CONCLUSION AND SUGGESTIONS

Terrorism is undeniably a crime, and terrorists are criminals. However, it needs to be noticed that what is regarded as an act of terrorism in one country is looked upon as an act of patriotism in another country depending upon the ideological commitments of the government of that country. Kasab’s hanging compel us to rethink the failure of our intelligence and security agencies to anticipate and thwart 26/11. Kasab died peacefully whereas his victims died a violent death. No doubt terrorism is a offence against humanity. Problem of terrorism is an old one but challenges are new. It has drastically affected the world economy and people’s life and is a curse on mankind. This insanity is perpetuated by fanatic act of deranged barbarians who have no value for human and human rights. Innocent persons who have no link with or knowledge of terrorist have lost their lives in terrorist attacks. There is a close connection between human right and terrorism. Terrorism is known to have existed, in one form on the other at several stages in the recorded history in almost all parts of the world after the 9/11 attacks on the world trade centre in united states and the December 13, 2001 attacks on the Indian parliament and November 26, 2008 attack in Mumbai, terrorism assumed new dimension and has come to threaten the very foundation of modern civilized society. The way these attacks were carried out redefined the term terrorism, however subsequently at the national level front there have been many acts of violence that one finds difficult to identify with. India is no stranger to terrorism. It has been a long-time sufferer of terrorism, be it in the North-east, Punjab or in Jammu & Kashmir. However, since the last half a decade specially, terrorism has increasingly spread to other parts of the country.

Continuous and barbaric attacks of terrorists deeply wounded Indian people. Terrorism is a problem we have been facing in India for more than two decades. Today, terrorism is perceived as a problem capable of destabilizing not only national but also international politics. Terrorism in recent times has affected both the
developed and developing countries. Today, the impact of terrorism in maintaining law and order, in assuring peace and tranquility, is an alarming issue both at the national and international level. Global terrorism has, in fact, become an unprecedented challenge to the human civilization itself. We are compelled to live in a most threatening conditions. Terrorism is thus a disease, an aliment caused due to variety of reasons which have been endeavored to be eradicated from time to time by enacting laws to curb and efface it. For instance preventive detention legislations both before and after independence has been in vogue to control crime and criminal activity for public benefit. It is noteworthy that the strategies employed were a combination of both the will of the State and the people to effectively fight terrorism. What is vital to fighting terrorism is the nature of response that each situation demands based on its geographical locale. The strategies employed in J&K would not yield desired results if applied to the situation prevailing in the North-East and vice versa. Similarly, the measures that helped to overcome militancy in Punjab cannot be a panacea for other versions of terrorism prevailing in the country. Another significant factor that also needs to be reckoned is that the weaponry employed by terrorists has vastly enhanced its lethal power. Use of missiles, biological and chemical weapons, latest innovations in technology and access to updated means of communications that the terrorist outfits are equipped with have to be countenanced with superior systems taking full advantage of latest advancements in technology and communications.

Experience has shown that badly implemented anti-terror laws, however noble may be their intent, can have counter-productive results. The perceived inequity in the system is driving significant numbers of youngsters from the minority communities and the marginalised sections of society towards religious fundamentalism and naxalism. In some cases the perceptions of these members of the minority communities and the marginalised sections are real and in a few cases they are imaginary. Instances like the decision by the members of the Uttar Pradesh Bar Council to refuse to appear for those charged with acts of terrorism have made a large number of youngsters from the minority communities feel, quite rightly, that the system is unfair to them.
Stringent anti-terror laws suffer a potential drawback: if they are used to harass members of the minority or marginalised sections of society they are likely to push larger numbers of young men from that community or group towards fundamentalist organisations. It is true that feelings of alienation among the minority communities and the marginalised sections are in quite a few instances without any basis. We should recognise that in a country such as ours with such a diverse polity every community at some time or the other feels alienated. The independence struggle and the stalwarts it produced brought unity to an impossibly diverse country. However, with the demise of these stalwarts we are becoming fragmented again and are fast losing our national identity. Terrorists and naxalites exploit this situation.

Anti-terror laws can at best treat the symptoms; they cannot cure the disease. In the long run, as a report the of the Commonwealth Human Rights Initiative points out, the only way to eliminate terrorism is to ensure rule of law, civil liberties, access to justice, people’s participation in governance and better governance based on accountability, transparency and celebration of diversity.¹

Stringent anti-terror laws suffer a potential drawback, if they are used to harass members of the lack of education which enables the leaders of terrorist group who are normally more intelligent and well informed than others to persuade the young and unemployed to join them by instilling feeling that their poverty was due to apathy of the government which can be remedied either by over throw or by the change of the Government. Jehadist terrorism is currently the most prominent and relentless variety of terrorism, against which the intelligence and law enforcement agencies in the western countries spend most of their time and resources upon. Unlike other kind of terrorism, jehadist terrorism is not open to negotiations because it is not a movement to achieve some political mileage or to gain greater autonomy of any kind. In our fight against jehadist terrorism, we just cannot afford to lose patience, no matter what else we lose. The world has to brace up for the inevitable damage because this war will be won by the one who stands longer and not the one who fights harder.

¹ www.thehindu.com/todays-paper/tp.../antiterrorism.../article1344459.ec
Education has been called the technique of transmitting civilization. Civilization is nothing but the humanization of man in society, and man is humanized only when he lives a life in harmony with his true aspirations and powers. Learning human rights should become a way of life and that way of life should lead to eradicate poverty, ignorance, prejudice and discrimination based on sex, caste, religion and disability. Terrorism and counter terrorism contain ill impact on the enjoyment of human rights as right to life, liberty, movement. Duty to impart Human Rights education is on the shoulders of the member States and defenders and activists of Human Rights because these rights are essential to live.

Human Rights have been evolved as a new religion of the changing world in order to bear the real fruits of humanism. It becomes a ‘challenge’ for any anti-human activities. It must be accessible and available. So without education, Human Rights cannot be available to the people, particularly to the needy people. Knowledge of Human Rights is essential as a tool for the observance and the promotion of human rights and for creation of a climate of public opinion in which gross violation of human rights are unacceptable. Education which is essential for harmonious and progressive development of man’s innate power remains beyond the reach of people who are backward and uneducated.

Respect for human rights and human dignity is the foundation of freedom, justice and peace in the world. Terrorism brings sufferings and miseries to human beings. It being immoral and inhuman act puts under threat the rights and freedom of innocent people. It, therefore, abuses the fundamental human rights of the victims, particularly, the right to life, the right to physical integrity and the right to personal freedom. The increasing number of innocent persons including women, children and the elderly have been either killed, massacred or maimed by terrorist in indiscriminate and random acts of violence and terror which in no case can be justified.

As regards the requirement of regulating terrorism and safeguarding human rights, it is imperative to make it very clear that terrorism has been the biggest problem today
that threatens the basic rights of human existence and development of a nation. In India numerous blasts have taken place however the indictments in the same have been negligible, it is quite ironical that in the wake of the blatant violation of human rights of the victims that lose their near and dear ones in these heinous crimes we talk about the human rights violations under the acts of POTA and TADA, however one often tends to forget the grim situation and the panic that these terrorist acts create in the society, dilute the basic tenets of peaceful existence in a civilized society. One cannot on the same hand deny that there have been flagrant violations under the antiterrorist legislations that are totally unacceptable, however the present scenario of increasing terrorist designs, demands that there has to be a well formulated plan to defeat the ever increasing threats that are demeaning the existence of an individual.

National Security Legislation is not just a question of definition of crimes or new patterns of criminal conduct and the prescription of penalties. It relates to the entire system, institutional structures and processes that are required to prevent and penalise such crimes, to preserve order, and secure the sphere of governance. The mounting failure on these counts is clear evidence that the system has deficiencies – and this should be sufficient grounds for a pragmatic and comprehensive reassessment. Defining – and perhaps constantly redefining – possible legislative solutions to our present predicament will demand enormous sagacity on the part of the nation’s collective leadership.

Terrorism brings sufferings and miseries to human beings. It being immoral and inhuman act puts under threat the rights and freedom of innocent people. It, therefore, abuses the fundamental human rights of the victims, particularly, the right to life, the right to physical integrity and the right to personal freedom. The increasing number of innocent persons including women, children and the elderly have been either killed, massacred or maimed by terrorist in indiscriminate and random acts of violence and terror which in no case can be justified.
It has put a question mark on the most essential and basic human right of the people, i.e. right to life. The General Assembly has repeatedly expressed its deep concern about the worldwide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings.

A vital question arises as to whether human rights should be provided to terrorists? In other words, whether the government is duty-bound to provide all these human rights to terrorists who are provided to other citizens within its territory? There are two views which are opposite to each other.

One view is human rights are inherent in all human beings. They by birth possess human rights in order to maintain their dignity, and therefore, it is an obligation of the State to provide human rights to all the individuals regardless of their acts. Human right is an obligation of a State towards individuals. Universal Declaration of Human Rights under Article 1 clearly lays down that all human beings are born free and equal in dignity and rights. Further, Article 2 states that everyone is entitled to all the rights and freedom set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, prosperity, birth or other status. The expression, ‘everyone is entitled’, may mean that there cannot be any exception. The General Assembly in a resolution adopted on December 12, 1997 has also called upon states to take all necessary and effective measures to prevent, combat and eliminate terrorism but in accordance with relevant provisions of international law including international human rights standard.

The other view is that terrorism is terrorism and those who pursue it must be punished on the ground that they violate the human rights of others. Terrorists, according to this view must be apprehended and punished regardless of political sympathy or nationality. Perpetuates of the terrorist acts violate human rights of others, and they therefore render themselves susceptible to losing their own human rights.
How to handle state terrorism or state sponsored terrorism? This is the most crucial and problematic question to answer? Whether state sponsoring terrorism should be treated like a terrorist, who violates the human rights of others? Or whether state sponsoring terrorism is susceptible to lose their own human rights? These are the very difficult question to be answered by a world government and world body i.e. UNO because terrorism by individuals or groups of individuals can be fought by state power. But when the state itself and the most powerful one like US uses terrorist methods to advance its narrow selfish interest, who can challenges it? The UNO which one hopes, could be instrumental in helping to maintain peace, security, law and order in the world, is powerless in view of its structural weaknesses

The Universal Declaration of Human Rights, 1948 that has evolved minimum international standards set upon the rights of man in any society, must according to internationally accepted legal standards, be based on such principles as the “the principle of liberty, the principle of Rule of Law, the principle of equality and non-discrimination, the principle of non-retroactivity of criminal law, the principle of proportionality as well as the principle of non-violating a vested rights”. As a basic principle of constitutional system, Rule of Law is that the exercise of the power of Government shall be conditioned by law and by established courts and that the subject shall not be exposed to the arbitrary will on his ruler.

Thus, Rule of Law becomes ‘dharma’ which conduces to the stability and growth of the society and the maintenance of a just social order and welfare of mankind by reconciling power with liberty. It seeks to channelize the powers to achieve the basic aim of our Constitution i.e. ‘growth with liberty’. Hence, Rule Law is the most important means to achieve the goal of the constitution. It checks the abuse of any power, ensures the citizens an impartial determination of their disputes, protects them from unauthorized encroachment of their rights and interests and marks those who exercise public power accountable to the people.
It has already been observed in the research that terrorism cannot be combated except by the enforcement of the Rule of law adhering to Human Rights, humane policies to serve the public good and for promotion of dialogue and negotiation to resolve conflicts. Where Rule of Law ends, violation of human rights starts and both lead to the consequence of terrorism, as inequality in social life leads to revolution and revolution leads to concentration of power in a few. But in a republic like India, the supreme power rests with the people, as republicanism is the climate of civilization,-laws and Human Rights being bettered secured and happiness reaching the people who as a matter of fact serve for the bricks of the republican edifice. As Rule of Law is to ensure peace in society by preventing man from turning violent and rising in rebellion, terrorism has to be fought according to Rule of Law and combating terrorism must be based on process supported by Rule of Law.

The relationship between international terrorism, state terrorism and human rights especially the human rights of self-determination, can be classified only by realizing their implication for world orders on the one hand, violation by governments, include genocide, official racism, large-scale official terrorism, totalitarian governance, deliberate refusal to satisfy basic human rights, and on the other hand, the unholy alliance of ‘nationalism’ in the garb of self-determination with terrorism tends to put the international state-system in a dangerous situation, leading towards the breakdown of the delicate structure of world public order that has been evolved in the second half of the twentieth century. The choice is either the establishment of a global society based upon the rule of force or the creation of a world community adhering to the rule of law the issue indeed is the survival of the ‘Human kind and Human rights’.

Suggestions

After analysis and concluding this research work researcher has recommended various suggestions. These measures that need to be adopted to fight with terrorism and safeguarding human rights are as follows:
The law enforcement machinery across all States needs to be prominently improved. The police are not adequately equipped to deal with new threats. The NSG and the officers of the Mumbai police demonstrated courage and bravery in responding to the latest attacks. But our law enforcement machinery functions under stressful and inhospitable conditions. Some of the problems the machinery at the State and Central level faces include, but are not limited to, political interference, lack of autonomy, lack of proper training and resources, and lack of adequate compensation and career development opportunities. While these are some of the problems the law enforcement machinery faces as an institution, it also constantly faces a credibility deficit, given the numerous cases of human rights violations and other abuses relating to civil liberties which the police in India have been involved in. It is important that the police force ensure transparency and accountability in its functioning. It has also to be ensured that it functions independent of and free from interference.

When terrorist attacks happen, India as a country expresses shock and at times gets carried away in the zeal to seek justice. But getting justice in India is inextricably connected to seeking reforms in our dysfunctional criminal justice system, which is also corrupt and inefficient. We need police reforms and reforms relating to the criminal justice system: both are urgent imperatives. There have been a number of reports based on careful studies of each of these issues, but little or no effort has been taken to implement the recommendations.

Our intelligence machinery should be urgently reformed so that institutions such as the Research and Analysis Wing (RAW) and the Intelligence Bureau (IB) are better prepared to perform their functions in an effective manner. The RAW, the IB and other agencies need to be empowered and made more relevant so that they are able to gather information that would be useful in preventing attacks. Saring of intelligence between the Central government and the State governments and among the state governments is a related issue. Terrorism is an issue of utmost importance in national security and the Central government has to work closely with State governments so that any information relating to possible terrorist attacks or movements or security risks is quickly shared. The legal and constitutional framework should be put together
to ensure that fighting terrorism jointly becomes the legal obligation of both the State and Central governments.

➢ There should have been many more closed circuit television (CCTV) cameras that actually work and are able to provide information in real time to the security establishment. Security needs to be stepped up in all public places. Police officers should have better equipment than they currently have, in order to be able to respond to the kind of terrorist threats that are being faced today. Airports and seaports need to be made more secure. But security should not mean harassment. Rather, there should be effective systems that use the latest technology and communications systems, to ensure that security is tighter and more effective but without involving harassment of any kind.

➢ The State police forces are phenomenally ill-equipped and do not have the training or support to fight terrorism. While it may be useful to establish anti-terror cells in every State, the focus ought to be on creating a framework to develop sound anti-terror response mechanisms that will involve huge coordination between various agencies including disaster management teams, fire-fighters, State police forces, Central government security agencies, the RAW, the IB and others at the State and Central level.

➢ Crisis response mechanisms need to be put in place in the aftermath of terrorist attacks so that no individual or institution is caught unawares in dealing with such situations. The anti-terror response mechanism should have a wide range of facilities properly put in place so that in the event of a terrorist attack the government is equipped to deal with it. Since many developed countries of the world including the U.S. and the U.K. have been victims of terrorism in the past, it will be useful to discuss with the institutions they have in place to respond to terror.

➢ Depoliticizing national security and making renewed efforts to fight terrorism are essential steps to radically reform India’s internal security structure. The terror attacks in Mumbai provide an opportunity for the politicians to get their act together to build a safer and more secure India.
There is now a strong international mandate for effective laws against terrorism, and this includes various United Nations resolutions that impose a duty on all member states to legislate effectively to control the activities of terrorists and their support organizations. It is now time to bring Indian laws into conformity with this mandate, and also to establish efficient structures of international co-operation and exchange of intelligence to counter the international threats and networks of terrorists and organized crime actors.

Border management, Coastal security management and the illegal movement of populations across international borders is another problem that has been neglected for decades in search of a ‘consensus’ that will never be found. In the interim, the demographic destabilization that has taken place, particularly in India’s Northeast, has already resulted in enormous violence, and threatens to acquire proportions that are far more dangerous to the nation’s security and integrity than any existing threat. This is, again, an area that demands immediate legislative attention and the imposition of statutory obligations on governments to prevent and punish such illegal movements of populations. The very first imperative of an effective policy on internal security, consequently, requires the definition of the basic principles on which all action and policy is to be constructed.

In the background of the demands raised by different section of people as well as, regional parties for revaluation of centre-state relations and granting of more powers to the states. Though there are number of provisions for safeguarding the identity of small ethnic groups, the people of this region have the apprehension of losing their identity. The stoic indifference of the centre to the legitimate aspiration of the people has created this feeling. The mushroom growth of insurgency groups is a pointer to this apprehension. Measures can be taken to remove this apprehension, provided there is political will to do so.

There is also a feeling that even the Constitution is not providing equality to the small states as they have no equal representation in the council of states. At present, northeast states have very small representatives. It is mostly filled up with representatives of major states, which make voice of these states of this region feeble. The Constitution should be federal in real sense to meet the demands of every state.
More autonomy should be given to the National Human Right commission to make it more competent and effective to ensure the Protection of human rights.

(a) To reform and educate the armed forces,

(b) To setup ‘Human Rights Cell’ in every police station and jail to help the needy persons in judicial process and for other assistance to ensure his or her rights.

(c) To make proper and adequate reforms to the prison system. There should be uniformity of standard in prison administration and treatment of prisoners. The approach to treatment of prisoners should be reformatory and rehabilitative, rather than retributive or deterrent. The system of ‘open prison’ should be encouraged and institutionalized.

(d) To make initiative in dialogue between policy makers, the armed forces and human rights proponents, in taking actions and dealing with insurgency and terrorism must be initiated.

(e) To frame some guidelines to both Television and AIR to increase involvement in enhancing human rights awareness.

Without valued education talking of Human Rights is meaningless and others would be sterile until and unless it is not started from grass root level. Present system of education with examination and specialization, only making man distinct from animals. It is well said that education without purpose is a waste and education without values is a crime. In fact, values are not taught but it is caught. Our approach should always be fruits-bearing (value based) instead of flower-bearing (degree based). Only value oriented education can eradicate problems of present generation as well as of human community.

The State should not give any scope to fundamentalists to preach hate and indulge in moral policing. The State should ensure that no citizen should feel insecure just for belonging to any religion, caste, creed, sect or gender. The spirit of secularism and unity in diversity must be ingrained in every youth of this country by proper education, training and enlightenment.
The human rights education at all the levels, primary to university and from rural to royal must be made easily available in order to touch the untouched people. These all will be fruitful not only to arrest human rights violations but also be boon in implementing different plans of the government for achieving social-economic justice in India. Academic and Research institutions may be set-up to organize National and regional workshops, seminars, debate, television programmes, films may be exhibited as a vital part of the awareness programmes.

Stop implementation of draconian laws ‘A decision should not be made purely by following the texts; if it is lacking in reason and good sense, it causes great injustice’. On the other hand, under the garb of putting down extremist violence the police cannot take into their own hands and systematically violate the basic rights of an individual or group of people leading their own lives. Use of excessive force and alleged punitive step which results in the destruction or death of poor innocent people are all violative of Human Rights. In order to create appropriate atmosphere for the above measures to produce the desired results of all harassment and torture of common people in the name of searching for insurgents, all arrest of innocent youths merely on suspicion and without concrete evidence or ‘secret killings’ should be stopped forthwith.

The internal security of India is a serious matter. It deserves attention at the highest level, and professionals with the highest degree of competence and integrity should be appointed National Anti-Terrorism Commission. This should not be merely an advisory body, but a commission that has powers to seek legal, administrative, and institutional reforms and formulate policies with a view to fighting terrorism and implementing them swiftly.

The present system has created a structure of incentives that actually reward terrorists and extremists, this will have to be dismantled. Those who plead with terrorists on the government’s behalf must also be statutorily prohibited from any dialogue or commitments that would require constitutional changes. Such changes are an special prerogative of Parliament and cannot be offered or discussed by any emissary of government without prior Parliamentary approval.
Terrorism is an issue of utmost importance in national security and the Central government has to work closely with State governments so that any information relating to possible terrorist attacks or movements or security risks is quickly shared. The legal and constitutional framework should be put together to ensure that fighting terrorism jointly becomes the legal obligation of both the State and Central governments.

Airports and seaports need to be made more secure. But security should not mean harassment. Rather, there should be effective systems that use the latest technology and communications systems, to ensure that security is tighter and more effective but without involving harassment of any kind.

There is a dire need to establish a federal agency or central law enforcement agency for combating terrorist activities. Another problem with the India has been the police and intelligence forces which have been highly undermanned, under resourced and primitive in their day to day functioning.

One of the very important reasons for the terrorist activities continuing in India are the lack of political will and sacrifice of national interests over vested interests. The need of the hour is to strengthen the political will that aims at addressing national interests rather than collecting votes and making exorbitant claims during elections.

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. it must learn how to arm and protect those who put their lives at stake in the defense of India’s unity and integrity

There is a need is to provide adequate safeguards for the suspects and at the same time ensure that this leverage does not lead to any advantage to the people with evil and malicious intentions.

To maintain this delicate balance by protecting “core” human rights is the responsibility of court in a matter like this. “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.
The framework of counter-terrorism policy must be clearly expressed. This is not just a question for the political executive to determine, some limits of law must be placed on what is or is not permissible. Under threat of terror elected governments have in the past & made every principle of rule of law and constitutional governance negotiable. Statutory restrictions must now be placed on how much governments can actually ‘put on the table’ or ‘negotiate’ in such situations.

Present ‘surrender’ policies and rehabilitation policies must also be brought under statutory review. Current practices have created more problems. There must be some limitations on the ‘rewards’ and incentives that attach to the surrender of terrorists, to amnesty or dropping of prosecution for criminal offences against those who surrender, etc., and practices must be brought in line with the principles of the rule of law.

A comprehensive set of counter-terrorism laws, must be drafted and given a permanent place in our statute books. Terrorism is not transient crises, but have emerged as stable long-term threats to national security, and it is delusional to believe that ‘special’ and temporary laws are adequate to deal with the problem.

The intentions of the central government in setting up the NCTC are based on valid security assessments that the country is facing but the concerns of states are also of significance. Establishment of the NCTC would also demonstrate India’s strong commitment in fighting terrorism. Therefore it is imperative for all governments at the central and state levels to place national security concerns above partisan politics to deal with the issue of terrorism.

It is not only the duty of the Government to combat terrorism, but it is equally the duty of every one. The State should ensure that no citizen should feel insecure just for belonging to any religion, caste, creed, sect or gender. The spirit of secularism and unity in diversity must be ingrained in every youth of this country by proper education and through awareness.

The style of terrorism is quite different according to the various circumstances. The demands of Human Rights are emerged where terrorism violates the minimum basic rights of any individual. Hence, the term of ‘Human Rights’ and ‘Terrorism’ is reciprocal, as it is discussed and observed in the different chapters of this research.
work. The fundamental values of a democratic society must be preserved under the coverage of ‘Rule of Law’, because Rule of Law is the key to open the door of paradise of Human Rights and violation of Human Rights can only be prevented by establishment of Human Rights.

As we all know Right and Duty both are co-related, it is like two sides of a same coin. Normally people are more conscious about their rights rather than their duty. All man are woven in same garland of human community. What we are doing, it is only for the benefits of the human community. So, every human being should always be concerned about his duty. If we are humanly conscious about our ‘Human-Duty’, subsequently the ‘Human-Rights’ will definitely be recognized, to discover a new ‘Human-world’ for the Human Being.

*******************