

A comparison of terrorism and human rights Jammu and Kashmir as a Case Study

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ABSTRACT

In the latter few decades of the 20th century, the east-west battle came to an end and some type of collaboration amongst once-rivals emerged. This collaboration was made possible by governments' acceptance of regional and international institutions as effective conflict-resolution tools. However, there are ongoing hazards and threats, both old and new. Age-old conflicts of a national, ethnic, religious, and cultural nature that suppressed throughout the second cold war have begun to reemerge with the potential to destabilise the global strategic environment. The premise that the rising level of weaponry in the world, especially ABC3 weapons, may be utilised by non-state actors for their own purposes adds another layer of complexity.

In other words, the question of military security of a nation-state was given a back seat and other factors of insecurity, raging from environmental degradation, to extreme poverty, to diseases and epidemic, to drug trafficking, to political upheaval, to terrorism, to refugees and to suppression of human rights, took a front seat. Terrorism is a systematic use of coercive intimidation to achieve political ends. It is used to create a climate of fear among a „target group“ than in the immediate victims with the objective of publicizing a cause, and coerce a „target“ into accede to terrorist aims. Terrorism may be used on its own or as part of wider conventional war. It can be employed (a) by desperate and weak minority, (b) by the State as a tool of domestic or foreign policy, or (c) by belligerents as an additional weapon in all types and stage of warfare. In all these form one common feature is that innocent people who know nothing about the „terrorist cause“ are killed or injured. In fact, weapon of terror can be used for variety of causes and purposes and hence, it is quite wrong to regard terrorism as synonymous with violence in general. It is a „politico-strategic concept and therefore basic forms and contexts of terrorism are based on their underlying causes and political motivations.

KEYWORD: Political Science, Social Sciences, Social Sciences General, Defence Studies

INTRODUCTION

The concept of human rights on the other hand has also some variants, like „collective rights“ or „minority rights“ but, in democratic context it is define as universal fundamental rights inherent in individuals by virtue of their status as human being, such as the right to liberty, the right to justice, the right to freedom of opinion, speech and religion. These two concepts of terrorism and human rights have some features in common: both entered into political discourse roughly at the time of the French Revolution, both are contested concepts from the outset and both are value laden. In liberal democracy, „terrorism has become a „boo“ word, while „human rights“ is universal „hurrah“ word. To be „against“ human rights would be as bad as being opposed to motherhood. It is a fact that virtually all key security concepts like peace, insurgency, conflict, true democracy, strategic parity and military dictatorship are impregnated with values and hence search for a value-free language is difficult because all security concepts are subject to arguments about their definition and the contexts. Few may argue that there is an inherent human right to blow up or shoot your fellow human being or to hold them hostage or to terrorise them by other means, then terrorism is a fundamental threat to human rights. After all, what would be a more fundamental human right than the right to life itself? These two concepts of terrorism and human rights have some features in common: both entered into political discourse roughly at the time of the French Revolution, both are contested concepts from the outset and both are value laden. In liberal democracy, „terrorism has become a „boo“ word, while „human rights“ is universal „hurrah“ word. To be „against“ human rights would be as bad as being opposed to motherhood. It is a fact that virtually all key security concepts like peace, insurgency, conflict, true democracy, strategic parity and military dictatorship are impregnated with values and hence

search for a value-free language is difficult because all security concepts are subject to arguments about their definition and the contexts. Few may argue that there is an inherent human right to blow up or shoot your fellow human being or to hold them hostage or to terrorise them by other means, then terrorism is a fundamental threat to human rights. After all, what would be a more fundamental human right than the right to life itself? Pot, Milosevic and Saddam Hussein, North Korea, Liberia, Burma, Vietnam and Zimbabwe are just a few examples.

What can the international community do to this eradicate regime terror? The honest answer is that in a world of sovereign states without a global system of justice and human rights enforcement, nothing can be done except illegal use of violence. There are few exceptions, such as the Bosnia, Kosovo and East Timor where conflicts have come under control with the intervention of an international force under the UN mandate and where the intervention has lead to massive reduction in the level of violence and an increase in human security. Some wish to argue that sub-state terrorism has entirely different implications for human rights. They prefer to see all terrorists as freedom fighters, compelled to use terror because they are the underdogs in an asymmetric conflict with an oppressive system and have no other methods of resistance open to them but, with the exception of the brief period of anti-colonial struggles in Palestine, India, Cyprus, Algeria and Aden from the 1940s to 1960s, terrorism has never been successful in overthrowing authoritarian governments and dictatorships.

The inherent idea of the present work in dealing with terrorism and human rights is violence. Conceptually, violence is the expression of physical or verbal force against someone for compelling action against one's will. The word violence covers a broad spectrum. It can vary from between a physical altercation between two beings where a slight injury or war may be the outcome. It has been defined from various perspective but WHO's global report on violence (2002)¹ defines violence as –

“...the intentional use of physical force or power, threatened or actual against oneself, another person, or against a group or community that either in results in or has a high likelihood of resulting in injury, death psychological harm, mal-development or deprivation”.

Most generic definitions present violence as the use of physical force, which causes hurt to others in order to impose one's wishes.² Broader definitions, however, extend beyond physical violence to refer to psychological hurt, material deprivation and symbolic disadvantage.³ Most definitions recognize that violence involves the exercise of power that is invariably used to legitimize the use of force for specific gains.

Third is the importance of consulting local communities in designing appropriate solutions. Youth is not simply a (risky) path to adulthood, but that young people are agents in their own right, there are designed to address both individual “traits” of gang members as well as a range of structure problems, and include both informal support, such as family, friends and other community members, and formal institutions, such as security forces, NGOs and religious institutions that seeks to strengthen trust in the local police through participatory community-owned and spatially focused violence-prevention strategies. One of the most interesting aspects of “...people-driven crime prevention through place-mapping” is the realization it creates, that crime prevention is not only policing function but also require a partnership approach and that crime is not an unpredictable social phenomenon over which people have no control. However, this also challenge the police to engage with community members in unaccustomed ways, planning into their existing misgivings that they are required to be “...social workers as well as police” Across the world, relentless “routinized” daily violence dominates the life of local populations. The fear of such violence isolates the poor in their home and rich in their segregated places. This isolation, in turn, perpetuates a fear and contributes to the fragmentation of people, socially, economically and politically. To date, few violence-related strategies have confronted or addressed the issue of fear or its associated relationship to power and powerlessness.

Ultimately, however this may provide a critically important mechanism for redressing the impact of violence on the daily lives to the poor and excluded in cities throughout the world.

UNDERSTANDING TERROISM

Terrorism has been studied by most social science disciplines, intelligence agencies, militaries, law enforcement bodies, legislative, judicial systems and various other international governmental organizations with their own disciplinary frameworks, institutional perspectives and administrative requirements and have focused on different dimensions of the concept. It is therefore, a value-laden term¹ and suffers from a problem of perception. The word "terrorism" is politically and emotionally charged,³ and this greatly compounds the difficulty of providing a precise definition. Studies have found over 100 definitions of —terrorism⁴. The concept of terrorism may itself be controversial as it is often used by state authorities to delegitimize political or other opponents,⁵ and potentially legitimize the state's own use of armed force against opponents (such use of force may itself be described as "terror" by opponents of the state).⁶ A less politically and emotionally charged, and more easily definable, term is violent nonstate actor⁷ (though the semantic scope of this term includes not only "terrorists," while excluding some individuals or groups who have previously been described as "terrorists").

"Terror" comes from a Latin *terrere* meaning "to frighten".⁸ The terror *cimbricus* was a panic and state of emergency in Rome in response to the approach of warriors of the Cimbri tribe in 105 BC. The Jacobins cited this precedent when imposing a Reign of Terror during the French Revolution.⁹ After the Jacobins lost power, the word "terrorist" became a term of abuse. Although the Reign of Terror was imposed by a government, in modern times "terrorism" usually refers to the killing of innocent people¹⁰ by a private group in such a way as to create a media spectacle.¹¹ This meaning can be traced back to Sergey Nechayev, who described himself as a "terrorist".¹² Nechayev founded the Russian terrorist group "People's Retribution" in 1869.

The non-states actor use terrorism for many reasons – (a) It may be that 'value' sough is very important, (b) The cost of trying are low, (c) 'status' quo is not accepted, (d) Probably the success is high, (e) Out of mare desperation, (f) To cash the opportunities, (g)In immediate response to a perceived threat. The timing of actions is based on the calculation of – (a) The benefit or a value which is likely to be achieved, (b) The costs of an attempt and of its failure, (c) The consequences of inaction, (d) The probability of success This timing of attack known as 'strategy of surprise' is to compensate the weakness in numbers and in destructive capabilities. In fact, in any conflict adversaries 'intent to surprise' is taken for granted. But there are some strategic conditions which help in promoting this 'intent'. Some of these conditions include – (a) Defender's lack of preparation, (b) Intelligence failure, (c) Attack's perception of incentive and opportunities

Key criteria

Official definitions determine counter-terrorism policy, and are often developed to serve it. Most government definitions outline the following key criteria: target, objective, motive, perpetrator, and legitimacy or legality of the act. Terrorism is also often recognizable by a following statement from the perpetrators.

Violence - According to Walter Laqueur of the Center for Strategic and International Studies, "the only general characteristic of terrorism generally agreed upon is that terrorism involves violence and the threat of violence". However, the criterion of violence alone does not produce a useful definition, as it includes many acts not usually considered terrorism: war, riot, organized crime, or even a simple assault. Property destruction that does not endanger life is not usually considered a violent crime, but some have described property destruction by the Earth Liberation Front³³ and Animal Liberation Front³⁴ as violence and terrorism; see eco-terrorism.

Perpetrated for a political goal - Something that many acts of terrorism have in common is a political purpose.³⁸ Terrorism is a political tactic, like letter-writing or protesting, which is used by activists when they believe that no other means will effect the kind of change they desire. The

change is desired so badly that failure to achieve change is seen as a worse outcome than the deaths of civilians. This is often where the inter-relationship between terrorism and religion occurs. When a political struggle is integrated into the framework of a religious or "cosmic" struggle, such as over the control of an ancestral homeland or holy site such as Israel and Jerusalem, failing in the political goal (nationalism) becomes equated with spiritual failure, which, for the highly committed, is worse than their own death or the deaths of innocent civilians.⁴⁰ One definition that combines the key elements was developed at the George C. Marshall Center for European Security Studies by Carsten Bockstette:

—Terrorism is defined as political violence in an asymmetrical conflict that is designed to induce terror and psychic fear (sometimes indiscriminate) through the violent victimization and destruction of noncombatant targets (sometimes iconic symbols). Such acts are meant to send a message from an illicit clandestine organization. The purpose of terrorism is to exploit the media in order to achieve maximum attainable publicity as an amplifying force multiplier in order to influence the targeted audience(s) in order to reach short- and midterm political goals and/or desired long-term end states.

Human Rights Violations in Jammu & Kashmir

India's northernmost state, Jammu and Kashmir, lies in the Himalayas and borders Pakistan, Tibet, and China. The state comprises the administrative regions of Jammu, which lies in the plains below the Pir Panjal range, and has a population of approximately 4.39 million; Ladakh, bordering Tibet, with a population of 0.23 million; and the Kashmir valley between the Pir Panjal and Panjri ranges, with a population of 5.44 million.¹ Jammu and Kashmir is the only Muslim majority state in India. However, the state is divided roughly along religious lines. Ninety-five percent of the residents of the Kashmir valley are Muslim, the overwhelming majority of whom are Sunni, while 50 percent of the population of Ladakh is Buddhist and 46 percent is Muslim (most of the Muslims of Ladakh are Shia). Jammu has a very different religious make-up, with 66 percent of the population Hindu and most of the rest Muslim. The literacy rate is 54 percent, lower than the national average of 65 percent.

Human Rights Violations by Terrorists

From the earliest years of the conflict in Kashmir, terrorist organizations fighting for independence or accession to Pakistan have committed grave violations of international human rights and humanitarian law. The most egregious of these abuses have been the murders of hundreds of civilians.

Few Important Reported Incidents of Human Rights Violation

Extra-Judicial Executions and Reprisal Killings

The systematic, summary execution of suspected terrorists by regular Indian forces in Kashmir has been a hallmark of counterinsurgency operations in the conflict. After escalating sharply in 1992-93, when military authorities in Kashmir launched a "catch-and-kill" operation against the terrorists, these killings have only declined to the extent that some have been subcontracted to irregular statesponsored forces. There has been no change in policy about the practice. Army and BSF forces have continued to execute captured terrorist suspects routinely, in violation of international human rights and humanitarian law. In six and a half years of war, such executions and disappearances in Kashmir number well into the hundreds, if not higher. Most extrajudicial killings carried out by Indian security forces in Kashmir occur after "crackdowns"—cordon and search operations during which all the men of a neighborhood or village are called to assemble for an identification parade in front of hooded informers. Those whom the informers point out are taken away for torture and interrogation, and some are simply taken away and shot. Officials in Kashmir routinely claim that the detainee was killed in an "encounter" with the security forces, or was shot trying to escape. Human rights groups in Kashmir have documented hundreds of such killings. In its annual report covering events of 1995, the U.S. State Department stated

that "[H]uman rights groups consider credible reports that dozens of such killings occur every month." 59 Detainees have also disappeared in the custody of the security forces.

CONCLUSION

The commanding officer told us not to tell anyone what had happened. He said that in exchange, the army would not search houses in the area or conduct a crackdown in the area or arrest any young men. He said, "We are already involved in two cases of this kind. Please don't involve us in a third case." Despite this, the residents lodged a formal complaint with the local police. Afterwards, soldiers from the camp came around warning people not to talk about the incident. Interviews conducted by Human Rights Watch show that torture of detainees, in particular severe beatings during interrogations of suspected terrorists and their supporters, remains the norm. Kashmiris also complain of a form of punishment in which individuals are picked up for questioning and tortured in order to obtain information about a family member believed to be a terrorist. Terrorists who have surrendered said that they are treated with suspicion and often brutally interrogated. One former terrorist told Human Rights Watch that when he —disappeared for over a month in 2004 he had actually been in army custody, where he was blindfolded, tied up, and beaten while his interrogators asked him for information about his former comrades. Despite claims of a new campaign by the army to train members of the security forces in public relations, army, paramilitary and police behavior towards the public is usually aggressive, distrusting, and rude. —Slaps and kicks have become a form of greeting for the security forces, observed one villager in Kupwara district. Kashmiris are often arbitrarily and illegally detained. The Additional Advocate General told the Srinagar High Court recently that there were 4,500 suspected terrorists in jail, awaiting trial. Many of them, say human rights lawyers, have been in custody for ten or more years and some have never been produced in court. Without evidence to secure a conviction or to prevent them from being released on bail, they are often held under a draconian preventive detention law called the Jammu and Kashmir Public Safety Act (PSA). The PSA allows for detention without trial for up to two years to prevent an individual from —acting in any manner prejudicial to the security of the state or the maintenance of public order. The detention period is often renewed at the end of the two-year period by issuing a new PSA arrest warrant, meaning individuals spend years in detention without ever having the chance to appear before a court and contest the allegations against them. As part of the current state government's —healing touch policy and the ongoing peace talks between New Delhi and some of the separatist groups, dozens of alleged terrorists, including some who served more than two years under the PSA, have been released. The state government claims that of the nearly 1,200 held in detention when it came to power in November 2002, three years later only 376 alleged terrorists remain in custody under the PSA, including nearly two hundred foreigners, most of them Pakistani. Human rights defenders insist the number of those in custody is larger, but since no central record is maintained, it is impossible to independently verify the claims. One indication of the current scope of the problem is that 443 habeas corpus (—produce the body) petitions were filed to challenge detentions in 2005.

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