TERRORISM AND COUNTERING TERRORISM: A FRAMEWORK FOR PEACE, HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT

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'Our world cannot be transformed into a better place if we do not respect peace, human rights and sustainable development when countering-terrorism'(Eric C. Muma)

Abstract - The aftermath of the 11 September attack sparked up the need for states to accord protection to human life and freedom through the maintenance of international peace and security. Although everyone is born free and equal, the notion of terrorism and violent extremism seems to have hindered the long-lasting peace that humanity has struggled for since the repercussions of World War II. One of such problems originates from the growing threat posed by terrorism and counter terrorism measures and their negative impact on peace, human rights and development. These fundamental values or principles are interdependent of each other, implying that there can be no peace without development, human rights without peace and sustainable development without stability or peace. These concepts are also intrinsically independent of each other and mutually reinforcing. The protection of one will eventually lead to the positive realisation of another. The devastating consequences of terrorism and its negative impact on peace, human rights and sustainable development have prompted several states to adopt measures to counter terrorism in line with national security and international human rights law. The question of how, when, and for whom these measures are more often adopted and applied by states depends on the extent of their objectivity, certainty and clarity. This research aim to examine the concepts of terrorism and counter terrorism and to investigate whether anti-terrorism measures adopted and applied by states do adequately serve as a framework for the enhancement of peace, human rights and sustainable development in the new world order. The paper will take into consideration or account for specific case studies in some states to demonstrate how terrorism and counter terrorism measures have been wrongly used by states to achieve political agendas at the expense of peace, human rights and sustainable development.

Keywords - Terrorism, Counterterrorism, Peace, Human Rights, Sustainable Development.

I. INTRODUCTION

In the recent decades, an increase in public and academic interest in terrorism and counterterrorism has been witnessed. Today, the world seems to be unstable due to an increasing number of deaths that result from terrorism and violent extremism. Since the aftermath of the 11 September attack, humanity has witnessed another challenge in achieving global peace, universal human rights and economic development. The US Council on Foreign Relations 2016 Report Card on International Cooperation ranked combating transnational terrorism as the top priority in the world that needs to be addressed. The organisation's research asserts that 5 countries account for 57 % of all terrorist attacks and 78% of all deaths caused by terrorism in 2014. These 5 countries are: Afghanistan, Iraq, Nigeria, Pakistan and Syria. Within this specific context, the so called Islamic State (IS or ISIS) and Boko Haram were responsible for over half of all terrorist attacks worldwide with an estimated economic cost of terrorism at $52.9 billion for 2015-2016. This has encouraged the international community in general and states, in particular, to pay more attention to a protective framework to enhance peace, human rights and sustainable development.

The word 'peace' in common legal parlance entails the absence of war or violence. Although the meaning suggested might be subject to diverse scholarly debates, the desire to protect human rights and fight against poverty or hunger has incited for the international community through the United Nations Organization (UNO) and other regional organs to focus and give more attention to the maintenance of peace. In this direction and following the increasing number of terrorist acts commonly carried out around the globe, in general, the aspiration to protect national security has become a major political agenda among states. The conduction of this remains a common issue to the international community.

Terrorism and counter terrorism measures have been adopted and applied by states broadly, resulting in widespread instability and public riots among citizens instead of the peace that they intended to protect. Whether this can be ascertained as a proper framework for peace, human rights and development is a doubtful issues. The paper seeks to address the question of whether terrorism and counter terrorism measures adopted and applied by states really enhance peace, human rights and sustainable development. This legal issue will be tackled in four main sections. Sections two and three will examine the concept of terrorism and counter terrorism alongside states' duty and the impact of counter terrorism measures on peace, human rights and development. On the other hand, sections four and five will focus on the contemporary challenges faced

by states in ensuring lasting peace, human rights and sustainable development when countering terrorism as a means to ensure national security with a conclusive remark on the ways in which a terrorism free-future can be guaranteed.

II. THE CONCEPT OF TERRORISM AND COUNTERTERRORISM

One of the main agendas of the United Nations has been related to its work on terrorism and counterterrorism, economic development and the maintenance of global peace. In its recent agenda for sustainable development, the UN has stated that it aims to protect fundamental human rights and freedoms in accordance with national legislation and international agreements and strengthen all national institutions through international cooperation for building the capacity to prevent violence and combat terrorism and crime.

It also aims at promoting and enforcing non-discriminatory laws and policies for sustainable development. Moreover, at the World Conference on Human Rights, state parties asserted that acts, methods and practices of terrorism in all its forms and manifestations are activities that are aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity of states and destabilising the legitimately constituted governments. It obliges the international community to take the necessary steps to enhance cooperation in order to prevent and combat terrorism.

However, one of the most recent challenges faced by world peace, human rights and sustainable development today is terrorism and violent extremism and the misuse of counterterrorism measures. The term 'terrorism' can be generally defined as acts of violence directed against civilians that pursue political or ideological goals, where as violent extremism is terrorism in its aggravated form. Despite the lack of an inclusive legal meaning of the concept of terrorism and violent extremism, it can be accepted that existing declarations and resolutions have provided some objective guidance on the meaning of the concept in international law, which, in one way or the other, serves as a guide for states' compliance when adopting national laws in counter terrorism. In its resolution 1566(2004), the UN Security Council defined terrorism as criminal acts, including those committed against civilians and those committed with the intent to cause death or serious bodily injury or taking of hostages with the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population or compelling a government or an international organisation to do or to abstain from engaging in any act. The definition lays down some important constitutive elements that must be considered by states when adopting anti-terrorism measures at the national level.

In the context of human rights, peace and development, terrorism and counter terrorism measures are mutually reinforcing. In his report, the former UN Secretary-General emphasised that effective counterterrorism measures and the protection of human rights are not conflicting goals but are complementary and mutually reinforcing. He argued that respect for human rights is essential for the fulfillment of all aspects of a counterterrorism strategy. Therefore, states are bound to incorporate effective cautionary measures when adopting laws relating to terrorism. Even though all states enjoy the right to territorial integrity as per international law, it does not provide room for the incorporation of measures that will contradict their obligations under international human rights law. However, international and regional human rights laws make it clear that states have both the right and a duty to protect individuals from terrorist attacks under their respective jurisdiction.

As stated in Article 2 of the International Covenant on Civil and Political Rights (ICCPR), states shall take necessary steps in accordance with their constitutional processes to adopt such laws and measures, as may be necessary to give effect to the rights recognised in the covenant. Despite the obligations imposed on states (to respect the rights of individuals, to protect individuals under their jurisdiction and to fulfill their duties), it has been proven that several measures adopted by states, if not all of them, to counterterrorism in practice have posed more harm than good to global peace, human rights and sustainable development. An attempt to investigate the reasons behind this failure could be govern by the principle of state sovereignty, which leaves states with much leeway to decide what may be in the best interest of national security or public order.

III. IMPACT OF COUNTERTERRORISM MEASURES ON PEACE, HUMAN RIGHTS AND DEVELOPMENT

In the recent years, because of the increasing threats to international and national peace and security resulting from terrorism, several states have adopted measures to counterterrorism and violent extremism. A good example can be seen from Cameroon, the United Kingdom, Ethiopia, Germany, etc. Although most of these legislation adopted by various states intended to counter terrorism, it can be argued that a great majority of states in Africa have used anti-terrorism measures to achieve political aims and to crack down on those who stand against authoritarianism and marginalisation. This has been so because most of these laws applied by states lack clarity in meaning and content providing states' authorities or those in power with complete discretion

to determine what may be considered as terrorism in any given case. While several countries in Africa, such as Cameroon and Ethiopia, for instance, have used counter terrorism measures wrongly, posing serious threat to peace, human rights and sustainable development, others, such as Germany and the United States, appears to have applied counter terrorism measures in accordance with democratic values and the rule of law in line with international human rights' standards.

The broad nature of counter-terrorism laws and their wrongful application by states around the globe has had a negative impact on peace, human rights and sustainable development. This has further led to an increased rate of radicalisation among ordinary citizens who perceive violent extremism as the only way to attain freedom and positive transformation or change. This is particularly the case in less developing states such as Cameroon, Ethiopia, among others. As Eric has rightly argued, past experiences have proven that discrimination, the lack of a rule of law or trust in the law, violations of human rights, political injustice, socio-economic marginalisation, unemployment, dehumanisation of the victims of terrorism and poverty are some of the root causes of terrorism. Apparently, respect for all human rights and the rule of law form one of the major pillars of the strategy for countering terrorism. This, therefore, implies that effective counter-terrorism measures and the promotion of human rights, peace and sustainable development are not conflicting goals but complementary and mutually reinforcing. According to the UN High Commissioner for Human Rights, terrorism directly impacts the enjoyment of a number of human rights, particularly, the right to life, liberty and physical integrity. It can destabilise governments, undermine civil society, jeopardise peace and security, and threaten social and economic development.

As there can be no peace without sustainable development, human rights without peace and sustainable development without peace, it is important that, when addressing terrorism, states must abide by the rule of law to foster peace, human rights and sustainable development. The words 'peace' and 'sustainable development' that have been used repeatedly are interdependent and indivisible concepts that require clarity in meaning. Perhaps, most will agree that the word 'peace' implies the absence of war or violence. It can be said to buttress that argument that, the term 'peace' does not necessarily imply the absence of war or violence; it also requires the building of a healthy body capable of resisting diseases, relying on its health forces or health sources, the equal access and enjoyment of all socio-economic rights and living in harmony, cooperation and integration with one another. Unlike the word 'peace', sustainable development entails the development that meets the needs of the present without compromising on the ability of future generations to meet their own needs. Thus, without peace, stability, human rights and effective governance based on the rule of law, it will be difficult to hope for the achievement of sustainable development. As noted by the United Nations Development Programme (UNDP),

'We are living in a world that is increasingly divided. Some regions enjoy sustained levels of peace, security and prosperity, while others fall into seemingly endless cycles of conflict and violence. High levels of arm violence and insecurity have a destructive impact on a country's development, affecting economic growth and often resulting in long-standing grievances that can last for generations'.

According to the UNDP, individuals in the western world enjoy more peace, human rights and economic growth than people in the developing states who face endless conflicts, poverty and under development. To attain this level or these benefits that are available to people in the western world and sustain peace, states, particularly, the developing states, must abide by the principle of legality and equal respect for fundamental rights and freedoms when adopting and applying counter-terrorism measures. For instance, the right to life is a fundamental human right on which all other rights depend on for their survival. This means that the imposition of the death penalty as a sanction for terrorism, as it is the case in Cameroon and Ethiopia, will violate the right to life and, consequently, jeopardise other fundamental freedoms. Although there has been a substantial decrease in it imposition in sub-Saharan Africa according to Amnesty International, it is said that over 2000 persons await the death penalty in Nigeria. As stated by the Civil Rights Defenders, while countering-terrorism, many African states have used legislation to target human rights defenders, minority groups, members of the political opposition or other individuals, some of whom have been arbitrarily detained and subjected to torture or cruel, inhuman or degrading treatment or punishment while in custody. Perhaps, this is because the concept of terrorism and violent extremism is a misleading notion within the national laws that are adopted by most African states to counter terrorism.

As argued by the UN Secretary-General, 'upholding human rights and the rule of law is the safest way to prevent the onset of a vicious circle of instability and resentment. This is so because societies based on respect for human rights and which provide for equal economic opportunities for all represent the most tangible and meaningful alternative to the recruitment strategies of terrorist groups'. To achieve lasting peace, human rights and sustainable development when countering terrorism, states must respect judicial systems and ensure the legal accountability of those found guilty. This also requires having sincere respect for the rule of law, human rights, which constitute both civil and political rights, economic,

social and cultural rights. This will further enhance democracy, peace and human rights and pave a way for the achievement of sustainable development. Despite several attempts from states to counter terrorism, the desire to maintain peace, enforce human rights and sustainable development still falls short of effective protection due to the lack of political will, authoritarianism, marginalisation and vague counterterrorism measures which poses a great danger or challenge to international peace and sustainable development.

IV. CONTEMPORARY CHALLENGES IN COUNTERTERRORISM

One of the unprecedented threats to international peace, human rights and development is terrorism and the misuse of counterterrorism measures. Although terrorist acts are practised in almost all parts of the world, it can be accepted that developing states seem to face a greater majority of terrorist attacks. Perhaps, this blame could be tilted towards authoritarianism, lack of democracy and the abuse of power by national governments. According to the UN Secretary-General, in 2016, nearly three-quarters of all deaths caused by terrorism were in just five states, such as Iraq, Afghanistan, Syria, Nigeria and Somalia that have huge humanitarian needs. In Africa, several studies show that the lack of education, poverty, marginalisation, state violence and abuse of power are the main reasons behind radicalisation and violent extremism. The Secretary-General noted that about 93% of the terrorist attacks between 1989 and 2014 occurred in countries with high levels of extrajudicial deaths, torture and imprisonment without trial. In the fight against terrorism, extreme vigilance must be applied by those in a position of authority against all forms of abuse of power and a culture of respect for the law above all should be instilled by those entrusted with its application. The terms 'terrorism' and 'violent extremism' are often used interchangeably without any precise meaning and distinction.

As stated previously, despite several efforts to prevent and counter violent extremism by states, there is still no generally accepted definition of violent extremism which makes the meaning elusive. According to the Organisation for Security and Co-operation in Europe (OSCE), measures to counter terrorism and associated offences should be formulated in domestic legislation with clarity, precision and in a non-discriminatory and non-retroactive manner. The lack of an inclusive definition of terrorism and violent extremism leaves states with the discretion of defining this offence in national laws in line with their constitutional order. For instance, in the United Kingdom, extremism is defined as the vocal or active opposition to fundamental values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs. It also calls for the death of UK armed forces at home or abroad. In Denmark, extremism is used to describe groups that can be characterised by their simplistic views of the world and of 'the enemy' which rejects fundamental democratic values and norms and uses illegal and possibly violent methods to achieve political/religious ideological goals.

Moreover, the Australian government deems violent extremism to be 'the use or support of violence to achieve ideological, religious or political goals' whereas Norway defines it as activities of persons and groups that are willing to use violence in order to achieve political, ideological or religious goals, and Sweden defines a violent extremist as someone 'deemed repeatedly to have displayed behaviour that does not just accept the use of violence but also supports or exercises ideologically motivated violence to promote something'. These diverse meanings show the manner in which different states address terrorism and violent extremism. Therefore, the lack of a unique definition and clarity in the meaning of terrorism and violent extremism has increasingly lead to a lack of respect for human rights, making room for the possibility of instability and a hindrance to economic development.

Another important challenge is based on autocracy and the absence of democracy to foster peace, human rights and sustainable development. While some may see development as closely linked to peace, others see it as a consequence of democracy. Claude Ake perceived democracy as a sine qua non for development in Africa, because he believed that there is a relationship between democracy and development. On the other hand, for P. A. Nyongo, there is a definite correlation between the lack of democratic practices in African political scenario and the deteriorating economic condition. If governments are not accountable to the people they govern, then, they are very likely to be engaged in socio-economic practices that are not responsive to people's needs. However, the questions of development and problems of economic crisis cannot, therefore, be meaningfully discussed without discussing problems regarding the nature of state power, the form of popular participation in the processes of government and the question of democracy.

Therefore, the supposed relation between democracy and development is not as direct as it had been suggested by Ake and Nyong'o. Democracy does not, in any way, guarantee development. Although there are no direct links between democracy and development, it can be argued that an inextricable link between democracy and economic growth will confirm the fallacy of reductionism. Unlike development, democracy creates opportunities for the common good and enhances capabilities of the poor and underprivileged. As such, it has an intrinsic human development value. Democratic governance has three distinct advantages over authoritarian

regimes. First, democracies are better able to manage conflicts and avoid violent political change, as they provide opportunities for people to participate in the political process of the country. Second, democracies are better able to forestall threats to human survival because of the checks by the opposition parties, uncensored criticism of public policies and the fear of being voted out of office. Third, democracies lead to the generation of greater awareness of social development concerns, including health care and the rights of women and minorities. Human development performance can be enhanced through the improvement of the quality of a democracy, including devolution of power and resources, protection of human rights, removal of corruption and speeding up the process through which justice is meted out. Consequently, peace would guarantee development and development would guarantee peace. Therefore, to ensure peace, human rights and sustainable development while countering terrorism, the world, in general, and developing states, in particular, must move away from authoritarianism and strive for democracy. This is because democratic governance can help lay the foundation for maintaining order and managing development. This will enable effective participation in any decision-making process and in the adoption of anti-terrorism laws, thereby giving way to a more proactive society in which citizens' voices may be heard so that those in power can be held accountable for any wrongful acts or decisions.

CONCLUSION

The paper has attempted to lay down strong arguments for the maintenance of peace, human rights and sustainable development among states as the main agenda of the 2030 UN Sustainable Development Goals when countering terrorism. It demonstrates the negative impact of terrorism and counterterrorism measures adopted and applied by states on peace, human rights and development and argues that states must take effective measures to review their national anti-terrorism laws. Therefore, as terrorism and violent extremism undermine peace and security, human rights, the rule of law and sustainable development, no country or region is immune from its impacts and effective measures must be taken to counter these challenges. The paper also suggests that counterterrorism measures that are adopted and applied by states should be well defined with clarity and used for the intended purpose for which they were created. It argues that an all-inclusive definition of terrorism and violent extremism is important at the international level to better guide states on how anti-terrorism measures should be drafted.

Therefore, for the world at large, and developing states in particular, to achieve long-lasting peace and the effective enjoyment of human rights and sustainable development, they must start thinking about how to move away from authoritarianism to embrace effective democracy so that everyone is able to participate in all decision-making processes within the state. This will further give room for equal respect of the rule of law and the accountability of those in power to the people and those who commit terrorist acts. In this manner, peace, human rights and sustainable development can be effectively guaranteed alongside a better future where no one will be left behind in all aspects of life.

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