

- b. SC said that since **1990 to 2019** there have been **71,038 recorded** incidents of terrorist violence, 14,038 civilians have died, 5292 security personnel were martyred, 22,536 terrorists were killed. Due to continuous onslaught of terrorism, internet restrictions may have to be used often for the protection of human lives.
2. **Government has authority to restrict Rights:**
 - a. While acknowledging the **power of government to restrict under the Constitution**, Court said that degree of restriction and scope both territorially and temporally must stand the **proportionality test**.
 - b. This is **in line with the Minerva Mills judgement (1980)** which held that **fundamental rights may only be suspended** in uncommon circumstances and not at the cost of human freedoms.
3. **Separation of Power to uphold Fundamental Rights**
 - a. The **constitution of the review committee** by the Court to decide **whether restriction orders withstand the proportionality principles outlined by the court** is in the **spirit of "balanced constitutionalism"**. The committee will examine the validity of executive orders before taking any legal course of action.
 - b. The **Constitution provides for rights under Part III to be enforced by all the organs of the government**. Accordingly, the **Court cannot be the sole protector of rights** – the **executive and legislature** have an equal responsibility.

Issues with the verdict

1. The **order did not determine the legality of internet shutdown in Kashmir**. Thus, it did not decide upon the constitutionality of whatever has already been done.
2. The **judgment falters in determining what may be considered temporary**. Thus, court laid down the law, but did not provide relief as the internet shutdown continued even after the verdict.
3. Supreme Court noted that **"technology is an enabler of rights, but not a right in and of itself"** and **refrained from declaring that 'right to Internet access' itself is a fundamental right**.

Overall, the court has made it clear that the **constitutional principles of necessity, proportionality, and the need to first look for alternate means** will apply in cases of internet shutdown orders as well. At the same time, it **cautions against the "excessive utility" of the proportionality doctrine in matters of national security**. Thus, it tried to uphold the **Balanced Constitutionalism**. (1029 Words)