.e., "Minor militant" reported that according to the police records, two boys who joined militancy after Burhan Wani killing were below 18 and 15 militants are 18-19 years old. However, locals aware of the happenings differ with the figures. They say around ten of these militants are below 18.

In the report, it is further mentioned that “Earlier in 90’s young boys in large number were recruited and number of them died immaturly,” says a journalist who has been covering Kashmir for last three decades. “I remember many cases where young militants of age from 13 were active and one who would join after matriculation would make a big deal.” Some of these young boys crossed LoC and went to training camps on other side. However, many were killed while crossing the LoC. Some of them landed in bigger militant networks.

In November 2015 a family from Nagam village of Southern district of Islamabad identified their son in an Al-Qaeda video. Al Qaeda claimed in the video that one of their operatives killed in a US drone attack in Pakistan’s North Waziristan was Muhammad Ashraf Dar from Kashmir’s Islamabad. While confirming that he is their son, the family said that *Dar, then 15-year-old, had crossed over to Pakistan administered Kashmir in 2001 to acquire training in firearms as a HizbulMujahideen cadre.*

The police records show that there was no case of youth recruitment, during the year 2011 to 2013 but a sudden boost in the recruitment of young boys was reported in year 2015 after pictures of Wani were made viral on social media amongst the youths of valley.

In 2013, after the death of the leader of HizbulMujahideen, Burhan Wani had become the leader of Hizbul Mujahideen in the area. Thereafter he released his pictures with guns and ammunitions lying beside him along with other members of the Group. Those videos and pictures had attracted many other young boys. According to official figures, the total number of local recruits in the militant Groups in 2015 and 2016 was 66 and 88, respectively. The numbers rose to 126 in the year 2018 and around 165 in the first 10 months of 2018. Hundreds of youths were arrested in 2010 after the Burhan Wani’s death protest and unrest. In 2016, around 7,000 youths were detained and arrested by the J&K police, many of them were minors.

A young boy named Fardeen Ahmed Khanday was in the headlines after a suicidal attack on a Central Armed Police camp in Pulwama district of Kashmir. The case of Fardeen Ahmed Khanday is a burning example of how children fall prey to the terrorism activities. The 16 years old boy carried out a suicide attack on a Central Armed Police Force camp in South Kashmir on 31 December 2017. An eight-minute-long video, was recorded before the suicide attack, the same was released posing Fardeen cool and confident with automatic rifles on both the shoulders along with the other weapons and ammunition around him.

A report was published in “Hindustan Times” newspaper in its edition dated 17 July, 2017 mentioning therein that in the same year, J&K police saved eight minor boys to be preyed on by the terrorist group those were subsequently had sent back to their families. Four of them were intercepted on the LoC as they tried to cross over to Pakistan Occupied Kashmir for training.

In a report “Kashmir Unrest” authored by David Devadas, it was stated that- *“during the mass agitations in Kashmir valley, an increased involvement of the Valley’s young has been witnessed. So far, there has not been any demographical study of the stone pelting in J&K. However, various secondary sources show that minors in Kashmir took to the streets during the 2016 unrest, and many of them were injured with pellets during stone-pelting incidents. The death of Burhan Wani resulted in many children participating and leading the agitations and demonstrations.”*

An Indian Journalist Sudhi Ranjan Sen had experienced direct confrontation with a group of 12-14 year old boys, while returning from a reporting assignment at the time of the Uri attack. Remembering the incident, he stated that escaped after the driver intervened, begging and touching the feet of a 12-year-old boy amongst the group manning the roadblock, asking forgiveness for violating the strike. Sudhi confirmed that boys in the 12 to 15 age group were active throughout after Burhan Wani Case.

International Conventions and Protocols, Prohibiting Use of Youths for Terrorist Activities-In 2007, the United Nations International Children's Emergency Fund (UNICEF) formulated the Paris Principles i.e., a set of guidelines on children associated with Armed Forces or armed Groups. The guidelines of 2007 do not limit the term 'child soldiers' to active combatants who take part in direct hostilities; they include "*any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes.*"

Recruitment of minors in armed Groups is a violation of existing international humanitarian law and conventions. The Rome Statute of the International Criminal Court deems it as a 'war crime' to enlist children under the age of 15 in state/non-state Armed Forces or to use them in hostilities.

(i)**Prohibition of Recruitment of Children under 18 years of age-** Convention on the Rights of the Child (CRC) and Optional Protocol to the Convention on the Rights of the Child has widened the outlook of the word to protect the Children from atrocities and to protect their rights. The Preamble of the Convention on the Rights of the Child, which was adopted on 20 November 1989 by General Assembly resolution 44/25, profoundly reflects the international concern for children protection, care and welfare. Declaration of the Rights of the Child indicates "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

CRC also establishes obligation for States parties to take all necessary measures to protect children from any form of injury, physical and mental violence or abuse, neglect, maltreatment or exploitation (article 19) and prohibits recruitment of children under 15 years of age in Armed Forces. [article 38(2)].

Responding to the perceived gaps of the CRC in relation to child recruitment by extremist group, the Optional Protocol introduces a blanket prohibition of recruitment of children under 18 by non-state armed Groups (NSAG) and their use in hostilities, regardless of whether the recruitment process can be considered forced or voluntary [article 4], and requires that States parties take all necessary measures to prevent such recruitment, including criminalization [article 4(2)].

(ii)**Worst Forms of Child Labour Convention (ILO Convention)-** The 87th Session General Conference of the International Labour Organization, convened at Geneva on 1 June 1999 to adopt new instruments for prohibition and elimination of the worst forms of child labour. Convention also prohibits the forced or voluntary use of Children in Armed Conflicts. Now, many countries are coming up with special programs for children involved in Armed Conflict.

The Convention speaks about the worst forms of child labour comprise slavery and practices similar to slavery, including forced or compulsory recruitment of children for use in Armed Conflict [article 3(a)] and the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; [article 3(c)]. Convention binds each Member which ratifies this Convention to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. (article 1).

(iii)**Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime-** (Objective) *The Protocol is focused on to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Protocol) establishes the first common international definition of "trafficking in persons".*

The Preamble of the Protocol directs that the State Parties shall ensure effective action to prevent combat trafficking especially of women and children with comprehensive global approach as the word is lacking in a universal instrument to check all aspects of trafficking in persons.

Article 3(c) of this Protocol provides that *"the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered as "trafficking in persons"*

(iv) **Universal Legal Framework against Terrorism, Resolution 1373 (2001)**- A resolution was adopted by the Security Council in regard to formulate a universal legal framework against terrorism at its 4385th meeting on 28 September 2001. Subsequently on 01 July 2016, during the Review of the Global-Counter-Terrorism Strategy, the United Nations General Assembly strongly condemned the systematic recruitment and use of children in terrorist attacks, as well as the violations and abuses committed by terrorist Groups against children, including killing and maiming, abduction and rape and other forms of sexual violence. It was noted that such violations and abuses may amount to war crimes or crimes against humanity, and called upon all Member States, in accordance with their obligations under international law, to cooperate in efforts to address the threat, including preventing the radicalization to terrorism and recruitment of foreign terrorist fighters, including children. Assembly encouraged all Member States to develop effective strategies to deal with returnees, in accordance with relevant international obligations and national law;

General Assembly further reiterated that, given their potential status as victims of terrorism as well as of other violations of international law, every child alleged as, accused of or recognized as having infringed the law, particularly those who are deprived of their liberty, as well as child victims and witnesses of crimes, should be treated in a manner consistent with his or her rights, dignity and needs, in accordance with applicable international law, in particular obligations under the Convention on the Rights of the Child, and, bearing in mind relevant international standards on human rights in the administration of justice in this regard, urged Member States to take relevant measures to effectively reintegrate children formerly associated with armed Groups, including terrorist Groups;

General assembly also stressed upon the importance of the development and maintenance of effective, fair, humane, transparent and accountable criminal justice systems, taking into account, inter alia, the rights and needs of children, in accordance with applicable international law, as a fundamental basis of any strategy to counter terrorism, calling for Member States' continued efforts to combat terrorism through national legislation and establish such justice systems, and further stressed the need for training of professionals in the criminal justice systems of Member States, upon their request, including through bilateral and multilateral programmes and experience-sharing with a view to develop a common understanding of threats and providing an effective response.

(v) **Resolution Adopted by the General Assembly 69/194 on 18 December 2014 [on the Report of the Third Committee (A/69/489)]**-General Assembly recognized the serious nature of many forms of violence against children and the need to criminalize slavery or practices similar to slavery, debt bondage and forced labour including forced recruitment of children in armed conflicts, to prevent use and victimization of children by criminal Groups, terrorist entities or violent extremist Groups. General Assembly also convinced on the fact that violence against children is never justifiable and that it is the duty of States to protect children, from all forms of violence and human rights violations and to exercise due diligence to prohibit, prevent and investigate acts of violence against children, eliminate impunity and provide assistance to the victims, including prevention of re-victimization. Assembly acknowledged the value of the joint report of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system, Emphasizing that children, by reason of their physical and mental development, face particular vulnerabilities and need special safeguards and care, including appropriate legal protection. Assembly also emphasized upon the complementary roles of crime prevention, the criminal justice system, child protection agencies and the health, education and social sectors, as well as civil society, in creating a protective environment.

(vi) Protocols Additional to the Geneva Conventions of 1949- Apart from various resolutions adopted by the Security Council relating to children and armed conflict, two Protocols were also adopted way back in 1977. These Protocols had strengthened the protection of victims of international (*as provided in Protocol I*) and non-international (*as provided in Protocol II*) armed conflicts and delimited the way wars were fought. Whereas, Protocol II was the first ever international treaty concerning Protocol deals with situations of non-international armed conflicts exclusively. However, Protocol I deals with the prohibition of recruitment and use of children below 15 years of age by State Armed Forces in international armed conflict [Article 77(2)]. Protocol II includes the same prohibition for non-State armed Groups (NSAGs) in situations of non-international armed conflict [article 4(3)].

Article 77 of Protocol can be considered as an additional provision provided in the Geneva conventions of 12 August 1949. Article 77 of Protocol I of 8th June, 1977 which is concerned with the issues of victims of international armed conflicts is reproduced below-

“.....1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

2. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their Armed Forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest.

3. If, in exceptional cases, despite the provisions of paragraph 2, children who have not attained the age of fifteen years take a direct part in hostilities and fall into the power of an adverse Party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war.

4. If arrested, detained or interned for reasons related to the armed conflict, children shall be held in quarters separate from the quarters of adults, except where families are accommodated as family units as provided in Article 75, paragraph 5.

5. The death penalty for an offence related to the armed conflict shall not be executed on persons who had not attained the age of eighteen years at the time the offence was committed”.

Furthermore, Article 4 (3) of Protocol II of 8th June, 1977 relating to the protection of victims of non-international armed conflicts provides that-

“.....Children shall be provided with the care and aid they require, and in particular: a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care; b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated; c) children who have not attained the age of fifteen years shall neither be recruited in the Armed Forces or Groups nor allowed to take part in hostilities; d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of subparagraph c) and are captured; e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being”.

(vii) Rome Statute of the International Criminal Court- *Conscripting or enlisting children under the age of 15 years into Armed Forces, Groups (NSAGs) or using them to participate actively in hostilities is a war crime under article 8 (2) (b) (xxvi) and (e) (vii) of Rome Statute of the International Criminal Court.*

Remedies to prevent the recruitment of youths- International Children Rights Protection obligations provide an impactful legal system for prevention of crimes against children. However, social and legal system of a particular country varies in different aspect. Synchronization of legal framework of a country with the United Nations protocols and conventions may provide a better mechanism for prevention of crimes against children. In most legal systems, front-line professionals, the police and other administration can report, and sometimes have a legal obligation to report incidents about youths' exploitation by terrorist Groups. The role of the administrative and judicial authorities of the conflict areas can make a remarkable change in those areas. These authorities can develop and strengthen a system for child protection, child placement, or custodial placement of children in disturbed areas. In recent years, child protection laws have also been used to protect children deemed to be at immediate risk of travelling abroad to join a violent extremist group, or to become foreign terrorist fighters.

In India, after Burhan Wani case, the heroism attached to terrorist activities in Kashmir is kept alive by the terrorist Groups and with the help of various media platforms, it is being carried forward by a young and educated generation. On analysis of the circumstances in Kashmir it can be said that societal changes are very much required in shaping the attitude and mindset of the youths. The dynamics of conflict in Kashmir are ever-changing, and parental and societal sanction for terrorist activities has emerged as a new and dangerous trend. The 'resistance' narrative in Kashmir celebrates the involvement of children in the militancy and young boys and girls are encouraged to participate in protests. Children are being pushed to the frontline in the garb of protests. The administration and society need to introspect and recalibrate the responses to this trend. However, the circumstances portrayed by the terrorist Groups and the overall turbulent affects the mind of the youths. Better parental and societal guidance and control of media will help to stop further recruitments of Kashmiri children by the terrorist groups. Also, there must be an adequate justice mechanism to ensure that the youths who have been arrested for any act punishable under anti-terrorism statutes or for participating in protests against the government machinery should be treated as a victim but not as a perpetrator. They should be counselled and rehabilitated in such a manner that they won't be re-radicalised or become hard core criminals on being released due to the tortures and misconducts against them. The justice system, thus, further alienates these children from society and the state. The state must show sensitive approach in dealing with the misguided youths. There must be an effective mechanism to protect, care and rehabilitate such youths who are being radicalised to join hands with terrorist outfits. The International criminal Court has referred the recruitment of children by the extremist Groups, as a war crime. The first ever trial before International Criminal Court was done in the case titled "*The Prosecutor v. Thomas Lubanga Dyilo*". Lubanga was found guilty, on 14 March 2012, of the war crimes of enlisting and conscripting of children under the age of 15 years and using them to participate actively in hostilities. He was accordingly sentenced, on 10 July 2012, to a total of 14 years of imprisonment. The verdict and the sentence were confirmed by the Appeals Chamber on 1st December 2014.

In view of the above, a strong legal framework is required to be evolved in consonance with the guidelines of United Nations protocols and conventions related to the care, protection of children and prohibition of recruitment of children for the terrorist activities.

An effective Socio-legal system should be designed to check comprehensive prevention of youth's exploitation and justice dispensation for them. Promoting the use of alternative measures for detention and restorative justice for youths are the steps which would be helpful to check the re-radicalisation of youths and subsequently help in curbing the rising numbers of recruitment of youths by extremist Groups.

Conclusion- United Nations Protocol and Conventions clearly provide guidelines to all the State Parties to ensure effective action to prevent crime against the children, especially action against the perpetrators

involved in recruitment of children for hostile activities. These guidelines recommend for a comprehensive global approach to meet the lacking in a universal instrument to check all aspects of crime against children. The countries are required to review their statutes dealing with the terrorism and child protection to prohibit the use of children for the terrorist activities and crime against them due to their association with terrorist groups.

Criminal justice and other relevant professionals are required to be adequately trained to deal with the youths. Countries should implement the relevant United Nations standards and norms in crime prevention and criminal justice in relation to youths. Countries must be guided by the Model Strategies and Practical Measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

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