INTRODUCTION

The history of balancing national security and civil liberty is as old as the conflict between them. When human beings stepped into the process of establishing civil society and that civil society ultimately resulted in the formation of state, the relations between the state and the individuals became deep to deeper. In order to regulate these relations, a constitution was made in the form of a contract and the state actions and individual freedom were adjusted. So those individuals who agreed to the contract with the state realized that the state as a party would be stronger in future and may violate these provisions. The state can break the promise or may violate the terms and conditions of the contract, disrespecting their essential civil liberties. They were always keeping vigilance on the state. In the course of times, such adjustment of state action or security and individual freedom or liberty became complicated. And this complicated relations of the state and the individuals gave rise to various conflicts between them. Then there aroused the attempts to balance security and liberty. In the words of Benjamin Franklin, "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." (Carruth and Ehrich 1999: 132).

Franklin wanted to remind his fellow colonists that liberty is the supreme good. Those who would give up their essential liberty in the name of security would never be capable of governing themselves. They would never be capable of make them safe. But Abraham Lincoln, after a century, justified his decision of suspending the writ of habeas corpus. He asked, "Are all the laws, but one to go unexecuted and the government itself to pieces, lest that one be violated" (Roy 1953 : 421-430). President Lincoln was of the view that liberty was an obstacle to the government’s proper functioning. This means that law and liberty are antagonistic towards one another. An enactment of law, always involves a curtailment of liberty and a maximum of liberty denotes a minimum of law. Whenever the provision of law would be increased, the scope of liberty would be decreased. This clears the view that both law and liberty opposable to each other. But a close examination would reveal that only when there would be a proper blending of both of them and a required amalgamation, not only law can be existing with full force but liberty also can be realized appropriately. The ideal reveals that unless law and liberty are adjusted with another, there can not be a good governance. It has been said very aptly that a fullest enjoyment of liberty can be possible only when there would be a strong legal frame
work in the state, when there would be a proper functioning of the constitution, otherwise not. The relation between security and liberty is not only an age old phenomenon but the attempt to balance them is also an old idea. However, in modern sense, it traces back to the advent of Nation-State in Europe in 18th century. So, right from the advent of the nation-state system, the issue of conflict between security and liberty has been much raised, much recognized, much debated and much confronted as well but has not been possible to be settled on the consensual lines. Thus, “striking the right balance between freedom and power is the essential paradox of governing” (Lowi and Ginsberg 2000: 12) but has not been possible. Even though, Thomas Jefferson and Alexander Hamilton both were members of the federalist club but their views on this issue contrast a lot. While, Jefferson was a supporter of ‘limited government’ and emphasized that the scope of government must be limited and subordinate to individual freedom but Hamilton was a supporter of ‘authoritarian government’ and thought that a strong centralized government which can be in a position to command governance, can win the confidence of citizens. (Lowi and Ginsberg 2000: 12) However, such a difference can be explained in the following heads.

While, one group of thinkers in international relations thinks that the nation-state should be seen and understood as reality, they have argued that threats are real so are the nation-states. But to other group of thinkers this is not a right approach to understand the nation-state and national security. They say human beings are great creatures of nature and if, they would be given a chance then, they can solve many problems themselves. They think that threats are man-made so they can be solved by men as well. However, the third group of thinkers does not believe either in the reality idea or in the ideal thinking, they say, the best way out is a blending of both the ideas. In such a situation, it becomes difficult to understand which is the right way of thinking. But a blending is indispensable from the stand point of world peace, security and international relations.

Theories of International Relations:

The Realist School of Thought:

Those who believe in the theory of realism and choose practical way of thinking on international relations and nation-states are commonly known as the realists and their thinking is known as Realist School of Thought. The realists’ school
of thought, holds the view that international relations is basically anarchical. Nation-states are the principal actors and they do not accept the sub-national actors or reject the sub-national actors. The nation-state are regarded as the natural actors and real. They are the creators and protectors of national interests in which primal importance is given to their national security. And co-operations and relations amongst nation-states are viewed as secondary. And this national security is best guarded by economic and military powers. As in the words of E.H. Carr, “in the international order the role of power is greater and that of morality less.” The realist school of thought in international relations assumes that the nation-state and national interests are more important than the individuals and individual interests. For them, the state is primary and individual is secondary. The state is an end in itself and the individuals are the means. The state is the highest authority and individual citizens are supposed to abide by that authority. The realists or those who think in favour of the nation and national security like John Hertz, George E. Kennan, Edward H. Carr and Hans J. Morgenthau and others were influenced by traditional theorists such as Sun Tzu, Nicholo Machiavelli etc. They were of the view that the ‘struggle for power’ is the centre of every interaction among nation states. In the present day situation, the EU and the US would struggle for power against one another. As “the EU and the USA share various values, cultural norms, historical experiences and strategic interests. However, the fact is that each side constitutes a massive great-power bloc”(Hay and Menon 2007: 408). This is what the ‘theory of realism’ assumes in practice. Sun Tzu of ancient China, who wrote the famous “Art of War” was an ardent military theorist who explained military essential for the state security. His famous statement and strategic advice is, “Kill one and frighten ten thousand.” Thucydides, an ancient Greek historian expounded the idea of real-politik in History of Peloponnese War. Kautilya, the most talked about author of Arthasashastra and mentor of Chandragupta Maurya, too was an exponent of security of the state. He always asked the king to build up his military. Niccolo Machiavelli, an Italian thinker and author of “The Prince” had advised his prince to be real ruler even, at the cost of religion and ethical principles. “He has no patience with the idea of universal political morality, and theology is absent from his writings”(Dyson 2005: 250). Machiavelli was not only a practical statesmen but a realist thinker who believed that human nature is stable and predictable too. He says, “make this generalisation about men: that they are ungrateful, fickle, liars and deceivers; they shun danger and are greedy for profit;
while you treat them well they are yours... but as soon as you are in danger they betray you"(The Prince 17), (Dyson 2005 : 253). Thomas Hobbes, the English Political Philosopher portrayed human nature as selfish and brutish in his Leviathan. The balance of power as depicted by Otto van Bismarck was nothing but a realist approach to balance the power with peace. Henry Kissinger, as the national security advisor and Secretary of State to the US President Richard Nixon, advised his president to go for national security as a principled realist. The traditional realists often argue that selfish nature of human beings not only give rise to personal interests over ideology but also places national security over civil liberty. Traditional realism is described as “drive for power and the will to dominate(that one) held to be fundamental aspects of human nature.” (Baylish et al 2001: 95). The contractualist thinker Thomas Hobbes believes in the principles of realism that the life of individuals in the state of nature was always “solitary, poor, nasty, brutish and short”. It was based on the principle of “this is mine and that is thine”. Every one is enemy to every one. As in the words of Hobbes, The right of nature which writers commonly call Jus Naturale, is the Liberty each man hath, to use his power, as he will himself, for the preservation of his own nature, that is to say, of his own life; and consequently, of doing anything, which in his own judgment, and reason, he shall conceive to be the aptest means there on to.”(Tuck 1991: 91)

Machiavelli in his ‘Discourses’ reveals that “All men are bad, and ready to display their vicious nature whenever they find an opportunity to do so” (Dyson 2005 : 253). The realists believe that individual is always exposed to outside threat so he must be prepared every now and then to challenge the enemies for the protection of his own life, liberty and property. This basic instinct of men guides the states too. Unlike the life, liberty and property of the individuals are always at risk, as they are exposed to outside attacks, so the individuals always be ready to protect them at any cost. In the same way, nation states are also guided by their national interests and that national interests becomes the real replica of their foreign policies as well. The nation-state are considered as the principal actors and their relations are responded by the fact of international anarchy. The entire world is nothing but struggle for power for their national interests. When their diplomatic maneuverability fails they resort to military offence. The absence of a world government, international rules and regulations to regulate them, they are guided by their own national security policy. They believe that nation-states are aggressive by nature which is offensive realism.
and thus, they are obsessed with their stringent security which is called as defensive realism. The followers of aggressive nature and apprehensive nature not only opt for security but also pave the way out for their opponents to look for loopholes. The opponents also be bound to think of other techniques of offence to meet their desired results. As the nation-states are the real so as the conflict. This is the reason why, the realists consider the ‘struggle for power’ to be the center of interactions amongst nation-states. National interests is given utmost importance and considered as an end in itself. Individual interests are asked to surrender before the national interest. As the realists count that the life, liberty and property of the nation state are more important and stable than the life, liberty and property of the individuals. However, “all realists share a primary and central concern with power, and all regard morality, law and organization as distinctly minor factors in a rational foreign policy that is properly adjusted to the conflictual realities of world politics” (Forsythe 1993 : 16). But even though, realists view state as central to their argument, as Morgenthau has given emphasis on individual more than the state and Kenneth Waltz has focused on international system more than the state which implies that they were realists but did not suppress their opinion on it. Rather, they view democratic state as a state which gives relatively great attention to the practice of civil and political rights (Forsythe 1993 : 16).

The theory has been further geared up by later realists who are well known as Neo-realists. The noted neo-realists are Kenneth N. Waltz, Robert O. Keohane, Grieco, and Joseph Nye, Hans Morgenthau, Fareed Zakaria, John Mearsheimer(Offensive Realism), and Henry Kissinger. The neo-realists suppose that strength only respects strength. When the entire system is Hobbesian by nature, its important on the part of the nation-state to be Hobbesian or else be prepared for the graveyard. As Robert Keohane says, “World Politics today is a matter of life and death not just soldiers or citizens caught in the path of war, but for the whole human race” (Keohane 1986 : 1). They consider the structure of international relations to be an anarchic one, so every nation-state is against competitive and conflict with every other nation-state. There is hardly friendly relations and strife, rivalry competition and animosity dominate. In such a system, the nation-states have to play a vital role as the key players of international relations. But the forces above state and below state are given more importance. The international system is considered to be a structure. As Kenneth Waltz says, “As anyone who believes that a systematic theory is required for
an adequate understanding of international politics has to distinguish between structural and unit levels.” (Keohane 1986: 323) The neo-realists shift from human nature unlike classical realists to international system. To them, in order to ensure total national security, states are required to prepare their economic and military offence. A nation’s power and capability is always calculated in terms of its national security. The anarchic state of the world political system has further funneled by terrorism, civil wars and religious war, a fact, can hardly be denied.

Not only the nation state should go for a national interest centric free in policy, but it should also apply the same realist principle in the domestic policy as well. If, we look into the post cold war periods, the system of nation state has been seriously challenged not only from outside but also from within. The ethnic conflict in Yugoslavia (between Croats and Serbs and between Serbs and Bosnians), conflict in Pakistan (Shia and Sunni) conflict in Sri Lanka, conflict in Nicaragua, the caste conflict in India, conflict in Afghanistan, conflict in Iraq etc are some examples which reveals the facts that even within a nation there can be conflicting factions. The group clash against each other for power is a reality. So struggle for power is natural, unless, the conflicting faction is killed or perished or accept the dominance of the other, there cannot be lasting peace and security. The realists argue that during the cold war period, peace and security could be expected to some extend due to bipolarity. As Kenneth Waltz argues, “The United States and the Soviet Union behave differently from such countries as Germany and Japan because the latter are no longer great powers. The behaviour of the United States and Soviet Union are also different from the behaviour of earlier great powers. A great power is one among many learns how to manipulate allies as well as adversaries. Great powers have to accommodate some of their numbers in order to gain strength vis-à-vis others.” (Keohane 1986 : 333) But lasting peace at the hand of the USA could be possible only after Russia withered away. With the USA emerging as the unipolar super power in the world politics, premier world organizations such as UNO, WTO etc are also accepting the dominant power of the American nation-state. The realists thus, are of the view that a nation-state should do every possible strategy to be powerful and be secured at home and outside home as well.
The Idealist School of Thought:

But the other group of thinkers belong to Idealist School of Thought. They are of the view that human nature is essentially good. Idealism states that idea starts in the human mind. Thus, consciousness, knowledge, perception and reason are activities of mind. In western political thought, idealism represents in an ideal form. They are viewed as what they ought to be than what they are in reality. The idealists project their view in contrast to the view of realists. Idealism as a way of thinking also contrasts with the philosophy of materialism very often. They think, they are rational so can they detect right from the wrong. The centre of international relations is not the power but the conscience, good behaviour, rationality, morality and civil liberty of individuals. M. Cornforth defines, “An ideology is always the ideology of definite people, living in definite conditions, depending for their life on a definite mode of production, with definite social relations, doing definite things with definite desires and aims” (Cornforth 1955 : 92). The exponents of idealist school of thought such as Woodrow Wilson, Aldous Huxley, St. Simon, Sir Alfred Zimmern, Norman Angell etc. are of the view that the nation-states would have stopped to struggle for power, if war, inequality, tyranny etc. would have been replaced by human rationality, education, conscience and morality. International peace and security can be attained by human cooperation and morality. Woodrow Wilson, the US President is known for his strong following of idealism. That is the reason why, idealism is very often described by thinkers as “Wilsonian Idealism.” It holds the view that the state should make its political philosophy as the object of its foreign policy. It was the idealist thinking of Wilson which not only spoke out in his “Fourteen Points” speech but also helped the aspirants of the world peace to form a world organization such as the League of Nations in 1919, soon after the First World War.

They say, a number of conflicts across the world can be solved when good sense would prevail in the mind of the men. When they would shun the idea of resorting to violence and immoral for the achievement of a particular and when the nations states would sit and initiate dialogue, they would be able to settle many problems without any difficulty. The idealists regard nation to be an organization like any other organization and must be subservient to the individual citizen. The idealists are regarded as the great believers of democracy and peace. The credit of blending democracy and world peace thus, goes to modern idealists. They believe that states with similar democratic governance do not declare war against one another. The
famous democratic peace theory of international relations is indebted to idealists to a great extent. Even though, the Idealist School of Thought has been projected as the most wise thinking on international relations and has been able to evade the scourge of war on earth, still the theory suffers from various drawbacks. The theory of idealism has not only been on the line of Utopian thinking but it has sidetracked what is called reality. The world and the world problems should not be seen through interpreters and academia. But there is a need to examine various problems in the light of their reality. The great philosophers of Europe such as Socrates, Plato and Aristotle wrote of various aspects of human life but many of such writings have very few relevance, on human lives and or in other words have no practical relevance. The reality is something which is to be taken care of. As in the words of Michael Chertoff, the US Secretary of Homeland Security, “The concept of global legal order-launched by sober-minded leaders such as Woodrow Wilson, Franklin Roosevelt, and Winston Churchill- is often exploited by ideologues and antagonists of the United States who are bent on waging ‘law fare’ against US interests. As a result some critics have argued that the most prudent course for the United States is to opt out of international legal institution whenever possible (Chertoff 2009: 131).

So idealism even though, earned popularity in the 19th and 20th centuries but in the present day world, it is lacking a proper following and support from independent thinkers. It has been argued that ideology is better when it is confined itself to society, culture and religious belief but in polity and international relations, the term has very rare importance. Now, instead of declaring war against the enemy, attempts are being made to woo them diplomatically, so that the enemy would die in his own home land and the problem of threat is also controlled. The capitalists are not trying to kill the antagonists but they are waging an ‘opinion war’ thereby they can control the mind of the masses and they can give false impression to the masses that what ever they are doing, they are doing it for the good of the world. Again, it has been argued that ideology has not necessarily to deal with idea or morality but it subsists with culture and religion otherwise known as “ideological apparatus of state”. So, idealism as a matter of fact is no more the best thought out policy for a better world, to follow. This is the reason why, many liberal view has criticized idealist thinking as a gone case. Such a view is called the “End of Ideology” theory. As in 1955, a great conference was organized on “Western Intellectuals” - The Congress for Cultural Freedom in Milan, Italy. In this conference, a large number of writers, authors, intellectuals,
thinkers and libertarians participated. The main agenda of the conference was to discuss about the meaning of freedom and in what way it can be preserved. The conference also discussed on the importance of freedom on life of human beings. The Conference by and large agreed and concluded by almost all the speakers that when ideological conflicts between two thoughts will be over, then, there can be a free society and in that free society only every body can enjoy their freedom appropriately. This means that when the ideological thinking and behaviour of human being would be ended then, there will be a complete ‘end of ideology’ and this will lead to freedom in the society. Thus, for a just society and a society free from conflicts and ideological wars, it is necessary to end the ideology. Ideology in human society crates conflicts and with the destruction of ideology, conflicts can be destroyed. But the end of ideology theory was made popularized to destroy working class movement and belief on class conflict after the Second World War so that the ‘status quo’ as an ideal could be maintained again. Karl Marx sees freedom as “Freedom is insight into necessity” (O’Rourke 1974 : 38) It is historically evolving power over nature to which “Engels openly shared the Marxian view that freedom consisted not in the absence of restraint but in power, in man’s mastery over his surrounding social and physical milieu” (O’Rourke 1974 : 51).

In the United States also the ‘end of ideology’ theory has a tremendous impact on its policy making, basically on foreign policy of the US. The National Security Advisor to President Richard Nixon was Henry Kissinger who formulated a policy based on the end of ideology theory to strengthen US policy towards communist countries. Even, President Jim Carter was also a great believer of ‘end of ideology’ theory and did every thing possible to induct such theory in his own policy both at domestic and international fronts.

**The Liberal School of Thought:**

There is still, a third group of thinkers who do not believe in the extremism of both the theories. They rather believe in the best possible synthesis of both the realist theory and the idealist theory. As such, “Liberalism in the broad sense of the term means for us a political movement or a political philosophy which, on the one hand, advocates democracy as opposed to authoritarianism (the rule of the one or few) and, on the other, advocates individualism as opposed to statism (the rule of the all powerful state)” (McGovern and Collier 1957 : 5). They are called Liberal School of
Thought for their view of integration of both. Important thinkers such as Charles Kegley and Eugène Wittkopf and David Baldwin to name a few thinkers in the line who not only reject the 'struggle for power' of the realists but also reject the 'idea of anarchy' in the international relations. The liberals are of the view that the struggle for power is a gone case along with the bipolar system, now the world is heralding towards a multi-polar system of interdependence. With the revolutions in the field of science and technology and in the field of communication, the world is becoming more homogeneous, more interdependent politically, economically and socially. They believe that international relations is not confined to political relations alone but comprised of social, cultural and economical relations. In the Liberal School of Thought, man has always got central place of discussion. His own self, his association with society and his own freedom have been central to the study of liberalism. Right from the time of his evolution, man has always tried to become the creator from just the status of a creature of the world. He has not only tamed his destiny but has been able to tamed the entire world. But in all these attempts and debate and discussion, it is individual which has got the central place. How to get free from the law of nature, and how to control the world has always been his objective. When he established society, he wanted to control it in his own way too. As a result, there arises a conflict between the individual interest or selfish interest of man and the social interest of society. Defending individual freedom and social interests are always valued and acknowledged by the system. As Sharon Krause puts it, Why do men and women sometimes risk their necks to defend their liberties? One thinks first of soldiers who defend the collective liberty against foreign enemies, but in liberal democracies individual liberties sometimes need defense as well, and from internal aggressors rather than, external ones- think of Martin Luther King, Jr’s defense of civil rights for blacks, for example...” (Krause 2002 : 1). Defending one’s liberty is just like defending one’s essence of life, for which men struggle through out their lives. However, “Many persons, especially Englishmen and Americans, tend to co-identify democracy and individualism. They take it for granted that democracy necessarily implies a respect for individual rights and that individualism necessarily fosters the growth of democracy”(McGovern and Collier 1957 : 7). However, the opposition to the Vietnam War gave rise to a “New Libertarian Movement” in the United States when the “Young Americans for Freedom” (YAF) was organized at St. Louis at the end of August 1969 (Rothbard 1973 : 5).
In a world of interdependence, the role of various world organizations such as UNO, WTO etc. are highly commending. They are making the world an integrated system of peace security and cooperation than the diversified conflicting warring nation-states. Absolute gain can be possible with the help of cooperations and relations. The united efforts of eradicating poverty, unemployment, human rights, civil liberties, education, health, natural disaster, peace, security, inequality, racism etc are praise worthy. The neo-liberalism which is an extension of liberalism believes that socio-political institutions have tremendous influence on the behaviour of states. The neo-liberals so regard the United Nations as forerunner of world cooperation and relations. As “Neo-liberalism, with its doctrine of open borders and free markets, represents policies that are pursued by the overwhelming majority of states, either voluntarily or as imposed by the IMF and the World Bank.”(Pollis and Schwab 2000 214). The role of various multinational companies and non-governmental organizations reveal in working of interdependence and cooperation in world. The liberals thus, think that the world is moving from a security-centric system towards a liberty-centric system. But it has been argued that “If the libertarian theory of rights is correct, then many activities of the modern state are illegitimate, and violations of liberty.”(Sandel 2009 : 60). As libertarians reject three important categories of laws basically, such as First, laws on paternalism or in other words, libertarians do not like to make laws to protect individuals from harming themselves, for example, seatbelt laws are good to protect the rider from accident but it is up to the rider to take a risk and spend in treatment in the case of an accident. The government has nothing to do with it. Secondly, they do not make laws on moral ground, for example, no coercive law to promote notions of virtue... the abortion laws are no need. Thirdly, no redistribution of Income or Wealth. The libertarian theory rules out any law that requires some people to help others, including taxation for redistribution of wealth.(Sandel 2009 : 60). This means that the idea of minimum state action which is corner stone of liberalism is a half way right theory. It is silent about the other half. However, they value other social organization to be par with the state itself. The liberals are those who strike a balancing approach between the extreme ‘theory of realism’ and the extreme ‘theory of idealism’. To them, while the realists are cynical in their approach, the idealists suffer from Utopian approach.

Thus, it would be worth making a point here that both the realists and the idealists are correct in their pleadings to some extent. But an extreme in both the
theories would sure lead to chaos and confusions. For, a balanced approach, the good in both the theories must be looked into. A blend of both the pessimism of realists and optimism of idealists can be taken into consideration. As Quincey Wright has observed that realism represents the short run national polices but idealism represents the long-term national policies. So, both the theories are useful in the present day world. The liberals are those who believe in the integration of the system. They follow a middle-path of balancing the national security which is very important from the stand point of life and existence of the nation and civil liberties which are at the same time no less important for individuals to live a complete social life. Extolling liberty, H.J. Laski says, “By liberty I mean the eager maintenance of that atmosphere in which men have the opportunity to be their best selves”. (Laski 1970 : 142) This implies civil liberties or personal liberties are not matter of philosophy or tenet but a quality, a basic instinct a matter of right without which men can never be in a position to live their lives as human beings. “Liberty, therefore is a product of rights”(Laski 1970 : 142). The spirited defense of liberty once was explained as a point of honor, as when the first Americans pledged to defend their independence with, “our lives, our fortunes, and our sacred honor” (Krause 2002 : 1). Maximum of liberty can be possible only when there will be minimum state action. In the words of D.D.Raphael, “That it is the function of the state to preserve order and security and to promote welfare and justice. (Raphael 1990 : 64)

The greatest champions of human liberty John Locke and J.S. Mill go to the extent to explain it “ the authority of the state should be markedly limited so as to leave as much room as possible for liberty”. (Raphael 1990 : 78) Liberty is the very essence of man. In fact, state action and individual freedom goes hand in hand. National security is nothing but a sum total of civil liberty and civil liberty is an abstract of national security. Civil liberty of individuals subsists in the national security. Security is the very precondition of freedom. There can never be any civil liberties unless there will be a national security. No civil liberty can be well guaranteed without any order. Raphael says, “The restrictions upon liberty imposed by law may be intended to protect the liberty of others.” (Raphael 1990 : 64) In fact, liberty can be best enjoyed in the steel framework of national security. The nation exists to vindicate them. Both the security and liberty are complementary and supplementary to each other. Regulation of liberty denotes the recognition of security of the state. When liberty of the individuals can not be absolute, how come security of
the state can be absolute, because both the liberty and security are subjected to limitations. Unless a balance is calculated, the conflict between liberty and security is very inevitable. As D.D. Raphael says, "no state has unlimited practical power to make any law that it pleases, even though it may possess unlimited legal power. A legislature that has any sense and that wants to remain in office will pay more regard to political than to legal possibilities, to what it can effectively do than to what it may legally do. (Raphael 1979 : 135) In fact, a well-proportionate blend of the two can make a miracle in a society and a disproportionate can cause harm equally. As Rousseau says, "man is born free; however, he is every where in chains". The dichotomy between liberty and security should be brought to an end as quickly as possible. For the very reason that liberty and security does not conflict with each other. They are rather two sides of the same coin. On civil liberty, Ernest Barker has said, "The liberty of a man in the capacity of an individual person- his personal liberty. That consists in: three somewhat differently expressed articles —i) physical freedom from injury or threat to the life, health, and movement of the body, ii) intellectual freedom for the expression of thought and belief; iii) and practical freedom of the payoff will and the exercise of choice in the general field of contractual action and negations with other persons". (Barker 1964 : 146-47) The 'freedom of contract' that Barker says is the contract people enter into for their mutual advantage. But when the freedom is exploited, the very contract is violated and places the weak party at disadvantage position. For the very existence and good of both parties, the contract should be respected and in no case should be breached and in that respect alone rests the good and well being of both liberty and security. So, by protecting civil liberty the national security can be legitimized and the authority of the state can be justified.

However, the historic incident of terrorism of 9/11 once again, made the people of America to review the arrangement of national security with civil liberties. In a situation, where in a threat to national security revealed, aspects of civil liberties become a distance possible thing on the part of a nation. Consequently, following the 9/11 episode, President George W. Bush has upheld that in order to protect civil lives and liberties, a strong national security is indispensable. He thus, went ahead with a stricter form of legislation on national security, called as the USA-PATRIOT Act, 2001. This act had upheld, national security and armed the state to defuse, and empowering state machinery for attaining optimum security for individual at the cost
of circumscribing the individual liberty. The 9/11 episode essentially was a series of
terrorist attacks which took place on the fateful Tuesday of September 11, 2001, on
New York, World Trade Center and the Pentagon with its collateral damage and death
of some 3000 (more than 2, 600 died at World Trade Center, 125 died at the
Pentagon; 256 died on four planes) Americans that changed the thought process of
liberty — loving American leaders. “This audacious terrorist attack is the worst in
history” (Watson 2002 : 78). As the 9/11 Commission Report of “the bipartisan
committee” (Posner 2005 : 1) has “described how nineteen young men, mostly citizens
of Saudi Arabia, boarded four planes within the United States and flew three of them
into the World Trade Center in New York City and Pentagon, in Washington, DC,
with the fourth crashing in Pennsylvania. “The fourth aircraft, which crashed in a
Pennsylvania field, was believed to have been headed for the White House or the
Capitol” (Raj and Nafey 2007 : 146). But the alleged 20th hijacker known as “Zacarias
Massaou” has not been named in the Commission’s Report (Times of India, New
Delhi, 22 March, 2006). The individuals who perpetrated this incident acted as part of
or on behalf of a conservative and militant Salafist terrorist organization known as al-
Qaeda, which at the time was based in Afghanistan” (Smith 2008 : 4). The incident
was so quick, unexpected and uncontrollable that even if, the US was most powerful
militarily at that time, it failed absolutely to response or check it successfully. It was
definitely not uncommon when “President Bush declared: make no mistake, the
United States will hunt down and punish those responsible for these cowardly
acts.”(Raj and Nafey 2007 : 147). President Bush and his administration expert
especially, Attorney General John Ashcroft presumed that unless civil liberties will be
restricted, there cannot be effective counter of national security. Noted Jurist Richard
A. Posner’s remarks in this regard is noteworthy, when he said, “The law is human
creation rather than a divine gift, a tool of government rather than a mandarin
mystery. It is an instrument for promoting social welfare, and as the conditions
essential to that welfare change, so must it change.” (Posner 2001 : 46-57). Therefore,
within a short period of six weeks the “anti-terrorism” Act called USA- PATRIOT
Act, 2001 was introduced in the Congress, significantly, without a serious
Congressional debate, or a Congressional hearing. Many Congressmen and Senators

just read the summaries of the Act, of 342 pages, which passed into law on 26 October, 2001 by the President. (Te Liao 2004 : 518).

The USA-PATRIOT Act, 2001 in fact, is not altogether a new legislation to counter terrorist intentions but a rearranged and carefully crafted legislation to build a strong national security to curb any sort of terrorist activities and so also to protect and reshape up civil liberties. Right from the period of President Franklin Roosevelt till 1978, the American government could search the belongings of a terrorist even without any judicial permission by invoking President's inherent power to collect various intelligence informations from a foreign terrorist/enemy. Invoking President's inherent power any terrorist acts could be controlled. Any person who was involved in terrorism could be booked. There was no need of showing that the person involved is a foreign terrorist and also a member of an international terrorist group. It was due to this provision, the government could at least, question those people who were involved in terrorist activities. But, the legislation of Foreign Intelligence Security Act, (FISA) 1978, barred any searches of suspected terrorists and espionages unless the attorney general can obtain a warrant from a special national security court (the FISA court). And another problem was that the warrant application had to show not only that the target is a foreign terrorist but also that he is a member of an international terrorist group. All these loopholes in the tracking machinery of the system, made the US leaders to think for a change in the form of a stricter act. As the 9/11 commission report states that "the terrorists exploited deep institutional failings within our government" (Posner 2005 : 21). It is said that when threat to the national security increases, the standard of civil liberties decreases. The Americans have been target of Islamic Militant for quite a long time. The Islamic terrorist groups such as al-Qaeda has become a successful organization in slaughtering a large number of American and others in the name of Jihad. Even though, the concept of jihad has been described as "Jihad is a Peaceful Ideological Struggle"(Ali 2003 : xi) in the translated work of Holy Quran, but the non-Islamic people has not been able to accept it. The 'concept of jihad' is explained in the Quranic verse as "Do greater jihad (i.e., strive more strenuously) with the help of this (i.e., the Quran),(25:52)"(Ali 2003 : xi). This means that to understand jihad as Quranic concept of violence is a serious mistake and misinterpretation of 'jihad' rather, 'jihad' inspires a follower to struggle strenuously for peace. "Many people around the world think that the word "jihad" means only military war, but this is not the case,... Jihad instead is the struggle to follow the right
path, the "basic endeavor of enjoying what is right and forbidding what is wrong" (Bhutto 2008 : 21). However, the wording of Quran in this regard is either read wrongly or the above explanation is insufficient. Indeed, al-Qaida has been capable of destroying American lives and property to a great extent, is a fact, which can not be denied. The Fidayeen Squad (suicide bombers) is more dangerous than any other. Suicide bombers are inflamed by religious zealotry (Jihadists/ Fidayeen) or impelled by apocalyptic visions of the world (Aum Shinrikyo).2 As such "Suicide terrorism symbolizes the nondeterrable commitment of terrorist groups. Terrorism scholar David Rapoport has argued that suicide terrorism is one of the key hallmarks of contemporary "fourth wave" religious terrorism"(Smith 2008 : xi). They are of the believe that even a small group of terrorists can make a difference in the thought process of American people. "Terrorist groups will continue to find ways to attack US military and diplomatic facilities abroad"(Cordesman 2002 : 5). "The “Caliphate” they seek to create would be a severe and repressive fourteenth-century literalist theocracy. They pursue its creation with gruesome violence and fear(Clarke 2004 : 35). They have made it an “international movement” with the help of some government supports and their own “interpretation of Islam”(Clarke 2004 : 35). In 2002, George Bush in his State of the Union address said, “States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world…."(Feldman 2007 : 163). “The jihad movement must adopt its plan on the basis of controlling a piece of land in the heart of the Islamic world on which it could establish and protect the state of Islam and launch its battle to restore the rational based on the traditions of the Prophet.”(Calvert 2008 : 231) They can go to the extent to end their own lives in the operation of killing Americans and leave no source of their origin and whereabouts. The selections from Ayman al-Zawahiri’s book Fursan Taht Rayah al-Nabi ( Knights under the Prophet’s Banner), published in the London based Saudi newspaper Al-Sharq Al-Awsat, reveals that tracking down the Americans and the Jews is not impossible. Killing them with a single bullet, a stab, or a device made up of a popular mixed of explosives or hitting them with an iron rod is not impossible. Burning down their property with Molotov cocktails is not difficult. With the available means, small groups could prove to be a frightening horror for the Americans and the Jews.(Calvert 2008 : 231) They make the system of spy ineffective

and mute spectator. In recent time, the terrorists’ attack on America on September 11, 2001 was an example to this. In the USA-PATRIOT Act, 2001, the Bush Administration claimed that it has reshaped national security keeping the importance of civil liberties into account. It has claimed to balance the conflict between national security and civil liberties.

But the question is how much civil liberties should be given out in favour of national security so that the nation can be protected. As in the words of Harvard Law School’s Laurence H. Tribe, “The question is not whether we should increase governmental power to meet such dangers, the question is how much.” (Taylore 2003: 32). Or is it a tactic of increasing state action in the name of national security even at the cost of individual freedom is remained unanswered. Especially, when various civil rights organizations such as American Civil Liberties Union (ACLU), American Library Association (ALA), Progressive Caucus, Electronic Frontier Foundation (EFF), the National Lawyers’ Guild, the Lawyers Committee for Human Rights etc. have already cautioned against the act. The other endorsing organizations are the American Booksellers Foundation for Free Expression, Electronic Privacy Information Center, Feminists for Free Expression, First Amendment Project, National Coalition Against Censorship, On Line Policy Group, Peace fire, PEN American Center, People for the American Way, Washington Area Lawyers for the Arts etc⁴ have already cautioned against the Patriot Act. Such organizations can be summarized for examples, along with their complains and protests against the Act in the following manner.

**NGOs Challenging the Patriot Act**

**The American Civil Liberty Union:**

The American Civil Liberty Union (ACLU) which is a non-profit non-partisan and non-government organization of high repute for standing by civil liberty and human rights in the U.S.A. It was established in 1926 by Crystal Eastman, Roger Baldwin and Walter Neles, after the First World War to defend and preserve the rights and liberties of individual citizens. The U.S. constitution provides certain basic rights and indispensable freedom to the U.S. citizens to live a peaceful and democratic life

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³ Free Expression Networks, Internet 2002. URL: [http://www.freeexpression.org/patriotstmt.htm](http://www.freeexpression.org/patriotstmt.htm)
and warned against any authority to abrogate them in any situations. Thus, the modus operandi of ACLU consists from litigation to legislation to education. Its records of fighting public interest litigations have been exemplary. It has been successful in questioning the authority of many rules and legislations passed by the Republican Party as well as Democratic Party. It has been able to provide necessary criticism and the way out to many legislations. It has brought many lawsuits against a number of legislations including the PATRIOT ACT, 2001. Thus, evolving from the parent organization of the National Civil Liberties Bureau, the ACLU has been the voice of victims of authoritarianism and wrong policy making. The ACLU as a voice of people has been voice of correction.

The 9/11 terrorist attacks on the U.S. had made the policy makers to think about the U.S. safely first and freedom next. The policy makers in a haste decision passed a stringent law called the USA PATRIOT ACT, 2001 and did not allow people to enjoy their constitutionally guaranteed rights and essential civil liberties. The act eroded many established provisions of the constitution and limited the civil liberties to the best possible extent. Its not only the case with the U.S. but a lot many countries of the world were of the opinion that their national security is of paramount importance to them and thus, they have done right in restricting their individual freedom guaranteed by the constitution. There was a robust debate going on in the U.S. and around the world on the proper balancing of security with liberty. In such a time, the role of ACLU in bringing the most amicable balance between national security and civil liberty has been tremendously admired. It has been able to correct the mistakes which have been done by the Bush Administration. As an organization, it is committed to protect human rights and civil liberties. It acts as the protector of constitutional ideals. Whenever there has been attempts to erode on suppress essential civil liberties and constitutional rights of the people, the ACLU has been equivocal in denouncing it. It has always opted to stand even, against the move of administrative establishment to restore a balance of security and liberty. Right from its inception as an organization, it has always been protector of freedom. Many important rights and liberties such as right to life, right to liberty. Right to property, due process, right to privacy, freedom of speech and freedom of press, rights relating to religion, belief, trade, union, organization, sexuality and immigration etc. have been well supported and advocated by the ACLU. When, the USA PATRIOT ACT, 2001 and the PATRIOT ACT, 2003 were legislated to counter terrorism in the U.S. and abroad, the
ACLU single handedly opposed the idea of indefinite detention and captives. It pleaded for the detainees' right to counsel and right to be heard before the court of law. It has always talked about inhuman punishments and sexual abuse of under trials at various detention facilities.

Again, the lawsuits initiated and legal battles fought by the ACLU also have been appreciated. Among the major court cases in which the ACLU has been declared either the winner or has been able to influence the public policy and the law are ACLU v. Ashcroft (2002). In this case, the ACLU fought against the interest of federal government involving free speech and child pornography. But in ACLU v. Ashcroft, (2004), stood against the administration in electronic communications privacy act. The American Academy of Religion V. Chertoff, 2\textsuperscript{nd} Cir (2008), was different from other cases. When the U.S. administration opted to debarred aliens into the U.S. after the 9/11 attacks, the ACLU stood against the move and in association with other like-minded organizations such as American Association of University Professors and PEN American centre etc. successfully challenged the expel of professor Taniq Ramdan of Oxford University and Dr. Adam Habib. The, assertive role played by ACLU in the ACLU v. DOD (2008) in suing the DOD and CIA is noteworthy. In John Doe v. Alberto Gonzales (2005), the ACLU challenged the provision of USA PATRIOT Act, 2001.

In April 2009, the ACLU has filed a law suit requesting the Obama Administration to disclose the record of prisoners held in the Bagram Airfield of Afghanistan. In yet another case ACLU v. Department of Homeland Security, (2009), the ACLU questioned the authenticity of searching laptops and other personal electronic devices. The role of ACLU in cases like Mahammad Jawad (Habeas Corpus), 2009 and American Sociological Association et.al. v. Clinton (2007) are important landmarks. Thus, the American civil liberty union as a custodian of civil rights and liberties of individuals has been able to check and balance the American society. It has been able to obstruct the unscrupulous administrative move and authoritarianism in any form. In the time of national crisis, the institution has been able to show the right path upon which the U.S. democracy and constitution could move freely and fairly.
The American Library Association:

Right from its establishment, the American library association has been playing a vital role in raising issues relating to personal freedom, the right to free speech and expression. It has been actively advocated the right to privacy and democratic system where in every person can have the freedom to seek knowledge and propagate it. It has been an advocate of first amendment protection. The ALA has been critical of a number of provisions of the act such as the library records and the business records, definition of terrorist, cybercrime, wire tapping and electronic surveillance. It has issued joint public statement against the act along with American association of law libraries and the association of research libraries. Again, the role of American Library Association's stand on censorship and privacy has been an inspiration for all others.

Progressive Caucus:

The Progressive caucus or move publicly the Congressional Progressive Caucus came into being in 1991. When some members of the House of Representatives agreed that they Would work for progressive issues in the country. Now the CPC’s popularity has risen to that extent that as many as 80 members from the U.S. House of Representatives are there. The CPC has been an advocate of collective bargaining, free and fair trade, campaign against Iraq war and so also abolition of many provisions of the USA PATRIOT Act, 2001.

Electronic Frontier Foundation (EFF):

The Electronic Frontier Foundation is basically an organization for the protection of civil liberties. It advocates for various cyber liberties and rights. In its long march as a custodian of individual rights and liberties, the Electronic Frontier Foundation or EFF has always been dedicated to the protection of freedom of speech and expression, freedom of thought and profession. It has always been critical of authoritarianism and has been an ardent advocate of First Amendment Protection, the U.S. Constitution and the Ideals of Democracy. It has always come out openly for the intellectual property rights and patent rights. The EFF has been very critical of the act and has influenced the congress to abolish certain sections and amend certain other sections. It has stood by the side of the ACLU defending and preserving the freedom
of speech and expression. The right to privacy has been well advocated by the institute when an unnamed person (Internet Service Provider) challenged the constitutionality of the national security letter, which is a dominant provision in the act, the EFF supported that person and fought for the right to privacy and human dignity. It questioned the power of the FBI to check and monitor a person’s Internet habits and websites visited. In order to preserve the civil liberties the EFF has not only plead for amendment to the act but also has called for replace of the USA PATRIOT Act, with the Benjamin Franklin True Patriot Act. So, the opposition of the act by the EFF has been well received.

The National Lawyers’ Guild:

The national lawyers guild is one of oldest non-government organization in the U.S. The primary objective of the organization is to unite legal people and raise the voice against every illegal, unconstitutional and undemocratic activities in the U.S. and around the world. It has a track record of protecting constitutional rights and civil liberties of citizens from any violations. It has always pleaded for human rights issues and has been able to provide them at the time of need. It has raised issues relating to various economic and political power. It has been able to address issues relating to discrimination on the ground of creed and colour of the skin. Soon after the 9/11, when the Bush administration took up the issue of terrorism and legislated heavily on civil liberties restrictions, the Guild came forward and tried to check the authoritarianism. It opposed the search and seizure measures, secret surveillance, extraordinary police power, branding of Muslim as terrorists and discrimination against the Middle-Eastern people. It questioned the authenticity of deportation and detention of foreigners also.

The Lawyers Committee for Human Rights:

The Lawyers Committee for Human Rights is an old non-governmental and non-partisan organization presently known as Human Rights First. The organization a defender of human rights throughout the world and has been able to influence the US administration to protect the human rights. The enactment of USA PATRIOT Act, 2001 has invited the attention of this organization when a large scale violation of human rights took place in the U.S. and other places in the world. The anti-Muslim feeling, hate crimes and torture on human body and mind etc. have been raised by the
organization. The stern measures that the Bush administration has taken after the 9/11 terrorist attacks has been opposed by it. In the name of fighting against terrorism in the U.S. and around the world, the U.S. Administration has restricted many essential civil liberties and resorted to violent means for justice. The unlawful detention, racial profiling, ill-treatment of prisoners and captives and restricting the immigration into the U.S. etc. have been seriously criticized by the Human Rights First. It is the earnest efforts of the organization that in January 2009, U.S. President Barack Obama signed three executive orders which banned The Practice of Torture, at Guantnamo Bay detention center and secret prisons of CIA. Thus, the organization in all has been able to fight against crimes on humanity in the US and abroad successfully.

**American Booksellers Foundation for Free Expression:**

The American Booksellers Foundation for Free Expression has been an organization for freedom of speech and expression for years. It has been able to raise voice against any attempt to curtail the constitutional rights and liberties. It has always stood by opposition against the erode of right to privacy and readers rights. In recent years the American Booksellers Foundation for Free Expression raised its voice against the stern measures provided in the USA PATRIOT Act, 2001. It has been critical of infamous Sec. 215 which gives the FBI the power to conduct a secret search on library and the readers. The library records of a person falls within the right to privacy and no person or official is authorized to collect it without prior permission. But the FBI has been empowered to seek any information relating to the library records of a person which is objected by the organization the American Booksellers Association along with the Campaign for Reader Privacy, has been able to expedited two bills for the safeguard of rights to privacy against the patriot act. These bills one/ (1) The Justice Act, 2009 (S. 1868) and (2) The Patriot Act Sunset Extension Act, 2009. (S.1692). The main objective behind these bills is to limit the scope of Patriot Act, Sec. 215 which allows authority to secret search on person not relevant to terrorism. The organization also has been able to raise its objection against the further extension of the act after Dec. 31, 2009.

**Electronic Privacy Information Center:**

The Electronic Privacy Information Center is basically a public interest research organization which works for the right to privacy and protects individual
rights, and civil liberties. It not only talks about issues relating to civil liberties and human rights but also organizes meetings, seminars and publishes news and views on various personal rights. They EPIC though a new organization in the field, still, it has been able to raise voice against the USA PATRIOT Act, 2001 which has scraped right to privacy to the maximum extent. In April 2005, the EPIC has filed a lawsuit in a federal court seeking information relating to FBI’s use of expanded investigation authority given by the Patriot Act. It has been able to file the Freedom of Information Act and get FBI's un-authorized surveillance tactics. In February 2006, the EPIC has filed the law suit in federal court seeking the release of National Security Agency documents relating to warrantless domestic investigations of the authority. So, the EPIC has fought against many attempts to kill the right to privacy by its own and in corporation with others.

Feminists for Free Expression:

The Feminists for Free Expression is a noted organization pleads for individual freedom and civil liberties. It believes in the fact that every human being has her right to select her things and she has right to educate, listen and free speech and the state authority in no case can control her voice. The organization has always stood for the promotion of equality, and civil liberties. It has always raised its voice against discrimination on the basis of gender, colour and religion etc. It has been one important organization crying against strict measures provided by the USA PATRIOT Act, 2001.

First Amendment Project:

The First Amendment Project is a non-profit legal organization which work for protecting and preserving basic rights and liberties of people. It advocates for various civil liberties and has the track record of promoting right to privacy, right to information, right to free expression and thought. It pleads for human rights and fundamental rights of the people. It objects to many provisions of the Patriot Act such as Natural Security Letter, customer informations, the measures of expanded police powers and detention without any probable cause. The Checking, controlling and obstructing of E-Mails and telephone calls by the FBI also has been raised by the First Amendment Project.
National Coalition Against Censorship:

The main objectives of National Coalition Against Censorship are to make the people aware about censorship. It is an old organization which pleads for individual rights and civil liberties of the people. The rights and liberties enshrined in the constitution must be protected at every cost. It has always stood besides those organizations and persons which have expressed freely and democratically. Among a number of objections to this Patriot Act, the NCAC is very critical of Sec. 215 of the act. It has started revolution against Sec. 215 of the act. The NCAC has been teamed up along with, American Booksellers Foundation for Free Expression and the campaign for Reader privacy to put various objections against the Patriot Act.

People for the American Way:

The people for the American Way is a non-profit organization which involves not only in research, education, legal and social services but also acts as an ardent advocate of civil liberties and liberal thought. It stands for law, liberty and equality. It makes it sure that everybody must have a right to freedom of speech and expression, freedom thought and profession. The PFAW has been critical of a number of provisions of the Patriot Act always with National Coalition Against Censorship.

Peace Fire:

The Peacefire is a registered NGO which is dedicated to the protection of First Amendment. It talks about juvenile Justice and basic rights of human beings. It has raised the issues pertaining to civil liberties, freedom of speech, expression and profession. The U.S. Administration and investigation on the 9/11 terrorist attacks confirms that the incident took mace due to lapse in the communications and informations. So the authority without any delay put a ban on the authorized use of internet and even telephones. Such a move of the law enforcement machinery disturbed the innocent persons most. Thus, to Peacefire, there is a right to privacy guaranteed by the constitution and no authority can challenge it or alter it. The freedom of speech and expression, freedom of movement etc. are basic rights and they cannot be abrogated by any political party. So, the Peacefire fought relentless against a number of provisions of the act.
Amnesty International:

The Amnesty International is a world class organization of repute. It has its reputation of speaking for those people who are victims of human rights. The organization has strongly opposed against various unconstitutional and inhuman measures provided in the Patriot Act. The erosion of civil liberties in the name of fighting against terrorism by the U.S. has been severely criticized by the Amnesty International. The organization has always denounced any person or organization which has violated any human rights declared by the United Nations. No person or organization has any capacity to torture, ill-treatment of prisoners, or detain any one without access to law and snatch away the basic rights given by the constitutions. The Amnesty International has also raised its voice against suppression of essential liberties of human beings. The ‘sneek and peak’ method of the act has been seriously criticized by the organization. In all, the Amnesty International is a protector of civil liberties and human rights. It stands for human rights and human values. It believes that human beings are creatures of nature and no system, organization or administration can have power to take out their basic rights and liberties. It pleads for just treatment of detainees and the captives.

International Red Cross:

The International Red Cross is a noted organizational which is dedicated to the suffering people of the world. It is known for its humanitarian works throughout the world. It started as an organization basically to provide assistance to those who are affected by the disasters and conflicts in any part of the world. The organization has earned so much reputation that it has become a movement. It is known as Red Cross movement now. It has the track record of standing by those who are suffering and whose rights are violated. It has raised voice against many maladministration, inhuman treatments and torture on human beings. Recently, on the 60th anniversary of the Geneva Conventions, the CCRC has urged the world to respect the human rights incorporated in the U.N. The Red Cross has been very critical of U.S. actions after the 9/11 incidents. It has protested against various provisions of the act such as indefinite detention of immigrants without charges. It has cautioned the U.S. Administration against human hatred, violation of human rights and ill-treatment of detainees. In other words, the Red Cross has been a voice of people against authoritarianism and
inhuman punishments. It has been able to protect the U.S. constitution and human rights not only in the U.S. but also throughout the world.

Online Policy Group:

The Online Policy Group is a non-profit organization which is dedicated to the cause of violation of human rights and civil liberties. It basically speaks for the right to privacy and use of Internet and other electronic systems. Safety, access, privacy etc. are its principles. It assumes that democratic ideals and civil rights and liberties as guaranteed in the constitution must be protected. The OPG has been able to raise issues relating to freedom of speech and expression. It has taken action against censorship by the Internet Service Provider (ISP) and has been a protector of Cyber Rights of individuals. When the FBI carried out secret searches and telephone wiretaps, the OPG along with other similar organizations protested against the actions of the FBI an Internet users and consumers, the Online Policy Group, even if, a small organization with a few resources has been equivocal in protecting the democracy and constitutional rights of people. It has been a serious critic of the Patriot Act.

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U.S. Human Rights:

Again, the United States has been the place of origin of human rights. Every human rights are part of U.S. law and thus, they are respected by every American as the law of the land. The Federal Court in the U.S. also have jurisdiction over International Human Rights laws and so they fall within category of the law of the U.S. Right from the time of colonial America and the abolition of slavery, human rights have been recognized and acknowledged in the U.S. However, when the U.S. was independent of British Rule, in the Declaration of Independence, a clearer description of respect of human rights is marked by the fact that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. This means that civil liberties are self evident and no person or organization has given it or no person or organization has the capacity to stop it or take away it. It was this postulate of which made the fundamental rights and considered to be the basic human rights which are not granted by the constitution, not sanctioned by the government, not given by the state but they are naturally receive by every human being from their creator. When the U.S. Constitution was made, these civil liberties and human rights thus, got a central
place in the form of the Bill of Rights which guaranteed these basic rights in the constitution. Later on when the UNO was established after the Second World War in 1945, the United States became not only instrumental in the creation of the UNO but also helped a lot to draft the Universal Declaration of Human Rights in 1948, just to be in the line of the Bill of Rights. Therefore, the U.S. has a great track record of respecting human rights. But the enactment of the Patriot Act by the Republicans has pulled all these good deeds down. It has not only questioned the intention of liberty-lovers but also has been followed by all others to choose security to liberty which, if will not be checked then, will lead human beings to the path of war and destruction in the end.

Just after 6 weeks of the terrorist Attack of 9/11, the Bush Administration went ahead with a new legislation. By passing the act “overnight” (Te Liao 2004: 518) in a quick and haphazard manner the US Congress gave the Executive Branch the unlimited powers. Soon after that a series of public orders, rules, regulations, policies and practices were made targeting an unnecessary suspension of civil rights and liberties. The Bill of Rights, which has been the very ethos of democracy in America, has been seriously threatened. In such a situation, the act has become a matter of robust national debate. The Act, is concerned primarily with the prevention of terrorist activities. The act, provides appropriate tools required to intercept and obstruct terrorism in USA and around the world. Though the act was passed after the terrorist attacks of 9/11, to rearrange the set up of national security with civil liberties, it not only attempted to book and bring to justice those culprits who were involved in the attacks but tried to uproot the bases of terrorist cells within America and elsewhere around the world. While, the Republican Party plays the role of Realist Party of Security in war time, the Democrats stand for principles and liberty. These political parties are not only different with their respective ideologies and objectives but they have also opted for different stands on the Patriot Act which can be noted as under.

The Republican Party is one of the two-party system of the U.S. The party came into being with the anti-slavery activities in 1854 and thus known as the Grand Old Party, even if, the party is younger to the Democratic Party. The political ideology of the party is basically conservative and believes in the right-wing politics. Majority of its supporters are either social conservatives or individualists who believe in the ideas of free market and laissez-faire. Such an assumption of the Republicans
has made them to understand that the constitution needs to be interpreted procedurally and the intention of the law should be taken into consideration rather than to interpret it substantively with flexibility. The Republicans are of the view that the constitution is the law of the land and must be seen in the eyes of conservatives. As for example, in a leading case Roe v. Wade\(^4\) when judicial activism was made and the court of law sidetracked many laws limiting abortion on the basis of right to privacy in the Bill of Rights, many Republicans were unhappy. They immediately propagated the idea of 'judicial restraint' to counter 'judicial activism'. Some Republicans came out openly to restrict those judges who were of activist mentality and tried to bring only change in the system. They have also tried to limits the judicial review of the U.S. Supreme Court so that they can pass laws of their own choice without any judicial activism. And when comes to federal questions, the Republicans have shown interests in U.S. federalism rather than in an amicable practical solution. President Bush has gone to the extent to opt for a unitary executive system so that the judiciary would not be in a position to question any action of the executive. The famous "commence clause"\(^5\) is another area of dispute for the Republicans due to their right-wing policy.

The Bush Administration in the recent past was in favour of a strong presidency which can sweep all the powers as Commander-in-Chief in the time of war. It can override all the laws of the land, to which the U.S. Supreme Court was very critical of President Bush's unconstitutional move.\(^6\) The Supreme Court held that the Military Commission created by the Bush Administration to try detainees of Guantanamo Bay has no power to proceed because its structures and procedures violate both the Uniform Code of Military Justice and the Geneva Conventions, 1949. Due to such inclination of the Republicans, President Bush had passed the Military Commission Act, and the USA PATRIOT Act and expedited the National Security in the interest of the U.S. So, the Republicans are Basically believers of Status Quo and a faith-based party which does politics form conservative and religious and moral point of view. Right from their establishment, the Republicans have always favoured the nation and nationalist theory of state. To them, the national defence is a priority and it cannot be compromised. When their nation was at threat from al Qaeda and the

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\(^5\) Art. 1, Sec. 8, Clause 3, The U.S. Constitution.

Muslims world, they favoured the War on Terrorism, the Afghanistan War in 2001 and Iraq War in 2003 without any delay.

But upon the question of U.S. intervention in the foreign lands, many Republicans have shown skeptical attitude. As the realists, the Republicans have never been failed in thinking about their own self-interest first. The idea of ‘Preemptive War’ starts from there when the Republicans believe that if, a perceived, inevitable offensive or invasion is not repelled or defeated before it actually takes place then, it will of course, take place. So, it's important to be prepared for that and repel the threat first before it attacks you. Thus, the Republicans are basically those who believe in the idea of realism and propounder of ‘offensive theory’. No soon when the 9/11 took place, they, quickly passed a stringent law in the U.S. Congress and proceed to counter terrorism both in the U.S. and abroad even without respecting the U.S. constitution and the Geneva conventions etc.

But the Democratic Party is the other important party of the two-party system in the US. It is the oldest party in the US politics which came into being in 1828 in the modern sense, and made Andrew Jackson as the first President. But the historical beginning of the party dates back to 1790 when an Anti-Federalist faction comprised of Thomas Jefferson and James Madison organized against the fiscal policy of Alexander Hamilton. Right from that time, the Democratic Party has chosen its political position to modern and believes in liberalism and progressivism. Majority of its supporters are social liberalists and the party basically involves in left-wing politics. Thus, has no regards for religion or conservatism. The Democratic Party assumes that every state units has equal rights and the US constitution is the supreme law of the land. It opposes the stand of capitalists and capitalism and has favoured liberalism, social welfare, farmers, labourers, labour union, civil rights, decentralization and above all regulated business and economy. This is the reason why, the New Deal policy of President Franklin D. Roosevelt could not only make the Americans happy at a time of crisis but became the source of inspiration for the Democratic Party. Principle wise the party, not only favours the poor, discriminated and disadvantaged people at home but in the abroad also it believes in the idea of interventionism in the foreign policy. In fact such humanitarian and civil liberty oriented ideology of the democrats has made them the most sort after party by the libertarians, academics, professionals, working class, farmers, youth, immigrants, natives, blacks and Muslims. The Democratic Party’s agenda a great appeal in the
abroad as for instance, the stand taken by the party in supporting the Puerto Ricans over their right to vote for their national government and self determinance. The Democrats also have expressed their solidarity with the Israel's problems and stood by the Israel people for their freedom and democratic development. In the case of Afghanistan War in 2001, the democrats though, overwhelmingly supported the idea of war against Afghanistan after 9/11 incident, still, a majority of supporters are reluctant to support the move in the recent years. Even the Obama Administration has chosen to shift from Afghanistan war now. President Obama also has promised to withdraw force from Afghanistan as quick as possible. And over Iraq War in 2003, the Democratic Party supported the move of the US. However, later on they again shifted their support and pleaded for a quicker removal of troops from Iraq. During his campaign for the Presidential candidate, Barrack Obama voted for withdrawal of forces from Iraq by 2010. His party is now talking about a time line for withdrawal of forces from Iraq. Another important foreign policy agenda of the Democrats is that they do not approve of the idea of US starting a war by its own, rather, it should go for an alliance of nations in such situations. As they are generally critical of Bush Administration's policy of unilateralism and talked about the US leadership along with other nations of the world if the condition so warrants.

Besides these, the Democrats as the champions of civil liberties are against the use of forces and torture on human beings. They have spoken variously against the use of torture on prisoners of war and detainees. They have always stood by the US Constitution ans respected it as the most law of the land. Individuals are born free and they have their right to privacy which can not be taken away by any one else. The Democrats also have opposed the idea of death penalty and supported gun control measures. Again, when the USA PATRIOT Act,2001 set to expire and its renewal became a hot debate world wide, then, it is the Democratic Party which openly raised objections against various measures adopted by the act and voted against renewal of the act in 2006. It has complained against suppression of civil liberties which are otherwise guaranteed in the US constitution and the violation of human rights which are otherwise protected by the Universal Declaration of Human Rights and the Geneva Conventions. The Democrats are very critical of Sec.206 and Sec.215 of the act and have opposed these sections for their renewal in 2009. However, it is interesting to note that even if, the Democrats are against many provisions of the act and have cried for removal of the act but a few are there who are not only supporting
the act but also pleading for its renewal such as Russel Feingold (Wisconsin). This means that the Democrats are either divided or yet to raise their strong voice against the most talked about USA PATRIOT Act of 2001.

Survey of Literature:

Even though, the attempt to balance the security and liberty is an old phenomenon and has been written extensively by writers, experts, administrators and scholars throughout the world, the USA-PATRIOT Act, 2001 has no dearth of written materials. It was formulated and passed before ten years and has been widely recognized. A large number of scholars both in America and outside America have made contributions on the Act. A large number of materials are available in the form of documents, books, articles and research papers. While, a number of books have narrated the shocking terroristic strikes of 9/11 and state actions of the USA in countering terrorist, articles are written on the balancing of security and liberty. While, the supporters have explained their stand on a stringent national security policy, the opponents have revealed the gross violation of individual freedom. While, Richard A. Clarks has gone to the extent to show bit by bit of the terrorist attacks of 9/11 (Against All Enemies). He has also cautioned the Bush Administration to take proper step to get rid of terrorism. He has asked the authority to counter the terror inside. Though the intelligence agency was aware of an attack on the USA but because of lack of coordination the Americans failed to protect their lives and liberties. He says though the US is super power but it stumbled down in the Islamic world. Bob Woodward has revealed the plan of attack. He has explained with regard to Bush Administration inevitability of war with Iraq. A very fine account of background story (Plan of Attack) of the war and subsequent change in the policy of national security has been explained. Eric V. Larson and John E. Peters (Homeland Security) have explained with regard to concepts, issues and options available in the hand of Bush Administration. Larson and Peters have gone to the extent to explain homeland security and its importance for the state. The process of strategy, threat risk and coordination of agencies in fighting the terrorist has been explained with care and clarion. But the views expressed by Cynthia A. Watson is different. She has explained the true meaning of national security (US National Security) in old time and during the cold war period. But right after the dismantle of the USSR, the policy of US on national security should be changed because of change in the atmosphere of
international relations. She has explained the National Security policy along with new threats and various controversies. She has shown how the USA has been able to retain its super power position even after so long time. She has cited examples from the Truman Doctrine and the Marshall Plan. The role of NATO in security of Americans also has been focused. D. D. Raphael's Problems of Political Philosophy, (1979), London: Macmillan Press Ltd. and Problems of Political Philosophy, (1990), (2nd Ed), New York: Palgrave, have been very helpful. Hans, J. Morgenthau's (Politics Among Nations), (3rd ed), New York: Alfred A. Knof, was helpful for introduction and chapter one. Robert O Keohane's Neorealism and Its Critics (ed), New York: Columbia University Press has been greatly helpful for introduction. Allan Nevins, and Henry S. Commager (A Short History of the United States), Calcutta: Scientific Book Agency, was another book of great help for chapter one. Norman D. Palmer and Howard C. Perkins' joint work (International Relations: The World Community in Transition), (3rd Ed), Calcutta, Scientific Book Agency, has been immensely helpful. Duncan Ivison's (Rights), Stocksfield, Acumen Publishing Ltd has been followed in explaining the concepts of rights. Joyce P. Kaufman's (A Concise History of US Foreign Policy), Maryland, Rowman & Littlefield has been helpful for chapter one. Tibor R. Machan's (Libertarianism Defended), Hampshire, Ashgate Publishing Ltd was useful for defining liberty and libertarianism. Richard A. Posner, (Preventing Surprise Attacks: Intelligence Reform in the Wake of 9/1), New York, Rowman & Littlefield Publishers, Inc., was helpful in knowing many facts and figures relating to the 9/11 terrorist attacks and the aftermath 9/11 Commission Report on it. Melvin I. Urofsky's (A Conflict of Rights), New York, Charles Scribner's Sons, Macmillan Publishing Company and his (Religious Freedom: Rights and Liberties Under Law), California, ABC-CLIO, Inc., have been of great help.

Adamantia Pollis and Peter Schwab's (Human Rights: New Perspectives, New Realities), (Ed), Boulder, Colorado, Lynne Reinner Publishers, Inc., is a good work on human rights issues and explanation which was of great help for chapter five. David M. Rabban's (Free Speech in Its Forgotten Years), Cambridge, Cambridge University Press, was immensely helpful for right to freedom of speech and other civil liberties challenges. Nicholas Rose's (Power of Freedom, Reframing Political Thought), Cambridge, Cambridge University Press, was another helpful material on civil liberties. Donald M. Snow's (National Security Enduring Problems of U.S. Defense Policy), New York: St. Martins' Press, has been helpful for explaining the US national
security. Geoffrey R. Stone, Richard A. Epstein, and Cass A. Sunstein's (Bill of Rights in the Modern State), (ed.), Chicago, The University of Chicago Press, is a commendable book on the Bill of Rights and the Fundamental Rights of US citizens which talks not only about constitutional provisions but also about various constitutional protections. The United States Immigration and Naturalization Service, Statistical Year Book, 1919(Ed), Table-36, is a year book which elucidates many statistical analyses. John Yoo's (The Powers of War and Peace: The Constitution and Foreign Affairs After 9/11), Chicago, The University of Chicago, has been useful for explaining balancing of executive and legislative in the United States.

Apart from a good number books available for the analytical speculation of the Patriot Act, a number of single articles are also available. Thomas F. Powers (Can we be secure and free) has been most prolific. In this article Thomas Powers has explained that the new war or terrorism of America has breathed new life into the forces of authoritarianism in America. He has also explained the importance of balancing the security with liberty. He has categorized the important areas of conflict in a lucid manner. Margaret D. Stock (United States Immigration Law in a World of Terror) has explained the laws of immigration in the USA. She explained that, it was largely believed that due to failure on the part of the INS (Immigration Naturalization Services) the terrorists entered the USA and caused large scale devastation. She observes that the terrorist entered the US on student's visa. The internal system could have checked the terrorists but it failed to do so. In this respect, the view expressed by Fort Fu-Teliao is different. He has analyzed the cons and pros of the Patriot Act. How the act has been able to suppress rights to liberty and Fair Trial. How Human Rights has been blown (Right to liberty and Fair Trail – Sacrificed in the name of Anti-Terrorism). Fort Fu has gone to the extent to compare the Anti-Terrorism Act of UK and the USA - PATRIOT Act of USA. Both the acts are against terrorism but the author has seen them against violation of individual freedom. He has also criticised the UK and USA laws of inconformity to the Human Rights standard or amend the acts in honor of civil liberties. Robert H. Bork (Civil Liberties After 9/11) has explained the state of Civil Liberties at the hand of Bush Administration. He has asked the authority to take care of civil liberties or face criticism. The police power, wiretap, tracking and detention must conform to human rights standard. He has explained the stand taken by various civil liberties groups in this respect. However, single articles published in the reputed journals of Congressional Digest,
Congressional Quarterly and Journal of International Law have been greatly helpful in interpreting and explaining various facts. Brian T. Yeh, and Charles Doyle, (2006), USA PATIOT Improvement and Reauthorization Act of 2005: A Legal Analysis, CRS Report for Congress, Dec 21, 2006, has been most commendable for analyzing and understanding different aspects of the Patriot Act. The ACLU Report, (2004), America’s Disappeared: Seeking International Justice for Immigrants Detained After Sept 11, Jan, 2004 has been helpful for explaining civil liberties and human rights errors. Besides these, a number of single articles and materials have been retrieved from the Internet sources.