
Security, Terrorism, And Human Rights

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INTRODUCTION

The question of the security of nations and their citizens in the face of terrorism is at the top of the international security

agenda. The way countries, led by the United States following the September 11 attacks, have engaged in this struggle has had a negative impact on the defense and protection of human rights around the world.

Terrorist acts harm human rights on two levels. In the first place, because of the immediate victims themselves, whose right to life, safety, and freedom are affected. In the second place, they foster a struggle against terrorism, leading to a dynamic that impacts on the human rights of an in-

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creasing number of innocent civilians, and produces immeasurable collateral damage, along with the fact that those engaging in the fight against terrorism are frequently wholly unaware of the minimum obligations deriving from international human rights law.

FROM NATIONAL SECURITY TO THE SECURITY OF THE INDIVIDUAL

Correctly defining the term “security” is a complex task. It is the kind of concept that takes its meaning from the context in which it is being used, where different actors, interests, and ideologies interact. Indeed, the lack of consensus over the meaning of the concept, as much in academic spheres as among the leading players who use it every day, has led to a similar failure to reach consensus internationally over the meaning of “terrorism.”

Up until the end of the Cold War, security had been defined almost exclusively in military terms because it was linked to war between the two dominant powers: the United States and the Soviet Union. In this context, individual security took second place to the security of nations, with priority placed on collective security and the common good.

With the fall of the Berlin Wall, new theoretical notions of security entered the academic and political debate. The ap-

pearance of new security agendas, together with human rights issues, environmental protection, and economic development, reflected a fundamental change in the nation-state’s benchmark with regard to civil society and the set of basic national security (or sovereignty) values compared to the security of society or individuals.

Now threats to security are no longer solely military. They are the result of violent risk factors like terrorism, civil war, organized crime, drug trafficking, and the proliferation of weapons of mass destruction, all of which transcend purely military issues, as well as influencing economic, social, and political matters internally and externally. The subjectivity of the concept comes to the fore when nations are obliged to define the meaning of security for their own agendas, as it is this that will establish what counts as a threat to security and the actions undertaken to counter them, whether military, economic, social, or political.

This has a direct effect on human rights. If security is considered in military terms alone, as is the case in the United States with its war on terror, and in Mexico with its war on drug cartels, this leads to an exponential increase in arbitrary detentions, extra-judicial execution-style killings, cases of torture, or lack of due process,¹ a situation worsened by the deaths of innocent civilians, so-called “collateral damage.”

History tells us that purely military responses have had a negative impact on human rights. When security of the

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state is the objective of defending security, there is the risk that the governing class will define the interests to be defended to the detriment of the security of individuals.

THE TERRORIST PHENOMENON AND HUMAN RIGHTS

Terrorism is as old as injustice itself and has been a concern to the authorities of numerous regimes. The origin of the term lies in the state of terror imposed by Robespierre during the French Revolution after 1789; a common definition has been sought ever since.

Modern terrorism emerged during the second half of the twentieth century, especially in Europe where armed independence movements appeared including ETA (Euskadi Ta Askatasuna)² or the Irish Republican Army (IRA) in Ireland. Meanwhile, in Latin America, during the so-called dirty wars unleashed by various authoritarian regimes, some armed movements engaged in kidnappings, torture, and the assassination of public figures to achieve their ends. In the 1980s the FARC (Revolutionary Armed Forces of Colombia) emerged, making use of mass kidnappings and bombings in public places. In the Middle East, the conflict between Israel and Palestine exacerbated ideological extremism, which, together with the dominant nationalist and socialist ideologies that arose from the independence of several Arab countries, led to the emergence of armed groups that resorted to the kidnap and murder of political figures, especially foreigners, usually seen as enemies of Islam. With the withdrawal of Soviet troops in 1989, Afghanistan became the ideal place for the training of terrorist cells protected by the Taliban regime.

The September 2001 al-Qaeda terrorist attacks on U.S. targets radically changed the dynamics of world security. From that moment on, terrorism was identified as a threat to the survival of the state and to international order and security. The United States and its allies declared terrorism their highest security priority, once again placing the security of the

state above that of the individual, and out of this there emerged a new strategy, one that presented a great risk to the protection of human rights: preventive attacks.

According to this premise, the United States, rather than awaiting further terrorist attacks, launches preventive strikes anywhere around the globe, which have led to numerous civilian deaths. This is matched by the frequently arbitrary detention of civilians of all nationalities with no attention to due process.

Nowadays, specialized sources offer over 100 definitions of terrorism, all of which agree on one fundamental aspect: such actions are always aimed at spreading terror. For Sohr, terrorism is “a classic form of struggle of the weak against the strong and may be applied to organizations from across the political spectrum, states, criminals, and fanatics of all kinds. The terrorists’ objectives define the nature and scope of their action. This may be part of a war, an emancipation struggle, a repressive act, the work of criminals, or attacks carried out by unsound minds.”³ For the International Council on Human Rights, terrorist actions are those aimed at leading to the deliberate deaths of civilians (or taking hostages) with the aim of instilling terror among the general population and forcing political leaders to take a particular course of action.⁴

As mentioned, the international community has not reached agreement on a definition of terrorism, above all when it comes to defining the parameters of nations’ obligations in relation to international law. Where progress has been made is in identifying certain acts of violence as terrorist acts, including hostage taking, hijacking and destroying civilian aircraft, attacks on the life, physical integrity, or freedom of internationally-protected individuals, including diplomats, and, in the context of armed conflict, acts or threats of violence the principal aim of which is to instill terror in the civilian population.⁵

From the viewpoint of human rights, treatment of alleged terrorists should be in strict accordance with legal norms and those of international human rights law. However, throughout its history the U.S. government has switched between periods of defending human rights and others of hostility toward them. The torture and arbitrary detention of Afghans and Iraqis in the prisons of Guantánamo and Abu Ghraib by U.S. troops make clear how the struggle against terrorism escaped international human rights controls.

Responding to terrorism with vengeance provokes an endless spiral of violence. In the name of the struggle against terrorism and of international security, the countries at the van-

guard, most of which are democratic, are committing acts of aggression that violate basic freedoms and fundamental rights. The lack of clarity in the definition of terrorism, especially when it becomes a strategic issue at the top of the security agenda, can lead to grave errors when it comes to dealing with it. This is something that has not only affected the United States, but impacted the security agendas of a number of countries.

THE INTERNATIONAL SYSTEM OF HUMAN RIGHTS PROTECTION AS A CONTROL IN THE WAR AGAINST TERRORISM

The tragedy, pain, and suffering caused by World War II led the international community to create an international system of human rights protection.⁶ Human rights treaties principally function to establish the rights of individuals and the obligations of nations, all of which are valid in the international sphere, where the former may be protected and the latter supervised. This corresponds to the notion that the international community has understood the fundamental importance for the peace and security of all of establishing a world order based on the agreement that all human beings are equal in dignity and in rights.⁷

On September 11, 2001, the same day as the terrorist attacks, the Inter-American Democratic Charter was signed in Peru, the purpose of which is to foster solidarity among the hemisphere's countries when democracy seems threatened. The September 11 acts, followed by the March 11, 2004, bombings in Madrid and the July 7, 2005, attacks in London demonstrated with increasing urgency the need to close ranks against terrorism; however, it cannot be forgotten that this struggle can only take place in a context of respect for human rights. Unrestricted respect for human rights, or for rights not legitimately suspended in a state of emergency, must play a fundamental role in any anti-terrorism strategy.⁸

International human rights law obliges states to adopt measures to avoid acts of terrorism and violence, but also to engage in the necessary actions to safeguard the security of their populations, which includes the obligation to investigate, try, and punish acts of violence and terrorism. Furthermore, nations are bound to adopt anti-terrorism measures that comply with their international obligations under international human rights law and humanitarian law.⁹

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However, despite international efforts to fulfill the premises of international human rights law, empirical evidence tells us that the reality is very different. Since September 2001, many governments have developed legislation that contradicts international human rights standards, principally infringing on the aforementioned right to due process and protection of those accused of carrying out terrorist offences.

CONCLUSION

When human rights are violated and the rule of law is threatened, the likelihood is greater that anti-terrorism measures will be less effective, meaning it is not appropriate to ignore these norms when confronting terrorism.

The lessons of the war on this phenomenon, as spearheaded by the United States, tell us that it is not enough to engage in military-style measures, nor is it correct to create legislation that impacts negatively on human rights. Such actions have done little to protect citizens from terrorist actions, while the causes that lead to such actions go untreated. For this reason, it is important to implement international policies that attack these movements at their root; that is, the great inequalities and problems of the world, placing the individual and not the security of the state at the center.

The international system of human rights protection faces great challenges in the near future. In the context of the so-called "war on terror," the international community can make new inroads in discussing instruments of international humanitarian law relating to conflicts between states and non-state agents. There should also be discussion of the permissibility or otherwise of so-called preventive military strikes as a defense against perceived terrorist threats, which over the last decade have attacked the right to life of the civilian population of countries presumed to support terrorist activities.

The struggle against terrorism should not be seen as a war in Clausewitz's sense of two nation-states confronting each

other in defined territories and with established armies and military strategies, but should instead do away with weapons and the armed forces and grant greater importance to the faculty of reason that characterizes us as human beings.

This would be a reaffirmation of the democratic rule of law. The best anti-terrorist weapons are the preservation of freedom and security, respect for human rights, and the quest for peace. **MM**

FURTHER READING

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NOTES

¹ *Due process* is a keystone in the protection of human rights; it is the guarantee and indispensable requirement *par excellence* for the existence of the democratic rule of law. This right is embodied in the principal international human rights instruments. The general principles of due process cannot be suspended as a result of declaring a state of emergency. Its

main characteristics include the presumption of innocence, the right to be informed of the crimes one is accused of, to be judged by a competent court, to be detained in duly-recognized detention centers, to be granted suitable means to defend oneself, to be assisted by a defense attorney, not to be compelled to testify against oneself, not to be tortured, and for the legal process to be public.

² An expression in the Euskera language meaning "Basque Country and Freedom." This organization was established in the Basque Country in 1958 in opposition to the Franco regime. [Editor's Note].

³ Raúl Sohr Biss, *Claves para entender la guerra* (Santiago de Chile: Mondadori, 2003), p. 171.

⁴ International Council on Human Rights, "Talking about Terrorism. Risks and Choices for Human Rights Organisations," 2008, http://www.ichrp.org/files/reports/35/129_report_en.pdf.

⁵ Inter-American Commission on Human Rights, "Report on Terrorism and Human Rights," 2002, paragraph 15, www.cidh.oas.org/Terrorism/Eng/toc.htm.

⁶ See Rodrigo Uprimny, "Una introducción al derecho internacional de los derechos humanos y a su sistema de fuentes," *Sistemas internacionales de protección de los derechos humanos* (Bogotá: Universidad Nacional de Colombia, 2006), p. 34.

⁷ Cecilia Medina Quiroga, "Las obligaciones de los Estados bajo la Convención Americana de Derechos Humanos," *La Corte Interamericana de Derechos Humanos, un cuarto de siglo: 1979-2004, San José Costa Rica 2005*, <http://www.corteidh.or.cr/libros.cfm>, p. 209.

⁸ Inter-American Commission on Human Rights, op. cit., paragraph 5.

⁹ *Ibid.*, paragraph 33.
