CHAPTER VII

CONCLUSION AND SUGGESSIONS

Society changes so do its values. Crimes are increasing especially with changes in technology. Ad hoc policy making and piecemeal legislation is not the answer. Terrorism is indeed a matter of grave concern. There is no doubt that the nation must face the terrorist threat firmly. The Government needs to come out with a policy statement on criminal justice.

The foundation of freedom, justice and peace in the world is recognition of inherent dignity, equality and inalienable rights of citizens. A new epoch for taking up the problem of terrorism on the one hand and protection of human rights and fundamental freedoms on the other often come into conflict. The evolution of the act of terrorism started from the British era and the contemporary human rights jurisprudence started after the Second World War, both are still continuing. The main reasons for the historical development were the unprecedented cruelty and horrors brought by the terrorists and at the same time to book the culprits for punishment the State brought different Acts and Statutes.

The frequent and meticulous attempts by the international community to generically define terrorism over the past 90 years indicate the normative importance of standard definition to the international community. In contrast to the objective listing of offences in different anti-terrorism treaties, general definition can capture, and condemn, the motive elements which distinguish terrorism from ordinary crime. Reference to political motives helps to conceptually distinguish international terrorism from transnational organized crime, which is motivated by *'financial or material benefit'* rather than political aims. Common definition avoids the rigidity of enumerative definitions, which may not cover ever-changing terrorist methods.

On the other hand most important disadvantage of hereditary definition is the difficulty and subjectivity of proving motive elements. General definitions are wider and more ambiguous than enumerative ones, although all definitions take a broad view and the problem is lessened by combining general and enumerative features in a single definition. Combined definitions are narrower than enumerative ones - since listed offences only amount to terrorism when they also satisfy a motive element - and the most likely definition to satisfy the principle of legality or specificity, in criminal offences.

It is, however, necessary to note the different categories and distinguishing features of what is usually branded as 'terrorism.' One kind of terrorism is that of the fanatic who uses force to intimidate the general population. Strong security measures prompt and efficient police investigations, and competent prosecution, are necessary to ensure that such fanatics are punished.

But there is another kind of militancy, which is carried out, in a crusade-like fashion on behalf of adivasis, dalits and the dispossessed. The roots of such militancy lie in the *exclusion* of a large part of the poor from democratic processes and systems. To treat this kind of militancy at par with terrorism of the first type is a grave error, but one that has been committed by the state for decades.

The answer to this kind of terrorism has traditionally been the arming of the police and paramilitary forces and the use of terror against the people and their armed representatives. This is a mistake of the *gravest* kind. The solution lies in large-scale radical reforms, including land reforms. Politically, despite the extreme levels of hostility between the state and these groups, democracy requires that space be created for all points of view to be heard and sympathetically considered. Branding such organisations as terrorist and putting them on the banned list has not helped in the slightest to curb their activities; if anything, the exclusion of the poor has been exacerbated.

A third category of militancy branded as terrorism relates to parts of the country such as the Northeast, where the armed resistance may not have anything to do with externally funded militancy. These are areas where introspection by the Armed Forces and the paramilitary forces with respect to their way of functioning is long overdue. The Indian Army and the paramilitary forces are not supposed to turn their weapons against ordinary citizens. They are there to defend the nation against external aggression.

The excesses committed by certain sections of these forces have carried on for so long that they have now almost become a way of life. Senior political and army leaders have sometimes taken note of the degeneration in certain sections of the Armed Forces and the continued lack of civilian and political control over their actions in combating internal aggression. These sections of the Army and the paramilitary forces have a vested interest in hyping up the threat of terrorism, because it often results in their continuation in position of power.

It is, therefore, necessary that political and civilian control is re-established, and that the Army and paramilitary forces be assigned only legitimate tasks of national defense against external aggression. Instances of abuse brought to the notice of the authorities over the last decade ought to be investigated by an impartial, high-level, civilian body. It is only when the general population ful that justice is being done in a transparent fashion that their faith in Indian democracy will be restored.

The notion that militancy should only be met with, and can be effectively countered by force is only partially valid. Benevolence, understanding and a welfare approach are equally effective against militancy and can neutralise it. The poor, working people, slum-dwellers, Dalits and Adivasis have begun to strongly resent the strong-arm tactics of the functionaries of the state. They angrily rebel against torture, corruption and severe deprivation in respect of food, education and health services. The state must therefore re-orient its policies and uphold the

rights of the poor to food, free public education, free health services, etc. Torture by the police, which people experience in their everyday life, must be quickly ended. Only then there will be a permanent solution to social discontent and strife, and lasting internal.

Foundation for the enactment of TADA and POTA commenced much before the officially authorised training began. There was no point in starting the drafting process if the public was not going to be amenable. One after the other, senior police officers appeared on television denouncing the slack approach of the judiciary in combating terrorism. It is in this context that the low rate of conviction in TADA cases, one per cent, had happened. The police were alert in nabbing terrorists, but the judiciary with its outdated laws and hyper-technical approach was letting them go scot-free. Some policemen were so bold as to hint that encounters were necessary to control the evil as judiciary had bad record of acquitting the guilty.

Under the Indian criminal justice system judges cannot come on prime time television. But if they could, they would tell us of how the police mishandle serious cases resulting in acquittals. They would give the reasons for acquittals ranging from the arrest of innocent people, to corruption, personal and political vendettas. And as for the charge of delay in trials: that was answered by Chief Justice Patnaik himself when he said that government was asleep for a long time and it was the Supreme Court that woke them up to the urgent need to appoint a large number of judges throughout the country. Nothing slows down the disposal of cases than not having enough judges. India has one-fifth of the required numbers of judges, given the huge caseload. Police propaganda against the judiciary was so effective that the police was seen as protecting the public against terrorists, and judges as not changing quickly enough to keep in tune with the challenges of modern day terrorism. As a result giving 'terrorists' a fair trial was conceived, in certain quarters, as a waste of time. The low conviction rate argument was so telling that it was even used by human rights groups to criticise

security legislation as ineffective and, therefore, unnecessary. Nothing could be further from the truth.

To understand why TADA and POTA were enacted, one must know their two core provisions. The first is the section that makes admissible in evidence confessions of the accused before a police officer, and the second is the harsh provision regarding bail. Confessions recorded by a police officer have, even under the British, been barred as inadmissible on the ground that torture by the police is widespread, routine and uncontrollable. TADA and POTA changed that on the facile assumption that since the confessions would be made only to a senior police officer that was a sufficient safeguard to ensure a fair trial.

Once such confessions were made admissible it was easy to torture an accused, take his signature on a 'confession' and prosecute the accused solely on the basis of that piece of paper. An enlightened estimate would put the extent of confessions extracted by force at ninety per cent. After the 'confession' is taken the bail provision comes into play. Under normal criminal law, bail is granted or refused on a consideration as to whether the accused is likely to turn up for his trial or abscond. Under TADA and POTA, however, the judge is required to come to the conclusion that the accused has not committed the offence. This is impossible at the stage of the charge sheet because what are on record before the court at that stage are the First Information Report (FIR) and the allegations against the accused as found in the charge sheet. The defence is not disclosed in a criminal trial until the end. Under these laws a judge cannot ever conclude at the stage of bail that the accused has not committed the offence. Even more so when there is a confession on record, the accused may vehemently protest his innocence and say that his confession was taken by force but the truth of that protest can only be decided at his trial when evidence is led and cross examination done.

Thus, purely on the basis of a confession obtained by force, a person may be charged with the most serious offences and the accused will languish in jail until his trial begins. Studies done of TADA trials have shown that accused

persons rot in jails for about six years until they are ultimately acquitted. Those who therefore cite the one per cent conviction rate as an indicator of the ineffectiveness of the legislation miss the point of the remaining 99 per cent wasting valuable years of their lives in jail. Moreover this was not an irregularity in the system. Delay and the use of security legislation as a sort of preventive detention was the core of the strategy. Conviction on the basis of forensic evidence was never a critical concern. In fact in many cases evidence did not exist at all, the police knowing right from the beginning that a conviction would be impossible.

While reviewing the TADA law, the Constitutional Bench in *Kartar Singh's* case rightly held:

> *"It is heart rending to note that day in and day out we come across news of blood curdling incidents of police atrocities".*

Yet the provisions were accepted as valid because only senior officers were permitted to record such confessions and the Court presumed that such officers would be less inclined to use force. Justice Ramaswamy delivered a pungent and farsighted judgment differing from the above saying:

> *"Such a provision shocked the conscience and smelt of unfairness. Conferment of judicial power on the police will erode public confidence in the administration of justice. It sullies the stream of justice at its source."*

Dealing specifically with the defence that senior officers should be trusted to record confessions fairly, he retorted:

> *"It is not the hierarchy of officers but the source. It is obnoxious to confer power on police officers. A Sub Inspector of Police may be uncouth as compared to a Superintendent of Police but the basic philosophy of the two remains the same. Procedural fairness does not have much meaning for them. Even after independence a force which was created to implement the draconian laws of an imperial regime ruthlessly has not changed much even in the people regime. The defect lies in the culture. In a country where there is no accountability the cultural climate was not conducive for such a drastic change. It is destructive of the basic values of the Constitution."*

Finally, dealing with the threat of terrorism the learned judge aptly warned:

"Killing of democracy by gun and bomb should not be permitted. But in doing so the State has to be vigilant not to use methods, which may be counter productive. Care must be taken to distinguish between terrorists and the innocent."

A single thread runs through the decisions of the Constitutional Bench upholding the provisions of the Armed Forces (Special Powers) Act, TADA and POTA. This is the presumption that since these laws are extraordinarily harsh and give exceptional powers to the State, they would be used cautiously. In the PUCL case, where the constitutionality of POTA was challenged, the Supreme Court held: *"the mere possibility of abuse cannot be a ground for declaring a statute unconstitutional."* But it only a mere possibility or widespread actual abuse.

The use of the Armed Forces (Special Powers) Act in Manipur is a shocking indictment of the paramilitary forces. The report documents case after case of senseless revenge killings of innocent people by the Assam Rifles and the CRPF after militants in guerrilla type hit-and-run operations attacked the latter. The State must fight terrorism with all its might. At the 'People's Tribunal on POTA' held at Delhi victims of the misuse of such laws spoke of how minorities, *dalits, adivasis,* industrial workers and juveniles had been victimised.

In many cases, the police in cold blood killed persons. A charge sheet was then filed under POTA against the deceased, labeling him a terrorist. The case was then shown as abating on account of the death of the accused. The persons whom the police believe to be terrorists are often eliminated and no person genuinely believed to be a terrorist is actually brought to trial. Only those on the periphery of a crime, or those whom the police suspect not to be hardcore terrorists, are ever brought to trial. Much such liquidation takes place through 'encounters', many, if not most, of them fake. In all cases of encounter deaths, the police against the officers responsible for the encounter should register a First Information Report.

A charge sheet must be filed against them and it ought to be left to the Trial Court to decide, after the police specifically set out a plea of self-defence, whether the accused was guilty of murder or not. In such a trial, relatives or friends of the deceased, or any other concerned person, including human rights organisations, ought to be permitted to appear and assist the Court.

The NHRC's recommendations and guidelines issued in 2003 in respect of 'encounter deaths' should be strictly followed. It should be mandatory that every investigation in such deaths be handed over to the CBI. Further the Judicial Magistrates should be required to conduct an inquiry with the families of the victims so as to find out whether any compensation is payable to them.

Torture is a routine in India. It is the principal forensic tool of the police; in many cases its only tool. In the name of fighting terrorism, torture by the police has spread to every corner of this country. It is a far greater danger to the constitutional fabric of this country than terrorism. People are brutalised, often without any reason, and frequently for petty crimes. Judicial control over the police has all but disappeared.

The threat of terrorism so played up by the police and the media has caused the judiciary to become deferential to the police force and turn a blind eye to naked excesses. The various decisions of the Supreme Court refusing to punish policemen and instead ordering payment of compensation in cases of torture, executions, disappearances and the like, have made the police force believe that they can get away with anything through the payment of money Custodial death cases, enforced disappearances, fake encounters show that the torture can take very extreme forms where prejudices against the religion and culture of the person work to completely degrade and demoralize victims and also their families.

In all instances of torture, executions and disappearances, where a *prima facie* case is established, the Court ought to have the power to direct the removal of the policemen responsible from service forthwith in exercise of power granted by Article 311 (2) of the Constitution of India. These orders ought to be made *in addition* to the sentences imposed under the Criminal Procedure Code.

The suggestions in this regard are as follows Indian Government should ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984, immediately. Sign and ratify the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT-OP). It should sign and ratify the two UN Optional Protocols to the Covenant on Civil and Political Rights. Further, India should ratify the Convention on Civil and Political Right Optional Protocol one, referring complaints to the Human Rights Committee and Convention on Civil and Political Right Optional Protocol two, on the abolition of the death penalty. It should also sign and ratify the UN Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP). The two UN Optional Protocols to the Convention on the Rights of the Child first: CRC-OP-AC, on the involvement of children in armed conflict and secondly: CRC-OP-SC, on the sale of children, child prostitution and child pornography. The Rome Statute, establishing an International Criminal Court. India should adopt the Ahmadi Committee's recommendations for changes to the Human Rights Protection Act, 1993. Guidelines to make torture a punishable offence and provide immediate justice and compensation to victims of torture and protection to witnesses and victims should be laid down. The United Nations Special Rapporteur on Violence against Women, Torture and Racial Discrimination should be permitted inside India.

Police and paramilitary forces operating under special laws like POTA and the Armed Forces (Special Powers) Act are under the impression that they are immune from the reach of the law. They must be systematically disabused of this impression. It is of course essential that individual politicians are not

permitted to interfere with routine police work. But at the same time, civilian control over the police must be clearly established and maintained. All provisions in security legislation granting even limited immunity to the police and armed forces should be repealed. It is therefore suggested that a *high-level board of civilians* be established, *inter alia*, to look into all issues relating to police misconduct and further, that a special mechanism be established to receive, and inquire into, complaints of police misconduct in such a manner that the complainant is protected and the inquiry proceeds in an impartial fashion.

The criminal justice system has broken down in the Northeast and Jammu and Kashmir. So too has the rule of law. The Courts have been browbeaten by the Armed Forces and are often incapable of acting independently and fearlessly. The gravest atrocities take place without any judicial intervention or notice. The police are afraid to register First Information Reports against the Armed Forces. Very few who suffer these atrocities approach the Courts. The public has little faith in them. Those who attempt to file a case find the Armed Forces menacing them.

The principal mistake made was to separate the text of the security legislation from the historical and factual background. James Madison, the fourth President of the United States, warned that such an approach could only end up perverting the Constitution. The Do's and Don'ts set out by the Supreme Court while reviewing the Constitutionality of the Armed Forces (Special Powers) Act have been forgotten. The pertinent Parliamentary debates show that the reason for enacting the Armed Forces (Special Powers) Act was, in the words of K. C. Pant, the then Home Minister, that 'certain misguided sections of *Nagas* are indulging in arson.' There is no justified reason for either the enactment or the continuation of these security legislations. They must be repealed forthwith.

Civilian control over the police and the Armed Forces must be re-established. The High Courts of the Northeastern states must strive to regain their pre-eminent position in the constitutional scheme of things and uphold the rule of law only then the faith of the people will remain in the judiciary. Disappearances in Jammu and Kashmir have been neglected for too long. A high-powered independent investigation by persons in whom the people of Jammu and Kashmir have confidence ought to be initiated.

The experience of TADA and its brutal and insensitive application to the Indian civilian population is testimony to the desire and design of a government and law and order machinery that wishes the experience to be repeated. Terrorism was not curtailed then, it was not even contained despite the existence of TADA. On the contrary, thorough investigative procedures were given the go-by, dulling the professionalism of the law and order machinery that was simultaneously empowered by a brutal law to become trigger happy and break the law.

In Gujarat POTA has been used against the Muslims alone (barring one Sikhs). POTA charges have not been leveled against any person involved in the far more serious and destructive post Godhra carnage. This is a clear case of discrimination on grounds of religion. POTA charges must be dropped in all cases. Trials should proceed under normal criminal law, not relying upon any confident ional statement obtained under POTA. The use of POTA is so indiscriminate and wanton that even totally innocent juveniles were victimised. All juveniles ought to be charged in accordance with the provisions of the Juvenile Justice Act alone. Accordingly, no juvenile ought to be kept even for a single day in a jail with undertrials and convicted prisoners.

The widespread police practice of employing 'surrendered militants', and of giving them guns and money, and permission to operate on behalf of the police as vigilantes, is creating serious law and order problems in many states. These criminal elements operate unchecked, committing dacoity, rape and murder.

While they may eliminate a few people whom the police may consider undesirable, they legitimize extra-judicial killings and in the process of doing so undermine the rule of law. Secret funds immune from normal accounting procedures and audit fuel such criminal activities and egregious corruption therefore, proper mechanism to check such activities and provision for punishing the persons responsible.

A terrible underground system based on 'surrendered militants' has been set up and operated by the police to perpetuate violence, which is unaccountable to the judiciary. The government and the judiciary ought to review this practice of funding and recruiting 'surrendered militants' and discontinue this practice forthwith.

There is routine violation of the *D. K. Basu* Guidelines issued by the Supreme Court. For instance, many people spoke of how they were not informed of the charges leveled against them. Their relatives were not informed of their arrest and the place of detention. Medical examinations were rarely done and legal aid was hardly ever provided.

The Supreme Court is currently reviewing the implementation of the *D. K. Basu Guidelines*. It is imperative that it issues further guidelines so that the services of policemen who violate the guidelines can be terminated on the spot in exercise of power under Article 311 (2) of the Constitution. This ought to be in addition to the Court's already existing order that breaches of the guidelines constitute Contempt of Court and may be punished as such.

As the NHRC also has its own guidelines on arrest, it is submitted that the NHRC should take up a national level study of the implementation of the NHRC guidelines and involve human rights organisations in this study, and thereafter immediately intervene before the Supreme Court in the public interest petition relating to the implementation of the *D. K. Basu* Guidelines. This is to ensure that the existing Guidelines are not diluted and are in fact reinforced and implemented.

No court, least of all the Supreme Court of India, ought to permit any security legislation itself or to the conduct of the government in its campaign against terrorism. It is inherent in a vibrant democracy that citizens will complain publicly, and often correctly, that a statute to combat terrorism is being misused for a collateral purpose, or that in the guise of combating terrorism; the state is arming itself to inflict terror on its people.

A critical feature of the Indian Constitution is the separation of the judiciary and the executive under Article 50 of the Constitution of India. The security legislation seeks not only to erode this but also to vest extraordinary powers to the executive. The executive that is the government and its wing, the police have been given the power to frame all rules, met out punishment, prescribe procedures, seize and confiscate property. Under such legislation the investigating officer (Superintendent of Police) can seize or attach property which at the stage of the investigation, he believes to be obtained by terrorist acts or the proceeds of terrorism. Therefore, it is submitted that special crimes need special procedures but checks and balances needs to be meted out in accordance with the restitution of upholding the basic rights of a citizen, rights relating to procedures for arrest, detention, ownership of First Information Reports and other police records, detailed at length in the Criminal Procedure Code, should not be given the complete go-by.

Freedom of speech and expression in such circumstances is paramount. No statute should have a chilling effect on the exercise of that right in any manner. POTA and kindred laws have had just that effect. If there is any single factor that has continued to cause the degeneration of the criminal justice system, it is the judgment of the Supreme Court in *Kartar Singh's case* which upheld the constitutionality of an anti terror legislation. If there is any single aspect of this case that has reinforced the police's inclination to torture, it is the finding that the clause relating to confession made to the police is constitutionally valid. This renders all refined forensic tools and proper investigation processes totally

redundant. The police can simply proceed to use brute force and barbaric methods. Therefore, it is submitted that there is acute need for scientific investigation. The investigation wing should not be allowed to meet the end by using baton and electric shocks.

The recommendations of the Malimath Committee show that there is an inclination at the highest level to negate the fundamental principle of 'innocent until proved guilty' and introduce coercive methods even in normal criminal law. Nothing could be more dangerous for this Nation. The courageous dissent of Justice Ramaswamy in the above case sets out the law correctly. The *Kartar Singh* judgment must be reviewed and the majority decision on the above point, it is submitted, should be changed.

Since the inception of the Constitution we have been treating the trouble in the Northeast, Jammu and Kashmir and other states as a law and order problem. Fifty-five years of use of this method has not provided a solution to the militant situation. It is high time when we should realise that these are political issues to be resolved *politically.* We urge the government to initiate a peace process with all the militant groups instead of granting unaccountable immunity to the Army and paramilitary forces.

It is also necessary to take steps, in consultation with the State Governments to identify factors responsible for weakening the functioning of the State police forces. The morale of the Police Forces must be raised by professional support in operational matters and rational policies in regard to promotions, transfers and tenures of police officers should be evolved. A new Police Act must replace the existing Police Act expeditiously.

Death penalty is cruel, inhuman and barbaric therefore it is submitted that it should be abolished as soon as possible. Those countries functioning under the influence of Parliamentary supremacy face problem of abolition of the death

penalty. Supreme Court has made it mandatory that the death penalty should be given in *rarest of rare* case.

It appears in the first place that, while the authorities have at their disposal wide means to combat terrorism, these means are not unlimited. However, where a balance between the rights of the individual and the interests of society or of third persons is to be struck, the latter interests will in the context of terrorism often weigh more heavily. The development and the use of excessive measures would necessarily lead to innocent people, having no links with terrorism, being subjected to secret or even overt measures. Anybody's interactions over the phone can be tapped or intercepted anybody could be arrested on the basis of relatively weak suspicions, and so on. Court plays an important role as defender against an excessive interference with fundamental rights. Where these rights are seriously limited, that should be in accordance with the established judicial principle. No matter how horrific terrorist acts may be, it is submitted that State should treat terrorists humanly. The prohibition of torture and of inhumane treatment or punishment is absolute. States should not be allowed to adopt the method of the terrorists in order to combat terrorism.

The report of National Crime Record Bureau shows a different picture of the Custodial Crime in 2006 as 89 Custodial Deaths were reported in the country. 7 policemen were charge sheeted and 11 were convicted during the year. 2 cases of Custodial Rape were reported in the country. 1 case was declared false, 3 cases were charge-sheeted during the year and 1 such case remained under investigation. No judicial enquiry was ordered. Total number of violent crimes incidence rate increased from 2, 02,640 in 2005 to 2, 05, 656 in 2006. The share of violent crimes in total IPC crimes has decreased continuously from 12.5 percent in 2002 to 10.9 percent in 2006. Jammu & Kashmir (33.7), Manipur (33.0), Assam (30.4) and Daman & Diu and Pondicherry (29.4 each) reported higher violent crime rate compared to 18.4 at All-India level. Uttar Pradesh reported the highest incidence of violent crimes accounting for 12.1 percent of

total violent crimes in the country (24,851 out of 2, 05,656) followed by Bihar with 11.8 per cent (24,271 out of 2, 05, 6556). If we compare the statistic from the year 2002 till 2006 then it is found that rate of violent crimes in few states are higher.

It is now recognized that the end of any criminal justice system is not just the punishment of offenders for their crimes but also ensuring that the victims are compensated for the loss that they have suffered. To sum up in the words of Justice V.R.Krishna Iyer,

> *'the old penal blinkers and judicial limitations no longer operate now that human rights have achieved a fair amount of attention. The road is long, and not everyone looks upon human rights with the same positivity. It is recognized, however, that the true manifestation of a country's civilization is measured by the completeness of the relief and the comprehensiveness of the habilitation that criminal justice affords to all affected sections- those who are the victims of crimes and offences and those who have been punished, are serving their sentences and then are realized to return to society as law abiding citizens.'*

The State and society must change their attitude towards victims of crime. At the same time the State as well as the courts should change their attitude towards the victims and must look after the interest of the victims compassionately by this way justice can be done. Some suggestions are submitted hereunder as follows:

Firstly, reparation or compensation to the victims should be given as form of punishment.

Secondly, Criminal Injuries Compensation Board should be constituted for the award of compensation to victims of sexual assault as suggested by the Supreme Court in *Delhi Domestic Working Women's Forum* case.

Thirdly, A comprehensive scheme of compensation should be brought by legislation for the victims.

Fourthly, victims need moral and sympathetic support from the society and it is the duty of all to respect them. Judicial and administrative mechanisms should be established and strengthened to enable victims to

obtain redress through formal or informal procedures that are expeditious fair and inexpensive and accessible and the victims should be informed.

The Government has power under the Directive Principles as well as under international human rights obligation to legislate on the subject without further delay. The innocent victims of terrorist violence are making justifiable demands and criminal justice can ill- afford to ignore them least the rule of law be scarce and human rights devalued. A social welfare State should compensate the million victims of crime who are poor and helpless to protest their dignity.

Militancy is a brutal curse, terrorists choose their time and target and kill, mutilate debilitate and vanish. Those who have to take stock of the circumstances after such incidents are expected to act in response with restrain. The rule of law should be allowed to prevail and the system should absorb the shocks of the tragedies.

The importance of the crisis situation is not taken account of then the society will collapse into unconsciousness. Justice Pandian in *Kartar Singh* case has very rightly pointed out as:

> *'True, our is country which stands tallest even in troubled times, the country that clings to fundamental principles of human rights, the country that cherishes its constitutional heritage and rejects simple solutions that compromise the values that lie at the root of our democratic system.'*

Indian judiciary, time and again, has protected human rights and fundamental freedoms, which are recognised in the Indian constitution and other relevant laws. This protection shall also be ensured from the presumptuous looking legislature and also the vibrant executive apart from autonomous judiciary.