

SILENT CELLS AND SHATTERED PROMISES: THE FAILURE OF HUMAN RIGHTS IN THE CASES OF YASIN MALIK AND AAFIA SIDDIQUI

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ABSTRACT

This article uses a comparative case study analysis of Yasin Malik and Aafia Siddiqui to examine how security policies contribute to the criminalization of political resistance. Malik and Siddiqui represent mainstream characters of disputed conflicts, which is the situation with Malik in the Indian controlled Kashmir and Siddiqui in the broader scope of the US-led War on Terror. The two were both tried, convicted, and sentenced to prison under the anti-terror laws, as being credibly represented by the relevant states as posing security threats. However, to several people, they are regarded as sources of resistance to human rights violations and justice denial. In this article, their trials, imprisonment, and how they were received worldwide are taken into view. It attempts to demonstrate the equilibrium, or even disequilibrium, between state sovereignty and safety, and the continuing saga of human rights. It claims that fast-changing enforcement policies and geopolitical interests have made resistance a criminal offence, leaving unfilled the silence of empty cells in prison and promises made of justice.

Keywords: Yasin Malik; Aafia Siddiqui; Political Prisoners; Human Rights; Criminalization of Resistance; State Sovereignty; International politics; Counter-Terrorism Laws; Geopolitics

INTRODUCTION

Silent cells and broken promises are phrases that describe the heart-cutting paradox, which is international human rights. The term criminalization of resistance in this article refers to the use of legal frameworks, particularly anti-terrorism laws, to prosecute and delegitimize political dissent and demands for self-determination. In this paper, resistance denotes nonviolent dissent or sovereignty movements that are criminalized under security laws. The world claims that it will defend the basic liberties, and yet in the case of individuals who oppose the interests of influential countries, the situation is tough. Among the most provocative yet representative examples are Yasin Malik and Aafia Siddiqui, whose lives represent this paradox. Malik himself, a militant leader in Indian-administered Kashmir, came subsequently to espouse Gandhian non-violence. Nonetheless, he was given a life imprisonment sentence on anti-terror separations.

Siddiqui, a Pakistani neuroscientist educated in the United States, became one of the most debated prisoners of the War on Terror after her conviction in a U.S. federal court. Both scenarios pose fundamental inquiries: To what degree do international norms of human rights stand up to scrutiny when they conflict with the security narratives of powerful nations? What reasons can be assigned to the fact that defiance against domination—regardless of it being violent or otherwise—gets so frequently reinterpreted as acts of criminality? What is the reason for the lack of response from international human rights institutions, as well as the silence from the world's leading powers, when it comes to the emergence of political prisoners from contested conflicts? (Mahlmann, 2023) This article covers the story of Malik and the story of Siddiqui to explore the phenomenon of the criminalization of defiance. It is noted that nations tend to silence dissent and erode

the universality of human rights, often in the name of national security and territorial integrity. This article seeks to, through the two cases, demonstrate that the global politics of security, driven by self-serving interests, are marked by a lack of concern for human rights.

The Politics of Human Rights and Security

At the heart of the international politics of human rights lies a fundamental tension: the promise of protecting individual dignity and freedom, and the equally powerful principle of state sovereignty. This tension is not random or recent; it has been key to international relations since the modern state system began with the Peace of Westphalia in 1648. This agreement affirmed that states have the right to manage their affairs without outside interference. However, the twentieth century brought significant change. The atrocities of two world wars and the Holocaust led to the development of an international human rights framework that seeks to limit state power when it threatens basic human dignity.

The Universal Declaration of Human Rights (1948) outlined these universal principles. It stated that “all human beings are born free and equal in dignity and rights.” In the following decades, treaties like the International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) turned this moral vision into legal requirements. States that ratified these instruments committed themselves to uphold the right to life, freedom from torture and arbitrary detention, fair trial guarantees, freedom of thought, expression, and peaceful assembly. Yet while these treaties codified rights at the international level, they also preserved the primacy of state sovereignty. The UN Charter itself, in Article 2(7), clearly states that “nothing... shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.” This clause reflects the political reality that sovereign governments, not international institutions, remain the primary enforcers—and too often, the primary violators—of human rights. (Watson, 1972)

This tension became sharper with the rise of global security threats, especially after the attacks of September 11, 2001. The following decades witnessed an unprecedented expansion of counter-terrorism frameworks, both nationally and internationally. The United Nations Security

Council adopted Resolution 1373 (2001), calling on states to criminalize terrorism financing and strengthen domestic anti-terror laws. Major powers such as the United States and India introduced sweeping legislation: the USA PATRIOT Act (2001) and India’s Unlawful Activities (Prevention) Act (UAPA), respectively. (Mishra, 2010)

These laws shared common features: broad definitions of terrorism, lowered standards for detention and evidence, and increased executive power. States justified these measures by pointing to the existential threat posed by terrorism. Yet these very features also made it possible to apply the laws not only to acts of violence, but also to political activism, speech, and association—especially when those activities were framed as threatening national unity or security.

This dynamic underpins what scholars describe as the criminalization of resistance: a process by which political struggles, movements for self-determination, or even controversial speech become recast as criminal or terrorist threats. The original promise of human rights—to protect the individual from abuses of state power—is thus inverted; rights are suspended precisely when the state asserts its need to act in the name of security. (Ravelo, 2010)

In the case of Yasin Malik, the Indian government viewed even his non-violent calls for Kashmiri self-determination as undermining territorial integrity, thus justifying prosecution under the UAPA. Malik himself insisted that he had renounced violence in 1994 and was committed to peaceful dialogue, yet the state argued that his political influence continued to sustain unrest in the region. In Aafia Siddiqui’s case, although she was tried for the narrow charge of attempting to shoot U.S. personnel, the surrounding narrative—from media coverage to prosecutors’ statements—linked her identity as a Pakistani Muslim woman to broader fears of terrorism, overshadowing questions about fair trial and evidence. (Chatterjee, 2022)

The broader international human rights framework does recognize legitimate grounds for states to limit certain rights, particularly in times of emergency. Article 4 of the ICCPR allows states to derogate from some obligations, but only under strict conditions: the threat must be genuine, derogations must be strictly necessary, non-discriminatory, and consistent with other international law obligations. Moreover, core rights—such as freedom from torture and the right to recognition as a person before the

law—are non-derogable, meaning they cannot be suspended under any circumstances. (Awan, 2022) Yet in practice, these safeguards often prove inadequate. The definition of what constitutes a threat to national security is left largely to the state itself; international bodies can recommend and critique, but enforcement mechanisms remain weak, especially when powerful or strategically important states are involved. Consequently, the tension between the normative framework of human rights and the perceptions of the actual politics is most noticeable in relation to such cases as those of Malik and Siddiqui, in which individuals get stuck between the necessities of domestic order maintenance and the struggles over political identity.

Sovereignty is one of the important principles in the international system. Nevertheless, the same sovereignty can be used to shield the states when they declare renegades as threats. This protection has also been strengthened by the emergence of global norms of counter-terrorism that enable states to have legal and political justifications to crack down against movements, ideology, or individuals that they deem as being subversive. (Brahm, 2004)

Finally, the human rights and security issue is a legal as well as a political problem. It begs the questions of whose security should come first and whose rights are suppressed, and whose voices are not heard. The examples of Aafia Siddiqui and Yasin Malik demonstrate that under the order of global politics of human rights, in many cases, power plays a deciding role that virtually renders those speaking against mainstream narratives undone in jails behind prison walls and unfulfilled promises.

Yasin Malik: From Militant to Non-Violent Leader

Yasin Malik was born on April 3, 1966, in the crowded neighborhood of Maisuma in Srinagar, the summer capital of Indian-administered Jammu and Kashmir. Having been raised in a community of political tension, a military presence, and a contentious national sovereignty, the elements of Kashmiri identity were tightly interwoven with the issues surrounding political struggle in the case of Malik due to the nature of his upbringing. (Yasin Malik, 2024)

The signs of activism can be seen when Malik, as a young student, participated in debates and local student politics. By the early 1980s, he was deeply involved in opposing Indian rule and formed a youth group called the Tala Party, which later became the Islamic Students League (ISL). The ISL

was crucial in rallying young Kashmiris, especially during the controversial 1987 Jammu and Kashmir state elections, widely viewed as rigged to benefit pro-India parties. The alleged electoral fraud left Malik and many of his peers disillusioned and convinced that peaceful politics under Indian rule was not an option. (Joshi, 2022)

In 1988, Yasin Malik and a small group of associates started the Jammu and Kashmir Liberation Front (JKLF). This group aimed for an independent Kashmir, separate from both India and Pakistan. Malik quickly became a leading commander, organizing some of the earliest and most notable armed attacks against Indian security forces. His leadership coincided with the start of a mass uprising in the Kashmir Valley from 1989 onward, prompting thousands of young men to cross the Line of Control into Pakistan-administered territory for weapons training. The arrest of Malik took place in 1990, when military actions were at their peak and human rights abuses were also high, according to international organizations. (Yasin Malik, 2024)

Malik faced great problems in life during this period. During his stay in prison, he had a problem with his health as he is noted to have undergone torture, besides having a heart disorder. Still, these years stirred a great amount of reflection. When Malik came out in 1994, he announced to everyone, to their surprise, that the JKLF would renounce violence and would attempt to achieve its ends through peaceful politics and diplomacy. The rationale behind this decision was partly due to the carnage left in the wake of the armed conflict, which involved the death of thousands of innocent civilians, and partly because Malik believed that no just cause could ever be presented using violence.

During the following two decades until he passed away, Malik emerged to be an important figure when it comes to the non-violent resistance in Kashmir. He had always insisted on an autonomous Kashmir that would not be under Indian control and would not have Pakistan's interests either. He advocated a process of dialogue among India, Pakistan, and the Kashmiri people. He used Indian civil society, international media, and human rights organizations as a conduit to engineer the Kashmiri cause into the Indian conscience as a political as well as a human rights problem.

Malik entered into matrimony with Mashal Hussein Malik, a Pakistani painter and human rights activist, in 2009, which attracted the Pakistani media. Even after he transitioned the movement to a non-violent

campaign, Malik still suffered episodes of being in custody, travel bans, and the allegations of Indian officials arguing that the leader stimulated unrest, allegedly behind the scenes.

A turning point was reached in 2017 when the National Investigation Agency (NIA) of India accused Malik and other Srinagar-based separatist leaders of accepting money through Pakistan to build unrest in the Kashmir valley. Malik refuted these allegations, saying that his activities were those of nonviolent political activism.

However, in 2019, the political situation in Kashmir was transformed as Article 370 of the Constitution was removed by the Indian government, which made Kashmir lose its special autonomous status and divided the former state into two federal territories. This move led to the general outcry of the Kashmiris, and India tightened the screws on separatist leaders. Malik was already under arrest earlier in the same year, and from the perspective of Indian authorities, he was one of the top separatist leaders whose activities – even if claimed as peaceful – threatened national security. From the Kashmiri nationalist viewpoint, however, his arrest symbolized the suppression of non-violent political dissent. (Yasin Malik, 2024)

In May 2022, an NIA special court in Delhi gave Yasin Malik a life sentence after he had entered a plea of guilty such as conspiracy to wage war against the Government of India and the financing of terrorists' acts. Malik informed the court that he is a political leader who voices non-violence and that his struggle since 1994 has been peaceful. Nevertheless, his charges were rejected by the court, and the verdict essentially muted what remained as one of the few voices in support of non-violent Kashmiri separatism. (Yasin Malik's NIA trial, conviction, and its impact on the ground in Kashmir, 2022)

The trial was of concern to international human rights bodies such as Amnesty International. They cited absenteeism investigations as the accusations and the repressive environment in Kashmir in general. Nevertheless, it was rare to find most of the world's leading powers expressionless, and in most cases, this was about the geopolitical importance and strategic relatedness to India.

Currently, Malik has been imprisoned in Tihar Jail, Delhi, in supposedly harsh conditions and isolation. His health has been a concern, and members of his family have caused alarm over a possible deterioration in health and have alleged poor medical support. In the meantime, his followers in

Kashmir and other parts of the world still identify him as a political prisoner and a reflection of the Kashmiri struggle to have self-determination.

Through his childhood politics in the crowded streets of Srinagar to his time commanding an armed rebellion and, finally, his engagement in non-violent advocacy that led to life imprisonment, the story of Malik reveals the transition from a revolutionary to a non-violent activist. His experience highlights how states can criminalize even non-violent forms of resistance in the name of the war on terrorism and defense of sovereignty, leaving behind isolation and unfulfilled pledges. ("Political Leader, Not A Terrorist": Yasin Malik To Supreme Court, 2025)

In contrast, the Indian government and many within India regard him as a separatist and former militant leader responsible for inciting unrest and undermining the country's territorial integrity, justifying his prosecution under the Unlawful Activities (Prevention) Act. This dual perception underscores how political identity can be contested, with the same figure celebrated as a hero by some and condemned as a terrorist by others. (Ministry of Home Affairs, 1967)

Aafia Siddiqui: From Brilliant Scholar to Controversial Prisoner

Aafia Siddiqui was born on 2nd March 1972 in Karachi, Pakistan. She belonged to a respectable, high, high-middle-income bracket family that was educational and religious. Her father, Mohammad Siddiqui, was a doctor trained in Britain, and her mother, Ismet, was employed in the social services. Having an education and a faith-based family background, Aafia excelled at school from her early age.

At the tender age of 18 years, Siddiqui immigrated to the United States in 1990 to get a higher education. She earned her undergraduate degree in biology from the Massachusetts Institute of Technology (MIT) and later a Ph.D. in neuroscience from Brandeis University, during which she became increasingly politically conscious through charity work for causes such as Bosnian Muslims and Palestinians. (Aafia Siddiqui, 2025)

It was at this period that Siddiqui married a Pakistani anesthesiologist, Mohammed Amjad Khan. They were parents of three children. It was observed that her years in the U.S. were spent in a back and forth between academic success and a growing level of personal stress and ideological shift, in a way that it has been reported that she began

shifting towards a more conservative religious inclination.

Siddiqui and her husband became targets in the focus of the FBI after the attacks on September 11, 2001, mainly because they were donating money to Islamic charities and visiting gun ranges, which in itself is not an illegal activity but was viewed suspiciously at that time. In 2002, the couple moved back to Pakistan, and their marriage ran into trouble and then broke up in a divorce.

In March 2003, Siddiqui and her three young children disappeared mysteriously from Karachi. Pakistani authorities initially denied knowledge of her whereabouts, while U.S. officials named her in public lists of suspected al-Qaeda operatives. Over the years, human rights groups, journalists, and her family claimed that she had been secretly detained at Bagram Airbase in Afghanistan – allegations supported by accounts of an unnamed female prisoner known as the "Grey Lady of Bagram," reportedly screaming in detention. (Bartosiewicz, Reveal, 2009)

The official U.S. version emerged only in July 2008, when Siddiqui was arrested by Afghan police outside the governor's compound in Ghazni, Afghanistan. Afghan authorities said she was carrying suspicious items, including handwritten notes referring to alleged "mass casualty" attacks and U.S. landmarks. The next day, while being interrogated by U.S. personnel, Siddiqui allegedly grabbed an unattended M4 rifle and fired at American soldiers and FBI agents. No one was injured, and she was immediately subdued. (The mystery of Dr Aafia Siddiqui, 2009)

This brief incident became the basis for her prosecution in the United States. In 2008, she was extradited to New York and indicted on charges of attempted murder and assault. At her trial in 2010, Siddiqui said she had not fired the weapon or tried to harm anyone and that she had been tortured and detained in secret for years, allegations the court declined to accept as evidence, as it did not have a bearing on the particular charges.

It has been noted that several issues were present regarding the trial:

- Questions over Siddiqui's mental health and competency, as experts disagreed on whether she suffered from schizophrenia or trauma-induced illness.
- The absence of forensic evidence (such as fingerprints on the rifle) directly linking her to firing the weapon.

- Allegations of prior torture and enforced disappearance were excluded from the trial.

Nonetheless, in February 2010, Siddiqui was found guilty on all accounts and received an 86-year sentence at a Federal Regional Prison. The judge referred to the gravity of the act of the U.S. workers' assault, despite there being no harm, as well as to her apparent lack of regret. (Aafia Siddiqui Sentenced in Manhattan Federal Court to 86 Years for Attempting to Murder U.S. Nationals in Afghanistan and Six Additional Crimes, 2010)

In Pakistan, the outcome of Siddiqui's trial sparked widespread anger and empathy among citizens. She was regarded by many as a powerful image of Muslim victimhood in the War on Terror that spread internationally. Parliamentary resolutions, including the 2012 unanimous motion in the National Assembly, called for her repatriation, framing her case as a matter of national dignity. While such rhetoric contributed to her image as a patriotic figure within Pakistan, this characterization remains contested internationally and is not supported by judicial findings in the United States.

Amnesty International and other international rights organizations indicated how worrying the trial of the woman was. These are the groups that were concerned about her condition, physically and mentally, in prison. Nevertheless, the international community's reaction on the part of different states was poor. This was primarily because the case had been framed within the existing discourse of counter-terrorism. Also, the United States was protected by greater external influence because of its worldwide strength. (US protesters demand release and repatriation of Aafia Siddiqui, 2021)

Aafia Siddiqui is in Federal Medical Center (FMC) Carswell, a Texas women's prison that has medical and psychiatric services. Her legal team and relatives have described her as experiencing persistent physical malfunctioning, such as neurological complications and psychological torture, with having to be kept in solitary confinement throughout the years. She had a youngest son who was born before she was lost, who was returned to her family in Pakistan. But until the visit, there was nothing said about what happened to her other two children when she was gone.

The life of Aafia Siddiqui (a Bright neuroscience student in Boston, one of the most controversial post 9/11 prisoners) epitomizes the complex intersection of identity, gender, faith, and geopolitics. Within Pakistan, certain political and

civil society groups have framed her as a patriot, citing parliamentary resolutions and official statements as evidence of national support. However, under U.S. federal law, including provisions of the USA PATRIOT Act, she was prosecuted and convicted on charges unrelated to terrorism plots but linked to an alleged violent act against U.S. personnel, and this legal framing defines her status in the American judicial system. (USA PATRIOT Act, 2006)

Like the case of Malik, the story of Siddiqui (in the wider story of this article) exemplifies how the security narratives imposed by the state can transform contentious characters into criminals and terrorists and transform political issues into criminal accusations.

Comparing the Cases: Patterns of Criminalizing Resistance

Though Yasin Malik and Aafia Siddiqui arise out of contradictory contexts. Malik out of the long and vicious conflict along the Kashmir frontier; Siddiqui out of the War on Terror in the most distant international sense, the parallels in their accounts are sufficiently informative as to suggest how beleaguered states transform controversial political leaders into outlaw criminals, and how the discourse of national security can silence even the claims of human rights.

Where the two cases overlap is in the state exercise of broad-based anti-terror statutes, giving the states the authority to extend criminal prosecution beyond the naming of specific criminal acts and affixing the political identity and even ideology, which is perceived to be a menace. Technically, in the case of Malik, the Indian state was able to claim that his leadership and advocacy, despite disengaging with violence, were a conspiracy to wage a war on the state with the help of the Unlawful Activities (Prevention) Act (UAPA). Though he transformed to non-violent ways in 1994, despite that, Malik was convicted not on the allegations of terrorism in recent years but due to his continued disobedience to the Indian sovereignty over Kashmir. In the case of Siddiqui, the U.S officials charged her with attempted murder and assault after a short stay in Afghanistan, but her conviction cannot be entirely disconnected from the larger suspicion of her as a Pakistani Muslim woman suspected by al-Qaeda. Placing the security laws into use in both examples allowed the state to broaden the extent of criminality short of actual evidence into the sphere of perceived political risk.

(Bartosiewicz, Al-Qaeda Woman? Putting Aafia Siddiqui on Trial, 2010)

Resistance criminalization is another pattern that is common pattern. Self-determination of Kashmir was once part of an international debate as proposed by Malik. In the United Nations, there were various resolutions voted on in which a plebiscite was mandated so that the Kashmiris could decide on their fate politically. But as time went on, the benefits of the once-peaceful independence activism started sounding to India along the lines of dread of separatism, cross-border violence, and national solidarity in a fashion that meant even peaceful activism was being viewed as a direct assault on the territorial integrity of the state. Likewise, the attempt of Siddiqui to snatch a rifle, which, according to forensic evidence, is not quite clear, was considered according to the post-9/11 hysteria. The American security discourse had already connected her to terrorism, yet there were no formal charges against her of any terrorism planning or execution. Such rebranding transforms political figures into a signifier of threat instead of opposition or political justice under the pretext of safeguarding society and meriting severe punishment. (Malik, 2004)

The pattern of silence or limited involvement in both events internationally also bore the same trend, which was influenced greatly by geopolitical considerations. Human rights organizations criticized the life term sentence to Malik as well as the decreasing freedom of non-violent resistance in Kashmir. There was, however, no constant diplomatic pressure against the Indian government, mainly because of its strategic alliances with the great powers, as well as its economic importance and its presence as a balance against the Asian side of cumulating China. In the case of Siddiqui, the Pakistani civil society and parliament raised their voice in outrage, but Western countries and world bodies were more cautious and did not want to disagree with the U.S. on this case that was closely associated with the counter-terrorism discourses. This tendency can be followed as a trend of global politics in general: human rights implementation is not consistent, but usually remains influenced by the strength and relations of the state. (Joshi, 2022) Another comparison in this context is seen to ramp up the political stakes of these prosecutions through identity and symbolism. Malik rose to become a political leader and an icon of the Kashmiri demand for self-government and respect, and demonstrated the potential of non-violent opposition in the highly

militarized environment. In the same vein, Siddiqui became a powerful metaphor in the Pakistani cultural landscape as a symbol, both justly or unjustly, of the sufferings associated with the War on Terror and the susceptibility of Muslims to the counter-terrorism agenda all over the world. The beliefs of the two leaders demonstrate how the universal human rights violations were created to foster the mentality of victimhood, alienation, and injustice to their supporters.

These two examples notwithstanding, the similarities lead to the broader movement across the globe to criminalize resistance. On several occasions and across different territories, security legislation has been employed by governments to persecute Kurdish politicians in Turkey, or even political figures from Palestine held in Israeli jails, journalists, and whistleblowers accused of undermining national security. National security and anti-terrorism discourse is rendered a helpful tool, enabling governments to reconceptualize political problems as an existential threat to their existence. This approach not only silences anyone but also acts as a deterrent to anyone taking the same positions.

Looking at the end, the cases of Yasin Malik and Aafia Siddiqui are examples of how human rights, as being based on the general declaration and legally binding conventions, can become weak in the face of state power. Indeterminate terms of the anti-terror legislation enable the states to put into trial controversial parties without giving careful regard to proportionality, due process of law, and the injustices of previous generations. Such a state of affairs demonstrates the weakness of legal and institutional safeguards in cases where security arguments overrule the most basic principles of fairness and dignity.

When we draw the correlation between Malik and Siddiqui, we do not merely find two cases of personal tragedy; we see a pattern of a wider scope of human unfortunate disorder, in which the sovereignty, fear, and power politics hamper the growth of human rights. This trend signifies a forced silence and reflects a discrepancy between the ultimate goals of human rights frameworks or systems and the actual reductionist capabilities of human rights frameworks.

Aspect	Malik (India)	Siddiqui (USA)
Conflict Context	Kashmir dispute between India and Pakistan; long-standing calls for self-determination	Post-9/11 War on Terror: global counter-terrorism campaign
Legal Basis for Prosecution	Unlawful Activities (Prevention) Act (UAPA)	USA PATRIOT Act and other federal anti-terrorism statutes
Nature of Accusations	Non-violent political advocacy is portrayed as a conspiracy to wage war against the state.	Alleged attempted shooting of U.S. personnel in Afghanistan
Evidence Issues	Guilty plea amid claims of coercion; lack of independent investigation	No forensic proof she fired the weapon; torture and secret detention allegations excluded from trial
International Response	Limited diplomatic pressure due to India's strategic/economic value	Muted global criticism due to U.S. dominance in counter-terrorism discourse
Human Rights Concerns	Suppression of peaceful dissent, prolonged solitary confinement, and health risks	Exclusion of torture allegations, solitary confinement, and mental health deterioration
Outcome	Life Imprisonment in 2022	86 years' sentence in 2010

The Role of International Human Rights Regimes

Creation of contemporary international regimes of human rights is an ideal attempt at having a worldwide structure that ensures the protection of people against the whims of states. As a direct reaction to the atrocities of the Second World War, the Universal Declaration of Human Rights (1948)

established an ideal of dignity and equality between all people without reference to their origins. This vision developed into a set of legal negotiations leading to legally binding documents, including the International Covenant on Civil and Political Rights (ICCPR, 1966) and, International Covenant on Economic, Social, and Cultural Rights (ICESCR,

1966), to which the United States and India are signatories. Such agreements obligate the states to respect fundamental freedoms: the right to life, the prohibition of torture, the right to fair trial before an established public authority, the freedom of thought, expression, and arrests that are not arbitrary. (International Covenant on Civil and Political Rights, 1996)

In conjunction with treaties, the international society has created institutions that are supposed to monitor compliance and hold people accountable. The United Nations Human Rights Commission has the Universal Periodic Review (UPR) that evaluates the situation regarding human rights in every country. Treaty organs such as the Human Rights Committee (HRC) of ICCPR review periodic reports by states and can handle complaints in purely individual cases of citizens of those states, which have made use of this process. They include thematic reports and special rapporteurs can bring violations into focus, and the special rapporteurs look at specific areas such as torture, freedom of expression, and independence of the judges and lawyers. (Report on ICCPR, 2024)

These institutions and processes are only meant to be the external checks, according to theory, against misuse of power by states, e.g., criminalizing political dissent under blanket anti-terror laws. However, the experience of Yasin Malik and Aafia Siddiqui shows how such safeguards many times fail in real life when the issue of national security and geopolitics comes into the picture.

Malik and Siddiqui were both prosecuted using anti-terrorist legislation. Malik was prosecuted in India under Section 3 of the Unlawful Activities (Prevention) Act (UAPA), and Siddiqui was prosecuted in the United States under the federal anti-terrorism laws. The international law regarding human rights permits a state to limit some of the rights in times of a public emergency. But it demands that these limitations should be uncritical and in good standing, along with being necessary, proportionate, and non-discriminatory. Above all, certain rights, as protection against torture, the right to a fair trial by an independent tribunal, cannot be waived even during an emergency. About Malik, the human rights agencies doubted the justice of his trial. They observed that he had made the plea of guilty because he had succumbed to the pressure and intimidation of Kashmiri political activists, which is systemic. In the case of Siddiqui, it was observed that the court did not pay attention to her mental health problems, accusations of prior secret custody, and

torture. They also questioned her excessive sentence since she did not cause any injury, even in the alleged shooting. (Mishra, 2010)

However, the international human rights regimes have done very little to address such issues, which have only been symbolic. Amnesty International and Human Rights Watch made protests, and the Pakistani authorities took the Siddiqui issue to the diplomatic level. However, the international mechanisms underlie the international mechanisms themselves, i.e. Human Rights Council or the Human Rights Committee, that have not made comprehensive inquiries or provided binding decisions. Such a limited reaction can be explained by the presence of institutional constraints as well as the impact of the international human rights enforcement through the power of organization and the political will of powerful stakeholders. The proposals set forth by the Human Rights Committee are not legally binding, and the UN must rely on state consent in order to allow special rapporteurs or teams of investigators to make independent missions.

Global considerations are easily overridden by geopolitical issues, as they significantly determine the time and mode of violation of human rights. The pressure is more unstable in the case of India, which is a large democracy and strategic ally in the Asian region. In the same light, as a world superpower and a war on terror architect, the United States has successfully eluded effective multilateral vigilance on its use of counter-terrorism measures, that is, the use of extraordinary rendition and secret detention, as well as controversial prosecutions.

The pattern of the selectivity of human rights regimes is not new. As scholars have always noted, there were structural weaknesses in them. These are cases of dependence on the compliance of states, the inexistence of enforcement machinery, and the role of powerful nations in the multilateral NFPs. Such regimes can indeed raise awareness and establish norms and some degree of accountability in less politicized scenarios, but likely do not work in scenarios in which people challenge the most fundamental security stories of powerful states.

Lastly, the examples of the Malik case and Siddiqui case suggest a pathetic lack of correspondence between the values of the international human rights regime and its actual capacity to protect the most exposed. The universality of human rights may easily fold under the silence where governments define dissent and controversial political activism as terrorism, and where such threats are very aligned

with the propaganda of broader geopolitical interests. The years of imprisonment of these two people make for a gloomy example of how, in spite of decades of normal development, power and politics may decide on whose rights should be championed, and whose are figuratively left by the roadside.

Conclusion

The situations of Yasin Malik and Aafia Siddiqui summarize the immense inconsistencies of the international politics of human rights. Having been produced by two rather different contexts, Malik out of the conflict zone of the disputed Kashmir area and Siddiqui out of the labyrinth of the worldwide War on Terror, the two names have come to signify how the discourses of security provided by the state can transform acts of political resistance or conflicting affiliation masked as terrorist crimes. Imperatives of national security regularly take precedence over the universal promises of due process, fair trial, and political expression, as evidenced by their incarceration under the broadly written anti-terror laws. Human rights regimes established on the premise of universality and equality in protection reveal themselves to be not without limitations at this moment. Their ability to protect the very same people and communities that are predisposed to abuse by their actions is constrained by strategic interests, geopolitical considerations, and the doctrine of state sovereignty. International concern echoed weakly at both a life sentence given to Malik and decades-long imprisonment of Siddiqui, which testifies to the selectivity in human rights enforcement that, in many cases, remains dependent not on the seriousness of the acts that allegedly violate such rights, but on the state providing protection and its place in global affairs. Beyond the legalistic and diplomatic language, however, the cases can remind us about the human cost when resistance is criminalized: silenced voices after being crushed behind bars, dispersed acts of rebellion by fear-induced small waves, and fractured trust in world-norms purportedly protecting them. Human rights remain a potent promise since they try to safeguard citizens against abuses by the state. But the persistence of "shattered promises and silent cells" indicates how far international politics still lags behind that ideal. Ultimately, the Malik and Siddiqui stories are more than personal tragedies—they are indicia of a system in which power tends to preclude principle, and in which the pursuit of justice will have to keep pushing against the institutions that convert dissent into criminality and prisoners into icons.

Notes

1. Aafia Siddiqui's imprisonment is viewed by supporters as wrongful and politically motivated, while U.S. authorities cite evidence linking her to terrorism.
2. Yasin Malik's conviction under the UAPA is seen by rights groups as suppression of dissent, while the Indian government frames it as a lawful response to national security threats.
3. The Universal Declaration of Human Rights (1948) is not a legally binding treaty but has become part of customary international law and serves as a foundation for later binding instruments such as the ICCPR.
4. Legal scholars and human rights organizations have criticized the Unlawful Activities (Prevention) Act (UAPA) in India for its vague definitions of terrorism and limited safeguards for accused persons.
5. References to silent cells and shattered promises throughout the article are metaphorical, intended to highlight the gap between international human rights norms and their application in politically sensitive cases.

REFERENCES

- "Political Leader, Not A Terrorist": Yasin Malik To Supreme Court. (2025, April 04). Retrieved from NDTV: <https://www.ndtv.com/india-news/political-leader-not-a-terrorist-yasin-malik-tells-supreme-court-8085549>
- Aafia Siddiqui. (2025, August 05). Retrieved from Wikipedia: https://en.wikipedia.org/wiki/Aafia_Siddiqui
- (2010). *Aafia Siddiqui Sentenced in Manhattan Federal Court to 86 Years for Attempting to Murder U.S. Nationals in Afghanistan and Six Additional Crimes*. New York: U.S. Attorney's Office. Retrieved from FBI.
- Assembly, U. N. (1949). *Universal Declaration of Human Rights*. Department of State, United States of America.
- Awan, P. E. (2022, June 04). *Pakistan brought the Indian atrocities into the limelight*. Retrieved from Modern Diplomacy: <https://moderndiplomacy.eu/2022/06/04/pakistan-brought-the-indian-atrocities-into-the-limelight/>

- Bartosiewicz, P. (2009, May 01). *Reveal*. Retrieved from The Disappearance of Dr. Aafia Siddiqui: <https://revealnews.org/article/the-disappearance-of-dr-aafia-siddiqui/>
- Bartosiewicz, P. (2010, January 18). Al-Qaeda Woman? Putting Aafia Siddiqui on Trial. *Time*, p. 7.
- Brahm, E. (2004, September 01). *Sovereignty*. Retrieved from Beyond Intractability: <https://www.beyondintractability.org/essay/sovereignty>
- Chatterjee, S. (2022, May 25). Life imprisonment for Kashmiri separatist Yasin Malik in terror funding case. *India Today*, p. 6.
- International Covenant on Civil and Political Rights*. (1996, December 16). Retrieved from United Nations: <https://www.ohchr.org/sites/default/files/cpr.pdf>
- Joshi, D. (2022, May 31). *Yasin Malik's journey: From gun-toting Kashmir rebel to Gandhism*. Retrieved from Al Jazeera: <https://www.aljazeera.com/news/2022/5/31/yasin-maliks-journey-from-gun-toting-kashmir-rebel-to-gandhism>
- Mahlmann, M. (2023). *Mind and Rights*. Cambridge University Press.
- Malik, Y. (2004, January). Fighting for an Independent Kashmir. (G. Lal, Interviewer)
- Ministry of Home Affairs. (1967, December 30). Retrieved from THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967 https://www.mha.gov.in/sites/default/files/A1967-37_0.pdf
- Mishra, R. (2010). *Anti-Terrorism Laws: Distinguishing Myth and Reality*. SSRN.
- Ravelo, D. (2010). *Criminalisation of Human Rights Defenders*. Peace Brigades International UK Section.
- (2024). *Report on ICCPR*. Lahore: National Commission for Human Rights Pakistan.
- The mystery of Dr Aafia Siddiqui. (2009, November 24). *The Guardian*, p. 9.
- US protesters demand release and repatriation of Aafia Siddiqui. (2021, October 21). *ALJAZEERA*, p. 13.
- USA PATRIOT Act. (2006, March 9). Retrieved from The White House: <https://georgewbush-whitehouse.archives.gov/infocus/patriotact/#:~:text=The%20Patriot%20Act%20allows%20Internet,monitoring%20trespassers%20on%20their%20computers.>
- Watson, J. S. (1972). *Article 2(7) of the United Nations Charter Practice and Legality*. University of Illinois at Urbana-Champaign, LAW.
- Yasin Malik. (2024, October 20). Retrieved from Wikipedia: https://en.wikipedia.org/wiki/Yasin_Malik
- Yasin Malik's NIA trial, conviction, and its impact on the ground in Kashmir. (2022, May 28). *Sabrang India*, p. 13.