Terrorism and Human Rights in the Field of Conflict

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The relationship between human rights and terrorism, particularly within conflict arenas, is a complex and changing one. In order to contextualise the discussion, reference should first be made to the relevant sections of the UN Universal Declaration of Human Rights and, in particular, to those articles that state that fundamental rights are violated when:

- a certain race, creed or group is denied recognition as a ‘person’ (Article 2);
- men and women are not treated as equal (Article 2);
- different racial or religious groups are not treated as equal (Article 2);
- life, liberty or security of person are threatened (Article 3);
- a person is sold as or used as a slave (Article 4);
- cruel or unusual punishment is used on a person (such as torture or execution) (Article 5);
- punishments are dealt arbitrarily or unilaterally, without a proper and fair trial (Article 11);
- there is arbitrary interference into personal or private lives by agents of the state (Article 12);
- citizens are forbidden to leave their country (Article 13);
- freedom of speech or religion are denied (Articles 18 and 19);
- the right to join a union is denied (Article 23); and
- education is denied (Article 26).

Secondly, common Article 3 of the Geneva Conventions states that those not taking an active part in war, including members of the armed forces who have laid down their weapons, are protected. It prohibits:

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- violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- taking of hostages;
- outrages upon personal dignity, in particular humiliating and degrading treatment; and
- the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognised as indispensable by civilised peoples.

Article 147 of the Fourth Geneva Convention lays out the following ‘grave breaches’ of the rights of those not actively engaged in conflict:

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

These documents provide the parameters within which any discussion of human rights has cohesion and validity and provide a backdrop to the tension that exists between the rights of the minority terrorist groups and those of the majority.

It should be remembered, also, that the standards that organisations such as Amnesty International demand from governments for the protection of the human rights of their citizens have become more and more exacting. This is because the meaning of ‘human rights’ has expanded in scope. The concept of human rights today differs substantially from the eighteenth century notion of the right to life, liberty and security of person. This overarching idea has evolved into what is essentially a cluster of human rights. As one philosopher notes:

Human rights now mean specific rights against enslavement, torture, arbitrary arrest and exile. There are a series of liberty rights involving the right to movement, to marry, to have a family, to divorce, to freedom of thought, and to religious practice. There are political rights to participate in ‘genuine elections’ and cultural rights to develop one’s personality. Economic rights include the right