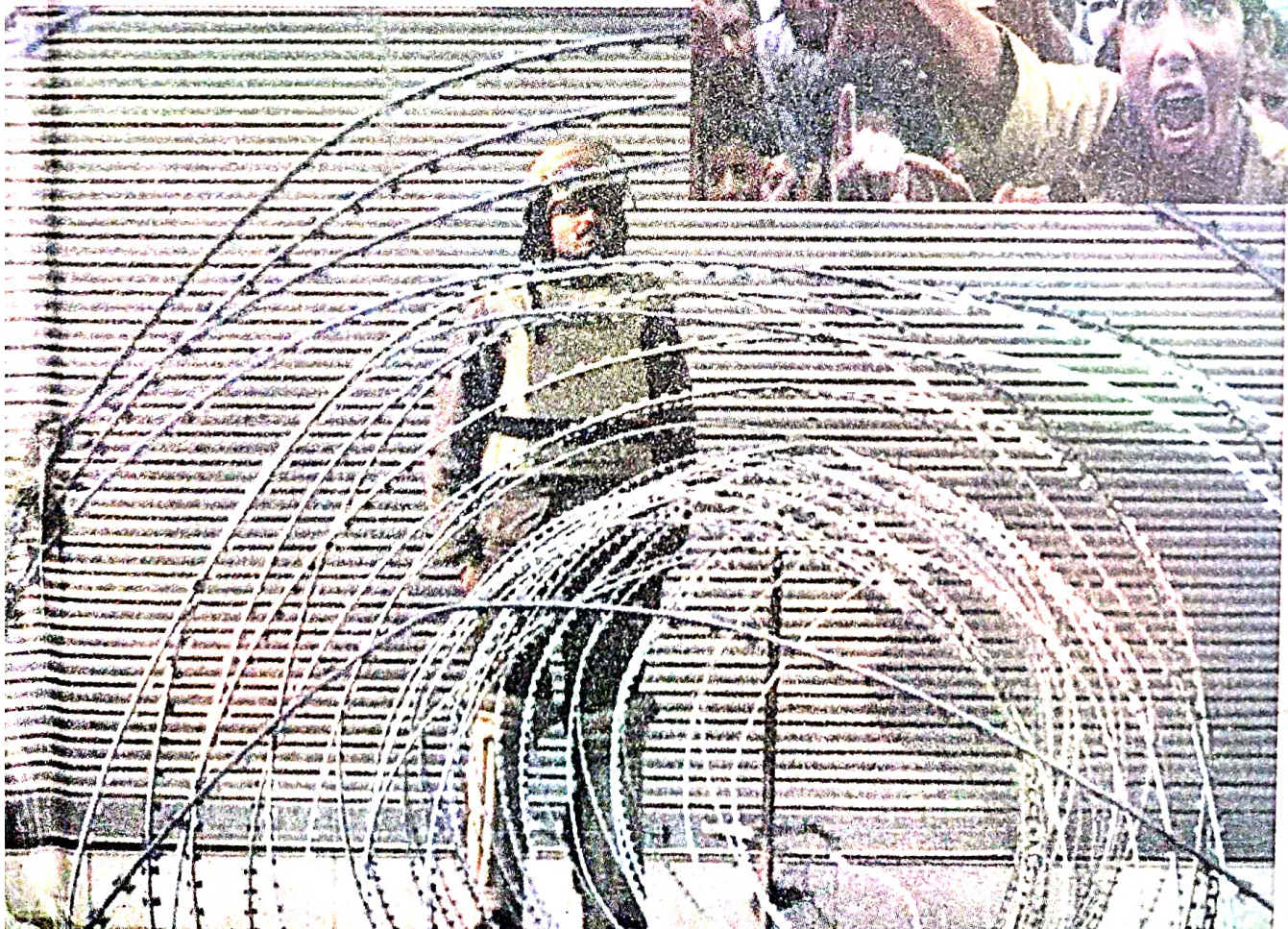


Human Rights Violations and Insurgency

A Historical Perspective

Malkit Singh



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In the modern democracy human rights no longer consist only of civil and political rights but also include economic, Social and cultural rights. They are to be found in the Universal Declaration of Human Rights as well as in the form of International covenants i.e. International covenant on Economic, Social and cultural rights. Human rights also include both individual and group rights. The theorists of human rights have made a distinction among three generations of human rights. The first generation refers to civil and political rights-the classic human rights. Economic, social and cultural rights are referred as belonging to the second generations of rights. The third generation of rights consists of collective rights that have received increasing attention in recent years.² The dominant perspective that have emerged in the contemporary globalizing world that has been witness to the advent of a democratic era marked by 'end of history' and 'end of geography' is that the three generations exist simultaneously and must receive universal equal respect. One particular right relevant in the context of the secessionist movement in Punjab in the 1980's or the post-1989 Kashmir movement for azadi is that of right to self-determination belonging both to the first and second generations as it is mentioned in the two human rights covenants of 1966, commonly referred to as the international bill of human rights.

The balance between the rights of individuals and the groups/communities and the legitimate concerns of the state, which has to ensure general good, is met through the device of permitted limitations. Most of the rights are qualified in a certain sense. Rights have been subjected to the reasons of public order, public health or state security. Likewise in times of emergency states permitted to derogate from human rights. In the name of safeguarding sovereignty and integrity of the state the violation of human rights is not permitted. However, the states can suspend their obligation to guarantee these rights for the duration of the emergency. Territorialized discourse on sovereignty privileging the notion of national boundaries permits states in overlooking or worse violating the human rights. Even then some of the rights like right to life and prohibition of torture are absolute in nature. The tussle between protection of human rights and fighting insurgency will continue to grow in near future, as the Indian state is busy in fighting insurgency in many parts of the country. Human rights violations are bound to occur as the insurgency knows no rules of engagement and the state in eagerness to curb it goes overboard and thus human rights violations occur both at micro and macro level.

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