



THE SITUATION IN CHECHNYA: A STUDY IN THE GROSS VIOLATIONS OF HUMAN RIGHTS

Sai Niharika

First Year, M.A. Political Science, Batch of 2021-2023, St. Joseph's College (Autonomous), Bangalore.

Abstract

Violations of human rights is one of the major concerns of the international community in the 21st century world politics. Chechnya, a republic of the Russian Federation, is infamous for the grave violations of human rights of its civilian population post the disintegration of the Soviet Union. Arbitrary arrests, illegal detention, torture, extrajudicial executions and massacres are some of the violations that have occurred here in the past. What is more alarming is that federal prosecuting agencies do not concern themselves with such grave violations and perpetrators continue to enjoy impunity. This paper attempts to analyze some of the violations in Chechnya and provides recommendations on how to ameliorate the present situation.

Keywords: *Russia, Chechens, Human Rights Violations, Chemical Weapons and Rule of Law.*

Introduction

Human rights essentially mean rights that every human being inherently possesses. They pertain to all aspects of life. The exercise of these rights enables individuals to live and enjoy liberty, equality and their dignity as a human being is respected. Human rights include civil, political, social, economic and cultural rights. Right to life, right to fair trial, freedom against torture, rights of detainees, right to health, freedom of thought, conscience and religion are a few examples of human rights.

“Human rights are foreign to no culture and native to all nations; they are universal.”¹ Human rights find universal application as they are based on the dignity of human beings. Factors like race, age, sex, colour, origin, religion, nationality are not relevant factors when it comes to the applicability of such rights. These rights are also inalienable in nature but they may be restricted under defined legal circumstances. Human rights are complementary to each other; they are interdependent.² The violation of one such right, affects other human rights as well. All human rights are essential to protect the dignity and integrity of every individual and therefore, need to be respected.

Human rights govern the relationship between individuals and power structures (state and non-state actors), delimiting the power of such a structure. States are also required to take steps to ensure that human rights of individuals are not violated. Various international legal instruments such as the ICCPR, ICESCR and UDHR recognize human rights and are instrumental in defining them as well. National legislations have incorporated these rights and specify remedies for violations of such rights as States and their governments are obligated to respect, protect and fulfil these very rights. There is also a duty incumbent upon the State to provide remedies for any violations of human rights at the domestic level. States need to refrain from interfering in the enjoyment of human rights. States have a duty to protect individuals against violations that may be caused by other elements such as non-State actors as well. Positive action of the State is also essential to ensure that human rights are enjoyed and can be realized.

¹ Kofi A. Annan, former Secretary-General of the United Nations, Address at the University of Tehran on Human Rights Day, 10 December 1997

² “Poverty and Famines: An Essay on Entitlements and Deprivation”, Amartya Sen, Oxford, Clarendon Press, 1982.



The Latin maxim *Ubi jus, ibi remedium* may be used to explain the right to an effective remedy for the violation of human rights. The maxim essentially means, ‘where there is a right, there is a remedy’. The State also needs to ensure that there is a mechanism in place that can look into such a violation. The victim must be able to seek an effective remedy through such mechanism. “States have an obligation to investigate alleged violations and take further action where appropriate; take appropriate legislative and administrative measures to prevent violations; and provide victims with effective remedies and equal and effective access to justice.”³

Statement of the Problem

The Russian Constitution states that the Russian Federation includes 85 federal subjects (political divisions) and Chechnya is a constituent republic of Russia.⁴ The Constitution states that “the status of a Republic shall be determined by the Constitution of the Russian Federation and the Constitution of the Republic.”⁵ Although Chechnya gained *de facto* independence as the Chechen Republic of Ichkeria after the First Chechen War, *de jure* it remained a part of Russia. As a Republic, Chechnya operates under its own Constitution and enjoys a certain level of autonomy; it is independent and has its own ideology.⁶

Chechnya has a non-Russian ethnic majority. Russian multiethnic unity is advocated by the Republic but some would call Chechnya as Russia’s “internal abroad”. To substantiate this argument, the legal situation of Chechnya can be taken into consideration. The legal system in the Republic contradicts Russian legislation by combining Islamic and traditional rules.⁷

The international community seems to have neglected the human rights violations that occurred in the region in the past.⁸ Torture, arbitrary arrests and extra judicial killings are violations that are reported. Reports of such violations have not been effectively probed into by Russia. It is opined that Russia has not complied with the United Nations standards of effective prevention and investigation of extralegal, arbitrary and judicial killings of 1989.⁹ The war that lasted from December 1994 to August 1996 between Russia and Chechnya seemed to be like a war against civilian population. This was because the war was not primarily fought between two military bodies that are well-organized. Scholars have opined that the war turned into a guerilla war and have compared it to the Vietnam war.¹⁰ It is important to note that, after the disintegration of the Soviet Union, Chechnya faced many military and civil conflicts. There has been a constant struggle between separatist movements and pro-Russian authorities. Over a period of time, this situation has stabilized although separatist movement activity

³Principle 3, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, UN Doc. A/RES/60/147 (16 December 2005).

⁴Article 65, *Constitution of the Russian Federation*, 1993.

⁵Article 66, *Constitution of the Russian Federation*, 1993.

⁶ “Rule of Law,” *Chechnya: The Inner Abroad*, International Crisis Group, 2015.
<http://www.jstor.org/stable/resrep31732.9>.

⁷*Chechnya’s Status within the Russian Federation*, Uwe Halbach, *Stiftung Wissenschaft und Politik, German Institute for International and Security Affairs*, 2018.

⁸ Forsberg, Tuomas, and Graeme P. Herd. “The EU, Human Rights, and the Russo-Chechen Conflict.” *Political Science Quarterly*, vol. 120, no. 3, [The Academy of Political Science, Wiley], 2005, pp. 455–78,
<http://www.jstor.org/stable/20202560>

⁹ *United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, U.N. DOC. E/ST/CSDHA/12 (1991).

¹⁰ Svante E. Cornell “International Reactions to Massive Human Rights Violations: The Case of Chechnya.” *Europe-Asia Studies*, vol. 51, no. 1, [Taylor & Francis, Ltd., University of Glasgow], 1999,
<http://www.jstor.org/stable/153547>.



can still be seen. There have been attacks made on the republic by extremists even instances of radicals joining terrorist groups in Europe.¹¹ Many Chechens seek asylum in Europe as human security in Chechnya continues to be low.¹²

Discussion

With Russia's invasion of Chechnya, the disregard for human rights could be clearly seen and the actions taken by the Russian forces reflected the same. The International Court of Justice declared that 'the indiscriminate use of force by Russia's army violated the right to life of civilians.'¹³ Human rights organizations and other inter-state bodies have come to a consensus with regards to the violence used. In December 1994, Russia attacked Grozny, the capital of Chechnya from three directions but this attack was met with a strong resistance. As a result of this, Russia changed its strategy. The Russian army employed a tactic that is common for the seizure of a town. They bombed out the city of Grozny and entered the city block by block. These bombings caused thousands of civilian deaths and also left many people displaced. The tragic irony is that ethnic Russians formed a majority of the casualties as they lived in apartment buildings that were easy targets and vulnerable to artillery whereas the Chechen population had cellars in their house where they could take refuge.

International humanitarian law has been severely violated as a resolution of the UNGA states that 'attacks against civilian populations in all armed conflicts are prohibited; there must be a distinction made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible.'¹⁴ There has also been a violation of the rule of proportionality which prohibits indiscriminate attacks (these attacks 'are not directed at a specific military objective' or which 'employ methods or means of combat which cannot be directed at a specific military objective').¹⁵

Arbitrary arrests, torture, extrajudicial executions, massacres and enforced disappearances were other prohibited acts that were committed by Russia.¹⁶ There have been reports of systematic torture of prisoners in 'filtration camps.'¹⁷ Independent eye-witnesses have also reported systematic incarceration, enforced disappearances and extrajudicial executions in such prisoner camps.¹⁸ All men who were aged between 15 and 60 were separated by the Russian forces in Grozny and sent to 'filtration camps' situated in North Ossetia.¹⁹ Evidence was found of chemical weapons being used by Russia; defoliated trees, problems of skin irritations among resident villagers and containers used to store these chemical

¹¹Supra note 6.

¹²Annual Report: "Situation of Asylum in the European Union", 2013, European Asylum Support Office (2014).

¹³Nicolas Bovay, "The Russian Armed Intervention in Chechnya and its Human Rights Implications", International Commission of Jurists-The Review, 1995.

¹⁴Respect for Human Rights in Armed Conflicts, UNGA Resolution 2444 (XXIII), 1968.

¹⁵Article 51(4) of the Additional Protocol to the Geneva Conventions, 1977.

¹⁶Nicolas M. Bovay, The Russian armed intervention in Chechnya and its human rights implications, Review:International Commission of Jurists, 1995.

¹⁷ Sophie Shihab, Witnesses report systematic torture of Chechen prisoners in Mozdok Caucasian prisons emptied to cope with influx of detainees, 1995 https://www.lemonde.fr/archives/article/1995/02/03/des-temoins-font-etat-de-tortures-systematiques-sur-les-prisonniers-tchetchenes-de-mozdok-des-prisons-du-caucase-sont-videes-pour-faire-face-a-l-afflux-de-detenus_3842096_1819218.html

¹⁸Ibid.

¹⁹Human Rights Watch Article, Hundreds of Chechens Detained in "Filtration Camps", 2000.



weapons were found. Use of such weapons constitutes a blatant violation of the laws of war.²⁰ There were allegations made that Russia intended to commit genocide in Chechnya.

Samashki, a village in western Chechnya, with about 15,000 residents, was shelled by heavy military ranged weapons for three days.²¹ This inhumane attack was followed by troops who entered the village and shot civilians mercilessly while also launching grenades into their basements. Reports have stated that Russian soldiers were under the influence of some sort of stimulants; alcohol or narcotics when they attacked Samashki. This attack on the village was conducted by rogue units of the army and seems to have occurred without the explicit sanction of the army authorities. Nevertheless, the incident cannot be disregarded for this very reason and does not even remotely constitute as an excuse for not looking into the incident and attaching liability to the people responsible for such inhumane acts. The superiors in the military and the civilian government have not made any consequential and significant efforts into investigating the attack and punishing the perpetrators of such a crime.²²

Governments of other countries who showed reluctance initially to criticize the actions of Russia, now abandoned this reluctance as the scale of violations perpetrated was unprecedented and increased by the day. Russia's militaristic stance was however, not very affected by the international criticism.²³

There have been accounts of violent imprisonments and enforced disappearances that have been corroborated by witnesses which alleged systematic brutality in the region. The Organization for Security and Cooperation in Europe (OSCE) reported that the conflict in Chechnya resulted in extensive accounts of human rights violations. The Organization also stated that Russia's military action went beyond acceptable limits.²⁴

The International Herald Tribune in an article reported that systematic incarcerations were being carried out by the Russian security forces where civilians were being suffocated and shot. There were reports of some non-combatants who were released from a prison camp that mock executions were being conducted; civilians were being beaten up so bad that they were left disabled. After being detained by Russian forces, some civilians were said to have disappeared without a trace. Some persons who were detained and later released have given detailed accounts of the Russian forces giving them a choice between confessing and being sentenced to more than 10 years in prison or simply be shot. Visits to persons who were being detained was not allowed; a list of persons in custody was also not released.²⁵ The Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe entrusted Mr. Binding with the task of drafting a detailed report on the situation in Chechnya and surrounding republics. This report stated that about 2000 Chechen men had been arrested and detained in "filtration points". These "filtration points" raise concerns about the administration of justice in Russia as well. The report, in detail, discusses cases where the detention has been extended to more than one or two months. It is however important to note that, according to the Russian Constitution, such lengthy periods of detention are illegal.²⁶

²⁰*The Chemical Weapons Convention, 1997.*

²¹*Carlotta Gall and Thomas de Waal, Chechnya: A Small Victorious War, Picador, 1997.*

²²*Supra note 10.*

²³*Supra note 16.*

²⁴*Ibid.*

²⁵*The International Herald Tribune, Russian Brutality in Chechnya Cited, 30th January 1995.*

²⁶*Article 22, Constitution of the Russian Federation, 1993.*



Russian soldiers were reported to have been victims of human rights violations committed by their own military superiors.²⁷ Unprepared and untrained young Russian soldiers were sent to the war front and consequently, lost their lives.²⁸ It was reported that these soldiers did not even receive any information that they were being sent to Chechnya. This amounts to grave violations of humanitarian law.²⁹

Treatment of women in the republic is yet another cause of concern. Chechen women are often subjected to humiliation, widespread discrimination and are victims of abuse. The situation is complicated in itself as the constitution recognizes and provides rights to women but tradition followed and sharia law are seen to be in conflict to these rights. Traditional practices of bride stealing continue till date; there have been cases of forced temporary marriages which prove to be extremely problematic; other forms of illegal detention also damage the lives of women. Legal remedies are not easily available and even if available, are not really effective.³⁰

Rule of Law in Chechnya

An expert has stated that “none of the rule of law institutions work in compliance with the Russian law, not only in law enforcement, but also in civil law.”³¹ A number of sources have alleged that regardless of the reasons, people are often victims of physical violence if they disagree with the representatives of the ruling elite and security services.³² Lives of the people in Chechnya are said to be affected by illegal violence and intimidation which fuels the system and keeps it functioning. Federal prosecuting agencies do not concern themselves with these matters and perpetrators of violence are said to enjoy impunity.³³

Chechen Police and Investigations

Control of the security forces is vested with the head of the government (President) in Chechnya, Ramzan Kadyrov.³⁴ Officials of these forces enjoy impunity and this is one of the main reasons for the lawlessness in the region. The European Committee for the Prevention of Torture, in a report to the Russian Government stated that “the problem of impunity remains acute” and that “it was not possible to carry out an effective investigation vis-à-vis complaints of unlawful actions by officials belonging to those structures.”³⁵ Human rights organizations are of the opinion that people often tend to not report violations publicly as they are scared for their lives, especially after human rights activists were murdered in 2009.³⁶ Officials belonging to law enforcement and leaders of the republic enjoy undoubted impunity; this is a cause of concern as efforts to pursue legal remedies for violations might go in vain, even prove to be counterproductive.

²⁷Supra note 16.

²⁸ Michael Mihalka, “Too arrogant, Too Hasty, Too Ill-Prepared,” *Transition*, volume 1, 15 March 1995.

²⁹ Michael R. Lucas, “The War in Chechnya and the OSCE Code of Conduct” in *Helsinki Monitor: Quarterly on Security and Cooperation in Europe*, Netherlands Helsinki Committee.

³⁰Chechnya Fact-Finding Mission, Report of United Kingdom’s Parliamentary Human Rights Group, 2010.

³¹Interview with Igor Kalyapin, Committee Against Torture, Presidential Council for Civil Society, Moscow, 11 December 2014.

³²“Chechnya: The Inner Abroad”, *International Crisis Group*, 2015, <http://www.jstor.org/stable/resrep31732>.

³³Ibid.

³⁴Article 73, *Constitution of the Chechen Republic*.

³⁵Report by the European Committee for Prevention of Torture, submitted to the Russian Government on their visit to the North Caucasian region of the Russian Federation, 24th January 2013.

³⁶Crisis Group Interview with Oleg Orlov, reported in the *Memorial*, 2015.



Crimes committed by the police in Chechnya are hard to investigate even in Moscow. Novaya Gazeta reported a case wherein Federal Security Service (FSB) investigators could not succeed in their pursuit to investigate allegations into a case involving abduction, torture and extortion. A federal investigator holding an important position was dismissed and no accountability was attached to the Chechen police.³⁷

NGOs, who work independently, have been asked to not make human rights violations public and to personally report it to the head of Chechnya.³⁸ It was also concluded by the Parliamentary Human Rights Group of the United Kingdom that “Chechnya’s own Human Rights Ombudsman is hostile to the concept of independent NGOs holding the Government to account.”³⁹

Judiciary in Chechnya

A human rights lawyer stated in an interview that procedural requirements in trials are often complied with by the courts. He also stated that the quality of judgments however is still questionable as judges use templates and it is a rarity for them to pass a decision applying their own mind.⁴⁰ Another factor that plays an extremely vital role in the judiciary is the brutal pressure that is exerted by republic onto not just members of the jury but also judges them.

A Supreme Court judge who was hearing a certain case, recused himself from the case. This was after he came to the conclusion that the accused in the said case was illegally abducted, taken into custody by the police and even detained for over four weeks. The Judge stated in an interview that the reason why he recused himself from the case was that he received a call from an unknown number; the number belonged to the internal affairs minister who told the Judge that he was certain the accused was guilty and urged against acquittal.⁴¹ This was followed by the head of Chechnya, Ramzan Kadyrov, who made an announcement at a public meeting that the reason behind the judge recusing himself was that he had accepted a bribe to release the defendant in the case.⁴²

European Court of Human Rights allows for the people of Chechnya who are in desperate need of justice to appeal to the Court. The Court has been instrumental in recognizing that there has been a violation of the right to an effective remedy in various judgements in the republic. The response of the government, however, seems to be limited to paying compensation.⁴³

Conclusion and Recommendations

There is no doubt that Russian forces in Chechnya engaged in conduct that has resulted in gross violations of human rights as well as grave breaches of the international humanitarian law. Governments of the world need to strongly oppose and condemn the action taken by Russia. The international community cannot simply turn a blind eye to the problems in Chechnya just because Chechnya is Russia’s “internal matter” as it raises security concerns for the Federation. The international community should try and put in more efforts to ensure that those who criticize the

³⁷Moscow-Yurt, Novaya Gazeta, 25th March 2013.

³⁸Meeting of Ramzan Kadyrov with the Chechen Public Chamber, Grozny TV Channel, 25th February 2014.

³⁹Supra note 30.

⁴⁰Crisis Group Interview with Kirill Koroteyev, reported in the Memorial, 2014.

⁴¹There is a judge, Novaya Gazeta, 11th November 2013.

⁴²Who fears whom in Chechnya, Novaya Gazeta, 13th March 2014.

⁴³“From Judgement to Justice, Implementing International and Regional Human Rights Decisions”, Open Society Justice Initiative, 2011.



administration in Chechnya and those who expose grave human rights violations in the region are not met with any kind of retaliation. If the governments of Russia and Chechnya continue to absolve themselves from any kind of accountability or responsibility, the international community needs to seriously consider coming up with measures to hold officials to account.

Russian forces have indiscriminately bombed and fired in civilian residential areas. The human rights of civilians as well as combatants have been abused as they have been subjected to acts of murder, extrajudicial executions, illegal detention, systematic torture and enforced disappearances. Rule of Law in the Russian Federation needs to be given due regard and respected at all times. The population of Chechnya is kept in check by fear as frequent disappearances and extrajudicial killings are alarmingly common; the perpetrators of such crimes also enjoy impunity which is absolute.

After an analysis of the situation in Chechnya, it is recommended that

- Steps need to be taken to ensure that laws in Chechnya be applied in line with legislations of the Russian Federation.
- The creation of a more free and safe environment for the working of NGOs needs to be advocated. Human rights activists, advocates and even victims of violations in Chechnya need to be allowed to strengthen their relationship with international organizations.
- Impunity enjoyed by officials for their acts needs to be put to an end. Effective mechanisms need to be developed to hold these officials accountable. This can be done by giving due regard to the rule of law in Chechnya and to strengthen the existing judicial mechanism in order for violators of human rights to be tried and awarded punishments before the court of law. Protection needs to be extended to witnesses and their families so that they may give their testimony without any fear or inhibitions. Action needs to be taken to investigate into cases of enforced disappearances.
- Increased access must be given to international organizations, representatives of NGOs and independent media so that they may cover the issues occurring in Chechnya.
- Implementation of the United Nations Declaration on the Protection of All Persons from Enforced Disappearances needs to be ensured.
- Detention of persons must only be in facilities that are officially recognized for the said purpose. Ground of arrest and charges that the persons are likely to face must be informed to them. Procedural rights of all detainees must be respected. They need to be given access to lawyers.
- Allegations of violations of humanitarian law as well as international human rights need to be investigated thoroughly. Officials who are found responsible for such violations need to be prosecuted.
- The United Nations Commission on Human Rights needs to adopt a Resolution on Chechnya that provides for the setting up of an international commission of inquiry which will be entrusted with the task of investigating allegations and publicly report the various atrocities that are committed.

As per the standards set by the international human rights law, there is an undoubted obligation on the part of Russia to act with due diligence in effectively carrying out investigations and prosecutions against perpetrators of violations. When the text and interpretations of the existing instruments of international human rights is considered and analyzed, it gives a clear indication that there is a responsibility incumbent upon Russia for the acts committed by its agents and representatives. Russia



shall also be responsible for failure to protect its people from violations that may be carried out by non-State actors. There is also a responsibility to investigate and punish such violations on Russia.

References

1. “Chechen Chagrin: Human Rights in Chechnya”, Tariq Yasin, *Harvard International Review*, vol. 24, no. 1, Harvard International Review, 2002.
2. “Chechnya: Fact- Finding Mission”, Report by the Parliamentary Human Rights Group of United Kingdom, 2010.
3. “Chechnya’s Russia Problem”, Matthew Evangelista, *Current History*, vol. 102, no. 666, University of California Press, 2003.
4. “Chechnya’s Status within the Russian Federation”, Uwe Halbach, *Stiftung Wissenschaft und Politik, German Institute for International and Security Affairs*, 2018.
5. “Kashmir and Chechnya: Issues in Terrorism”, Debidatta Aurobinda Mahapatra, *India Quarterly*, vol. 62, no. 2, Sage Publications, Ltd., 2006.
6. “Russian ‘Chechenization’ and the Prospects for a Lasting Peace in Chechnya”, Miriam Matejova, *International Journal on World Peace*, vol. 30, no. 2, Professors World Peace Academy, 2013.
7. “The Russian Armed Intervention in Chechnya and its Human Rights Implications”, Nicolas Bovay, *International Commission of Jurists-The Review*, 1995.
8. “Welcome to Hell”, Report by Human Rights Watch, 2000.
9. *Chechnya: The Inner Abroad*. International Crisis Group, 2015.
10. Joint NGO Submission by the European Center for Constitutional and Human Rights and Human Rights Watch, To the Special Rapporteur on Violence Against Women, European Center for Constitutional and Human Rights and Human Rights Watch, 2012.
11. *Russia/Chechnya, The “Dirty War” in Chechnya: Forced Disappearances, Torture, And Summary Executions*, Report by Human Rights Watch, 2001.
12. Statement on Ongoing Human Rights Abuses and Violations in Chechnya, delivered by Chargé d’Affaires, a.i. Gregory Macris, to the Permanent Council, Vienna, January 17, 2019.