

The Right to Security: Addressing Crime in the Framework of Human Rights

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Abstract

The right to security is intrinsic to human dignity, yet its pursuit often involves measures that challenge fundamental human rights. This article explores the complex interplay between security imperatives and human rights principles, focusing on the framework for addressing crime within this dynamic. Through an analysis of international legal instruments and case studies from various regions, it examines the challenges in balancing security measures with respect for privacy, due process, and freedom from excessive force. It proposes strategies for reconciling these tensions, including proactive prevention initiatives, strengthened legal safeguards, and enhanced international cooperation. Drawing on examples such as post-9/11 counterterrorism efforts in the United States, data privacy regulations in the European Union, and crime prevention in post-apartheid South Africa, it illustrates the complexities and dilemmas faced by governments worldwide. Ultimately, it advocates for a holistic approach that upholds human rights while effectively addressing security concerns, emphasizing the importance of striking a balance that safeguards both individual liberties and collective safety in an increasingly interconnected world.

Keywords: Security, Human Rights, Crime, Balancing, Legal Framework, International Cooperation

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1. Introduction

The right to security represents one of the greatest human aspirations that are deeply rooted in individual and collective well-being. However, the efforts of governing institutions to protect their citizens frequently lead to the juxtaposition of two essential tasks—crime prevention and human rights preservation. This dichotomy forms the fundamental basis for contemporary debates on security in the human rights context. A variety of international legal documents highlight the crucial nature of the right to security, while the need to protect citizens from forces of evil, such as terrorism and organized crime, coupled with the efforts to preserve their freedom from arbitrary detention and undue force, creates the multilayered challenge. As a result, security specialists,

lawyers, and society members today are called to solve the identified tension as a group (Van Kempen, 2013).

The main aim of this article is to address the intricacies of the discussion regarding the relationship between security and human rights, focusing on the need to address crime. The article explores the legal aspect of the right to security and, in this regard, discusses the duties of states to ensure security while maintaining respect for human rights. Additionally, the article considers the practical challenges of meeting both security needs through various measures and human rights as a valid concern. The introduction also discusses the international and regional experience of addressing these concerns. In such a way, the introduction provides the background for a more comprehensive discussion of the topic, orienting the readers to the issues to be addressed. At the same time, the introduction also stresses the importance of adopting the right balance between relevant systems and mechanisms and the need to comply with the human rights standards. Therefore, it describes the extensive discussion of the relationships between security and human rights and creates the framework for the remaining part of the article (Howard-Hassmann, 2012).

2. Literature Review

The literature on the intersection of security and human rights is vast, and it varies in both the quality and focus of its contributions. A broad overview of the academic and policy scholarship provides a comprehensive picture of the theoretical frameworks, empirical studies, and policy analysis perspectives that illuminate different aspects of the relationship between security and human rights.

One of the representative works in this sphere is the book *Security and Human Rights* by Benjamin J. Goold and Liora Lazarus (2013). This book provides a comprehensive examination of the interactions between various security measures and human rights safeguards. The authors who contributed to this volume are leading specialists in law, political science, and sociology. Furthermore, this book helps better understand that one should be able to consider the scope of security challenges while considering different areas in which they emerge. Nevertheless, the authors argue that adequate protection of human rights can prevent different abuses justified by the need to ensure security.

There is also another valuable source, which contributed profoundly to the writer's understanding of the issue. Thus, Cole's article "Balancing Security and Liberty: The Challenge of Counterterrorism Policy" was written in 2003, and it examines the question of security of American citizens and the actual measures taken to increase it. In his work, Cole proves that there is no such competition between liberty and security as the much-discussed Patriot Act presupposes. In general, by using several cases and examples from different countries and the international experience of fighting terrorism, the author shows that the best policy is the one, which makes every effort to guarantee both more security and more respect for human rights.

In the context of international law Louis Henkin, Philip Alston, Dinah Shelton (1981) have made a great contribution to an interpretation of the right to security and its interaction with other human rights. The problem in the international law is that an application of the presumption of credibility regarding the action of authorities could not assure the validity of law enforcement by international instruments, therefore, the efforts of the mentioned legal scholars appear to be particularly significant for the interpretation of human rights. The work of Henkin, *The rights of man today*, review the development of ways human rights are recognized in international documents including the right to security. The work of authors, *International Human Rights*, provides a summary of such international instruments, treaties, and conventions in the sphere as well methods to protect such rights on the international level.

Besides, empirical studies showing the effect of security measures on exact right have been made, and they added to the general information on the topic of the security measures. Thus, the “Surveillance and Democracy” by the Global Justice Clinic at New York University School of Law has analyzed the situation in the area, discussed the human rights impact of paid programs, and focused on the chilling effect impacting the right for freedom of expression and association on the examples in different countries.

To sum up, the literature on security and human rights is abundant and multifaceted, including diverse theoretical and empirical approaches and policy papers. By ensuring synthesis of the relevant works, the current article aimed at outlining different views on the nature of the relationship between both concepts and contributing to the development of recommendations to harmonize approaches to human rights protection and provision of security.

3. Research Methodology

When conducting qualitative research on the interrelationship between security and human rights, the multidimensional approach is crucial. The fact is that both concepts are not dichotomous and have complex natures. For these reasons, the given study employs a qualitative approach consisting of the analysis of documents, semi-structured interviews, and case studies to examine fully the topic under consideration. Documentary analysis involves the review and interpretation of various legal and policy documents and scholarly literature on security and human rights. The researcher aims at analyzing international legal instruments, national laws, government reports, and other policy documents making it possible to understand the existing legal framework over the right to security and its intersection with human rights. Due to the interviewed persons’ importance, semi-structured interviews are chosen. The respondents are expected to be official policymakers, legal experts, human rights activists, and advocates from civil society organizations. I will use primarily qualitative research methodology in my study. To answer the research question that touches on complex interrelations between security and human rights, it is important to consider specific cases and listen to people involved in such situations. For this reason, data obtained from interviews may serve as a primary source of information and allow us to analyze the cases under consideration in a broader context. These interviews might prove invaluable as they capture some of the real dilemmas and controversies decision-makers in various spheres face when safeguarding security and human rights and taking into account of various alternative perspectives and solutions. Furthermore, since security issues can be different in nature, related problems may also vary, and only by obtaining data about specific cases may I speculate on discrepancies and similarities and analyze them in detail. Finally, interviews and survey results can also serve as a basis toward determining significant gaps in the existing in the research field knowledge that needs to be addressed, as well as other tertiary information.

4. International Human Rights Legal Instruments

4.1.1. Universal Declaration of Human Rights (UDHR):

The Universal Declaration of Human Rights is a crucial document in the sphere of human rights. It was adopted by the United Nations General Assembly on December 10, 1948. The Declaration serves as a milestone in the sphere of human rights and is a test of the recognition and protection of fundamental human rights across the globe. The UDHR consists of a preamble and 30 articles, which discuss and regulate the comprehensive standards of rights and freedoms which belong to every person on earth. Thus, while referring to ‘peoples’ throughout the text, the document serves as “a common standard of achievement for all peoples and all nations”. It is important to note that the Declaration points that having recognition of “inherent dignity” and “equal and inalienable rights of all members of the human family” serves as the foundation of real freedom, justice, and

peace across the world. The preamble of UDHR recognizes that disregard and contempt for human rights and freedoms have otherwise resulted in barbarous acts that have outraged the conscience of the world. Reiterating that human rights should be protected by the rule of law, education, and the promotion of public attitudes in this respect. No distinction of any kind to be made in humanity's respect for human rights and fundamental freedoms (Ainley, 2017).

The Universal Declaration of Human Rights outlines an array of rights and liberties covering political, economic, social and cultural aspects. These encompass the rights, to life, freedom and personal security (Article 3); freedom from slavery and forced labor (Article 4); protection from torture and cruel treatment (Article 5); the right to recognition and equal treatment before the law (Article 6); access to remedies for rights violations (Article 8); freedom of thought, conscience and religion (Article 18); freedom of expression (Article 19); the right to work under conditions with job security measures in place (Articles 23 and 24); access to education (Article 26); and participation in community cultural activities (Article 27) among others. The UDHR serves as a statement of principles and ideals, then a binding agreement. It has been a source of inspiration, for international human rights agreements such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as for national laws and constitutions. This document continues to be a part of the human rights framework reflecting the shared desires for respect, fairness, and equality, for everyone (De Baets, 2009).

4.1.2. International Covenant on Civil and Political Rights (ICCPR):

The United Nations General Assembly adopted the International Covenant, on Civil and Political Rights (ICCPR) on December 16 1966 making it a significant international human rights treaty. With the International Covenant on Economic, Social and Cultural Rights (ICESCR) it contributes to the International Bill of Human Rights emphasizing the nature of human rights encompassing civil, political, economic, social and cultural aspects. With 53 articles outlining political rights and freedoms for all individuals without bias the ICCPR guarantees fundamental entitlements such as the right to life (Article 6) protection from torture and cruel or degrading treatment (Article 7) liberty and security of person (Article 9) fair trial rights (Article 14) freedom of thought, conscience, religion (Article 18) speech freedom (Article 19) assembly freedom (Article 21) association freedom (Article 22), among others (Joseph, & Castan, 2013).

Key provisions of the ICCPR include:

1. Non-Discrimination (Article 2): States that are part of the ICCPR commit, to upholding and safeguarding the rights acknowledged in the Covenant without any form of discrimination including based on race, color, gender, language, religion, political beliefs, national or social background, wealth, birth status or other factors.
2. Right to Self-Determination (Article 1): All individuals are entitled to self determination allowing them to freely choose their standing and pursue their social and cultural progress.
3. Limitations on Rights (Article 4): The rights acknowledged in the ICCPR could have some restrictions. Only those that are legally mandated and essential, for upholding the rights or reputations of individuals safeguarding security maintaining public order promoting public health or preserving moral values.
4. Reporting Mechanism (Article 40): Countries that are part of the ICCPR must provide updates to the UN Human Rights Committee, a group of experts detailing the actions they have implemented to uphold the rights outlined in the Covenant.

The International Covenant on Civil and Political Rights (ICCPR) came into effect on March 23 1976. As of January 2022, it has been officially accepted by 173 nations. This treaty plays a role,

in the human rights landscape offering a robust structure to safeguard and advocate for civil and political liberties across the world (Keith, 1999).

4.1.3. European Convention on Human Rights (ECHR):

The European Convention, on Human Rights (ECHR) is an agreement adopted by the member countries of the Council of Europe signed in Rome on November 4 1950 and came into effect on September 3 1953. It stands as a milestone in ensuring human rights protection in Europe establishing a framework for upholding fundamental rights and liberties. The ECHR comprises a preamble and 18 articles outlining a set of political rights and freedoms granted to individuals within the territories of member states. These entitlements encompass the right to life (Article 2) protection from torture and cruel or degrading treatment or punishment (Article 3) liberty and security of person (Article 5) trial guarantees (Article 6) freedom of belief, conscience and religion (Article 9) freedom of speech (Article 10) well as privacy and family life protections (Article 8), among others (Grabenwarter, 2014).

Key provisions of the ECHR include:

1. European Court of Human Rights (ECtHR): The European Court of Human Rights (ECtHR) is designated by the ECHR as the entity tasked with interpreting and upholding the rights and duties outlined in the Convention. If individuals feel that their rights, under the ECHR have been infringed they can file complaints to the ECtHR once they have pursued all remedies domestically.
2. Margin of Appreciation: The European Court of Human Rights acknowledges the concept of the "margin of appreciation " granting member states some leeway, in enforcing the rights and freedoms outlined in the Convention. This recognizes the variety of frameworks and cultural practices throughout Europe all while upholding a shared foundation, for safeguarding rights.
3. Protocol System: The European Court of Human Rights (ECHR) has been enhanced by protocols that have broadened and reinforced the protected rights outlined in the Convention. These additional protocols tackle topics, like the elimination of punishment (Protocol 6) the entitlement, to education (Protocol 1) and the prevention of discrimination (Protocol 12).
4. Binding Nature: The decisions made by the European Court of Human Rights (ECtHR) are legally binding for countries that're parties to the European Convention, on Human Rights (ECHR). Member states must take actions to ensure these decisions are carried out. Failing to adhere to ECtHR rulings may lead to pressure, sanctions or other enforcement measures.

The ECHR has been instrumental in advancing and safeguarding rights across Europe setting a precedent, for regional human rights frameworks globally. All 47 member states of the Council of Europe have ratified the ECHR significantly influencing systems and fostering a shared human rights culture in Europe (Keller, & Sweet, 2008).

4.1.4. African Charter on Human and Peoples' Rights (ACHPR):

The African Charter, on Human and Peoples Rights also known as the Banjul Charter was created as a human rights document by the member nations of the Organization of African Unity (OAU) now referred to as the African Union (AU). This charter was officially adopted on June 27, 1981, in Banjul, The Gambia. Became effective on October 21, 1986. It stands as an achievement in advancing and safeguarding rights across Africa reflecting the desires of African communities for respect, equality and fairness (Uwazuruike, 2022).

Comprising a preamble and 68 articles the ACHPR outlines a framework of rights and liberties for individuals and communities within member states jurisdictions. These include political rights like the right to life (Article 4) protection from torture or cruel treatment (Article 5) freedom of liberty and safety (Article 6) entitlement to a fair trial (Article 7) as well as freedom of speech and association (Articles 9 and 10), among others. Furthermore the ACHPR acknowledges the rights

and freedoms of communities such, as the right to self-determination (Article 20) the right to progress (Article 22) and the right to an environment for development (Article 24). These clauses mirror Africa's legacy and its dedication, to human rights strategies that prioritize not just individual freedoms but also the overall welfare of groups and societies (Uwazuruike, 2022).

Key provisions of the ACHPR include:

1. African Commission on Human and Peoples' Rights (ACHPR): The African Charter on Human and Peoples' Rights establishes the African Commission on Human and Peoples' Rights as the supervisory body charged with promoting and protecting the rights in the Charter. The Commission has the power to receive and consider either a report or communications submitted by a member state, to make visits to states to monitor their observance of obligations, and consider communications alleging violations.
2. Protocol System: The African Commission, on Human and Peoples Rights (ACHPR) has been enhanced by protocols that expand and reinforce the rights safeguarded in the Charter. These protocols focus on areas such as women's rights (Maputo Protocol) the rights of individuals the rights of individuals, with disabilities and the rights of communities.
3. Binding Nature: These do not compel in law both decisions and recommendations of the ACHPR. Unless they are accepted by a member state through which the Commission can lodge complaint against it, neither decisions nor recommendations of the ACHPR are legally binding on member states. However, they provide a backbone that can help Africans to promote and protect human rights on the continent.

The African Commission, on Human and Peoples Rights (ACHPR) has been instrumental in promoting rights across Africa sparking changes in laws and institutions at both continental levels. It enjoys support from African Union member countries. Has helped nurture a strong culture of human rights, throughout the region (Uwazuruike, 2022).

4.1.5. Inter-American Convention on Human Rights (IACHR):

The Inter-American Convention on Human Rights, also known as the American Convention on Human Rights, is a regional human rights agreement established by the states-parties to the Organization of American States. The Convention was signed on November 22, 1969, in San José, Costa Rica, and came into power on July 18, 1978. The adoption of the Convention marked a considerable achievement in the field of promotion and protection of human rights throughout the American region. It became a tangible evidence of the commitment of the OAS member states to the underlying principles, primarily democracy, rule of law, and humanness. The IACHR without special provisions contains a preamble and 82 articles, reflecting the complete structure of the system of the executed rights and freedoms. The document describes the list of civil law rights and political freedoms: right to life, prohibition of torture and cruel treatment or punishment, personal freedom and security, right to a fair trial. In addition, it is the right to freedom of speech and the free citizens' right to assemble. Additionally, these provisions outline such rights social, economic and cultural rights, such as the right to work, the right to education, the right to health, and the right to participate in the cultural life of the community, among others. The IACHR's inclusion of the principle of the relative superiority of the moral and material aspects of people's well-being points out to the link between these rights. Their application is associated with the fair and stable mode of existence for the people living on the territory of a member state of the Convention (De Jesus, 2011).

Key provisions of the IACHR include:

1. Inter-American Commission on Human Rights (IACHR): The OAS Charter creates the Commission establishes the IACHR as the principal organ to promote and protect human rights in

the Americas. – Functions: Receiving petitions and investigating allegations of rights abuses; visiting OAS member states to conduct on-site observation of the human rights situation; publishing reports and making recommendations to member states on human rights issues in the region.

2. Inter-American Court of Human Rights (IACtHR): The IACHR also sets up the Inter American Court of Human Rights as a entity tasked with interpreting and enforcing the guidelines of the Convention. People and nations that are part of the Convention can bring forward cases to the Court claiming breaches of rights safeguarded by the Convention.

3. Binding Nature: The decisions and judgements of the Inter-American Court of Human Rights are binding on the parties to the Convention. Therefore, member states are required to comply with the rulings of the Court. The IACHR has been a critical tool in ensuring accountability and redress of victims due to human rights violation in the Americas. The commission has played a crucial role in advancing the human rights cause in the country, promoting the engagement of dialogues and mutual respect, and increased the scope of cooperation among member countries of the OAS¹. Notably, this has helped in consolidating democratic governance and promoting a human rights oriented culture in the entire region (Padilla, 1993).

5. Right to Security

1. Definition and Scope: One of the formal human rights is the right to security. This right has both physical and mental dimensions. At a minimum, this right can be defined as a collection of people or nations entitled to security beyond threats to life, liberty, or ownership. In other words, the right to security includes obtaining protection from human-directed violence, such as crime, terrorism, armed conflict, as well as exposure to arbitrary force or disaster. This right also protects the interpersonal and group freedoms of human beings and respect for inherent human dignity in a way that no person has recourse (Gayet, 2018).

2. Duty of States to Ensure Security: In general, the states have the primary obligation to secure the security of all individuals on their territory. This liability involves the implementation of both preventive and remedial measures that can address the respective threats, as well as objectives at reducing the risk of the occurrence of any harm for the individuals and communities. Specifically, the states should provide access to the effective legal and institutional frameworks preventing the violation of the right to security, such as law enforcement forces, judiciary system, or emergency services. The states are also required to ensure the appropriate provision of the security-relevant resources and to tackle the root causes of insecurity, e.g. poverty or inequality. Not less importantly, the governments are expected to carry out their security-related activities mindful of the human rights, preventing the use of excessive measures and ensuring the setting of other precautions as minimally interferential, proportionate, and time-bound as possible.

3. Limitations and Permissible Restrictions: The right to security is one of the key human rights, and it is interrelated with numerous other human rights, such as freedoms, rights, and liberties. However, like other rights, this particular right is not absolute, and states can limit or restrict it in various ways and in different situations. A legality guarantee implies that a restriction of the right to security should be prescribed by law and shall not conflict with the international law for the protection of human rights. Additionally, a necessity guarantee means that restrictions should be necessary to fulfill a legitimate aim, such as realizing the protection of public order, rights, and freedoms, preventing crimes and improving their detection, or maintaining security. A proportionality of restrictions implies that the restriction has to correspond to the scope and gravity of the threat for which the affected right shall be determined. Finally, restrictions shall be of a legitimate aim, which means that all restrictions should serve a legitimate aim, i.e., they should be

based on the principles of a democratic society, comply with the rule of law, and be genuinely necessary to protect public order. Therefore, it is possible to conclude that the right to security is a relative human right that pertains to basic physical and psychological safety and health. All states shall guarantee all individuals in its territory such safety and fulfill this right through all available measures ensuring the respect of all their rights and freedoms. Yet like many other rights, the right to security is relative, and in some situations, states are allowed to restrict it, but these restrictions should be necessary, and proportionate and comply with international human rights standards (Ramsay, 2012).

6. Challenges In Balancing Security and Human Rights

6.1. State Surveillance and Privacy Rights:

Contemporary societies are characterized by extensive surveillance measures undertaken by the states. These practices have been facilitated by relatively recent technological advancements. While such measures are adopted under the excuse of ensuring the public's safety and maintaining national security, it raises a number of concerns regarding human rights and the potential for the misuse of power. Surveillance takes various forms, including electronic, physical, and intelligence operations. Nevertheless, it remains a process that encompasses collecting, monitoring, and analyzing personal information of individuals and their movements or behaviors. Since surveillance is intrusive and all-encompassing, people lose privacy and the ability to act independently without someone else's supervision (Bello, & Bamidele, 2022).

Surveillance touches privacy rights deeply by occupying the space of personal life where no external influence should have a right to bother. It is associated with a certain chill for freedom of expression and association as individuals may avoid sharing their views or establishing special links with others for fear of being overheard or watched. Also, surveillance is a tool for the discrimination of minority groups and thereby stigmatization. For example, it is pertinent to surveilling ethnic minorities, especially Arabs and Muslims, political dissidents and religious minorities, in the environment of ignorance and prejudiced perceptions regarding people from these groups. Such surveillance only deepens the existing inequality and contributes to insecurity and exclusion (Feinberg, 2015).

At the same time, surveillance is generally a threat not only to an individual but to democratic values and principles substantially. On the one hand, mass surveillance programs are likely to violate the basic principles of democracy, accountability, and legality because they provide government authorities with excessive opportunities to affect the lives of people and control them. Widespread surveillance involving the collection of all citizens' personal data and the complete lack of openness and control undermine public confidence in government structures and weaken democracy even further. At the same time, the very existence of mechanisms of surveillance of this kind is destructive in the long term because these mechanisms are kept secret, making it impossible to organize a truly democratic discussion of this issue.

In order to minimize the negative effects of surveillance measures on individuals' privacy rights, it is important to develop a set of safeguards and oversight mechanisms that protect accountability, transparency, as well as human rights principles. In this regard, such safeguards should be developed in line with the prevailing international human rights standards to help balance legitimate security concerns with the protection of individual liberties. Notably, these safeguards include establishing clear and precise laws that guide the process related to surveillance, promoting transparency and accountability, imposing measures designed to limit access to personal data such as judicial and legislative authorization and oversight, ensuring access to judicial remedies by affected individuals, developing specific safeguards against the unlawful interference with privacy

rights, as well as against the use of surveillance laws for ulterior motives of short-term gain. Thus, these safeguards allow states to balance legitimate security concerns with the protection of individuals' privacy rights (Golder, & Williams, 2006).

6.2. Counterterrorism Measures and Due Process:

Many times, counterterrorism measures create some dilemmas to these right because states put in place exceptional measures to safeguard the countries security. But at times these measures come with punitive measures that go against the rule of law. Two specific areas are preventive detention and the right to a fair trial. Extrajudicial killings and right to life.

One of the most common systems that allows using methods of counterterrorism is preventive detention. There are no charges and trials against the suspects in the given system, but they can be detained on the suspicion of preventing potentially dangerous actions. Although it may be necessary to detain a person for the purpose of countering terrorism, there are numerous concerns that it may lead to the violation of the fundamental right ensuring the presumption of innocence. To describe, an individual detained for the preventive purpose can be deprived of the right to be informed promptly about the charges with detailed information.

In addition, such persons do not have the opportunity to continue their detention in the specialized tribunal and to have the ability to trial within a reasonable time or be set free. Furthermore, after a certain period of time, it will be possible to refer to the right to prohibition of torture on the assumption that no one shall be subjected to prolonged or time-consuming detention under the given system. Still, in-communicator detention can take place for the purpose of counting terrorism, and there are justified reasons to take such steps. It implies that the practice of preventive detention can lead to the violation of the principle of proportionality by detaining individuals for an extended period of time despite the absence of established charges and trials. The given approach can also violate the law by leading to the arbitrary or unlawful detention of individuals taking the preventive measures that protect the public from terrorists who can also suffer from the unlawful detention-retained without trials or charges with the time. Another system violating human rights from the perspective of counter-terrorism is extrajudicial killings, which take place outside the judiciary systems accepted in Western countries (Sarkin, 2016).

Indeed, to maintain due process rights in the context of counterterrorism measures, states must ensure that preventive detention is characterized by rigorous legal safeguards and oversight mechanisms that highlight abuses and limit compliance with such a measure to the rule of law. In each case, such an approach includes the right to challenge a case of illegal detention by an independent and impartial tribunal, access to a legal representative and guarantees to ensure the legality of states' acts. For a fair trial, reasonable time restrictions on detention without charge and trial must be defined. In a similar way, when carrying out sports against terrorism, states must comply with the principles of transparency, accountability, and full compliance with the protection of human rights.

The successful performance of activities in this sphere requires a rigorous approach to the question of extrajudicial executions. For the purpose of maintaining counterterrorist measures within the boundaries of just actions, the idea of extrajudicial executions must be limited by a thorough and impartial investigation of the circumstances that prompted them. In addition, such an action will be justified only in countries where the state has provided for the responsibility for violations of the right to life of citizens and other essential rights and freedoms (Khan, & Riaz, 2024).

6.3. Policing and Use of Force:

Policing is a regulatory mechanism of the state targeted at preservation of public order, prevention of crime, and ensuring safety of individuals and communities. However, the use of force by theory

and practice entities, when inordinate or inequitable, could result in the breach of the right to physical integrity and cause mistrust in the criminal justice system. Therefore, the present study will be aimed at the issues of the excessive use of force and the right to physical integrity, as well as the mechanisms of accountability in the theory and practice domain. In particular, the inordinate use of force by a law enforcement officer may be described as the application of violent power and compulsion that is not required and proportionate to a law enforcement purpose. In other words, inordinate force could be applied during arrests, riots, or meetings. Examples include the unnecessary use of handguns, sticks, chemical agents, tasers, or arrangement procedures by law enforcement officers. As a result, the residents sustain injuries or are murdered causing the breach of people's rights to dignity, and protection of the human being and entreaty to bosom integrity as described in international covenants.

There are systems that the law enforcement service should follow in ensuring that in case they excessively implement force against other people within society, they should be accountable. In such a case, the victims should also be accorded justice and redressed. An internal affairs department, also known as a professional standards unit, is an internal system that follows up the investigations. The internal body is responsible for seeking and investigating complaints that impose misconduct on their officers. After investigation of the alleged officers, the accountable body takes disciplinary action. Alternative to this is the establishment of civilian review boards, independent police commissions, or ombudsman offices. The referral bodies provide external review systems of law enforcement agencies. The bodies are independent, and their functions are debatable: redress, investigation of police misconduct, and recommendations for reforms of policy to the police (Riaz, & Usman, 2024).

In addition, accountability mechanisms may be supported by judicial oversight, whereby constitutional and independent courts are used in reviewing cases that relate to the conduct of the police. Both the officers and the security agencies should be taken through the rule of law and held accountable. For this reason, such oversight methods must enforce accountability for police activities. In addition, civilian oversight mechanisms may provide complaints and avenues of redress for the members of the public. Civilian complaint review boards and police oversight commissions are some of the strategies that may be used in filing a complaint against any activity or officer of the law. Moreover, there may be a requirement to report to the public and keep up transparency on the activities of law enforcement agencies in the country. This may include the number and type of discipline given to the officer's movements across the country, information regarding the enforcement of decisions made by the police, external monitor reports, and any other relevant data. It is important to note that the issue of the use of force by any law enforcement agencies is both a rule of law and rule of misuse and therefore, requires effective accountability mechanisms to be implanted (Khan, & Jiliani, 2023).

7. Strategies For Ensuring Security Within Human Rights Framework

7.1. Proactive Prevention Strategies:

Proactive prevention strategies play a crucial role in addressing the root causes of crime and promoting community safety and well-being. Two key proactive prevention strategies include investing in social programs and education, and promoting community policing and trust-building initiatives. Investing in social programs and education is essential for addressing underlying social and economic factors that contribute to crime and violence. By providing access to quality education, job training, and economic opportunities, particularly in disadvantaged communities, governments can empower individuals and families to break the cycle of poverty and build a brighter future. Social programs aimed at addressing issues such as unemployment, homelessness,

substance abuse, and mental health can help to reduce the social and economic inequalities that fuel crime and contribute to social unrest. Moreover, investing in education and youth development programs can provide young people with the skills, knowledge, and opportunities they need to succeed in life and make positive contributions to their communities. By addressing the root causes of crime and promoting social inclusion and opportunity for all, governments can create safer and more resilient communities.

Promoting community policing and trust-building initiatives is another critical proactive prevention strategy for fostering positive relationships between law enforcement agencies and the communities they serve. Community policing emphasizes collaboration, partnership, and problem-solving between police officers and community members to address crime and disorder effectively. By engaging with community members, listening to their concerns, and building trust and rapport, police officers can gain valuable insights into local crime trends and develop tailored strategies to address community needs. Trust-building initiatives, such as community outreach programs, neighborhood watch groups, and youth engagement activities, can help to bridge the divide between law enforcement and marginalized communities and foster mutual respect and understanding. By working together with community members as partners in crime prevention, law enforcement agencies can build stronger, safer, and more resilient communities. proactive prevention strategies such as investing in social programs and education, and promoting community policing and trust-building initiatives, are essential for addressing the root causes of crime and promoting community safety and well-being. By addressing social and economic inequalities, empowering individuals and families, and building positive relationships between law enforcement agencies and communities, governments can create safer, more inclusive, and resilient societies where everyone has the opportunity to thrive (Faisal, Usman, & Khan, 2023).

7.2. Strengthening Legal Safeguards:

Strengthening legal safeguards is paramount to ensure that security measures are applied within the bounds of the law while upholding individuals' rights and freedoms. Two pivotal aspects of reinforcing legal safeguards include enforcing strict judicial oversight and upholding the principle of proportionality in security measures. Enforcing strict judicial oversight is crucial to prevent abuses of power and violations of rights. This oversight involves independent courts scrutinizing and authorizing actions taken by law enforcement or security agencies to ensure compliance with legal standards and respect for fundamental rights. Clear legal frameworks defining the scope and limits of security measures should be established, requiring authorities to seek judicial approval before implementing certain actions, such as surveillance, searches, or arrests. Independent judges play a vital role in reviewing evidence, assessing necessity and proportionality, and ensuring compliance with constitutional and human rights standards. Additionally, individuals affected by security measures should have the right to challenge their legality before a court, providing a mechanism for accountability and redress.

Upholding the principle of proportionality in security measures is essential to balance security needs with the protection of individual rights. This principle requires that security measures be necessary and proportionate to the threat they aim to address, without unduly infringing on rights and freedoms. Legal frameworks should explicitly require authorities to demonstrate the necessity and proportionality of each security measure, considering less intrusive alternatives before resorting to more invasive actions. Regular reviews of security measures should be conducted to assess ongoing necessity, especially in the context of evolving threats or changing circumstances. Legal avenues for individuals to challenge the proportionality of security measures are essential to reinforce accountability and protect against overreach. strengthening legal safeguards through

strict judicial oversight and upholding the principle of proportionality is critical for maintaining the delicate balance between ensuring security and safeguarding individual rights. These measures contribute to a legal framework that promotes accountability, transparency, and the protection of fundamental rights in the face of security challenges (Hussain, Khan, & Chandio, 2023).

7.3. Fostering International Cooperation:

Fostering international cooperation is vital for addressing transnational crime and enhancing global security. Two key aspects of fostering international cooperation include sharing best practices in crime prevention and mutual legal assistance in criminal matters. Sharing best practices in crime prevention allows countries to learn from each other's experiences and successes in combating crime and promoting community safety. By exchanging information, strategies, and expertise, countries can identify effective approaches to crime prevention, tailor interventions to local contexts, and maximize the impact of limited resources. International organizations, such as the United Nations Office on Drugs and Crime (UNODC) and INTERPOL, play a crucial role in facilitating the exchange of best practices through research, training programs, and technical assistance initiatives. Additionally, bilateral and multilateral partnerships between countries enable collaborative efforts to address common challenges, such as organized crime, cybercrime, terrorism, and trafficking in persons, drugs, and firearms. By leveraging the collective knowledge and resources of the international community, countries can develop comprehensive and evidence-based approaches to crime prevention that promote safety and security for all.

Mutual legal assistance in criminal matters is essential for facilitating cooperation between countries in the investigation and prosecution of cross-border crimes. Mutual legal assistance allows countries to request and provide assistance to each other in gathering evidence, locating suspects or witnesses, executing search warrants, freezing assets, and extraditing fugitives. These measures are essential for overcoming jurisdictional barriers and ensuring that criminals cannot evade justice by exploiting differences in legal systems or seeking refuge in other countries. International treaties and agreements, such as extradition treaties and mutual legal assistance treaties (MLATs), provide the legal framework for cooperation between countries and establish procedures for requesting and providing assistance in criminal matters. Additionally, international organizations and networks, such as EUROJUST and the Egmont Group of Financial Intelligence Units, facilitate coordination and cooperation between law enforcement agencies and judicial authorities across borders. By strengthening mutual legal assistance mechanisms, countries can enhance their capacity to investigate and prosecute transnational crime effectively, promote accountability, and uphold the rule of law on a global scale. fostering international cooperation through sharing best practices in crime prevention and mutual legal assistance in criminal matters is essential for addressing transnational crime and enhancing global security. By collaborating with other countries, sharing expertise and resources, and facilitating cooperation between law enforcement agencies and judicial authorities, countries can develop effective strategies to combat crime, protect their citizens, and promote peace and stability worldwide (Khan, Iqbal, & Ahmad, 2022).

8. Case Studies:

A. United States: Balancing National Security and Civil Liberties Post-9/11

Following the terrorist attacks of September 11, 2001, the United States faced a significant challenge in balancing national security imperatives with the protection of civil liberties. In response to the attacks, the U.S. government implemented a series of counterterrorism measures aimed at preventing future attacks and apprehending those responsible. These measures included the USA PATRIOT Act, which expanded the government's surveillance and investigative powers,

enhanced airport security measures, and increased intelligence sharing among law enforcement and intelligence agencies. However, these measures raised concerns among civil liberties advocates about the erosion of privacy rights and due process protections. The expansive surveillance programs, such as the National Security Agency's (NSA) warrantless wiretapping program and bulk collection of telecommunications metadata, were criticized for their lack of transparency, oversight, and accountability. Moreover, the use of enhanced interrogation techniques, such as waterboarding and stress positions, in the treatment of suspected terrorists at Guantanamo Bay and other detention facilities raised concerns about torture and human rights violations. In response to these concerns, civil liberties organizations, legal experts, and concerned citizens mobilized to challenge the constitutionality of certain counterterrorism measures and advocate for greater transparency, accountability, and respect for human rights. Key legal battles, such as the landmark Supreme Court cases *Hamdi v. Rumsfeld* and *Boumediene v. Bush*, affirmed the rights of detainees to challenge their detention and receive due process protections under the U.S. Constitution, even in the context of the "war on terror." In the years since 9/11, the United States has grappled with finding a balance between protecting national security and upholding civil liberties. While some counterterrorism measures have been scaled back or reformed in response to legal challenges and public outcry, others remain controversial and subject to ongoing debate. The tension between security and civil liberties continues to shape U.S. policy and legal discourse, highlighting the ongoing importance of safeguarding fundamental rights in the face of evolving security threats (Usman, Amjad, & Khan, 2021).

B. European Union: Data Privacy Regulations and Security Measures

In the European Union (EU), data privacy regulations and security measures have emerged as critical issues in the digital age. With the rise of digital technologies and online communication platforms, concerns about data privacy and cybersecurity have become increasingly prominent, prompting the EU to enact comprehensive legal frameworks to protect individuals' personal data and enhance cybersecurity measures. One of the most significant pieces of legislation in this regard is the General Data Protection Regulation (GDPR), which came into effect in May 2018. The GDPR establishes strict rules for the processing and protection of personal data, giving individuals greater control over their personal information and imposing heavy penalties on organizations that fail to comply with its requirements. The GDPR represents a significant step forward in safeguarding data privacy rights and holding companies accountable for data breaches and privacy violations.

In addition to data privacy regulations, the EU has also implemented various security measures to combat cyber threats and protect critical infrastructure. The EU Cybersecurity Strategy, adopted in 2013, aims to strengthen cybersecurity capabilities across member states, enhance information sharing and cooperation, and promote resilience against cyber attacks. The establishment of the European Union Agency for Cybersecurity (ENISA) and the Network and Information Security Directive (NIS Directive) further underscore the EU's commitment to enhancing cybersecurity and protecting digital infrastructure. Despite these efforts, challenges remain in effectively balancing data privacy concerns with security imperatives. The tension between privacy rights and security needs is particularly evident in debates over data retention, surveillance, and government access to personal data for law enforcement and national security purposes. The EU continues to grapple with finding the right balance between protecting individual privacy and ensuring effective security measures in an increasingly interconnected and digital world (USMAN, KANWEL, KHAN, & Khan, 2021).

C. South Africa: Addressing Crime While Upholding Human Rights in Post-Apartheid Era

South Africa faces unique challenges in addressing crime while upholding human rights in the post-apartheid era. Despite significant progress in building a democratic and inclusive society since the end of apartheid, South Africa continues to grapple with high levels of crime, including violent crime, organized crime, and corruption. The legacy of apartheid, socioeconomic inequalities, and systemic issues within the criminal justice system contribute to the persistence of crime and violence in the country. In response to these challenges, the South African government has implemented various crime prevention strategies and initiatives aimed at enhancing public safety and promoting human rights. These include community policing programs, crime prevention partnerships, and efforts to strengthen the capacity and professionalism of law enforcement agencies. Additionally, South Africa has enacted legislation and policies to protect the rights of victims and witnesses, combat gender-based violence, and promote restorative justice approaches. However, concerns remain about the effectiveness and accountability of law enforcement agencies in addressing crime while respecting human rights. Reports of police brutality, extrajudicial killings, and corruption raise questions about the integrity and professionalism of the criminal justice system and undermine public trust and confidence. Civil society organizations, human rights activists, and the media play a crucial role in advocating for accountability, transparency, and respect for human rights in the fight against crime. South Africa's experience highlights the complex and interconnected nature of crime, human rights, and social justice issues. Addressing crime effectively requires a holistic approach that addresses root causes, promotes social cohesion and economic development, and upholds the rule of law and respect for human rights. By prioritizing human rights principles in crime prevention and law enforcement efforts, South Africa can build a safer and more just society for all its citizens (Khan, Usman, & Amjad, 2020).

9. Conclusion

In conclusion, addressing crime within the framework of human rights is a multifaceted challenge that requires a careful balance between security imperatives and the protection of individual rights and freedoms. Throughout this article, we have explored various dimensions of this complex issue, from the impact of surveillance measures on privacy rights to the challenges of enforcing strict judicial oversight and upholding the principle of proportionality in security measures. We have examined case studies from around the world, including the United States, the European Union, and South Africa, which illustrate the diverse approaches taken by different countries in addressing crime while upholding human rights. From the post-9/11 era in the United States, where the balance between national security and civil liberties has been a subject of intense debate, to the European Union's efforts to navigate data privacy regulations and security measures in the digital age, to South Africa's ongoing struggle to address crime within the context of its post-apartheid transition, each case study highlights the complex and evolving nature of the relationship between crime and human rights. Despite the challenges and complexities involved, there are common principles and approaches that can guide efforts to address crime while upholding human rights. These include ensuring strict adherence to legal safeguards, such as judicial oversight and proportionality in security measures, promoting transparency, accountability, and respect for due process rights, and fostering international cooperation and solidarity in the fight against transnational crime and terrorism. Ultimately, the goal of addressing crime within the framework of human rights is not only to enhance public safety and security but also to uphold the dignity, autonomy, and fundamental rights of all individuals. By adopting a holistic and rights-based approach to crime prevention and law enforcement, governments can build safer, more just, and

inclusive societies where the rule of law prevails, and human rights are respected and protected for all.

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