Chapter-1

INTRODUCTION

“The Roots of Violence: Wealth without work, Pleasure without conscience, Knowledge without character, Commerce without morality, Science without humanity, Worship without sacrifice, Politics without principles.”

— Mahatma Gandhi

Terrorism clearly became a mad violator of human rights, according to the National Human Rights Commission, in the wake of the very recent Mumbai terror attacks in which numerous people were killed. The NHRC further went on the remark that a terrorist had no religion. He does not believe in the tenets of religion because no religion preaches such insane violence. Therefore, terrorism of whatever hue must be unequivocally condemned by all. In what can be called one of India’s worst terror attacks in Mumbai, militants attacked high profile landmarks, including the Taj Mahal Palace and Tower Hotel, the Oberoi Trident Hotel, Metro Theatre and the Chhatrapati Shivaji Terminus (formerly Victoria Terminus) railway station. At least 101 people, including a foreign tourist and four top police officers, were killed and over 250 injured. The crisis continued for days with terrorists holding people hostage in the two five-star hotels.¹

The tug of war in between Human Rights and Terrorism becomes a matter of global concern. The welfare has always been regarded as major objective of welfare state and a ladder to social & mankind development. But development and ruin are associated with each other. It is said that if development is as old is the human being then it is along with the practice of terror which is as old as welfare and civilization itself. From ancient times to present individuals, rebel groups and government have

¹ Singh, Ranbir Prof. (Dr.) *Critique of recent legislations on Terrorism .... (7-30)/26 Journal of the National Human Rights Commission, Vol. 8, 2009
used violence to eliminate enemies, to spread fear and alarm and to attract attention of political or religious causes.

1.1 What are Human Rights?

Human rights are universal values and legal guarantees that protect individuals and groups against actions and omissions primarily by State agents that interfere with fundamental freedoms, entitlements and human dignity. The full spectrum of human rights involves respect for, and protection and fulfilment of, civil, cultural, economic, political and social rights, as well as the right to development. Human rights are universal—in other words, they belong inherently to all human beings—and are interdependent and indivisible.²

International human rights law is reflected in a number of core international human rights treaties and in customary international law. These treaties consist of in particular the International covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols and there are also some other important core universal human rights treaties for example, International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol. There is a growing body of subject-specific treaties and protocols as well as various regional treaties on the protection of human rights and fundamental freedoms.

1.2 What is terrorism?³

The international community has adopted a number of international treaties that are designed to combat specific types of terrorism, such as the hijacking of

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² The Charter of the United Nations, Art. 55 (c), the Universal Declaration of Human Rights, art. 2, and the Vienna Declaration and Plan of Action
³ http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf
aircraft; at the UN level to date there has been no agreement on a definition of terrorism.\textsuperscript{4}

There is no established definition of terrorism in international law, regardless of many attempts to achieve one by intergovernmental organizations, governments, and academics.\textsuperscript{5} One International Court of Justice judge has observed, “terrorism is a term without any legal significance. It is merely a convenient way of alluding to activities, whether of States or individuals, widely disapproved of and in which either the methods used are unlawful, or the targets protected, or both.”\textsuperscript{6}

However, as such, much is at stake in the definition of terrorism.\textsuperscript{7} To call an act terrorism is to assert not just that it possesses certain characteristics, but that it is wrong. To define an act as a terrorist act also has significant consequences with regard to co-operation between states, such as intelligence sharing, mutual legal assistance, asset freezing and confiscation and extradition.

Terrorism occurs in many different contexts and takes different forms. Without seeking to define terrorism here, we can consider some of its consistent features including:

- Its organized nature (whether the organization involved is large or small);
- Its dangerousness (to life, limb and property);
- Its attempt to undermine government in particular (by seeking to influence policy and law-makers);

\textsuperscript{4} The Rome Statute of the International Criminal Court does not contain express reference to acts of terrorism, despite a number of proposals in earlier drafts. However the Statute does apply to and define a number of crimes including crimes against humanity and other offences that can include acts of terrorism. Terrorist acts can, in certain circumstances, constitute crimes against humanity. For details and further references, see A. Cassese, \textit{International criminal law} (Oxford, 2003), pp. 120-132.

\textsuperscript{5} Although see the core elements agreed in the Declaration on Measures to Eliminate International Terrorism, in the annex to UN General Assembly Resolution A/RES/49/60, 9 December 1994. The Declaration states (para. 3) that terrorism includes “criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes.”


• Its randomness and consequential spreading of fear/terror among a population.

A prevailing characteristic of acts of terrorism is that they are crimes even if they have an additional quality that requires that they be considered “terrorist” in nature. Terrorist acts are criminal acts and subject therefore to the normal rigours of criminal law. It does not make a difference to the applicability of human rights standards whether the issue under review is deemed to be a terrorist act as opposed to any other serious criminal act.

It is believed that early states practiced terrorism in different forms long before, rebel group did. For instance Empire builders of ancient times used brutality to frighten large population to discourage resistance and revolt and to achieve political goals. For example the Assyrians of the 700BC treated conquered people cruelly. They remove their skins while they are alive. Period peasants and lower urban classes use acts of terror to over through their rulers and the states use terror as instrument of intimidation and repression In the renaissance.

In early and mid 19thC the focus of terrorist movements were typically to assassinate government officials, bombing government facilities and murder people who oppose them or who support the social political system they struggle against. They usually chose prominent often symbolic targets to create the impression that they could strike when ever and where ever they choose.

In the year 1930 Adolf Hitler of Germany and Benito Mussolini of Italy used terrorism and to discourage oppositions to their government. Many revolutionary movements in Africa, Asia and elsewhere that fought to end colonial rules or to promote particular ideology adopted terrorist tactic.

Now days many terrorist groups begun forming networks, found state sponsors and operated on an increasingly global scale. Advancement in communication technology

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8 World book focus on terrorism Chicago world book,2003, P 156
9 World book focus on terrorism Chicago world book,2003, P 156
has also advanced the impact and strategies of terrorism. The increased using of
internet and web sites has provided the terrorists network with fast and anonymous
way of communicating with one another. The most common types of terrorist
incidents include bombings, are explosive devices that are cheap and easy to make\textsuperscript{11} and also use kidnapping and hostage taking to establish a bargaining position and
elicit publicity. Successful kidnapping and hostage taking befits the terrorists to gain
money, release of jailed comrades and publicity for an extended period.

Other common type of terrorist incidents include armed attack and assassinations,
Hijacking or skyjackings and cyber terrorism which provides a communication on
computer networks to today fast – paced world.\textsuperscript{12} Unfortunately all type of categories
of terrorism is there in India and India is the worst terrorist hit country in the whole
world since the existence of this planet. Long back in our history we had seen various
incidents of violence & mass killing. Here it is needles to mention the time of
Egyption civilization and Ancient Indian civilizations. One can take example from
Alexender the great or from Ashoka the great. It may be the issue of controversy that
the history directly associated with the war of statehood but it can be categorized in
another manner for simplicity and to get the immediate solution that the war of
statehood is some how responded with today’ war from liberation frontiers for
example war from LTTE, Al-Quida, Bodo, Zehadi, ULFA, Hizzbul Muzahuddin,
Lashkar-e-Toyba, Zamat-E-Islami, Ulemma-A-Hind, Hamas are few name. Above
noted group has been declared as non-state actor by different governmental agencies
and by the state too.

1.3 Human Right and Terrorism

Peace and security is two facet of one coin and inter-linked and these are with human
rights. Denial of human rights has its effect on peace, harmony and tolerance. In order

\textsuperscript{11} Terrorism research terrorict incidents http://www.terrorism-research.com/incidents retrived
at11/13/08

\textsuperscript{12} Terrorism research terrorict incidents http://www.terrorism-research.com/incidents retrived
at11/13/08
to bring peace and tranquility in the society, inequalities prevailing in the society in any manner should be removed. Perhaps, India is the only country in the world, which has embraced all religions and cultures without hesitation and fostered all sorts of ideologies, whether it is political, religious or philosophical. The strength of India lies in its national values like secularism, democracy, fraternity, universal brotherhood and tolerance. The effort of fundamentalist and terrorist elements in disrupting the national secular fabric of India has threatened the unity and integrity of the nation. India is knotted with the concept of rule of law. Power of the State is divided among the main three organs, the Legislature, the Executive and the Judiciary. The role and responsibility of each organ has been properly mentioned, the Judiciary being given the prime place, and planted as the instrumentality of the Constitution to test the validity of acts of each organ through the concept of judicial review. For the survival of human rights which India is determined to conserve and preserve, fortunately when founding fathers of the Constitution of India were deliberating upon the contours of our system of governance, available to them were several models of the rights-based regime including the principles enshrined in Magna Carta, the corner-stone of liberty and the principles against arbitrary and unjust rule; the UK Bill of Rights, 1689; US Bill of Rights, 1791; the Declaration of the Rights of Man and of the Citizen, adopted in 1789, by the National Constituent Assembly of France; Universal Declaration of Human Rights, 1948 etc. India borrowed wisdom from these various instruments, but charted its own course developing a full-fledged elaborate chapter on ‘Fundamental Rights’.

The Constitution of India guarantees, to all persons, citizens and aliens alike, amongst others, equality before law; equal protection of the laws; guarantee against discrimination; freedom of speech & expression; freedom of peaceable assembly; freedom to form association; freedom of movement; freedom of fair procedure; protection of life & personal liberty; freedom against exploitation; freedom of conscience; freedom to profess practice & propagate religion and so on & so forth. The Constitution facilitates a State action to be invalidated should it be found to be
inconsistent with or imbued with the trait of abridging the fundamental rights. The Supreme Court of India is the guarantor and vested with the responsibility of securing enforcement of fundamental rights through wide-ranging powers.

From our recent experience, we have learnt that terrorist attacks against innocent and unsuspecting civilians threaten the preservation of rule of law as well as human rights and terrorism can broadly be identified with the use of violent methods in place of the ordinary tools of civic engagement and political participation. A suggestion that can be made in this regard is that of treating terrorist attacks as offences recognized under International Criminal Law, such as ‘crimes against humanity’ which can then be tried before a supranational tribunal such as the International Criminal Court (ICC). In some circles, it is argued that the judiciary places unnecessary curbs on the power of the investigating agencies to tackle terrorism. In India, those who subscribe to this view also demand changes in our criminal and evidence law - such as provisions for longer periods of preventive detention and confessions made before police officials to be made admissible in court. While the ultimate choice in this regard lies with the legislature, we must be careful not to trample upon constitutional principles such as ‘substantive due processes’. This guarantee was read into the conception of ‘personal liberty’ under Article 21 of the Constitution of India by our Supreme Court.

In Madan Singh Vs. State of Bihar the expression “Terrorism” was observed to be “the peacetime equivalent of war crimes” as stated by a noted United Nations official, Dr. Alex P Schmid. It would not be wrong to say that this act is not only against the whole country even it is against the rule of law and also against the humanity.

Right to life is the most precious fundamental right guaranteed Under Article 21 of the Constitution of India. Unfortunately, the “right to life” has been exposed to serious threats and risks from terrorists. All terrorist attacks make the whole atmosphere panic and full of fear. As President Aharon Barak of the Israeli Supreme Court stated” war against terrorism is a war of law-abiding nations and law-abiding

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13 AIR SC, 2 April, 2004
citizens against law breakers.” The basic message that every citizen of the whole world should remember is that threat to security and the rule of law posed by terrorism should not give rise to measures which themselves tend to undermine fundamental democratic values, human rights or principles of the rule of law.

Terrorists have no religion, no concept of communal or social harmony and value for human life. Communal harmony is not what they want. No religion propagates terrorism or hatred. Love for all is the basic foundation on which all religions are founded. It seems as terrorists have no mean to the lives of innocent people, they do not understand the amount of damage they do to the society. Millions of peace-loving citizens in the country are threatened to be put on a ransom by a group of people.

It is the Duty of every individual to ensure that terrorism is fought. Let it not be solely to the Government to do it. The society as a whole and every individual has to consider the disastrous effect of terrorism and join hands to fight the battle against terrorism. A combined effort of everyone is necessary to meet the grave challenge of terrorism. The nature of the terrorist activities has undergone a transformation. The activities have turned more brutal than ever before, and the modus operandi has seen a drastic change. Terrorists have become more sophisticated and know how to attack in places where it hurts the most.

One cannot fight an enemy as draconian as terrorism with laws and rules meant for the civilized. It must not be forgotten that it is only by deploying methods such as these that terrorism can be effectively dealt with. Otherwise the rule of law may fail and terrorism may come to rule.

Terrorism is one of the most sensitive issues; its origin is diverse, which has assumed alarming magnitude internationally. Terrorism as a political weapon to express dissent with state policy or to overthrow the government is recent development. The cause for terrorism, we need to look at the bigger picture. Freedom and oppression are factors not only in conflict between minorities and nation states, but in small, everyday conflicts between parents and teenagers, managers and employees, governments and
citizens and wherever power is distributed unequally. Terrorism is a complex problem. It is resorted as willful choice by organizations for political and strategic reasons. Those who practice it assume collective rationality.

It is a strategy of violence designed to promote desired outcomes by instilling fear in the public at large. The key element is public intimidation. That is what distinguishes it from other form of violence. In customary violence the victim is personally targeted but in terrorism the victims are incidental whereas terrorist intended objectives are used simply as a way to provoke social conditions designed to further their broader aims.

Terrorism thus had become a serious threat to the sovereignty and integrity of the country succeeded to a large extent in creating panic and sense of insecurity in the minds of the people. We need repressive measures to control the terrorism. What is the remedy then? What should be done to mitigate the suffering of common man and ensure safety, sovereignty and national security? It cannot be denied that in a democracy the politics of vote bank does play a prominent role. But there should be a death of political will to tackle such grave issues with determination and seriousness without least regard to political considerations. The close analysis has revealed that terrorism promises power, prestige, privilege and even wealth. These are attractive to youth people from poverty ridden background and serve as a powerful impetus for joining the terrorist group. It has been found that at times the joining of terrorism is enormously satisfying. It has provided a route for advancement, an opportunity for recognition and excitement. The Government can meet such challenges effectively not by repression but education facilitating the young generation to earn their livelihood decently. It can be controlled by educating people and providing employment to the younger generation. No terrorist activity, whether internal or sponsored can flourish without local support. Therefore, mechanism should be established to monitor such activities. It is no use being wiser after the event. Security check after bomb explosion has little meaning. A terrorist is an intelligent person. He should be met by a specialized force, especially created for this purpose.
Human rights are universal values and legal guarantees that protect individuals and groups against action and omissions primarily by state agents that interfere with fundamental freedoms, entitlements and human dignity. The general rule of human right involves respect for, and protection and fulfillment of civil, cultural, economic, political and social rights, as well as the right to development.\textsuperscript{14}

International human right law which binds all state embodied a number of international human treaties and customary international law. These treaties include in particular the international covenant on economic, social and cultural rights, and international convenant on civil and political rights with its two options protocols and other conventions and protocols. As the human right committee observed in its general comments No 24 (1994) and No 29(2001) some rights in the international convenant on Civil and political right reflect norms of customary international law. To these rights there are no circumstances what so ever in which derogation from them is permissible.

Terrorism has a direct impact on the enjoyment of a number of human rights, in particular the right to life, liberty and physical integrity. Terrorist acts can destabilize governments, undermine civil society, jeopardize peace and security, and threaten social and economic development. It threatens the dignity and security of human being everywhere, endangers or takes innocent lives, creates an environment that destroys the freedom from fear of the people, jeopardizes fundamental freedoms, and aims at the destruction of human right.

It has an adverse effect on the establishment of the rule of law, undermines pluralistic civil society, aims at the destruction of the democratic bases of the society, and destabilizes legitimately constituted governments. It has adverse consequence for the economic and social development of states, jeopardizes friendly relation among states, and has a pernicious impact on relation of cooperation among slates, including

\textsuperscript{14} Human right terrorism and counter terrorism www.ohchr.org/document/publication/factsheet 32EN retrieved at 05/03/09 p 6
cooperation for development. It threatens the territorial integrity and security of states, constitute a grave violation of the purpose and principals of the United Nations.

Terrorism attack at the very destruction of human right, democracy and the rule of law. It attacks the values that lie at the heart of the charter of the united nation and other international instruments namely, respect for human right, the rule of law, rules govern in armed conflict and the protection of civilians, tolerance among people and nations, and the peaceful resolution of conflict. Till date international fraternity and non-government organization are unable to define the states of such non state actor after analysis and overview it can be categorized different from terrorist groups. Hence the present research problem with regard to the impact of terrorism on the Human Right has been proposed to fine some concrete solution to the problem in Indian perspective and the research has been proposed in such a way that the solution may be a mile stone before the Global community to curb the problem.

This research work raises the issue of violence against state is as a state problem and for the entire state problem state has to find out the solution with in its territory and if state is showing in-competency and in-capability in doing so she can ask for all such state problems when international peace & security is in question. At the time of International peace and security state may be held responsible under an age old principle of International Law. At the time of examination of state responsibility state may be held responsible for state actors only. Then who will be responsible for non state actor.

Terrorism and Human Rights are natural enemies with no possibility of their co-existence. No person who supports human rights can support terrorism, which results in a grave violation of human rights of innocent citizens. The growing menace of terrorism is a fight between barbarism and civilization and is a morally degrading means of struggle with no justification whatsoever. It is not nearly heinous criminal act it is more than near criminality.
India suffered a heavy toll of life and property due to terrorism the terrorist violence has taken away innocent lives, destroyed property and jeopardized fundamental freedoms and rights of the people, more particularly uncertain sensitive states like Jammu & Kashmir, Punjab and the North Eastern States of Assam, Mizoram, Nagaland and Manipur. Moreover the country has lost two top leaders, one Ex Army Chief, one Chief Minister, several politicians, bureaucrats and army and police officers to assassins. The terrorist organization have also resorted to most brutal means of killing by hanging, strangulating, beheadings, maiming, slitting of throats, nailing, chopping of nose and ears.

The use of state force to counter the terrorist violence has also invariably impinged upon the rights of individuals in a serious and substantial manner. The action or ruthless search operation conducted by police and security forces have often led to large scale violations of human rights of the innocent people. In order to contain terrorism, the security forces have misused the stringent extraordinary laws which have resulted in torture, disappearances custodial deaths and fake encounters.

Such abuses of clamping down on individual rights and freedom have also turned local people against the state its law and order machinery. This present research work is define to evaluate, examine and analyses aspect like the conceptualization of terrorism and human rights, role of anti-terrorist laws, nature and extent of violation of rights of the people, especially during the phase of terrorism and the efforts, strategies and approaches for protecting and promoting the human rights.

Present research touches the issue of the violation of human right in the name of counter terrorism undermines the very international acceptance that terrorism is wrong. If it is fought in the terrorism means, it erodes the justification that the method terrorist’s uses are evil. Ignoring human right as part of the fight against terrorism undermines international cooperation’s and creates negative consequence for civil liberties, fundamental human rights, rule of law and the whole world order. Further proposed study starched out the position of Human Rights under the roof of terror.
1.4 Review of Literature

The research topic deals with impact of terrorism on human rights. The frequency of terrorist acts in the recent past has resulted in an increasing body of data available for evaluation. There are numerous text books on terrorism and other literature including technical, legal, journalist and fictional. This literature reflects not only the shock and disbelief that is the aftermath of each terrorist act, but also confusion regarding the causes of these acts. The focus of this study is an in-depth analysis of the broad spectrum of literature which has emerged as aftermath of each terrorist event and the subsequent steps taken for framing anti-terrorism laws. Content analysis is made of the various factual and theoretical accounts of terrorism, in order to conceptualize what has been written of the events. Examines the related academic literature on the topic.

Due to the wide nature of the thesis, which can be related to many academic disciplines and areas of study, the literature review covers a variety of themes such as the link between terrorism and human rights the link between counter terrorism and human rights; the causes of terrorism ontourism, theories of terrorism; and catagories of terrorism, antiterrorism legislation, obligation of international organization, judicial response against terrorism, impact of terrorism. The researcher has attempted to review of all those literature by stating their contents and their relevance to theme of the research.

Atin Kumar Das\textsuperscript{15} in their article observes that the protection and promotion of human rights under the rule of law is essential in the prevention of terrorism. Here comes the role of law and court’s responsibility. If human rights are violated in the process of combating terrorism, it will be self-defeating. Terrorism often thrives where human rights are violated, which adds to the need to strengthen action to combat violations of human rights. The lack of hope for justice provides breeding grounds for terrorism. The author explains that terrorism itself should also be

\textsuperscript{15} Atin Kumar Das Combatting TerrorismAnd Protection of Human Rights- Striving
understood as an assault on basic rights. In all cases, the fight against terrorism must be respectful to the human rights. Our Constitution laid down clear limitations on State actions within the context of the fight against terrorism. To maintain this delicate balance by protecting “core” human rights is the responsibility of court in a matter like this. Constitutional soundness of POTA needs to be judged by keeping these aspects in mind.”

Prof. (Dr.) Ranbir Singh\textsuperscript{16} in his article talk about a strong media policy is as important as equipping the armed forces with weapons and technology that is suitable for anti-terrorist operations. Our responses to terrorism in the past have not been reality-based. The Indian state must start educating itself on how it is to tackle individuals and groups trying to destroy it. And it must learn how to arm and protect those who put their lives at stake in the defense of India’s unity and integrity. This demands a massive and unprecedented effort, one that has to be exerted within a timeframe that grows shorter by the day if it is to have a hope of success. The author also suggested that, India being a democratic country has strong democratic norms, any solution to terrorism through laws and systems have to be within the framework of constitutionalism, rule of law and protection of human rights norms and standards.

In their article Justice Y. K. Sabharwal,\textsuperscript{17} emphasize that We need not dwell much on the issue as to what exactly is the root cause of terrorism in our respective parts of the world since that concerns State policy and would rather be left to the domain of the Executive or Legislative wing of our respective Governments. As members of the legal fraternity the questions that beg to be addressed by us revolve around the conflict, consequential to counter-terrorism efforts.

\textsuperscript{16} Prof. (Dr.) Ranbir Singh, Critique of recent legislations on Terrorism .... (7-30), Journal of the National Human Rights Commission, Vol. 8, 2009

\textsuperscript{17} Justice Y. K. Sabharwal, Meeting the Challenge of Terrorism - Indian Model (Experiments in India)
Dhiraj Kumar Mishra in their article observed that the term ‘Torture’ has not been defined in the constitution or in any other penal laws in India. In order to protect the interest of the accused the Indian evidence act, 1872, in section 25,26 and criminal procedure code, 1973 in section 162 have clearly provided that confession made by and accused is inadmissible in evidence except in certain specified circumstances.

Kavita Singh, in their text book examine the impact of terrorism on human rights. In this book historical background elaborately discussed. National and international law to deal with terrorism are properly analyzed and find that presently we are passing through a difficult phase where the society violence striven. Violence is spreading faster than the tradition of discipline. The author emphasized that there is a need for more constructive and operational steps to be taken to safeguard Human Rights. The author also analysis of the major prevailing theories of terrorism. These theories in this context are the best understand the theoretical basis of terrorism. This may be of help to arrive at an understanding of the problem of tackling terrorism.

In their text Dr. Surat Singh & Hemraj Singh collected laws relating to terrorism both passed by Indian Legislature as well as by International Agencies i.e. National laws on terrorism, State laws on terrorism, Laws on terrorism pertaining to the armed forces, Human rights, Miscellaneous legislative provisions, Digest of important cases, Miscellaneous information, so it will helpful to researcher to make a fine balance between anti-terrorism laws and human rights.

S.R. Bhansali in their book deeply discuss the issue of terrorism and human rights. National and international law critically examine by the author. Due to terrorism there is world wide unrest in the contemporary world which is passing through the unusual movements. The author also aware that there is a need of intense thinking on deal with the terrorism which is rapidly on the ways and means to deal with the terrorism.

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18 Mishra Dhiraj Kumar, Torture and Third-Degree Methods: Some Reflections, Nyaya Deep, Vol. 12th issue 3, July 2011, pp. 16-17
21 Bhansali, S.R. Law Relating to Human Rights In International and National laws and Constitutions
which is rapidly rising in an alarming speed. Terrorist groups and terrorism affected areas, cross border terrorism all issues focused.

**B.P. Singh Sehgal**\(^2\) in their text discuss the term ‘Terrorism’ implies as under: “Use of Terror especially for political purposes”. It further classifies that a Terrorist uses violence to cause terror for political ends. Needless to point out that both ‘Terrorism’ and ‘Terrorist’ are the nouns of ‘Terror’ which itself is a well-known term.

**G. Wardlaw**\(^3\) in there literature observe that this form of terrorism is used primarily for political ends. Political groups use terrorism as a modus operandi and it emphasizes their inability to achieve their political objectives through legitimate means. Political terrorism cannot be understood outside the context of the development of terrorist or potentially terrorist ideologies, beliefs and lifestyles. It can be argued that there is no clear classification for political terrorism across regional and ideological lines.

In their text **Stefan Kirchner**\(^4\) examine that ICRC seems to be highly efficient in theory, things look different in practice. Although the ICRC theoretically has a number of means to enforce International Humanitarian Law, the practical value of the ICRC's means can be limited, making them a potential that cannot always be used fully.

**A. Botha**\(^5\), in their literature focus that Domestic acts of terrorism are restricted to the borders of one country and occurs when the violence and terror associated with it are confined to national territories and do not involve targets abroad. The author also talk about that this is very difficult to find since any intensive terrorist campaign

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cannot remain purely internal and are bound to traverse the national borders for support, weapons, financial assistance and a safe haven.

**Wilson John and P.V. Ramana**[^26] focused in their text that it is extremely important to train and educate the security forces, police, para-military and the army about the salience, non-violability and importance of observing the human rights of the people. The training and education should focus especially on the lower rung of the security forces, which, in large numbers, comes into contact with the community.

In their text **Dr. Vaibhav Goel**[^27] discuss comprehensive knowledge of the origin, evolution & development of International Humanitarian law. The author focuses on all the stages of the development of IHL, historical developments prior to 1885. What was the position of the society regarding humanitarian approaches in the beginning and in the middle Ages. The beginning of modern times origin of the Humanitarian idea - developments from 1885 onwards expansion and definition of IHL.

**173rd Report of the Law Commission (2000)**[^28] examined this issue and highlighted that there is a need for a law to deal firmly and effectively with terrorists. Commission in its 173rd Report on Prevention of Terrorism Bill, 2000, had recommended a separate legislation to deal with the menace of terrorism. The draft bill as recommended by the Law Commission of India included provisions such as definition of terrorist acts, enhanced punishment for such acts, possession of certain unauthorized arms, special powers of investigating officers regarding seizure and attachment of property representing proceeds of terrorism, constitution of special courts, protection of witnesses, confessions made to police officers to be taken into consideration, enhanced police custody, constitution of review committees, protection of action taken in good faith etc. Law Commission is of the opinion that a legislation to fight terrorism is today a necessity in India. It is not as if the enactment of such a

[^26]: John Wilson and Ramana P.V., Terrorism and Human Rights
[^27]: Goel, Vaibhav (Dr.) An Introduction to origin, Evolution and Development of International Humanitarian Law, International Humanitarian Law: An Anthology, 2009, Lexis Nexis Butterworth
legislation would by itself subdue terrorism. It may, however, arm the State to fight terrorism more effectively. There is a good amount of substance in the submission that the Indian Penal Code (IPC) was not designed to fight or to check organised crime of the nature we are faced with now. The act of terrorism by its very nature generates terror and a psychosis of fear among the populace. People become helpless spectators of the atrocities committed before their eyes. They are afraid of contacting the Police authorities about any information they may have about terrorist activities much less to cooperate with the Police in dealing with terrorists.

Terrorism as has been stated earlier in this Report is much more ominous than a mere unlawful activity; it is a grave threat to national security and integrity. The National Security Act is therefore more relevant for incorporating provisions to deal with terrorism. It was for the same reason that the Commission in its first report on 'Right to Information’ had recommended that provisions of the Official Secrets Act dealing with official secrecy required in the interest of national security and integrity, be included in the National Security Act.

On reading of the various literatures, has been of great help to the researcher to know the various basic terms, definitions and legal system in international and national level for combating of terrorism, impact of terrorism on human rights and also helpful to researcher for developed important chapters in her thesis. The above literature are highly educative, informative and helpful as it dwells on the various policies, causes and measures to combat terrorism and for the protection of human rights.

1.5 Hypothesis:

1. Whether Terrorism is an issue of global concern or state concern.

2. Whether Indian terrorism is a state generated terrorism and solution of the problem of terrorism be given through legislation if yes then what should be the nature of that legislation.
3. Whether human rights instrument are hurdle in the way to combat terrorism
4. How far it is right to co-relate human right issue with the rights of terrorist as human.
5. Whether there is need of formation of center anti terrorism commission.

1.6 Objectives of the Study:

The present objectives to be taken for conducting research may be as under:

1. The study presents the state responsibility for curbing terrorism.
2. The present study try to check the violation of human rights and right to live how and up to what extent by the Authorities that they use means to curb the terrorism.
3. The aim of the research is to analyze and evaluate whether laws against terrorism are effectively implementing or not.
4. The ultimate aim of the present study to find out the effective measures fighting and curbing against terrorism.

1.7 Research Methodology

This study is based mainly on descriptive analytical and doctrinal methods. Besides these methods same other methods are also applied according to the need of the study. Where things are of in industry and observatory in nature, the method are applied descriptive. Regarding analysis of the legal provisions, social status of a country and various violence problems of the victim, the method are applied analytical. Since the proposed study deals with one of the heinous problems of the society, therefore to analyze the problem this work is based on the journals, national and international statistics, UN documents and NHRC reports and other material. In such case the applied method applied are doctrinal. The research work is based on socio-medico-
legal subjects. In this research work a critical and analytical approach has been made. From the various source of existed material for example, national and international convention, conferences, documents from embassy libraries of various states and official web pages are collected.

As research work relates the socio-legal and political problem of law, the analytical methodology of work has been adopted. The review of the work done so far on the subject has been the main basis of the research work. An attempt to present the work in a unique and distinct way has been made, as it is an output of scholar’s own efforts. Almost all the relevant material [e.g.-newspapers, cutting, comments of environment experts, journals of I.L.I. on the subject, HC& SC- Commentaries] and the books are available for the same. ICRC opinion papers shall critically analyzed for the purpose of the research. Any other literature needed during the course of this investigation has been procured from Subharti Law School Library, Meerut College, Meerut Library, C.C.S. University, Meerut, Delhi University. I.L.I, New Delhi, ISIL, New Delhi, Aligarh Muslim University, Aligarh.

1.8 Scope and Limitation

A function of this research is to determine the national obligation in light of international obligation according to which state in the region must act to combat terrorism. The research sets out international law standards and principles that relate to anti terrorism measures. The research deals with possible findings of fact. These findings will be intended only as a guide and will be in no way meant to limit the findings of any national and international organization. The focus of this research is on the laws of the states where human rights institutions are taking steps to combat terrorism. The proposed research work is a step to find out and prepare frame work for action at highest level of the Government is suggested. So that and actionable plan can be evolved within a time frame both to fight terrorism and prepare a
1.9 Structure of the Study

The analysis of the study has been divided into Seven Chapters. These seven chapters are with specific themes, which includes the conceptualization of terrorism globally and nationally, an analysis of antiterrorism legislation in India, role of judiciary. The contents of these chapters may be described as follows:

The first chapter gives an outline of the research work done on the topic of “IMPACT OF TERRORISM ON HUMAN RIGHTS: A CRITICAL STUDY IN INDIAN PERSPECTIVE”. This is an introductory part and in this the researcher has talked about the meaning of Terrorism, Hypotheses, Objective of study, Research Methodology and the Structure of study.

The next Second Chapter “TERRORISM AND ACT OF VIOLENCE” deals a brief overview of the history as well as the current trends noted in terms of global terrorism, Kinds of terrorism, Causes of terrorism, Consequences of terrorism modus operandi of terrorist, and Effect of terrorism in India. In this chapter research terrorism her has discussed an over view on terrorism by which it become easy to understand the terrorism.

In the Third Chapter “OBLIGATION OF INTERNATIONAL ORGANIZATIONS & PROBLEM OF TERRORISM” the role of International Humanitarian Law and International Committee of the Red Cross has been discussed. Further this chapter analyzed the country reports of International Human Rights Organizations and role of administrative commissions like National Human Right Commission

The Fourth Chapter “HUMAN RIGHT AND PROBLEM OF TERRORISM: GLOBAL LEGISLATIVE RESPONSE” analyses current literature on the United Nation and Regional Associations role to counter terrorism through different treaties and conventions. This chapter also analyses all the legal mechanism and the debates that have emerged regarding appropriate counter terrorism measures, to combat such threats of terrorism. This research work evaluates a legal theoretical point of anti-terrorism law at international level, to fulfill their objectives. This research concludes
that, despite legal ambiguities, the current legal system represents the highest attainable level of international co-operation to tackle this menace. In this chapter researcher also discussed the relevancy of various counter terrorism legislative methods, adopted by the Indian Government since independence, to deal with the problem of terrorism.

The Fifth Chapter INDIAN JUDICIAL RESPONSE TO COMBAT TERRORISM has reflected upon the role of judiciary in tackling the terrorism cases and protecting rule of law, when these counter terrorism draconian laws abused gravely the human rights of common citizens. In this chapter important Indian cases and International cases has been discussed.

The Sixth Chapter “IMPACT OF TERRORISM AND ENFORCEMENT HUMAN RIGHT IN INDIA” has reflected upon best practices of Relief and rehabilitation measures adopted by the Indian government to victims of terrorism. This chapter further explores the scope and relevance of providing relief and rehabilitation to innocent accused implicated by investigating and security agencies. The eventual aim is to identify the problem and enforcement of human rights.

The last chapter is dedicated to “CONCLUSION & SUGGESTIONS”. This chapter of research work, aims to offer significant recommendations on the research topic. It worked towards a combination of text surveyed and its relevance to research findings with the aim being the establishment of an appropriate framework for counter terrorism methodology and enforcement of Human Rights in India response mechanism to effectively to curb terrorism as it is a blot on humanity. In fact the research is going to deal global society at the time of analysis of the problem but finally the research is limited in Indian perspective to make this work more specific and accurate, keeping in mind the entire factor with regard to time and resources too.