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Counterterrorism vs. human rights in Pakistan: A critical ICCPR-based evaluation of the anti-terrorism act and its implementation

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Abstract

The paper will analyze the legal framework of counterterrorism in Pakistan against the international standards of human rights, as well as the major laws related to this matter, including the Anti-Terrorism Act 1997 and its further amendments. Even though Pakistan is grappling with major security issues within its borders, the counterterrorism practices have cast grave doubts on the issue of due process, arbitrary detention, and the application of military courts. The paper critically evaluates the compatibility of these laws with the international documents, i.e., the International Covenant on Civil and Political Rights (ICCPR), on which Pakistan is a signatory. Special consideration is paid to the right to fair trial, anti-torture, and freedom of speech. This paper will argue that even though the national security issues are justified, they have to be weighed against the main human rights requirements. It concludes that extensive reforms are required to make sure that the counterterrorism regime in Pakistan adheres to standards of international law and fosters effective security and the rule of law.

Keywords: challenges, historical context, laws, opportunities, theoretical context

Introduction

When you juxtapose the counterterrorism legislation of Pakistan and the international human rights standards, you end up with a rather messy conflict between national security and basic liberties (Khan, 2022). The legal aspect of countering terrorism in Pakistan has also developed over an extended period, with various legislations such as the Anti-terrorism Act (ATA) included in 1997 and the current National Action Plan (NAP) included in 2014, which reflects a great deal of concern in eliminating extremism (Bilal et al., 2022). Nonetheless, these measures often present issues in terms of human rights, especially in terms of due process, arbitrary detention, and freedom of speech (Sherwani & Zia, 2023). According to researchers, although these laws have enhanced the security machinery of the states, they have placed the rights of individuals on the margins and weakened the position of the courts (Miebaka & Zia, 2023).

The United Nations and other international organizations are demanding a more balanced approach and insist that counterterrorism efforts must conform to human-rights standards (Jawad, 2022). International comparative studies indicate that international documents, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), espouse proportionality and accountability in anti-terror laws (Baig et al., 2024). However, in Pakistan, the counterterrorism systems tend to be insufficiently protective against abuse and lack transparency, which is an area of inconsistency between domestic practice and international standards (Hussain & Bhatti, 2024).

Moreover, other components like cyber-terrorism emerge, where digital laws in Pakistan also grapple with international benchmarks of privacy and human rights (Uddin et al., 2023). Hence, comparative analysis highlights the necessity of reworking the Pakistani

counterterrorism system to enable national security to find equilibrium with international human rights requirements (Faisal et al., 2024).

Research Justification

Since terrorism continues to pose a threat to Pakistan, the government has been enacting stringent counterterrorism legislation to ensure that the country remains secure. However, the Anti-Terrorism Act 1997 and subsequent amendments have come under criticism because they violate fundamental human rights and go against the obligation of Pakistan as a signatory to international documents such as the ICCPR. We must urgently consider whether the counterterrorism law in Pakistan is meeting the international human-rights principles that we are generally accustomed to, i.e., allowing a fair trial, due process, anti-torture, and freedom of expression. It is planned to align domestic legislation with the international standards, where they coincide or contradict each other, and indicate where revisions are necessary. It is a timely project, given that Pakistan is still negotiating with organizations such as the UN; thus, the project is well-timed.

A just legal system does not imply that the fight against terrorism is effective, but it also preserves the principles of democracy and the rule of law. The paper will add to the legal literature, also make the policy makers aware of the flaws, and recommend effective national security policies that will truly advance human rights, so that civil liberties will not be sacrificed to the rights of safety.

Research Objectives

1. To discuss the historical context of counterterrorism vs. human rights in Pakistan.
2. To analyze Pakistan's counterterrorism laws with international human rights standards.
3. To identify the key challenges regarding counterterrorism vs. human rights in Pakistan.
4. To explore the opportunities for counterterrorism vs. human rights in Pakistan.
5. To propose effective prevention and intervention strategies.

Research Methodology

This study employed a systematic review methodology, with research objectives established accordingly. A comprehensive literature review was conducted (Komba & Lwoga, 2020). Research findings were categorized based on their content (Hiver et al., 2021; Petticrew & Roberts, 2006), and classified information was incorporated into the study by organizing it into headings (Gan et al., 2021; Pawson et al., 2005). The evaluation of classified information and titles formed the basis of the study (Page, 2021; Rahi, 2017), ensuring the integrity of the research subject and its contents (Egger et al., 2022; Victor, 2008). The criteria for selection are listed.

1. **Relevance:** Research that directly addressed the questions posed by this study is included.
2. **Quality:** Studies that meet a certain quality threshold (e.g., methodological rigour, bias risk) are included. Most of the research is from Scopus-indexed and Clarivate Analytics journals and reputed publishers.
3. **Recency:** Consideration of the publication date to ensure that the review reflects the most current evidence. Most of the studies are from the last three years.
4. **Language:** Only studies published in English are included.
5. **Data Completeness:** Previous studies must provide sufficient data on outcomes of interest for practical synthesis; this is also ensured in this research.

This study did not use primary data from human participants; therefore, no ethics clearance letter from the ethics committee was required.

Literature Review

The research on the counterterrorist framework in Pakistan reveals that it remains a tug-of-war between national security and international human-rights obligations (Miebaka & Zia, 2023). The majority of researchers add that the laws on anti-terrorism were established in Pakistan to combat the tangible threat of terror, particularly in the wake of militancy in the early 2000s (Sherwani & Zia, 2023). However, many of those laws tend to be biased towards state authority and its enforcement, rather than protecting civil and political rights (Faisal et al., 2024). Unnecessary arrests, detentions, and limitations of the freedom of speech are objective questions on whether or not Pakistan complies with international human-rights principles. To that end, the lack of clarity regarding what terrorism entails and ineffective judicial checks and balances have led to a situation where we are already seeing the possibilities of human-rights abuses in the counter-terror regime (Jawad, 2022).

Comparatively, the international human-rights regulations pull towards a trade-off of freedom of the individual and the safety of the nation (Baig et al., 2024). As can be seen under the Universal Declaration of Human Rights and related treaties, anti-terror actions are obliged to be undertaken within the framework of the rule of law, due process, and proportionality (Hussain & Bhatti, 2024). The comparative analysis of Pakistan and other democratic countries suggests that they integrate the aspects of judicial accountability, transparency, and human-rights safeguarding in their counter-terror laws to avoid the misuse of power (Uddin et al., 2023).

Other research also indicates that institutional disparity, political turmoil, and a deficiency in human rights training are key challenges facing the alignment of the laws in the country with international standards. Cyberterrorism and surveillance are a few of the new challenges that add a new twist to the privacy-security debate (Khan, 2022). Generally speaking, the school of thought claims that Pakistan needs to undergo massive reforms to guarantee that national security goals do not supersede fundamental rights. The necessity to have an independent judiciary and adherence to international norms is critical to a rights-based approach towards achieving a realistic counter-terror and human dignity balance (Lowe, 2022).

Historical Context of Counterterrorism vs. Human Rights in Pakistan

Pakistan's counterterrorism laws are rooted in the past as the country struggled to stabilize (Baig et al., 2024). But the question of terrorism became more salient in the late 1970s and 1980s, after the Afghan-Soviet war introduced militant ideologies and armed groups into the region (Jawad, 2022; Uddin et al., 2023). The Act provided vast authority to law enforcement agencies to facilitate quick investigations and trials (Faisal et al., 2024). But the 9/11 period had been a turning point, as Pakistan became a part of the war on terror and continued to enhance its security infrastructure (Khan, 2022). The emergence of special courts, expanded definitions of terrorism, and increased abilities of security forces was a response to the urgency to tame extremist violence (Sherwani & Zia, 2023), but also created debates about implications on human rights (Hussain & Bhatti, 2024; Miebaka & Zia, 2023).

. As Pakistan aimed to defend its citizens and ensure peace, such interventions contradicted international human rights values in many cases (Lowe, 2022). The current dilemma is to find the right balance between counterterrorist practice and legal community rights, a fight that is ongoing to influence the legal and political environment in Pakistan (Bilal et al., 2022).

Theoretical Context of Counterterrorism vs. Human Rights in Pakistan

The comparative law of the counterterrorism legislation in Pakistan with the international human rights standards is reduced to the same old dilemma of national security and the safety of basic rights. A legal pluralism prism implies that, in fact, there are a multiplicity of legal systems in effect, including domestic law, international law, and customary law, and that they must all be reconciled with each other. International human-rights law, particularly the International Covenant on Civil and Political Rights (ICCPR) of which Pakistan is a signatory, provides a good roadmap that ensures rights such as due process, fair trials, and protection against torture, even during an emergency state.

We are also relying on the theory of securitization that examines how governments tend to prioritize national security and package civil liberties on the back burner by indicating terrorism as an existential threat. The counterterrorism law in Pakistan has weakened the boundaries between civilian and military courts, and that leaves us asking whether there is accountability and judicial independence. That conceptual context allows me to criticize the way the language of the law of emergency powers conflicts with universal human rights standards. It also assists me in the analysis of whether the state is too sovereign, and how that corresponds to the international obligations. Ultimately, this framework provides me with a more fine-grained perspective on the fight to align domestic legislation with global human-rights norms.

Legal Analysis of Counterterrorism vs. Human Rights in Pakistan

1. Anti-Terrorism Act 1997 (ATA): ATA establishes special courts and offers a broad definition of terrorism. However, due to its vagueness, it may criminalize legitimate dissent, which contradicts ICCPR Article 19, which safeguards freedom of expression.

2. Protection of Pakistan Act 2014 (PPA): The PPA allowed the government authority to preventively detain individuals and even shoot them without any prior notice. These authorities go directly in contrast to ICCPR Article 9, which prohibits arbitrary arrest and affirms everyone the right to life.

3. National Action Plan 2015 (NAP): The NAP increased surveillance, censored media, and took civilians to military courts. Although this was to stem militancy, transferring civilians to the military looks down on Article 14 of the ICCPR, which guarantees fair-trial rights.

4. Fair Trial Act 2013: Electronic monitoring and surveillance became legal under this Act. Although it could be intended to be provided with security, it creates actual privacy concerns and conflicts with Article 17 of the ICCPR, which safeguards the right not to be unlawfully interfered with.

5. Regulations 2011 Actions (in Aid of Civil Power): These regulations permit indefinite imprisonment in war-torn areas. It is completely contrary to ICCPR provisions on arbitrary arrest and torture, namely Article 7.

6. PECA 2016: PECA wagers against cracking down on cyber-terrorism, yet it also smacks down on speech on the Internet. Such overuse may suffocate valid expression and so nullify the guarantees of free speech and opinion covered by the ICCPR.

Challenges for Counterterrorism vs. Human Rights in Pakistan

The current counterterrorism laws in Pakistan are extremely difficult to compare to the international standards on human rights protection because of the varying priorities and frameworks. The Anti-Terrorism Act (1997) is too general in the definition of terrorism, and this allows the government to label even peaceful activities as threats, which infringes the concept of precision that human rights enshrine in their laws. Likewise, the application of military courts and special tribunals, however, being in the name of necessity in high-risk settings in Pakistan, contradicts the fair-trial provisions under the ICCPR. The offer of preventive detention and prolonged custody in the Protection of Pakistan Act (2014) also poses an issue of arbitrary arrest and failure of judicial control.

The Fair Trial Act (2013) and the Prevention of Electronic Crimes Act (PECA, 2016) also come into conflict with international rights to privacy and freedom of speech through surveillance measures. On the whole, the challenge that Pakistan faces is how to reconcile national security interests and the global human rights commitments- a contradiction that is still present in the legal and political landscape of this country. The nation is still in a continuous struggle to ensure that its counterterrorism structure is made known to the human rights of the world without interfering with its internal stability.

Opportunities for Counterterrorism vs. Human Rights in Pakistan

The comparison between the counterterrorism laws enacted in Pakistan and the international human rights standards is a chance to protect national security and personal freedom. This kind of convergence is useful in making sure that counterterrorism actions do not become abused to control political disobedience and free speech. Reviewing and revising the general sections of the Anti-Terrorism Act (1997) to meet the requirements of the International Covenant on Civil and Political Rights (ICCPR) will enable Pakistan to make its justice system more credible and fair. Substituting or supplementing the military courts with civilian judiciary procedures that would foster fair trial assurances would also promote transparency and accountability.

Also, reforms can help in bettering the practice of detention by reducing arbitrary arrests and also strengthening the judicial practice in accordance with international standards. In the same manner, a revision of the Fair Trial Act (2013) and the Prevention of Electronic Crimes Act (2016) might assist in achieving the balance between the security of the states and the right to privacy and the freedom of expression. Such a comparative strategy also promotes international collaboration as it will help Pakistan to learn best practices internationally, technical support, and capacity-building programs sponsored by the United Nations and human rights organizations. The result of this is that Pakistan is able to pursue its security objectives responsibly, without interfering with its universal human rights obligations, and enhance its international status.

Discussion

The comparison between the Pakistani counterterrorism legislation and the international human rights standards indicates the apparent conflict between national security and the freedoms. Though both the Anti-Terrorism Act (1997) and the Protection of Pakistan Act (2014) aim at curbing terrorism, they have broad definitions, preventive detention, and special trials that go against the International Covenant on Civil and Political Rights (ICCPR). These clauses run the risk of arbitrary arrest, unfair trial, and free expression. Nevertheless, the reforms would help alleviate this gap through defining the legal definitions narrowly, limiting judicial control, and updating the laws on surveillance to correspond to the international standards of privacy. Additionally, the international collaboration and technical support will assist Pakistan in adopting best practices and increasing institutional capacity. With enhanced legal accuracy and accountability, Pakistan will be able to strike a balance between security and human rights to gain not only domestic legitimacy but also personal reputation abroad, ensuring that counterterrorism activities will not ignore universal human rights principles.

Conclusion

Finally, the counterterrorism laws of Pakistan, as examined in our recent lecture on international security law, demonstrate the desperate necessity of this state to seal its borders to terrorism, but also reveal serious gaps compared to worldwide standards of human rights. Such broad definitions of terrorism, preventive detention, and the employment of military courts themselves cast severe doubt on procedural fairness and even fundamental freedoms under the ICCPR. Nevertheless, the critique is no dark and gloomy tale; it also provides tangible methods of reform, including judicial overhaul and best practices emission to the world. By striking a balance between getting stricter security policies and respecting human rights, Pakistan could develop a balanced legal system that would help the country to maintain national security and enhance its credibility at the international level.

Recommendations

- 1. Amend the Anti-Terrorism Act 1997:** The Terrorism definition must be tightened and narrowed down to violent extremism. Using the broad wording as it is today, there is a genuine possibility of a misuse of the law against reporters, activists, and NGOs--a violation of freedom of expression.
- 2. Court Supervision of Preventive Detention:** The use of preventive detention must also be strongly linked to the authority of courts, and the duration must have time constraints. Courts need to preside over all cases to prevent individuals from being detained endlessly without clear evidence or reason.
- 3. Create a National Counter-Terror Review Commission:** Counterterrorism responses must be audited by an independent commission regularly and measured against their effectiveness, legality, and compliance with human rights, and proposed reforms made to keep the balance.
- 4. Discontinue Military Trials of Civilians.** Military tribunals are difficult to ensure the independence and the right to a fair trial established by ICCPR. Enhancing the regular courts would assist in the provision of equal justice and restore the confidence of the people.

5. Increase Co-ordination of the Agencies: There should be openness in the work of the civilian, military, and intelligence agencies to ensure that the work of the agencies is not duplicated and that there is no conflict or misuse of work in counterterrorist operations.

6. Human Rights Compliance Checklist: Any legislation that has anything to do with counterterrorism should be evaluated against the constitutional rights and international obligations. It will guard against torture, forced disappearance, and arbitrary arrests.

7. Invest in Counter-Extremism Programs: Pakistani needs to increase its de-radicalization campaigns, outreach to youth, and efforts to influence public opinion on violent extremism, to diminish violent extremism at the first stage.

8. Empower Civilian Courts: To fast-track the justice system and hold human rights laws, we can strengthen civilian anti-terrorism courts by enhancing training and funding, as well as resources. That Act also revokes the reliance of the state on extraordinary laws.

9. The Intelligence Surveillance of the Parliament: The intelligence agencies, e.g., NACTA and NIFTAC, are expected to be independent and parliamentary watchdogs. That would put the power in check and hold it accountable.

10. Guarantee Legal Assistance: All terrorism suspects are entitled to have qualified counsel or community defenders, and even in the multifaceted nature of the case, all suspects are entitled to equal rights.

Research Limitations

In an attempt to give a comparison between the laws on counterterrorism in Pakistan and the international laws on human rights, the hurdles are numerous. To start with, it is difficult to obtain credible recent information as much of the government papers, court records of the military, and intelligence reports remain a secret. Second, the bulk of the literature that we have access to is biased, whether politically or institutionally, and it is difficult to discern objective analysis versus the propaganda of the state or the activist stance. Three legal frameworks, such as the ICCPR, exist to place a general standard, but their operationalization may vary considerably based on circumstances, which complicates the task of quantifying the true extent of Pakistan's compliance.

In addition, the legislation in Pakistan continues to evolve, be it the expiry of the Protection of Pakistan Act or the periodic revision of anti-terrorism laws, and thus, no distinct and stable picture of how the legal terrain appears is easily available. Finally, the confidentiality of most issues in national security serves to close the debate and restrain scholarly inquiry, restricting what we can do on the ground in the field and the collection of primary data on the effects of the effects on human rights.

Research Implications

It is not vain that the comparison of the counterterrorism laws of Pakistan with the international human rights standards has research weight. It notes that we should have a fair system that secures national security and fundamental liberties. In my case, this provides a concrete foundation to interdisciplinary studies and binds law, political science, and human rights. The results can assist policymakers in amending the legislation, such as the 1997 Anti-terrorism Act, and align it with the ICCPR requirements.

In real life, it reminds us that courts, the law, and plain institutions are needed to prevent abuse. It contributes to the discussion in all parts of the world about the ways in

which nations addressing the issue of terrorism can coordinate security strategies with universal rights standards. And it even paves the way to research further that examines the true experiences of the affected communities and provides us with information about how legal reforms can help enhance justice and create communal trust.

Future Research Directions

In all fairness, when we consider future studies of the counterterrorism laws of Pakistan as compared to international human rights, we should be in the field more. To begin with, we should have field-based research which indeed reflects what victims, detainees, and local communities are experiencing in the midst of these measures- the stuff which reads like real life rather than a law book. Second, conducting a comparative study with other nations that are experiencing the same security headaches may assist us in identifying some of the best practices that may be applicable in Pakistan.

Third, studies should go deep into the way the courts in reality read and enforce these laws, particularly regarding the right to fair trial and due process. Besides, there should be a closer examination of the entire aspect of digital security and cyber-terrorism to determine whether it is keeping pace with the freedom of expression and privacy. Lastly, longitudinal studies would also allow us to trace the long-term impacts of reforms and changes to policy, giving us concrete data on whether the Pakistani legal framework is indeed aligning with international human-rights standards and also combating terrorism.

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