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Human Rights and Counter-Terrorism: Reconciling National Security with International Legal Obligations

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The fight against terrorism presents states with the dual responsibility of protecting national security and fulfilling their obligations under domestic and international law. Terrorist organizations deliberately target civilians, state institutions, economic infrastructure, and social cohesion; therefore, preventing terrorism is a fundamental responsibility of the sovereign state. At the same time, counter-terrorism measures should operate within constitutional guarantees and applicable international legal obligations. This article examines how effective counter-terrorism can be reconciled with human rights without weakening legitimate national-security capabilities. Drawing upon international human rights law, international humanitarian law, security studies, the United Nations counter-terrorism framework, and Pakistan's constitutional and institutional arrangements, the study argues that national security and human rights are not inherently competing objectives. Pakistan provides an important case because of its prolonged experience with terrorism and its development of an extensive counter-terrorism architecture involving the armed forces, intelligence agencies, police, courts, financial institutions, and the National Counter Terrorism Authority (NACTA). The article proposes a Rights-Compatible National Security Framework (RCNSF) based on legality, necessity, proportionality, accountability, and resilience.

It argues that international human-rights obligations should not prevent legitimate preventive action against credible terrorist threats but should provide a lawful framework for exercising necessary security powers. Sustainable security, therefore, requires both effective counter-terrorism capabilities and strong, lawful, and legitimate institutions.

Keywords: Human rights, counter-terrorism, national security, international law, ICCPR, Pakistan, terrorism, rule of law, proportionality, resilience.

1. Introduction

Terrorism remains one of the most serious threats to national security, civilian life, political stability, and economic development. Terrorist organizations seek not only to cause casualties but also to undermine state institutions, create fear, disrupt economic activity, and weaken social cohesion. The state therefore has a fundamental responsibility to prevent terrorism and protect its citizens, territory, and institutions. Counter-terrorism may require intelligence collection, surveillance, preventive intervention, border management, financial controls, detention, investigation, prosecution, and, where legally justified, the use of force. At the same time, these measures must operate within applicable constitutional and international legal frameworks. The United Nations Global Counter-Terrorism Strategy recognizes both principles: states have the primary responsibility to prevent and combat terrorism, while human rights and the rule of law remain fundamental components of counter-terrorism (United Nations General Assembly [UNGA], 2006).

The central question is therefore not whether states should possess effective counter-terrorism powers. They must. The question is how those powers can be exercised effectively while remaining consistent with law.

This article argues that the security-human-rights relationship should not be understood as a zero-sum choice. The appropriate objective is effective national security under law. Human rights can strengthen institutional legitimacy, public confidence, and long-term resilience, while effective security protects citizens from terrorist violence.

This issue is particularly relevant to Pakistan, which has experienced prolonged terrorism and developed extensive military, intelligence, legislative, judicial, financial, and institutional responses. Pakistan's National Action Plan (NAP) and Revised National Action Plan (RNAP) combine kinetic and non-kinetic measures, including action against terrorist organizations and financing, countering violent extremism, criminal-justice reform, and institutional strengthening (National Counter Terrorism Authority [NACTA], 2014, 2021).

2. National Security in a Changing Security Environment

Traditional national-security theory emphasized sovereignty, territorial integrity, military capability, and state survival (Waltz, 1979). Contemporary security threats, however, increasingly operate across military, political, economic, technological, and societal domains (Buzan et al., 1998).

Terrorism illustrates this transformation. Terrorist organizations can exploit digital communications, financial systems, transnational mobility, propaganda, and economic vulnerabilities. Consequently, counter-terrorism requires more than conventional military responses.

Artificial intelligence and economic interdependence are increasingly linked to strategic competition, technological power, surveillance, and transnational influence. These developments have direct implications for counter-terrorism because modern technology can improve threat detection while creating new governance challenges.

Similarly, Magray et al. (2026b) argue that Pakistan's movement from geopolitics toward geoeconomics increases the importance of economic resilience, connectivity, governance, and institutional stability.

Thus, terrorism should be understood as a threat not only to physical security but also to economic development, strategic infrastructure, and national resilience.

3. International Legal Framework

3.1 Human Rights Law

International human rights law does not prohibit states from combating terrorism. States have legitimate interests and, in relevant circumstances, positive responsibilities to protect persons from serious threats to life and security.

The ICCPR protects rights directly relevant to counter-terrorism, including life, liberty and security, freedom from torture, fair-trial guarantees, freedom of expression, and equality before the law (United Nations, 1966).

Pakistan ratified the ICCPR and the Convention against Torture in 2010. These commitments therefore form part of Pakistan's international legal responsibilities.

However, these obligations should not be interpreted as preventing legitimate security action. Rather, they establish legal standards within which necessary state powers should operate.

3.2 Emergencies and Non-Derogable Rights

Article 4 of the ICCPR permits derogation from certain obligations only under specified exceptional circumstances. The Human Rights Committee emphasizes that emergency measures must remain exceptional, temporary, and connected to the exigencies of the situation (Human Rights Committee, 2001).

Certain rights receive especially strong protection. The prohibition of torture is fundamental, and CAT does not permit torture to be justified by exceptional circumstances (United Nations, 1984).

Therefore, serious security threats may justify exceptional lawful measures, but they do not create unlimited governmental authority.

3.3 International Humanitarian Law

International humanitarian law applies when counter-terrorism operations occur within an armed conflict meeting the relevant legal criteria. Not every terrorist incident constitutes an armed conflict. The applicable legal framework must therefore be determined according to the facts and nature of the situation (International Committee of the Red Cross [ICRC], 2019).

This distinction is important for Pakistan because different security situations may require different legal approaches concerning the use of force, detention, and protection of civilians.

4. Reconciling Security and Human Rights

The real dilemma is not security versus human rights but how necessary security powers should be exercised.

Surveillance and Privacy

Digital surveillance, artificial intelligence, biometrics, and data analytics can improve the state's capacity to detect terrorist networks and prevent attacks. The objective should not be to deprive security agencies of these capabilities but to ensure their lawful and professional use through clear authorization, data safeguards, and appropriate oversight.

Preventive Action and Due Process

Counter-terrorism is inherently preventive. Where credible intelligence indicates a serious terrorist threat, the state may need to act before an attack occurs. Preventive action should therefore not automatically be equated with unlawful action.

The fundamental principle is:

The seriousness of a terrorist threat strengthens the state's responsibility to act; it does not eliminate the requirement that state action be lawful.

Emergency Powers

Exceptional circumstances may require exceptional measures. However, such powers should remain connected to the security situation and operate within the applicable constitutional and legal framework.

Proper judicial and legislative oversight should strengthen, rather than weaken, the institutional legitimacy of security policy.

5. Human Rights as a Component of Security

Human rights can contribute to counter-terrorism effectiveness.

First, public confidence can improve the flow of information concerning terrorist recruitment, financing, movement, and logistical networks. This does not replace professional intelligence capabilities but complements them.

Second, prevention and resilience are essential. Pakistan's NAP framework recognizes the importance of countering terrorist financing, extremist propaganda, violent extremism, criminal-justice weaknesses, and institutional deficiencies alongside kinetic measures (NACTA, 2014, 2021).

Third, institutional legitimacy contributes to long-term security. Courts, police, intelligence agencies, armed forces, prosecutors, and financial institutions each perform distinct roles. Accountability should therefore be designed to strengthen professional standards without compromising legitimate operational effectiveness.

Human rights should consequently be understood not merely as restrictions upon state power but as part of the institutional environment that can support sustainable national security.

6. Pakistan: National Security and International Obligations

Pakistan has a sovereign responsibility to protect its citizens, territorial integrity, constitutional order, and national institutions from terrorism and violent extremism.

This responsibility is particularly significant because terrorism has targeted civilians, security personnel, educational institutions, religious places, infrastructure, and economic projects.

Pakistan's response has included military operations, intelligence-led counter-terrorism, police and CTD operations, counter-terrorism legislation, financial controls, border management, and judicial mechanisms.

The National Action Plan established a comprehensive national framework after the 2014 Army Public School attack. Its measures included action against terrorist organizations, terrorist financing, extremist propaganda, and weaknesses in the criminal-justice system (NACTA, 2014).

The Revised National Action Plan 2021 further emphasized counter-terrorism institutional capacity, counter-financing, counter-violent extremism, criminal-justice reform, and inter-agency coordination (NACTA, 2021).

Pakistan's constitutional framework also protects fundamental rights. Article 9 protects life and liberty subject to law, while Article 10 provides safeguards relating to arrest and detention, subject to constitutional provisions concerning preventive detention (Constitution of Pakistan, 1973).

The appropriate position is therefore effective national security combined with constitutional and international legal compliance.

Pakistan's security environment also demonstrates the connection between terrorism and economic security. Attacks on strategic infrastructure can damage investment, connectivity, energy security, and development. Magray et al. (2026c) highlight the regional-security significance of CPEC, while Magray et al. (2026d) emphasize the relationship between Gwadar's strategic potential, security, governance, and regional connectivity.

Consequently, protecting strategic infrastructure and creating a secure environment for economic development are integral components of national security.

7. Rights-Compatible National Security Framework

This article proposes a Rights-Compatible National Security Framework (RCNSF) based on five principles:

Principle	National-Security Function	Legal Dimension
Legality	Provides authority for security action	State action should have a lawful basis
Necessity	Enables response to genuine threats	Measures should address a legitimate security need
Proportionality	Aligns response with the threat	Excessive measures should be avoided
Accountability	Strengthens institutional credibility	Appropriate review and oversight
Resilience	Reduces long-term vulnerabilities	Governance, cohesion, and development

Legality

Security powers concerning detention, surveillance, searches, financial restrictions, investigation, and use of force should operate under clear legal authority.

Necessity

Necessity should not prevent preventive action. Where credible intelligence identifies a serious threat, timely intervention may be essential to protect life.

Proportionality

The security response should remain reasonably connected to the legitimate objective and should avoid unnecessary excess.

Accountability

Judicial review, parliamentary oversight, internal professional mechanisms, and other legally established procedures can strengthen institutional credibility without compromising operational effectiveness.

Resilience

A resilient state combines effective security institutions with economic strength, social cohesion, capable governance, strategic communication, and communities resistant to terrorist recruitment.

8. Policy Directions for Pakistan

Pakistan's counter-terrorism strategy should focus on the following priorities.

8.1. Strengthen intelligence-led counter-terrorism. Credible intelligence, threat assessment, financial intelligence, inter-agency coordination, and technological capabilities should remain central to preventing terrorist attacks.

8.2. Strengthen the criminal-justice chain. Investigation, forensic capabilities, prosecution, witness protection, and judicial capacity should translate successful counter-terrorism operations into sustainable legal outcomes.

8.3. Improve inter-agency coordination. NACTA, provincial CTDs, police, intelligence agencies, armed forces, prosecutors, financial institutions, and border-management authorities should operate through effective coordination mechanisms.

8.4. Develop responsible technological capabilities. AI, biometrics, data analytics, and digital intelligence can strengthen national security when employed under clear legal and professional standards.

8.5. Combine kinetic and non-kinetic measures. Military and law-enforcement action against organized terrorist groups should operate alongside counter-violent-extremism initiatives, counter-financing, community engagement, education, and strategic communication.

8.6. Protect strategic infrastructure and economic connectivity. Security of CPEC, Gwadar, energy, transport, and communications infrastructure is important for both national security and economic development.

8.7. Maintain constitutional and international legal compliance. Compliance with applicable law should be understood as an element of professional and legitimate statecraft rather than as an obstacle to effective counter-terrorism.

9. Conclusion

The relationship between human rights and counter-terrorism should not be understood as a choice between protecting citizens and protecting rights. The primary responsibility of the sovereign state is to protect life, national sovereignty, territorial integrity, public institutions, and constitutional order from terrorism.

At the same time, sustainable security is strongest when necessary state powers operate within law. International law does not require states to surrender their responsibility to combat terrorism. It requires that counter-terrorism measures comply with applicable legal obligations and fundamental principles of lawful governance (UNGA, 2006).

For Pakistan, the appropriate objective is therefore effective national security under constitutional and international law.

Pakistan's NAP and Revised NAP demonstrate that counter-terrorism can combine kinetic operations with counter-financing, criminal-justice reform, counter-violent-extremism measures, institutional strengthening, and strategic coordination.

The proposed RCNSF—based on legality, necessity, proportionality, accountability, and resilience—provides a framework for integrating these objectives.

Human rights should not be treated as an obstacle to national security, nor should national security be reduced to coercive power alone. Effective intelligence, professional security institutions, functioning courts, economic resilience, strategic communication, social cohesion, and lawful governance are mutually reinforcing elements of sustainable security.

For Pakistan, the central policy objective should therefore be to strengthen the state's capacity to prevent and combat terrorism while ensuring that legitimate security powers are exercised lawfully, professionally, necessarily, and proportionately.

Such an approach can protect citizens, reinforce national sovereignty, strengthen institutional legitimacy, and enhance Pakistan's international legal credibility without compromising the state's fundamental responsibility to defend its people and national interests.

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