

Human Rights Challenges in the Context of Terrorism and Counterterrorism

***Dr. Latika M Pandey**

ABSTRACT

Protecting human rights for all individuals, regardless of their nation of origin, is a significant problem for both the global community and India. Terrorism is a global problem that affects every nation. Terrorism is a worldwide danger to democracy, the rule of law, human rights, peace, and security. This violates humanity's basic right to a peaceful, free, and dignified existence. Individual security is a fundamental human right, and the government is responsible for protecting them. States are consequently obligated to protect the human rights of their people and others.

Government counter-terrorism tactics have frequently created significant hurdles to human rights. Terrorism undermines the government's commitment to basic human rights, including the prohibition of extrajudicial murders, political incarceration, and torture. Terrorism also has a negative impact on civil liberties. Therefore, both terrorism and counter-terrorism activities impact human rights. This article analyzes how states' counter-terrorism policies pose significant obstacles to human rights and security in India and throughout the globe.

Keywords: Terrorism, Human Rights, Counterterrorism.

Introduction

Over the last two decades, there has been a rise in violence and terrorism at both national and global levels. Terrorism poses a menace to all countries worldwide. Terrorism has posed a threat to societies in Third World nations. Terrorism has claimed millions of lives, homes, and assets. Terrorism has negatively impacted human nature and society in various regions of the world.

Terrorism has a direct influence on human rights, compromising victims' right to life, liberty, and bodily integrity. Terrorism not only damages individuals but also undermines governments, weakens civil society, threatens national peace and security, and hinders economic progress. These factors affect persons' basic human rights.

Individual security is a fundamental human right, and the government must defend them. States have a responsibility to protect human rights for their people and others.

The state takes proactive measures to safeguard citizens from terrorist attacks and provide social

Human Rights Challenges in the Context of Terrorism and Counterterrorism

Dr. Latika M Pandey

justice to those in need. States' counter-terrorism tactics have recently presented significant obstacles to human rights and the rule of law. Terrorism and counterterrorism measures impact fundamental human rights (OHCHR, 2008:1).

HUMAN RIGHTS

Humans have inherent rights that cannot be lessened by any authority. International agreements and accords, including the 1948 Universal Declaration of Human Rights, provide support for these principles. It encompasses cultural, economic, and political rights, including the right to life, liberty, education, equality under the law, and freedom of association, belief, free speech, information, religion, movement, and nationality. Although these rights are not legally enforceable, they serve as a standard of care for individuals and are often included into national constitutions.

Human rights are legal protections that protect people and groups against official acts that violate their basic freedoms, entitlements, and dignity. Human rights include civic, cultural, economic, political, and social rights, including the right to growth. Human rights are inherent in all individuals and hence universal. Since the Universal Declaration of Human Rights, the world community has pledged to respect human rights for the first time in history. States have committed to respecting fundamental rights and international conventions, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, and the 1987 UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, as well as the European Convention.

TERRORISM

Terrorism refers to violence against people for political or ideological reasons. Terrorist activities include "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes" that "are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, and religious or other nature that may be invoked to justify them" (OHCHR, 2008; p. 6).

In India, 'terrorist' activities are referred to as 'freedom struggle', 'militancy', 'insurgency', or 'naxalism' and are conducted against the state (and innocents) with identical purposes and intentions. These organizations argue that these crimes do not fall under the definition of terrorism. According to Das (2010:3), terrorism encompasses the state, terrorists, their demands, society, the impact of terror, innocent victims, and the protection of human rights for both victims and terrorists.

They judge their approaches by results and believe they operate reasonably. Victims see violence against them as random, unexpected, and unjustified. Terrorism is a worldwide menace that cannot be justified. Terrorism has taken on new dimensions after attacks on the World Trade Center in the United States on 9/11, the Indian Parliament on December 13, 2001, and the Mumbai bombings on November 26, 2008. It poses a challenge to contemporary civilization. The manner these acts were carried out redefined the word "terrorism." Terrorism requires fresh definitions and ideas to reflect current reality. The motive, tactics, weaponry, and goals of conventional terrorist attacks have evolved (International Council on Human Rights Policy 2008:9).

Human Rights Challenges in the Context of Terrorism and Counterterrorism

Dr. Latika M Pandey

VIOLATION OF HUMAN RIGHTS BY ACTS OF TERRORISM

The subject of terrorism is not new in society. It has been on the human rights agenda for some years. Terrorism has murdered innocent people, violated basic liberties, and diminished human dignity. The Charter of the United Nations and other international organizations prioritize values such as respect for human rights, the rule of law, rules governing armed conflict and civilian protection, tolerance among peoples and nations, and the people themselves.

Terrorism has far-reaching consequences, affecting all human rights. Terrorism has severely impacted people's rights to life, liberty, security, and dignity. The 9/11 atrocity violated everyone's basic human rights. Individual victims were denied the most basic human right: the right to live. The September 11 attacks adversely impacted human rights, including the right to liberty and security (Schorlemer 2003:269).

Terrorism generates an environment of dread. It uses violence and intimidation to influence ideology and politics, imposing its own model society. It prevents individuals from exercising their right to have a voice in life-changing choices. Terrorism undermines pluralism and democratic institutions by creating bad circumstances that inhibit the operation of the constitution and a country's democratic process. This inhibits free political, economic, social, and cultural development for countries and individuals (ibid).

Terrorism is unacceptable to those who value human life as a divine gift. Intimidating others via indiscriminate death or harm is unacceptable. Responding to terrorism with violence might exacerbate the problem.

Terrorist attacks have expanded the scope of violence. International rules and conventions, particularly established human rights standards, are under attack. Terrorist organizations defend their actions and motivations via social, political, and religious reasons. Terrorism is defined as indiscriminate violence against defenseless citizens for political or religious reasons. It cannot be justified legally, theologically, or morally.

Terrorism now undermines human rights in a variety of ways.

- Threatens human dignity and security, endangers innocent lives, creates a fearful atmosphere, and violates human rights.
- It is associated with transnational organized crime, drug trafficking, money laundering, and illegal transfers of nuclear, chemical, and biological materials, leading to serious crimes such as murder, extortion, kidnapping, assault, hostagetaking, and robbery.
- It has negative consequences for economic and social development, obstructs friendly relations among countries, and has a negatable impact.

VIOLATION OF HUMAN RIGHTS BY COUNTER TERRORISM MEASURES

Terrorism has a significant influence on basic human rights, hence states must implement effective counterterrorism measures. Counter-terrorism measures must protect human rights. The state's

Human Rights Challenges in the Context of Terrorism and Counterterrorism

Dr. Latika M Pandey

counter-terrorism actions have created a significant danger to human rights. Counter-terrorism measures impact fundamental rights such as the presumption of innocence, fair trial, freedom from torture, freedom of opinion, privacy, speech, and peaceful assembly. Counter-terrorism actions targeting certain ethnic or religious groups would violate human rights legislation (OHCHR, 2008:9).

Following the incidents, states focused on reevaluating their security measures. Law enforcement and intelligence organizations now have more authority to conduct interrogations and hold individuals. They have the authority to intercept private conversations and conduct searches of residences and personal belongings without following authorized procedures. They have reinforced border restrictions, limiting entry to their land.

According to Sykiotou (2011:204), some groups may face discrimination based on their race, ethnicity, or religion while registering and profiling. Following the 9/11 attacks, Muslims, Arabs, and Sikhs worldwide faced racial assaults based on their looks. Governments have used the war on terror to jail political opponents.

This study highlights present and developing human rights difficulties in the context of counter-terrorism efforts, rather than providing a comprehensive analysis.

1. The Right to Life
2. Challenges to the ban on torture
3. Transfer of people accused of terrorist activities.
3. Individual liberty and security
5. Non-discrimination principle
6. Due process and fair trial
4. 7. Prohibiting instigation to terrorism while promoting freedom of speech.
5. 8. Freedom of association.
6. 9. Understanding surveillance, data protection, and privacy rights.
7. 10. Economic, Social, and Cultural Rights

Multiple causes contribute to such infractions. Issues include a lack of transparency and accountability, as well as insufficient training and instruction for security officers on human rights compliance. The police lack scientific investigative skills, techniques, and knowledge for these cases. Extended tours of duty in competing cases under perilous situations, as well as a lack of authority in the legal system, contribute to high stress levels. The agenda-driven attacks on trading charges by human rights groups and security forces often ignore the perspectives of unbiased civil society members and victims of human rights violations. According to John and Ramana (2007:2), impartial civil society does not oppose the death of terrorists but is very concerned when innocent people are victims of terrorist activities or security forces' abuses.

The intelligentsia, media, and nonprofit organizations may contribute significantly to counter-terrorism efforts done by the state. They may boost public confidence against terrorists and serve as a liaison between the community and the state to battle terrorism efficiently. Training and educating security personnel, including police, paramilitaries, and the army, is crucial for ensuring human rights are respected and protected. Training and instruction should prioritize lower-level security officers, who often interact with the population during counter-terrorism operations (ibid).

Human Rights Challenges in the Context of Terrorism and Counterterrorism

Dr. Latika M Pandey

CHALLENGES TO HUMAN RIGHTS IN INDIA IN THE CONTEXT OF TERRORISM AND COUNTER TERRORISM

India is no stranger to terrorism. Terrorism has long plagued the country, particularly in the North-east, Punjab, and Jammu & Kashmir regions. Terrorism has expanded throughout the nation during the last decade. Prior to 9/11, terrorism was mostly limited to violence in Punjab and areas of Jammu and Kashmir. However, with the 9/11 incident, these crimes took on new dimensions. Terrorists deployed sleeper groups, rudimentary explosives, and numerous explosions in densely populated areas, resulting in innocent deaths. This highlights the brutality of the 'global jihad' in India.

The assaults on Parliament, Malegaon, Delhi, Ahmadabad, Surat, Mumbai local trains, Guwahati, and Mumbai in 2008 seem to follow a same pattern. Regional terrorist organizations represent a danger to India's human rights and integrity (Das, 2010:1).

The countermeasures used by the Central and State governments and security agencies have significantly infringed individuals' human rights.

The repression of free speech and assaults on citizens' dignity have reached worrisome dimensions. Many states, including Jammu and Kashmir, Manipur, Nagaland, and portions of Assam, are fighting for their right to self-determination. These areas have had a high number of arrests and interactions with individuals suspected of supporting terrorist organizations. The Armed Forces Special Powers Act of 1958, which allows for searches and arrests based only on suspicion, violates individuals' fundamental rights to life and liberty. The army has no system for public accountability and may prohibit access to information, even if it is in the national interest (Srivastava, 2011).

At times Efforts to combat terrorism often target certain segments of society. According to the country's intelligence and security apparatus, terror actions are no longer funded by foreign forces but are being carried out domestically. Some hardliners now support terrorist organizations. Having been charged in one terror case might lead to being connected to other instances, compromising the accused's basic human rights.

Governments are taking a firm fight against terrorism. The Indian Penal Code (IPC) often includes provisions on 'offences against the Indian state'. The legislation on sedition, Sec 124(A) of the IPC, is one of the most confusing provisions of the Indian Penal Code. It allows for long-term detention of suspected individuals even if they are not found guilty of the act. The police utilize it as a powerful weapon to quell opposition against government policies and activities throughout the nation. There are pros and cons to government policy in a democracy. National security laws, such as the Unlawful Activities Prevention Act of 2004 (replacing POTA and TADA) and state laws like the Chhattisgarh Special Public Security Act, Goonda Acts, and National Security Act, are widely applied. Some contend that these rules violate constitutional principles by criminalizing intent, admitting a statement to a senior police officer as evidence, and putting the burden of proof on the accused to establish their innocence. Local human rights advocates who support people's struggles are increasingly being arrested (ibid).

Recently, certain lower and high courts have given their consent to government measures that go

Human Rights Challenges in the Context of Terrorism and Counterterrorism

Dr. Latika M Pandey

beyond the boundaries set by the Supreme Court on the use of certain laws. The practice of holding individuals without charges and denying bail on spurious grounds is particularly worrisome. The National Human Rights Commission's state commissions are either defunct or co-opted, despite their supposed role in limiting governmental abuses.

CONCLUSION

Terrorism poses a significant danger to human rights and national development. This research suggests that violations of human rights are a primary cause of terrorism. To combat terrorism, it's important to address both military tactics and human rights violations globally. A definite civil reply is required. Furthermore, it demonstrates a worrying inclination to justify human rights crimes in the name of battling terrorism. Therefore, it should be pursued in accordance with international law and human rights. Nation states have a twin responsibility to ensure human security and advance international human rights. To fight terrorism, freedom, human rights, and security must all be prioritized. Basic human rights should not be compromised. When dealing with individuals accused of participation in terrorist attacks, governments must adhere to agreed-upon standards for protecting human rights.

***Department of Sociology
S.N.K.P. Govt. College
Neem ka Thana (Raj.)**

REFERENCE

1. Das, Atin k. (2010), "Combating Terrorism and Protection of Human Rights-Striving" [URL:http://www.lawyersclubindia.com/articles/COMBATING-TERRORISM-ANDPROTECTION-OF-HUMAN-RIGHTS-STRIVING-2689.asp#.VeAM2Pmqkko](http://www.lawyersclubindia.com/articles/COMBATING-TERRORISM-ANDPROTECTION-OF-HUMAN-RIGHTS-STRIVING-2689.asp#.VeAM2Pmqkko)
2. FIDH Report (2005), "Counter-Terrorism versus Human Rights: The Key to Compatibility" URL: www.fidh.org/IMG/pdf/counterterrorism429a.pdf
3. United States. International Council on Human Rights Policy (2008), "Talking about Terrorism – Risks and Choices for Human Rights Organizations"(ICHRP)URL:http://reliefweb.int/sites/reliefweb.int/files/resources/4B95642734BC4BAE4925746400202FBC-Full_Report.pdf
4. John Wilson and P.V.Ramana (2007), "Terrorism and Human Rights" ORF POLICY BRIEF (7). URL: www.observerindia.com/.../orfonline/.../policybrief/.../trs_11715472...
5. Karacasulu, Nilufer (2006), "Security and Globalization in the Context of International Terrorism" *Uluslararası Hukuk ve Politika Cilt 2*, (5) ss1-17. URL: www.usak.org.tr/.../a4KXI2vVPyjKRbugu6Cy1GAGlrXOM8.pdf

Human Rights Challenges in the Context of Terrorism and Counterterrorism

Dr. Latika M Pandey

6. Office for Democratic Institutions and Human Rights (2007) "Extradition and Human Rights in the Context of Counter-Terrorism" OSCE, URL: www.osce.org/odihr/24392
7. Office of the United Nations High Commissioner for Human Rights (OHCHR) (2008), "Human Rights Terrorism and Counter-Terrorism" Human Rights Fact series No. (32) URL: www.ohchr.org/Documents/publications/Factsheet32EN.pdf
8. Schorlemer, Sabine v. (2003), "Human Rights: Substantive and Institutional Implications of the War Against Terrorism" EJIL (14) URL: ejil.oxfordjournals.org/content/14/2/265.full.pdf.
9. Sykiotou, Athanassia P. (2011), "Terrorism and Human Rights" Cuadernos Constitucionales, No.62, URL: <file:///C:/Users/Sony/Downloads/DialnetTerrorismAndHumanRights-3684860.pdf>
10. Srivastava, Kavita (2011) "Human rights and civil liberties" Seminar 625 URL: www.indiaseminar.com/2011/625/625_kavita_srivastava.htm