
TERRORISM: GROWING CHALLENGES AND IMPLICATIONS WORLDWIDE

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INTRODUCTION

Terrorism is among the most significant and complex challenges of the modern world. It compromises states' sovereign authority, destabilises social and political systems, and pressures both national and international legal systems¹. In modern times, terrorism has grown increasingly global and transnational in nature due to advancements in technology, global travel, and digital communications. No country is invulnerable to the threat of terrorism, regardless of its amount of economic or military power. The issue can range from minor or local instances of violence through to planned assaults involving international targets, usually occurring concurrently with significant humanitarian disasters. With terrorism, the world is fighting a war which includes immediate loss of lives and property and also instils fear, causes divisions in the community, and has negative ramifications for economic and political development. Terrorism's global nature serves as the rationale for collaborative legal, political, and security responses and coordinated response strategies across borders.

Even though it is vital for democratic civil society to adopt a coordinated response, one of the central dilemmas of regulating terrorism is the situation of legal fragmentation and operating across jurisdictions. The nature of the terrorism threat may be global, but the primary legal regimes to respond to it are still national in character, based on varying constitutional traditions, political priorities, as well as varying notions of human rights. This fragmentation leads to numerous, frequently, incompatible definitions of terrorism, as well as distinctions in enforcement, adjudicating mechanisms, and the protection of fundamental human rights. States engaged in prolonged insurgency may define terrorism more broadly to encompass domestic threats, while other states establish a more restrictive definition of terrorism that may target certain acts of violent extremism. These distinctions further exacerbate difficulties regarding

¹ United Nations General Assembly, 'Measures to Eliminate International Terrorism' (9 December 1994) UN Doc A/RES/49/60 <https://digitallibrary.un.org/record/179444> accessed 16 September 2025.

international cooperation, extradition, and mutual legal assistance.

This research paper explores two interconnected research questions. First, how do diverse legal systems think about and conceptualise terrorism, and what challenge do these differences present to take effective action and drive global cooperation? Second, does counter-terrorism legislation such as India's Unlawful Activities (Prevention) Act, 1967 (UAPA), the United States' Patriot Act, and the European Union's counter-terrorism directives have comparative implications for human rights and civil liberties? The purpose of engaging with these questions is to reflect the growing challenges that terrorism presents to the world and how legal measures in a range of jurisdictions often have consequences. While doing this work, this paper will also ask whether counter-terrorism law today is taken in a direction that can lead to a global resolution or a state of fragmentation? In this paper we demonstrate the enduring tension between state security interests and human rights as an ongoing narrative of the counter-terrorism law today.

CONCEPTUALISING TERRORISM: THE CHALLENGE OF DEFINITION

The Absence of a Universal Definition

A significant challenge in counter-terrorism law is the absence of a universally recognized definition of terrorism. While terrorism as an occurrence has existed for decades, states have agreed on a comprehensive legal definition. The United Nations has sought the past several decades to come to agreement through numerous conventions and resolutions, but political disagreements over legal definitions have stalled these plans². The legitimacy of the violent act is at the heart of some disagreements and is illustrated by the fact that one state may characterize a violent act as terrorism, whereas another will consider it as a genuine struggle for self-determination³. These arguments also become more contentious when they are directed at national liberation movements, anti-colonial uprisings, and insurgents. For instance, an act perpetrated by a group seeking independence or political autonomy, may be condemned as terrorism under one state's law, while the act would be deemed a justified act of resistance under international law or their nation's rationale. Consequently, definitional vagueness not only creates legal indecision but impedes the agglomerating of international counter-terrorism

² Ben Saul, *Defining Terrorism in International Law* (Oxford University Press 2006).

³ Antonio Cassese, 'Terrorism Is Also Disrupting Some Crucial Legal Categories of International Law' (2001) 12 *European Journal of International Law* 993.

efforts, mutual legal assistance and extradition treaties.

India represents a prominent case of the challenges involved in defining terrorism. With both a historical and contemporary experience of cross-border terrorism and various insurgent movements, India follows a broader definition of terrorism which includes both domestic and international terrorist events. The Unlawful Activities (Prevention) Act (UAPA) emphasises recent amendments pursuant to legal challenges⁴, and defines terrorism broadly, including acts directed against the sovereignty, integrity and security of the state. Some scholars contend that a broader definition of terrorism could include legitimate political dissent and potentially useful government overreach. Other states in the Global South have resisted definitions that may criminalise anti-colonial or self-determination movements, which draw attention to the normative and political concerns surrounding the definition of terrorism.

Comparative Perspectives on Definitions:

1. **India (UAPA, 1967):-** The Unlawful Activities (Prevention) Act has a broad definition of terrorism that includes any action intended to threaten the unity, integrity, and sovereignty of India. Furthermore, it provides the state the ability to identify individual persons, or groups as a terrorist organisation, or both. While this broad nature provides states with flexibility in the context of addressing complex threats, it has been called vague and open to potential misuse. The Act allows for preventive detentions and the proscription of organisations. These measures, while augmenting state capacity, may also reduce civil liberties, especially freedom of expression and association. Indian case law, most notably in *National Investigation Agency v. Zahoor Ahmad Shah Watali* (2021) demonstrates the courts will scrutinise provisions of the UAPA where proportionality (balancing state security and rights to constitutionalism) is considered by the courts as necessary⁵.
2. **United States (Patriot Act, 2001):-** In response to the September 11, 2001 attacks, was enacted as a broad expansion of the legal definition of terrorism to include acts committed with the intent to intimidate or coerce civilians or influence government policy⁶. The term “domestic terrorism” is defined in Chapter 1. The term “international

⁴ The Unlawful Activities (Prevention) Act 1967 (India), as amended in 2019 <https://legislative.gov.in/sites/default/files/A1967-37.pdf> accessed 16 September 2025.

⁵ *National Investigation Agency v Zahoor Ahmad Shah Watali* (2021) 4 SCC 761 (SC).

⁶ USA PATRIOT Act 2001, Pub L No 107–56, 115 Stat 272 (2001).

terrorism” is defined in Chapter 2, and reflects the new post-9/11 focus on threats across national borders and the need for surveillance of non-citizens. The Patriot Act expanded law enforcement and intelligence agencies powers in conducting surveillance, sharing information between agencies, and preventing an individual from being able to intervene or testify continued in some way. Critics have been concerned with possible infringements of the Fourth Amendment (protecting individuals against unreasonable searches and seizures, battle for police warrants, etc.) and Fifth Amendment (due process rights) of the United States Constitution and the complicity that such security interests might have with the constitutional rights amendments⁷.

3. **European Union:-** The EU has developed a systematic procedure for defining terrorism, most notably through the Framework Decision on Combating Terrorism (2002) and its amendment in 2017⁸. The European Union connects terrorist actions to certain offenses associated with a direct attack on human life, hostage taking, and destruction of important property with the intent of intimidating a population or coercing the government into action. The EU model seeks to provide law enforcement tools and protections for human rights by being focused on the act and intent, while the Indian model is permitted to be broader and preventative.

The ramifications of definitional differences are concrete. India's broadest definitions allow for preventive detention and hate-defined groups, balancing strategic flexibility and human rights implications. The EU's narrowest definitions show real intent and physical conduct, thus limiting any preemptive preemptively action. Likewise, the United States stands in the middle of defining difference, balancing state security and prosecution in the face of judicial branch, intersecting with national privacy and civil liberties. Regardless, the definitions illustrate the intersectionality of definitions, intents and human rights, which speaks to the challenges of developing a global definition agreement on violent extremist ideologies.

COUNTER-TERRORISM LAWS: A COMPARATIVE ANALYSIS

1. India: The UAPA Framework

⁷ US Const amend IV and amend V.

⁸ Council Framework Decision 2002/475/JHA on Combating Terrorism [2002] OJ L164/3, amended by Directive (EU) 2017/541 [2017] OJ L88/6 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L0541> accessed 16 September 2025.

The Unlawful Activities (Prevention) Act (UAPA), which was enacted in 1967, is the backbone of India's legal apparatus to address acts of terrorism. The UAPA has been amended numerous times since inception, most notably in 2004, 2008, and 2019⁹. The UAPA and its ongoing amendments undoubtedly relate to shifting national security concerns and, while amending, to enhance the precision and effectiveness of law enforcement's preventive and punishing responses. The UAPA confers to the federal government wide-ranging powers to name individuals and entities 'terrorist organizations', seize the assets involved in "unlawful activity", and impose restrictions on bail and pre-trial release in connection with the provisions of the UAPA. Changes in 2019 specifically added to the powers of the government to designate individuals as 'terrorists' in an effort to prevent anticipated terrorism in the future and provide law enforcement and the criminal justice system the ability to make informed decisions.

While the UAPA clearly improved the state's capacity for counter-terrorism, it also raised profound legal and social challenges. Civil society organisations and human rights advocates have constantly raised caution against the imperfect application of the UAPA Act, arguing that the Act could target political activists, journalists, and minority communities for alleged actions against national security. The judicial process has therefore become an essential component in tempering the operation of the Act. The courts in India are invariably called upon to weigh the needs of national security as against the constitutional rights entrenched in Articles 14, 19, and 21 of the Indian Constitution right to equality, freedom of speech and expression, right to life and personal liberty. The Bhima Koregaon case, and the arrests of individuals associated with the Shaheen Bagh protests illustrate that the UAPA raises tensions from the outset in utilizing preventive detention, providing powers to ban targeted persons, and ensuring procedural fairness in light of the impact on fundamental rights in politically sensitive and social controversial contexts equal before the law, freedom of speech and expression and life and liberty¹⁰.

2. United States: The Patriot Act

In the United States, as a major expansion of the federal government's counter-terrorism toolbox, the Patriot Act became law in 2001 after the events of 9/11. The act gives law

⁹ Ministry of Law and Justice (India), 'The Unlawful Activities (Prevention) Amendment Act, 2019' <https://prsindia.org/billtrack/the-unlawful-activities-prevention-amendment-bill-2019> accessed 26 September 2025.

¹⁰ Arun Ferreira and others v State of Maharashtra (Bhima Koregaon case), Bombay High Court, Criminal Appeal No 311 of 2019.

enforcement and intelligence agencies wide-ranging authorities to surveil, to gather intelligence, and to respond quickly to potential threats. Some of its stipulations, for example, Section 215 allows for bulk gathering of telecommunications metadata while other stipulations allow for wiretaps, electronic communications monitoring, and access to specific private records. Similarly, it is less publicized that the act allows for indefinite detention of non-citizens based solely on suspicion of activity related to terrorism.

The Patriot Act has undoubtedly created a greater capability for U.S. officials to identify and to disrupt terrorism, as well as to communicate and respond between agencies of government. Still, the legislation stimulated much discussion about its association with rights and protections under the U.S. Constitution.

Some critics argue that numerous provisions violate the protections guaranteed by the Fourth Amendment against unreasonable search and seizure, as well as Fifth Amendment due process. The legislature is understandably concerned about these developments and has sought to counteract surveillance capabilities through legislative reforms, such as the USA Freedom Act of 2015, to curtail some of the surveillance authority available to intelligence operations related to bulk data collection. As in other cases, this illustrates an ongoing negotiation between national security interests and civil liberties. In this regard, the judiciary has played an important role. *Clapper v. Amnesty International USA* (2013), for instance, provided some clarity on this topic, even as it confronted some degree of ambiguity, between the intelligence activities that were revealed through the privacy rights of individuals and it also captured the struggle that ensued with a counter-terrorism need and constitutional rights in the age of digital technology¹¹.

3. European Union: A Human Rights-Centred Approach

The European Union has adopted a noticeably different method of approaching counter-terrorism in comparison to the national approach within member states. Their approach has focused on harmonisation amongst member states, while prioritising member state obligations to human rights. The EU Counter Terrorism Directive (2017/541) places obligations on member states to implement legislation which criminalises terrorism offences, co-ordinate multi-state support to prevent terrorism and implement relevant judicial measures across

¹¹ *Clapper v. Amnesty International USA* 568 US 398 (2013).

borders¹². In contrast to national frameworks, such as India's UAPA or the US Patriot Act, legislation under the EU has to exist under a larger legal framework prescribed by the European Convention on Human Rights (ECHR), and therefore can be contested in referenced institutions, particularly the European Court of Human Rights (ECHR).

The ECHR has repeatedly stressed the ideas of proportionality, due process, and procedural safeguards with counter-terrorism in mind¹³. The Court held in *A and Others v. United Kingdom* (2009) that the indefinite detention without trial of foreign nationals was a violation of Article 5 of the ECHR, indicating that national security considerations can never be paramount to fundamental rights¹⁴. This rights-based approach indicates the EU's attempt to mediate between state security motivations and the protection of individual rights, in interaction with a supranational framework that may temper the abuses associated with state counter-terrorism laws. The EU model thus shows that it is possible to create legal institutions that authorize states to oppose terrorism in a manner consistent with credible human rights standards, as compared to the more security-driven approaches of national laws in India and the United States.

Through a comparison of these frameworks, we can identify a range of approaches to counter-terrorism law. India and the US tend to privilege state security, and grant instruments and power to the state that exceed other absolutely rights, while the EU prioritises human rights and proportionality. Each model represents a degree of compromise between liberty and security, and reflects the impact of national context, judicial oversight, and international human rights obligations in shaping the legal architecture of counter-terrorism law.

CHALLENGES OF COMPARATIVE COUNTER-TERRORISM

4. The Security–Liberty Trade-off

Across jurisdictions, counter-terrorism law must deal with the recurring conflict between ensuring security and protecting civil liberties¹⁵. In both India and the U.S., measures such as

¹² Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on Combating Terrorism [2017] OJ L88/6 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L0541> accessed 16 September 2025.

¹³ European Convention on Human Rights (adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221 <https://www.echr.coe.int> accessed 16 September 2025.

¹⁴ *A and Others v United Kingdom* (2009) 49 EHRR 29.

¹⁵ David Cole and James X Dempsey, *Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security* (New Press 2006).

preventive detention, banning of organisations, and broadly defined powers of surveillance, usually encroaches upon, or limits freedoms of expression, association, and privacy. For example, UAPA's wide definitions allow for preventive action against individuals or groups who are suspected of being capable of terrorist harm, which raises the spectre of arbitrary actions. In a similar way, the surveillance capacities of the Patriot Act, including the bulk collection of data, violate the constitutional expectations of privacy and due process.

The methodology of the European Union shows a more proportionate integration of human rights considerations, although complacent criticisms do arise. Specifically, several mass monitoring of telecommunications programs within EU member states have tested courts and public opinion... again, showing difficulty between considerations of security and liberty, which is contextual, depending on domestic political culture, historical experience and judicial interpretation. Expectedly, as predictable from comparative analysis, it is difficult to produce a counter-terrorism "toolkit" that is both mitigative and rights-respecting, particularly without global legal harmonisation.

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5. Transnational Terrorism and Jurisdictional Gaps

Terrorist networks are using jurisdictional loopholes to exploit global financial systems, digital communication channels, and porous borders¹⁶. Funding commonly is provided through various types of jurisdictions, each jurisdiction has developed its standards of regulators and enforcement. International forums seem to address this issue in the context of more harmonised standards for dealing with terrorism financing, in terms of a jurisdictional type definition of

¹⁶ Financial Action Task Force (FATF), *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations* (updated 2023) <https://www.fatf-gafi.org> accessed 16 September 2025.

terrorism financing¹⁷. Nonetheless, even with international efforts, the actual laws of a nation state and its enforcement regimes provide risk factors for gaps in detection efforts, or prosecution for a suspect. The realities of legal process need to be addressed with regional partners in restricting the notion of mutual assistance agreements and being mindful of the potential delays that can result from very different and dynamically distinct definitions, and component parts of what constitutes terrorism as opposed to legitimate activities. These are relevant realities for diligence within any jurisdiction cooperating with other states to address these issues, while also identifying the weaknesses in the surrounding structures of relevant legal frameworks.

Misuse and Politicisation of Terror Laws:

Another common challenge is that counter-terrorism laws have the potential to be exploited for political ends. International human rights organisations and civil society organisations regularly provide evidence of the use of terrorism-related charges by governments to silence dissent, punish activism, or intimidate political opponents¹⁸. In India, politicians have used disproportionate accusations of unlawful activity against journalists or civil society actors as a means of directly diminishing the political utility of counter-terrorism laws. In the U.S., concerns about political, as well as racial and ethnic, interference with the application of counter-terrorism laws have arisen, particularly in the post-9/11 context. After 9/11, some security measures were viewed as racialized or politicized as they had a disproportionate impact on the U.S. Muslim population¹⁹. The misuse of counter-terrorism laws is problematic not only because of the departure from the rule of law or fairness to individuals, but also the diminishment of public faith in legal institutions, eroding the overall legitimacy of anti-terrorism.

IMPLICATIONS FOR HUMAN RIGHTS

6. Preventive Detention and Fair Trial Rights:

Preventive detention is a significant, yet contentious, tool in counter-terrorism frameworks

¹⁷ United Nations Security Council Resolution 2462 (28 March 2019) UN Doc S/RES/2462 <https://digitallibrary.un.org/record/3809475> accessed 16 September 2025.

¹⁸ Human Rights Watch, *Stifling Dissent: The Criminalization of Peaceful Expression in India* (2019) <https://www.hrw.org> accessed 16 September 2025.

¹⁹ Leti Volpp, 'The Citizen and the Terrorist' (2002) 49 *UCLA Law Review* 1575.

across the globe. In India, the Unlawful Activities (Prevention) Act (UAPA) affords officials legal space to detain people for long periods of time, sometimes without charge, on the basis that pre-emptively acting in response to terrorism threats is more secure for the state and its citizenry²⁰. The logic rests on the assumption that the state and its citizenry can be made more secure. However, these limitations on liberty come at the cost of depriving individuals of their rights to liberty and fair trial which are afforded under - or by virtue of - domestic law, as well as under international human rights law, such as the ICCPR, which states that deprivation of liberty will be lawful, necessary, and proportionate, including the possibility of judicial oversight to prevent abuses. Judicial scrutiny in India has been ever more important in 'constraining' the preventive detention power. The Supreme Court in *Arnesh Kumar v. State of Bihar* (2014) points out that while the case does not relate to a breach of the UAPA, but procedural breach of the Criminal Procedure Code, irrespective, the authorities should exercise restraint and adhere to statutory safeguards to prevent arbitrary detention²¹. The jurisprudential principle is clear enough, security concerns can never trump fundamental rights and preventive detention will only be justified when its tackling of an insecurity is justified as "proportionate and necessary" and in compliance with due process safeguards.

Surveillance and Privacy

Modern counter-terrorism approaches usually involve the use of human-surveillance practices from a complex worldview, while engendering serious issues about privacy and security in the digital world and what it means to protect privacy, security, and lawful government authority and oversight²². Statutes such as the U.S. Patriotism Act provide government agents the authority to collect, store, and assess huge amounts of personally identifiable information about subjects for national security (possibly terrorist) and democratic and legal justifications²³. These and other government issued spying permits (all justified within the boundaries of protection/ anticipation of a security concern and the vague "national security threat" reasoning) violate and chill freedom of expression and association. Courts similarly (but conflicting) responses to sovereign power advance beyond recognized borders. The U.S. Supreme Court has routinely acted deferentially and refrained extensively from intervening

²⁰ Law Commission of India, Report No 180: Article 20(3) of the Constitution of India and the Right to Silence (2002) <https://lawcommissionofindia.nic.in/reports/report180.pdf> accessed 16 September 2025.

²¹ *Arnesh Kumar v State of Bihar* (2014) 8 SCC 273 (Supreme Court of India).

²² Daniel J Solove, *Understanding Privacy* (Harvard University Press 2008).

²³ USA PATRIOT Act 2001, Pub L No 107-56, 115 Stat 272 (2001).

with state government exercised rights to take preventive action for national security, whereas the ECtHR has established and even called for more robust protections of rights and opportunities to address private protection concerns in particular²⁴. In *Big Brother Watch v. United Kingdom*, the ECtHR even required the State to comply with a mass privacy invasion to ensure that it was accompanied by legal and adequate procedural safeguards, independent oversight, and proportionality, suggesting that the law recognizes the judiciary's role in balancing points of security that require justification versus the fundamental right to privacy²⁵.

Freedom of Expression and Association

Measures to counter terrorism also limit democratic freedoms, in particular expression and association²⁶. Laws prohibiting speech or banning groups can be misapplied towards non-violent forms of advocacy, creating a conflict between the state's security obligations and civil liberties. In India, for example, provisions of the UAPA have at times been invoked against groups advocating for political or social reform²⁷. The apparent misuse of the UAPA raises concerns about selective application of law depending on the beliefs and context of the accused. The Patriot Act could similarly encompass certain political expression into its broad definition of terrorist activity²⁸, but statutory protections and constitutional protections offer some limitations to mitigate the potential misuse of the Act. In the European Union, legal regimes limiting expression or prohibiting assembly are still subject to constitutional barriers through the European Convention on Human Rights, but there are still disputes as to the proportionality of the interference when limiting assembly or the act of monitoring/ surveillance²⁹. Most importantly, these examples of counter-terrorism measures, conditionally as a principle, must be framed in relation to state security and should further protect the democratic freedoms on which the state is founded.

²⁴ Steven Greer, *Human Rights and the European Court of Human Rights: Achievements and Challenges* (CUP 2021).

²⁵ *Big Brother Watch and Others v United Kingdom* (2021) App Nos 58170/13, 62322/14 and 24960/15, ECHR <https://hudoc.echr.coe.int/eng?i=001-210077> accessed 16 September 2025.

²⁶ United Nations Human Rights Committee, 'General Comment No 34: Article 19 – Freedoms of Opinion and Expression' (2011) UN Doc CCPR/C/GC/34 <https://digitallibrary.un.org/record/720016> accessed 16 September 2025.

²⁷ Amnesty International, *Treated with Contempt: Torture and Ill-Treatment in India* (2015) <https://www.amnesty.org/en/documents/asa20/2733/2015/en/> accessed 16 September 2025.

²⁸ Geoffrey Stone, 'Civil Liberties in Wartime' (2003) 28 *Journal of Supreme Court History* 215.

²⁹ European Court of Human Rights, *Handyside v United Kingdom* (1976) Series A no 24.

TOWARDS GLOBAL HARMONISATION?

While there have been significant developments, with international initiatives to harmonise counter-terrorism law and policy being gradually put in place, many challenges remain. One notable moment in progress was the UN Security Council Resolution 1373 (2001), which was passed in the wake of the September 11th attacks, requiring a number of obligations of states to criminalise the financing of terrorism, not provide a safe haven for terrorists, and enhance international cooperation³⁰. This resolution illustrates an effort by the international community to develop consensus around shared legal and operational standards, providing a binding mechanism to support states enhance counter-terrorism law and measures within their own jurisdictions, while working collectively. While largely designed for meeting international legislation, various 'sectoral conventions', regarding aircraft hijacking, hostage-taking, and terrorist bombings, indicate a developing understanding of the need for specific international instruments to address specific threats, and can provide useful assistance in prosecuting and preventing acts of such³¹.

Despite these developments, there remains a significant gap in a universal global convention on terrorism which reflects ongoing political and normative divides³². Divergences in national political priorities, constitutional arrangements and human rights obligations have led to ontogenetic and domestic legal mechanisms that have inhibited full harmonization. For example, some states are willing to prioritise strong security measures which may interfere with certain civil liberties, while other states may be more strict in their adherence to human rights standards, diverging in their approaches to countering terrorism³³. Therefore while there is still divergence in some areas, several areas have gradually converged, especially in areas where operational cooperation is paramount. Regulation of financing of terrorism, intelligence sharing and extradition in courts are increasingly consistent and aligned across jurisdiction, facilitated by instruments such as Financial Action Task Force (FATF) guidance and mutual legal assistance treaties³⁴. These instruments, allow opportunities for coordination,

³⁰ United Nations Security Council Resolution 1373 (28 September 2001) UN Doc S/RES/1373 <https://digitallibrary.un.org/record/449057> accessed 16 September 2025.

³¹ International Convention for the Suppression of Terrorist Bombings (adopted 15 December 1997, entered into force 23 May 2001) 2149 UNTS 256

³² UN Office of Counter-Terrorism, International Instruments Related to the Prevention and Suppression of International Terrorism (2020) <https://www.un.org/counterterrorism/international-legal-instruments> accessed 16 September 2025.

³³ Victor V Ramraj, Michael Hor and Kent Roach (eds), *Global Anti-Terrorism Law and Policy* (2nd edn, CUP 2012).

³⁴ FATF, *FATF Guidance on Counter Proliferation Financing* (2020) <https://www.fatf-gafi.org> accessed 16

standardizing expectations and enhancing compliance, that demonstrates meaningful cooperation can occur even while states still do not have a common understanding of what constitutes terrorism.

In short, although the global harmonisation of counter-terrorism law is still hampered by political, legal, and normative factors, existing limited and incremental progress across sectors in the legal framework demonstrates that practical international cooperation is entirely possible. The availability of focused legal instruments in conjunction with operational frameworks allows states to strengthen statutory and unofficial cooperation, without the need to achieve complete legal harmonisation. In this regard, both the state's sovereignty, and human rights, and collective security are balanced.

CONCLUSION

Terrorism presents a dual challenge: it is a security challenge, and it is a normative-legal challenge of significant depth. An analysis comparing India, the United States, and the European Union provides both similarities and differences. All three authorities have a tendency to favour stronger and securitarian counter-terrorism efforts, but each is willing to afford different degrees of space for civil liberties and human rights³⁵. India and the United States are willing to afford operational liberty and early intervention significant deference regardless of the encroachment of certain civil liberties granted to individuals, while the EU affords proportionality, and medial review significantly greater weight in the overall structure³⁶.

The main point to understand is how counter-terrorism law cannot be disconnected from human rights³⁷. It can provide a measure of security if powers of preventative detention, surveillance, and proscription are used properly, and it can violate fundamental liberties if proper policing and oversight are not part of that process. A joined-up legal regime, to continue the domestication of state sovereignty with respect to International law, will commence the process of domesticating international law, which contains human rights protections and further

September 2025.

³⁵ Kent Roach, *The 9/11 Effect: Comparative Counter-Terrorism* (CUP 2011).

³⁶ Stephen J Schulhofer, *Rethinking National Security and Liberty: Beyond the 'War on Terror'* (Routledge 2012).

³⁷ Martin Scheinin, 'Impact and Challenges of Terrorism on Human Rights' (2010) UN Doc A/HRC/16/51 <https://digitallibrary.un.org/record/696441> accessed 16 September 2025.

questions about what can be politicised in terms of collective action³⁸. The only way potential global actions can happen, in response to growing threats of terrorism, is if they undertake to balance, if they support those democratic principles and civil liberties that are purporting to be the bedrock of societies in the 21st Century³⁹.

The reality of counter-terrorism in the twenty-first century is complex, with multiple layers. Legal systems need to be adaptable in order to face the evolving threats, while preserving the principles of the rule of law and protecting human rights⁴⁰. Integrated cooperation in enforcement across jurisdictions, aligned legal frameworks for extradition and financing, and a system for protecting human rights while conducting surveillance, should all be components of an efficacious global response strategy⁴¹. Ultimately, the challenge of terrorism is operational, but also moral in nature, and should seek to ensure that both security and liberty are equally and appropriately monitored⁴².

In the end, the experience of dealing with terrorism in the 21st century is complex and multi-faceted. Legal institutions must demonstrate flexibility and adaptability to enable them to deal with different, new and emerging threats, while remaining within the confines of the rule of law and human rights⁴³. This must involve cooperation in cross-border enforcement, harmonised legal frameworks for effective compliance with this counter-terrorism initiative, whether through financing of terrorism or extradition, and human-rights protective inspection systems as part of any global effective response strategy⁴⁴. Ultimately, the issue of terrorism is not simply one of an operational challenge, but rather is a challenge of a moral nature to ensure due diligence with the competing situation of security and liberty⁴⁵.

³⁸ Antonio Cassese, *International Law* (2nd edn, OUP 2005).

³⁹ UN Human Rights Council, 'Human Rights and Counter-Terrorism' (2018) UN Doc A/HRC/37/52 <https://digitallibrary.un.org/record/1476113> accessed 16 September 2025.

⁴⁰ Oren Gross and Fionnuala Ní Aoláin, *Law in Times of Crisis: Emergency Powers in Theory and Practice* (CUP 2006).

⁴¹ UN Counter-Terrorism Committee, *Global Survey of the Implementation of Security Council Resolution 1373 (2001)* (2016) <https://www.un.org/sc/ctc/> accessed 16 September 2025.

⁴² Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton UP 2004).

⁴³ David Dyzenhaus, *The Constitution of Law: Legality in a Time of Emergency* (CUP 2006).

⁴⁴ European Commission, *EU Counter-Terrorism Strategy* (2014) https://home-affairs.ec.europa.eu/policies/internal-security/counter-terrorism_en accessed 2 16 September 2025.

⁴⁵ Bruce Hoffman, *Inside Terrorism* (3rd edn, CUP 2017).