

# National Security or Human Rights: A Paradox

“Intense Clashes Erupt in Downtown Srinagar” reads one of the headlines of the newspaper. There has been a long-standing rivalry between human right activists and the state, not only in India but around the globe. Recently Indian Army presented the award to Major Leetul Gogoi, for showing courage in counter-insurgency ops. CoAS presented him with the Commendation Card. The other side of the story is different altogether. Civilians in the region say that Major Gogoi picked up this man while he was coming back after voting in the elections and the officers firstly beat him and then tied him to the bonnet of the jeep and used him as a human shield.

I feel this might be the right time to address such issues. But before moving on I would like to tell you all, that there might be some conclusions with which you might not agree. Also, being a naive writer I don't want this text to be taken authoritatively rather it is just an opinion based article.

Moving on further, as we examine the aforementioned title we find ourselves in a very uneasy situation. As we know that the national security is necessary to protect human rights and to protect human rights of a certain group or for national security, it is inevitable that the forces that are deployed for their task have to violate human rights of certain groups or sect. The same kind of incident happened when Major Gogoi used one Kashmiri as a human shield to save the election party and his team from the stone pelters in the region.

Human right observers and organizations put forward a view which says that the Founding Fathers understood the temptation on the part of governments to give and remove human rights arbitrarily because they had experienced such things before during the era of colonization. They further recognized that although British Common Law customarily acknowledged various human rights, it was essential to name, codify, and write them down to make it less likely that they could be taken away. Hence they have been codified under Part III of our Constitution and are termed as fundamental rights.

Moreover, human rights are profoundly local they reside in individuals. According to humans rights theory, if someone is human, he or she has the same rights as every other human. The codification of human rights and the widespread

acknowledgment of this is one of the things that makes the modern world modern. To roll back human rights, even for some individuals, is to return to a more primitive, hierarchical, and is not permitted under the theory of human relations. While in our case especially in India this idea is a bit controversial, when we see this in contrast to other countries. As to point out a few examples I would certainly like to quote communal violence, lynching, sexual harassment, rapes etc. happening across the country even after having multiple statutes governing the issues.

Per contra, when we talk about national security, it is rather a vague idea or how state perceives it to be as a term having broadest ambit. And as a young republic, we have seen governments fiddling with our rights. The two words which empower and gives the power to do so are 1) Public Interest 2) Reasonable Restrictions. Now when we move forward to elaborate on these two words we see that there is no straight jacket formula to understand the meaning or the mandate of these two important phrases. We have seen during the Indira Gandhi's reign that during emergency all of our rights were curtailed.

Furthermore, In absence of any straight jacket definition of this not so realistic concept (as claimed by people who favor the other side) state along with the forces has been exploiting the loopholes since inception. Though as far as sovereignty is concerned, it is of utmost importance to the nation state and to protect the sovereignty the state has to take stern measures to protect itself. Now many will say that sovereignty in itself is an archaic concept developed by a particular group. But when we see and talk about the pillars upon which concept of sovereignty stands we find one of the pillars to be the social contract theory. Now social contract theory is further driven by masses, not by minorities and thus we need to protect the interest of the masses.

As mentioned earlier some incidents are inevitable so are the biases. Now when we look at this issue from a neutral point of view it can be said that while protecting the masses there are chances that a bit of harm may be caused to minorities. Now I will move your attention towards the rule of bias, which is a part of well-settled principle i.e. Principle of Natural Justice. Rule of Bias, when talked, has an exception of a necessary bias which comes to play when any sort of proceeding takes place against the army officers who are accused of such human right violation and it will remain there as long as the system is working and nothing can be done to it. Furthermore, we also need to see the ground realities which the forces are facing while protecting the sovereignty of the nation, the unwelcoming

attitude of the locals and other circumstances governing their behavior.

Army in any situation is the last resort for any situation and it is the bitter truth that once you are calling in the last card of the deck, It means one is really desperate to get out of the situation and when this kind of desperation is there I believe, everything seems to be legit. It is also an established fact that casualties will be there during the war and be crying foul about it is no bravery. So well in the end after thinking about it, in my personal opinion, to protect human rights you need to first have a tight security and to maintain that security some people have to make the sacrifice and the cycle goes on so both are interdependent on one and other and can't sustain independently .



