

HUMAN RIGHTS AND INSURGENCY: A CONCEPTUAL APPROACH

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ABSTRACT

Human Rights and basic freedoms are named after the dignity of the human being, who is the core topic of these rights and freedoms. In simple terms, anything that contributes to a human being's freedom of life is considered human right evolution, albeit the notion took a long time to crystallise. As our civilization advances, the scope of Human Rights expands day by day, and individuals all over the world are allowed to exercise their essential freedoms and live in dignity.

The research on Human Rights and Insurgency in Northeast India is a pioneering attempt in analysing the relationship between development phenomena in several dimensions. Insurgency may also be considered as a disease of the state or as a prominent example of law and order collapse and a threat to legitimate centralised political power.

The unmet ambitions of individuals with different socio-cultural identities are the root of insurgency. As a result, the source of insurgency is unmet political demands that the agitators regard as legitimate. Insurgents are frequently prone to committing large-scale human rights crimes in the pursuit of their insurrection. In reaction to these abuses, the government has described the insurgency as a terror and intimidation campaign against the civilian population.

Key Words: Insurgency, Sengkrak, Terrorism, Tribal, Indigenous

I. INTRODUCTION

Human Rights are international norms that help to protect all people everywhere from severe political, legal, and social abuses. The philosophy of human rights addresses questions about the existence, content, nature, universality, justification, and legal status of human rights. Human Rights may exist as a norm of national and international law created by enactment and judicial decisions. Human rights may also exist outside of legal frameworks, as part of true human moralities. Therefore, human rights represent a critical and constructive element in the search for an effective response to the multi-dimensional challenges of state fragility, and for the protection of the common people from the clutches of both the states and the non-states violation of one's life.

The word 'insurgency' means an 'insurrection' against an existing regime by a section of an aggrieved groups. Insurgents are defined as "rebels," "resistance," "detachments," or "participants in a civil war" or "national liberation war" who control territory in their country and fight for their people's self-determination against colonialists, dictatorial fascists, and other anti-democratic regimes, and have been recognised as "insurgents" by other subjects of international law. Insurgency has also been characterised as a conflict between non-state organisations and governing authorities in which the former actively uses political or other resources and means of violence to gain legitimacy for some component of a system it views illegitimate. Hence, insurgency may break out against a particular regime, structures, policies or biases of a regime. In all such possible cases, the prime objective of insurgents would be to capture power and replace the ruling regime or to change the legitimate system.

The nature of an insurgency may influence the readiness of insurgents to commit human rights crimes. However, this "willingness" to violate human rights may influence the chances of discussions between the state and the insurgents, as well as the likelihood of achieving a specific deal. The majority of rebel organisations do not proclaim a goal to overthrow the government. Most insurgent groups do not express a desire to topple the government against which they are fighting. Insurgents frequently desire a degree of autonomy, independence, or an end to discrimination and repression. An insurgency leadership may be willing to enter negotiations, and perhaps willing to accept mediation, but in the face of expressed government accusations of 'insurgency' behavior on the part of the insurgency, any mediator may not be able to overcome the government's reluctance to begin any peace discussions.

The works of Human Rights in such situation becomes inherently conflictual. It becomes much more difficult in cases when there are severe risks to internal security, such as insurgency, which, in addition to endangering people's lives and property, aims to undermine the state's authority, subvert democratic institutions, and destroy its essential principles. Support and cooperation of the local population is a key component of an effective strategy against insurgency.

III. INSURGENCY IN NORTHEAST INDIA

There are some major factors that have promoted insurgency in the Northeastern parts of India viz., geographical isolation and cultural alienation, immigration, economic underdevelopment, the negligence of the central government, and corruption among local politicians and elites. Because of the extent and complexity of the danger posed, the insurgency in the North East has mostly been under the control of the military forces, notably the army. The armed forces while tackling the situation posed by the insurgency may sometime violate human rights regulation. Such situation like violating human rights also creates a complicity in the region where the armed forces are based. Thus, both insurgent and state terrorism are phenomenally increasing in the northeastern parts of India. The versions and standpoints on violation of human rights are highly polarized. The two parties (the insurgency and the state) blame each other for such violations. Heavy casualties on human and material life happen almost on a daily basis. Terrorism let loose by the insurgency and the armed forces has also exposed serious democratic deficit leading to denial of human rights in this region.

A basic requirement of Human Rights in dealing with the insurgency is conceptual clarity about the nature and magnitude of the problem and its role in solving it. Infact insurgency is entirely different from any other form of violent criminal activity. Behind every insurgency action is a cause, a political goal or some other reasons, which could not be achieved/ articulated through conventional methods of protest and agitation. Insurgency may also emerge as a product of despair resulting from the inability of its propagators to launch and sustain a mass movement for achieving their political or personal objectives. Insurgency has its roots in sorrow and dissatisfaction stemming from ignored issues that they raise to the public's attention through symbolic acts of violence, which are almost always intended against innocent people. The North East continues to simmer with the violent activities of a number of insurgent groups motivated and guided for some political or personal gains. The Northeastern states are confronting insurgent movements rooted in ethnicity and sub-nationalism. Every insurgency movement has a distinct identity molded by its geo-political and socio-economic context. Insurgency, therefore originated from the misgovernance of the state, which are reflected in the unresponsiveness of the administration to the demands and grievances of the people and the inaction of the state establishment.

Therefore, insurgency is an organized armed struggle, somewhat to capture the state power. Their aim is therefore to control the population by subverting its loyalty to established authority, i.e. the state. This is achieved through intelligent propaganda to mobilize popular support for their cause alongside terror-inspiring violence designed to demonstrate the inability of the government to provide security to its citizens. On the other side, a frustrating scenario typified by a lack of popular support and the security forces' comparative supremacy encourages insurgency to devolve into terrorist acts of senseless and indiscriminate violence.

Insurgency is a complex phenomena imbued with political, social, economic and psychological factors. These problems necessitate a comprehensive approach based on well-coordinated plans that include administrative, judicial, military, and diplomatic responses. We would lose our perspective on the fundamental difficulties if we saw them just as law and order issues. It becomes necessary for the Human Rights to read and heed the signs, which should intervene effectively at the preparatory stages and prevent the growth of the insurgency movement. This can only be accomplished by enforcing the law with zeal and impartiality as soon as any indication of a growing problem is observed. The country's internal security situation is bad enough to demand a rethinking of the government's policies, tactics, and tools for dealing with these problems. Though the dependence on the armed forces in combating insurgency cannot be denied but the Human Rights must play a major and vital role in de-escalating the values of the loss of numerous valuable innocent lives. It may be noted that deployment of the army clothed with special powers of surveillance, arrest, search and seizure while bringing about impressive gains in material terms had made no headway in winning the support and cooperation of the local people in regards to the battle with insurgency.

In serious situations of internal security, a comprehensive system of coordination has to be worked out at the directional level. The search and cordon operations that are likely to hurt the susceptibility of the local population and cause harassment to law-abiding citizens should never be exclusively left to the armed forces. Besides ensuring an efficient utilization of available manpower that would minimize complaints by the common public about excesses human rights violation committed by the armed forces. Fighting insurgency in a different aspects and controlling the violence does not necessarily mean the end of these problems. Armed forces action can, at best, only contain them and create conditions for a certain mutual settlement. This would be conceivable if insurgencies were properly deprived of money and support, kept on the run under continual threat of assault, and forced to recognise that violence is not a viable option. While harassment of the general populace cannot be completely avoided in every anti-terrorist operation conducted in a populated region, the level of collateral damage may be significantly reduced by thorough reaction planning and management. The armed forces should strive to defuse insurgency instead of pursuing the unrealistic ambition of eliminating it.

III. INSURGENCY IN TRIPURA

Tripura is a small and beautiful state, which lies in the Northeastern part of India. It has an area of 10,486 sq.km. The total population of Tripura is 31,99,203 (2001 Census) i.e. 8.18% of the entire Northeastern states. There are 19 scheduled tribes in Tripura, namely the Tipras, Reangs (Bru), Jamatias, Noatias, Lushais, Uchois, Mogs, Kukis, Chakmas, Khasis, Garos, Halams, Bhutias, Bhils, Mundas, Orangs, Lepchas, Santhals and Chaimals.

The tribals in Tripura who once constituted the majority of the population were reduced to a minority position by the successive waves of migration of non-tribals especially after India's Independence. Tripura was a Union Territory until 1st July' 1963 and attained the status of a full-fledged state only on the 21st January' 1972. After India's Independence the problem of refugees from East Pakistan had a great impact in the history of Tripura. Since the 1970s the major problems of the ethnic tribal was regarding the influx of refugee's aftermath the 1971 Indo-Pak war. The unabated process of immigration completely changed the demographic structure of Tripura. In fact, flow of illegal migration has seriously affected all aspects of life of the indigenous people of Tripura. This trend has totally endangered the tribal's identity and their existence that reflect the core issue behind ethnic tension and growth of insurgency in Tripura. The first organized-armed tribal movement 'Sengkrak' originated in 1949. Subsequently, Bijoy Kumar Hrangkhawl founded the Tripura National Volunteers (TNV) in 1979. Tripura National Volunteers (TNV) continued its activities till the signing of a tripartite agreement on August 12, 1988, paving the way for the surrender of its cadres. Another militant outfit, the All Tripura People's Liberation Organization (ATPLO) remained active between 1980-1983. The National Liberation Front of Tripura (NLFT) was founded in March 1989 by certain disgruntled Tripura National Volunteers (TNV) cadres led by Dhananjoy Reang. Since then, the NLFT has gone through various splits. One of the two active organisations in Tripura is the NLFT's leading faction, led by Biswamohan Debbarma. The Ranjit Debbarma-led All Tripura Tiger Force (ATTF), founded in July 1990, is the second organisation, in addition to the NLFT, which has consistently refused to be lured into any peace settlement with the government. The violent phase of insurgent activities in Tripura caused concern to all. The nature of human rights breaches has changed dramatically as a result of these advances. Over the course, violations escalated in severity and scale, and shifted focus from the repression of beliefs to an assault on identities – especially targeted on language, religion and ethnicity. Violations were more common in contexts of social, structural, and environmental collapse, rather than as a strategy aimed at political hegemony or institutional control.

The Human Rights plays a crucial role in deciding the state response and strategy for its execution. Regrettably, the state's response is always found to favour the conventional approach of broad repression. When political activities are prohibited, moderate individuals in the opposition are targeted, common people's rights and freedoms are reduced, and the entire populace is made to feel the severity of the counter-insurgency tactics. Insurgencies use this as a tactical win, enlisting the support of the media and human rights organisations to generate hatred and alienate the public.

IV. HUMAN RIGHT AND INSURGENCY

All laws relating to internal security are of necessity restrictive of human rights. In situations of insurgency that threaten the very rule of law, the rights of the individual are curtailed in the over-all interest of the society. Though some restrictions in such situations are legally justified, and some inconvenience to the general public cannot be avoided, a violation of human rights, such as fake encounters, torture in custody, unexplained disappearances, mysterious discoveries of dead bodies, and so on, can never be justified because the perpetrators have forfeited their human rights, including the right to life, by the very nature of their actions.

The National Security Act, 1980 providing for preventive detention upto two years is a powerful weapon available to the armed forces to deal with the violators of public order. Because of the deficiencies of the criminal justice system and the criminalization of politics, the powers conferred by this act are increasingly being misused by using them against ordinary offenders who are difficult to prosecute under regular laws. The act's constitutional validity even during peacetime has been described by some sections as an anachronism. Because such measures fail to pass the judicial standard, they lose their deterrent effect, as well as being a handy target for human rights organisations.

The Vienna Declaration passed after the World Conference on Human Rights in June 1993 has, by recognizing terrorism as the greatest violator of human rights and emphasizing the observance of human rights in a 'just and balanced' manner, placed the issue in the right perspective. Though attempts by human rights activists to stretch the problem to ludicrous lengths must be resisted, the security establishment is obligated to investigate every accusation of human rights violations and determine the severity of each case's punishment. Transparency in the conduct of such inquiries and the wide publicity of their outcome would help the security establishment in gaining credibility with the public.

The practise of security forces detaining caught terrorists for the purpose of questioning, in violation of the Armed Forces (Special Powers) Act of 1958, must be opposed. After securing a standard police remand, the armed forces should develop a mechanism of cooperative questioning of arrested people. Unchecked questioning by security services personnel who are unskilled and inexperienced is a primary source of detention fatalities, which are then 'regularized' by staging incidents. Human Rights Watch has called the legislation a "instrument of governmental abuse, tyranny, and discrimination."

The role of media in situations of insurgency is far more important and sensitive than its peacetime function of informing, educating and entertaining the public. The modern insurgency is the creation of the mass media, in the sense that the sensational and dramatic reporting of his acts has the effect of glorifying violence and according prestige and status disproportionate to his actual power. Unfortunately, most journalists often accept them on their own evaluation and project them as freedom fighters or social reformers. While showing tolerance for detached appraisal and criticism of its actions, the state/authority must help media realize its social responsibility and demand a fair, balanced and dispassionate reporting of insurgency incidents. Journalists should be pushed to develop their own code of conduct to which they must conform, rather than placing limits on their reporting. The state/authority should not hesitate taking legal action against inflammatory and subversive reporting to curb the dangerous tendency.

It is unfortunate that human rights, the cornerstone of the rule of law, have sometime become controversial in the context of insurgency. The respect for human rights is being interpreted by many as a lack of sympathy for the victims and softness towards perpetrators of violence. An important aim in this study is to ascertain if this activity is what governments most often label "terrorism." The government is expected to engage with the category of insurgency which is most likely to commit human rights violations against its "own" population. Such a government could insist that this category of insurgency could not possibly have the allegiance of the population for which the rebels claim to be fighting. As a result, the government would have a reason to reject a mediated agreement with a party that represents no one but itself. Thus, the desired final outcome may be an offer from outside to mediate insurgent conflicts that are accepted by governments. But, conflicts with insurgencies having committed Human Rights violations will likely be less receptive to mediation with the government. The qualitative features of the insurgency's acts of targeted violence; whether those acts were perpetrated endemic, substantial, or only intermittent, against non-combatants.

V. CONCLUSION

A proposition investigated in this paper is that insurgency character helps to determine whether mediation of the domestic conflict in which the insurgency is engaged, will be tendered, and will help determine whether the offer of mediation will be accepted not only by the insurgency, but also by the government side in the conflict.

A strong normative framework emphasising values of equality, non-discrimination, and concern for the most vulnerable, as well as a social justice agenda, are central to the Human Rights approach. It would introduce new ways of looking at poverty as a result of systemic discrimination, a lack of political voice, and institutional failures to defend human rights, particularly insufficient protection for civil and political rights. It also adds additional aspects to the examination of economic and social policy in the context of human rights objectives in the pursuit of social justice.

Building more capable, able to respond, productive, and non-corrupt governments, trying to deal with failed states, increasing economic productivity (to pay for the protections and services that human rights require), improving the power and status of women, improving education, and managing international tensions and conflicts are all difficult goals to achieve. Realizing universal human rights will take centuries, not decades.

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