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Student's Name: Sreoshi Sinha

Supervisor's Name: Professor Tasneem Meenai

Name of Department: Nelson Mandela Centre for Peace and Conflict Resolution

Name of Topic: Terrorism and Counter-Terrorism: Challenges to Human Rights Law and International Humanitarian Law

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Abstract:

This thesis examines the evolution of the term "terrorism" from its origins during the French Revolution to its contemporary implications within the framework of International Humanitarian Law (IHL). It analyzes the complexities of defining terrorism, the prohibitions established by IHL, and the classification of counterterrorism as armed conflict. Through a detailed exploration of the legal principles governing terrorism and the relationship between IHL and International Human Rights Law (IHRL), the research investigates the challenges faced by states in combating terrorism while adhering to legal standards. A particular focus is placed on India's counterterrorism measures and their compliance with IHL and IHRL. The findings underscore the urgent need for a balanced approach that safeguards national security without compromising fundamental human rights, highlighting the intricate interplay between legal norms and counterterrorism strategies.

The dissertation comprehensively investigates the interplay between terrorism, International Humanitarian Law (IHL), and International Human Rights Law (IHRL), yielding several key findings. First, it establishes a nuanced definition of terrorism, characterizing it as the intentional infliction of death, severe bodily harm, or significant damage to property, driven by extremist ideologies with a political agenda. This definition effectively distinguishes terrorism from other forms of criminal behavior, providing a foundational understanding for subsequent analysis.

In examining the legal prohibitions surrounding terrorism, the research highlights various international legal provisions that prohibit such acts. It emphasizes the importance of protecting civilians during peacetime and notes the evolving nature of conflict and violence. This exploration sets the stage for a deeper understanding of how IHL applies specifically to the "war on terror," clarifying the conditions under which this situation qualifies as an armed conflict and differentiating it from other forms of violence.

The dissertation also addresses the classification of armed conflicts, examining the criteria that distinguish international from non-international conflicts. This classification is crucial for determining the applicability of IHL, particularly in contexts involving terrorism. Additionally, the study investigates the status of individuals engaged in terrorism, discussing the concept of "unlawful combatants" and the implications this has for their legal treatment under IHL.

Moreover, the dissertation delves into the intricate relationship between terrorism, counterterrorism efforts, and human rights. It emphasizes the necessity of safeguarding human rights while addressing security concerns, recognizing the potential for counterterrorism measures to infringe on fundamental rights. The analysis of India's counterterrorism laws, particularly the Unlawful Activities Prevention Act (UAPA), concludes that recent amendments do not violate fundamental human rights. It evaluates India's compliance with IHL and human rights standards in military and judicial approaches to counterterrorism, highlighting the complexities of applying these legal frameworks.

Overall, the dissertation emphasizes the need for a balanced approach that respects human rights while effectively addressing terrorism. It advocates for strategies that ensure national security without compromising fundamental rights, underscoring the complexities inherent in applying IHL and IHRL.