

Human rights education for indian armed forces



HUMAN RIGHTS EDUCATION FOR INDIAN ARMED FORCES

CHAPTER

INTRODUCTION AND METHODOLOGY

When asked what should be done about human rights, the French philosopher Voltaire answered:- “ Let the people know them!”

Over the years there has been considerable deterioration in the internal security environment in various parts of our country. J&K and NE states have been the theatre of ethnic, regional and state sponsored turmoil for decades for various reasons, the primary one being isolation of the region from rest of the country and the lack of social and economic development of the area. The rise in the law and order problems and failure of the government to control the situation eventually led to the long drawn involvement of the armed forces in the region. The efforts of the security forces to control insurgency and terrorism in the area have brought up the issue of violations of human rights by the security forces. The paradoxical situation now is that while there is an increasing and widespread concern for observance of human rights by the security forces operating in the environment, gross violations of the same by the militant organisations continue unabated.

“ Extremist organisations find terror desirable to attract attention whereas counter measures by security forces are restrained when militants blend into the local population, making it impossible to attack their bases or personnel without collateral damage. Here in lies the dilemma for the security forces to conduct operations effectively within the constraints of ethics and the need to respect human rights.

(Jasjit Singh)

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Terrorism and human rights cannot co-exist. They are mutually destructive of each other. Where there is terrorism there cannot be human rights. One of the greatest threats to the future of democracy is terrorism which is increasingly becoming a way of life in the disturbed states. Low intensity conflict operations today includes in its gambit operations against insurgents, militants, terrorists, and any other non - state actors that jeopardises national security and sovereignty. The armed forces are being increasingly used in Low Intensity Conflict Operations (LICO) or Counter Insurgency (CI) Operations, which brings it in the media lime light. Certain restrictions have to be imposed on the basic rights of people when combating terrorism, but those restrictions have some norms to be followed.

The principles of humanity suggest that military action should not cause unnecessary or disproportionate damage or suffering. When entrusted with a task of this magnitude, human rights violations do take place, but what is important is that the state remains fully aware of its obligations to eradicate the occurrence of such instances and takes prompt measures against the erring personal. It becomes imperative on part of the organisation to educate and train the personals involved in such duties with the basic rights of an individual as a human being and the steps to prevent its violation.

METHODOLOGY

Statement of the Problem

This paper aims to formulate and suggest the Institutionalised Human Rights Education and Training as a means to reduce Human Rights Violations by the Armed Forces operating in low intensity conflict environment.

Justification of the Study

Human rights now constitute the common heritage of humankind; accordingly, human rights education is a means of accessing that heritage through the universal commitment to the dignity and worth of each human. The evils of injustice, exploitation, impoverishment, tyranny, civil strife, genocide, abuses of power, and catastrophic state failures have plagued humankind from time immemorial and produced humiliation and despair. They also spur action for social and economic transformation, which human rights education helps to define and put into practice.

Human rights education reinforces the human rights to peace and to development, that is, the rights of human beings and nations to be free from aggression or other unlawful use of armed force and from mass impoverishment. Genocidal practices and other massive human rights violations are a particular challenge for human rights education. Every human being should be empowered through human rights education to expose and undermine the very possibility of such practices before they emerge and to join with others in ending such practices and holding the perpetrators accountable for their deeds and those who could help accountable for their silence and inaction.

The dedication of nation-states and of the United Nations system to human rights education is a first step and the modest efforts pursued during the first United Nations Decade for Human Rights Education (1995- 2004) and this effort must be redoubled by the Armed Forces as a responsible organisation to build stronger solidarities through the message of the dignity and equal worth of every human person.

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Scope

This study focuses on establishing a framework of Human Rights Education and Training to the armed forces in low intensity conflict operations environment. It also attempts to suggest functional parameters that will assist in adopting a universal, holistic and integrated approach to Human Rights.

Methods of Data Collection

The source of data has been the abundant literature on the subject available in the College Library. A bibliography is appended at the end of the text. In addition to it, explicit use of means of mass media including internet has been made. The thought process of eminent personalities and experts on the subject, both in India and internationally, have also been incorporated as they manifested in Interviews and public shows.

Organisation of the Dissertation

It is proposed to study the subject in the following manner:-

1. Chapter I. Introduction and Methodology.
2. Chapter II. Human Rights – A basic Study.
3. Chapter III. Interplay of Human Rights and Armed Forces in LIC Environment.
4. Chapter IV. Relevance of Human Rights Education for Armed Forces.
5. Chapter V. Approach to Human Rights Education.
6. Chapter VI. Effective Human Rights Training.
7. Chapter VI. Conclusion.

CHAPTER II

HUMAN RIGHTS – A BASIC STUDY

Human Rights – Evolution of the Concept. In the simplest of terms, human rights could be regarded as involving all those aspects which add to dignity and free existence of human beings. Historians credit the origin of this concept to MAGNA CARTA, AD 1521. On scrutiny however, it would emerge that this document actually was a petition urging the king to concede certain rights to a particular section of his people. It neither had a direct reference to the common man's basic freedom nor the required range of application. The term " Human Rights" was introduced in the United States Declaration of Independence in 1776 and the US constitution embodied a " Bill of Rights". The French resolution later on in 1789, ushered in the Declaration of Rights of Man and Citizen. Much later in 1929, the Institute of International Law, New York, USA, prepared a Declaration of Human Rights and Duties. In 1945, the Inter American Conference passed a resolution seeking the establishment of an international forum for the furtherance of human rights of the whole mankind.

The World War II was probably the turning point, which drew the required attention towards human rights. The atrocities committed on ethnic grounds by the axis powers shocked the conscience of the international community. The allied powers then vowed to usher in a world order for promoting respect for the observance of Human Rights and fundamental freedom. The United Nation's charter, in its preamble declared, " we the people of the United Nations Organisation..... reaffirm faith in the fundamental human rights, in the dignity and worth of human person, in the equal rights of men and women and the Nations large and small.....". The charter then went on to <https://assignbuster.com/human-rights-education-for-indian-armed-forces/>

declare that the purpose of the United Nations is, “ to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedom for all, without distinction based on race, sex, language or religion”. The United Nations proclaimed the universal declaration of Human Rights in 1948.

The United States defined Human Rights in a policy document in 1978 , which includes the following aspects:-

“ Freedom from arbitrary arrest and imprisonment, torture, unfair trial, cruel and unusual punishment and invasion of privacy, rights to food, shelter, health care, education, freedom of thought, speech, assembly, religion, press, movement and participation in Government”.

Human Rights – The International Endeavour.

The United nations Organisation in keeping with its charter to promote respect for fundamental freedom and Human Rights for all without any distinction, came out with an International bill of Human Rights consisting of the following:-

1. Universal Declaration of human Rights, 1948.
2. The International Covenant on civil and Political Rights, 1966.
3. The International covenant of Economic social and cultural rights, 1966.
4. The optional protocol (1966) providing for the right of the individual to petition international agencies.

The principles on which this bill was based on are as under:-

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1. All human beings have been brought within the scope of this bill, without any distinction.
2. Equality of application without any distinction of race, sex, language or religion.
3. Emphasis on international cooperation for implementation of the bill.

UN Declaration of Human Rights.

The UN General Assembly on 10 December 1948 approved and accepted the Universal Declaration of Human Rights. Further on 16 December 1966, two covenants were also approved by the UN General Assembly on “ Economic, Social and Cultural Rights” and “ Civil and Political Rights”. These covenants are legally binding and came into force in 1976. Some of the important aspects of UN Declaration are as under:-

1. Right to life, liberty and security of person (Art 3).
2. Right against slavery or servitude (Art 4).
3. No one shall be subjected to torture, cruel, in human or degrading treatment or punishment (Art 5).
4. Equality before Law and equal protection under law (Art 6 and 7).
5. (e) Right to effective remedy against violation of Fundamental Rights (Art 8).
6. Right against arbitrary arrest, detention or exile (Art 9)
7. Right against interference with individuals' privacy (Art 10 and 11).
8. Right to a free and fair trial (Art 12).
9. Right to freedom of movement, residence and nationality and to seek asylum in other countries (Art 13, 14 and 15).
10. Right to marry and to form a family (Art 16).

11. Right to property (Art 17).
12. Right to freedom of thought, religion, freedom of opinion and expression (Art 16 and 18).
13. Right to work, reasonable working conditions and to receive equal pay for equal work (Art 23, 24).
14. Right to freedom of peaceful assembly and association and to be a member of a society (Art 20 and 22).
15. Right to a standard of living, conducive for health, well being and social protection (Art 25).
16. Right to education (Art 26).
17. Right to participation in cultural life of community (Art 27).
18. Right to a social and international order in which the right and freedom set forth in this declaration can be fully exercised (Art 28).

Human Rights

The Scenario in India. India does not have a known convention on human rights. However, India is a signatory to the various conventions proclaimed by the United Nations organisation. Traditionally, Indian culture has always stressed the observance of human rights. Our constitutional founders have given this aspect the due prominence in the form of fundamental rights, which has been embodied as Directive Principles of State Policy. The important aspects are as given below :-

1. Right to equality (Art 14).
2. No discrimination against any citizen based on religion, race, caste, sex etc (Art 15).
3. Right against untouchability (Art 17).

4. Right to freedom.
5. Right to freedom of speech and expression (19(i)(a))
6. Freedom to assemble peacefully without arms (Art 19(i)(b)).
7. Freedom to form associations (Art 19(i) (c)).
8. Freedom to reside and settle in any part of country (Art 19(i) (f)).
9. Freedom in choice of profession (Art 19(i) (f)).
10. Right not to be compelled to be a witness against himself (Art 20(2)).
11. Protection of life and personal liberty (Art 21).
12. Protection against arrest and detention (Art 22).
13. Right against exploitation by traffic in human beings, beggary and other similar forms of forced labour (Art 23 and 24).
14. Right to freedom of Religion (Art 25 to 26).
15. Right to move Supreme Court for enforcement of fundamental rights (Art 32).

CHAPTER III

INTERPLAY OF ARMED FORCES AND HUMAN RIGHTS IN LOW INTENSITY CONFLICT ENVIRONMENT

“ When the soldier is fighting against an adversary in war, considerations of Human Rights are secondary principles. Practices and usage of war are the best guide. But during peace time employment, in addition to the guidelines laid down in various conventions, it is essential that the environment that the soldier has to operate is clearly understood.

-Army Training Note S/1/95

Six decades after our independence, country finds itself beset with terrorism and insurgencies in many states simultaneously. The security forces have been actively involved in counter insurgency operations in Nagaland, Manipur, Mizoram, Tripura, Jammu and Kashmir and more recently, Naxals in as many as twelve other states. Involvement of non state actors in promoting insurgency in our border states is also well established. The insurgencies and terrorism are quite different from a full scale conventional war and thus demand the utmost attention of a government and the people. The counter insurgency operations must differ materially from regular warfare for which armies train and equip themselves.

Environmental Realities in LIC

More often than not the armed forces are deployed for operations at a very belated stage, when the situation is almost out of control. The prevailing environment that is likely to be encountered by the army therefore assumes a great degree of importance. Some of the salient aspects of the environmental realities are given in the succeeding paragraphs:-

1. Public. There is a prevailing sense of in-security among the general public. People tend to either silently obey the militants or to migrate to safer places. They are very reluctant to cooperate with the security forces.
2. Militants. There is an overpowering cult of the gun and defiance of authority. They acquire sophisticated and lethal weapons by establishing nexus with powers inimical to the state. They have no desire for peaceful negotiations, unless the government outrightly succumbs to their demands.

3. Bureaucracy, Politicians and Judiciary. These come under tremendous pressure because of the constant threat of retribution.
4. Police/Paramilitary Forces. Militants endeavour to induce fear in them through intimidation, and other forms of retribution. This coupled with inadequate equipment and training has adverse effects on the morale and efficiency of these forces. As a result their credibility gets eroded and they fail to induce any confidence among the people.
5. Media. The official media and some of the national dailies are viewed as the mouth piece of the government and its credibility with the masses is usually low. Reporters have scant knowledge of LICO and tend to sensationalise events.
6. Civil Administration. The general conditions prevailing amounts to the civil administration being ineffective and the authority of the government gets eroded with the writ of the militants running supreme.
7. Law of the Land. The law of one state is not always applicable in the other states. This facilitates the militants shifting their bases and operating from areas where they can escape the law. Once certain special laws are enacted, these are portrayed as draconian in a democratic society, thereby providing sufficient cause for propaganda and also drawing attention of the Human Rights Organisations. The militants also thrive on the various existing lacunae in our legal system.

8. Neighbouring States. Inimical neighbours exploit the instable situation to the full extent and resort to waging a proxy war.
9. The Nexus. Militants tend to establish a nexus with identical anti government movements. Even some religious fundamentalist extends their direct support.
10. State and Central Agencies. There is a plethora of state and central agencies operating in such an environment. They usually lack unity of purpose and operate at cross purposes.

Impact of Environmental Realities.

All these environmental realities given above have an impact on the operations carried out by the army. These are as given below:-

1. The army gets involved when things have gone out of hands of the police/para military forces to handle thereby making their task much more difficult.
2. Operations tend to become long drawn and the army gets involved over protracted periods to effectively neutralise the militants' potential. The resources required are also out of proportion invariably.
3. The army invariably has to operate in an intelligence vacuum. Barriers of language pose additional problems. Militants also manage to infiltrate various civil and police organisations compromising security.
4. There is often an absence of clear cut political directive, making it difficult for the army to understand the charter and to evolve its aims, objectives and plans in a long term perspective.
5. There is inadequate cooperation from the local public, bureaucracy and the politicians.

6. Media gets exploited by the militants to discredit the army, thereby imposing great caution on operations by the army.
7. There is a lack of integration between various agencies, thus making problems of coordination acute.
8. Where the militants enjoy public support, willing or forced, it is difficult to sift and isolate the militants from the public.
9. Law of the land often provides great immunity to the militants and imposes numerous constraints on conduct of military operations.
10. Where the inimical neighbours provide active support to the militants, a great deal of effort is diverted to check infiltration of such support.

Where Armed Forces Go Wrong.

It is now evident that the whole problem is intensified due to proximity of civilians to the area of operations. The following issues form part of the media campaign and cause concern to various Human Rights Organisations:-

1. Curbing of Fundamental Rights. Operations of cordon and search, vehicle checking etc, cause harassment to people. As these operations cannot be done away with, it must be ensured that these operations are done on firm intelligence only to avoid any unwanted fallout.
2. Rape/Molestation. Reports appearing in the media are a min of actuals and the malicious propaganda being launched by militants.
3. Illegal Detention. As per rules, any offender is required to be handled over to the police within 24 hours of apprehension, for filing of a case. Problem arises when due to mistaken identity an innocent citizen is

detained by an enthusiastic unit and the legal formalities get delayed due to efforts to extract information by that unit.

4. Fake Encounters. Stage managed encounters in the vicinity of population centres come to the knowledge of human rights organisations.
5. Attack on Civilians. Bomb blasts, proxy actions in populated areas and seemingly intentional killing of civilian population in hostile territory, becomes a media headline, and draws adverse propaganda.
6. Custodial Deaths. In a bid to extract information, no suspect should be tortured. Failure to carry out a medical check up before handing over to the police authorities, could result in reasons for an eventual death of the individual at the hands of the police, being attributed to alleged torture by army prior to handing over.
7. Compensation. All victims should be compensated at the earliest. Rules should be framed on various contingencies and offenders if any should be made to pay compensation, and punished as well.
8. Special powers to the Army. Special powers conferred should be understood in its totality. Legal constraints like carrying police representative for cordon and search operations, frisking of women by women police, signing of " No Claim" certificates etc have to exercised with due care.
9. Cross Fire Tactics. Militants employ this tactics of firing from a crowd or putting civilians in front of them as shields. Indiscriminate reaction by armed forces will not go well with the media and public at large.
10. Prolonged Operations. Our experience of operations in North Eastern states have amply proved that when units are pressed to

achieve quick results and prolonged operations conducted, instead of achieving tangible results, what actually took place was alienation of the population, besides causing discomfort to own troops.

“ To extricate information from an apprehended insurgent/militant regarding their crime, intentions, information regarding operations in progress and whereabouts of their bases, some force is required to be used against the norms of human rights. No individual will ever divulge information if treated well.”

Lt Gen (Retd) VK Sood, PVSM, AVSM

Human Rights Record of Army

Indian army has achieved a great degree of success in this genre of conflict due to the highly successful operational style and technique adopted. This is based on a very humane approach of psychological dissuasion and winning the hearts and minds of the population. It is a “ discriminate” approach, in as much as it relies upon large scale application of trained manpower as imposed to indiscriminate use of heavy fire power and airpower.

Operations in LIC are complex. The difficulty in identification of the militants and their affinity to the local population, make the task of security forces difficult. In such operations, therefore, a certain amount of human rights violations are likely to take place. The Indian Army however, takes such incidents very seriously, not only because of the violations by themselves being criminal acts, but also due to the fact that it adversely affects the units' discipline.

‘ The Pledge’

We are the human rights generation

We will accept nothing less than human rights.

We will know them and claim them,

For all women, men, youth and children,

From those who speak human rights,

But deny them to their own people.

We will move power to human rights

CHAPTER IV**RELEVANCE OF HUMAN RIGHTS EDUCATION AND TRAINING
TO ARMED FORCES**

Increased awareness of human rights over the last thirty years has led to new standards for state actors in peace and war. Since the Cold War, democratic governments have promoted constitutional reforms aimed at subordinating the military to civilian control and preventing human rights abuses. Militaries have also undergone a self examination to adapt their roles and missions to the changing strategic environment. By and large they have endorsed democratic principles and human rights. In India, we have a commitment by the armed forces to remain subordinated to civilian authority, act within constitutional bounds, and respect human rights. Reflecting changes in national security strategy, the Indian Armed forces need to play a critical role in promoting democracy and human rights.

Rooted in a belief that there is an affinity between democratic systems and free market economies, and that democratic states are less likely to go to war with each other, this strategy aims to ensure that regimes consolidate democratic institutions and increase respect for human rights. The incorporation of democracy and human rights as national security policy objectives has been accompanied by operational changes in the role and mission of the forces as per our military doctrine.

Existing Human Rights Safeguards

Historical Legacy

This humane characteristics of the Indian Army and its soldiers have been exemplified in the history : -

1. During the Police Action against Razakars in the state of Hyderabad in 1948. Gen J N Choudhry, commander of the Indian Forces, reminded the Indian troops that they should be absolutely humane while dealing with the local population as they were their own countrymen particularly the woman, children and the infirm.

1. (b) Similarly, in December 1961, after the military operations in Goa the then Chief of the Army Staff in a message to the troops said ' In Goa, you are in India and with your compatriots. Your duty is at home. Go and protect the people. Let no one suffer violence'. At the end of the operations the then Prime Minister, Pandit Jawaharlal Nehru in his message to the operating forces said " You, and officers and men serving under your command in Goa Operations, have my warmest congratulations on the

splendid way all of you have carried out the allotted task- with efficiency, courtesy and humanity”.

2. (c) As mentioned earlier 93, 000 Pakistani troops surrendered in 1971 Bangladesh operations. At the time of surrender Lt Gen J S Aurora gave a solemn assurance that “ The personnel, who surrender, shall be treated with dignity and respect that soldiers are entitled to in accordance with the Geneva Convention and protection shall be provided to the foreign nationals, ethnic minorities and the personnel of West Pakistan origin”.

The Indian Army has stood the test of time as regards the Human Rights issue wherever and whenever deployed for counter insurgency or conventional operations. History is on its side to prove the point. After the end of 1971 Indo-Pak war, 93, 000 Pakistani soldiers surrendered. While treating the POWs, the Indian Army not only complied meticulously with the Geneva Conventions on POW, but also gave them free access to their friends and relatives in West Pakistan. It also gave them freedom to celebrate their religious festivals. The Indian Army is fully aware of the pitfalls, nuances, implications of Human Rights violations and the resultant adverse effect on its operational efficiency and morale. It has therefore taken comprehensive measures at all levels to safeguard and prevent Human Rights violations in Jammu and Kashmir. The measures undertaken at the macro level to the grass root level of troops operating in LIC operations in Jammu and Kashmir are enumerated in the succeeding paragraphs.

Humane Fibre of Indian Soldiers

By and large, the basic instinct and reaction of an Indian soldier in most of the situations is to protect the Human Rights and uphold human dignity. The factors responsible for development of this attitude and reaction to a large extent are military discipline, compassion and camaraderie and apolitical entity.

Indian Army in Peace-keeping Operations Outside India

The contributions of the Indian Army to the Humanitarian cause in United Nations peacekeeping operations outside India is well known, appreciated world wide and well documented. The Indian Army has earned for them the praise and admiration of the warring factions, the United Nations and the Government of their own country. Peacekeeping operations in Korea, Gaza, Congo, Somalia, Cambodia, and Rwanda are some of the shining examples of the legacy of the Indian Army to the Human cause.

30. Human right training has been intensified and efforts to reform military justice in Indian Army have been introduced. While these initiatives have lowered the decibel level between human rights advocates and the military, there is no consensus on their effectiveness. Two crucial dilemmas arise in attempting to harmonize such efforts with other objectives. First, training has met obstacles that limit its impact. The backgrounds of many militaries have afforded them considerable freedom from civilian control while portraying them as guarantors of the state. Another dilemma involves threats such as drug trafficking, organized crime, and terrorism. In most mature democracies responsibility for dealing with such threats falls to civilian institutions. But in much of the country, these challenges have overwhelmed new democratic

governments, leading to a call for the army to play a central role. The democratic transition in many nations removed the armed forces from internal security operations; thus human rights organizations and democracy activists fear that proposed roles and missions will reinforce impunity and lead to a return to violations.

There is a greater focus required on incorporating human rights issues in operational training exercises and developing more pragmatic and mission related arguments for respecting them. The Army needs to sponsor a collegium or working group which could compose of representatives of various international and regional organizations and officials with responsibility for human rights training. It will need to produce a consensus document that specifies objectives for doctrine, education and training, internal control systems, cooperation with external control systems, and the delineation of police and military functions. Deliberations earlier have highlighted possibilities and difficulties of reaching a consensus between civil and military representatives on advancing human rights. On the positive side, a relatively detailed consensus does exist. At the same time there are major differences over priorities. Military officers stress education and training as key to improving performance. They acknowledge the importance of incorporating support for democracy and respect for human rights in doctrine. Civilian participants, on the other hand, emphasize the need for both internal and external control mechanisms to ensure accountability for violations.

New Threats, Ancient Rights