

**INDO-US COOPERATION ON COUNTER TERRORISM,  
1999-2008**

*Dissertation submitted to the Jawaharlal Nehru University  
in partial fulfillment of the requirements  
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**MASTER OF PHILOSOPHY**

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Date: July 29, 2009

**DECLARATION**

I declare that the dissertation entitled “**Indo-US Cooperation on Counter Terrorism, 1999-2008**” submitted by me in partial fulfillment of the requirements for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University, is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

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**CERTIFICATE**

We recommend that this dissertation be placed before the examiners for evaluation.

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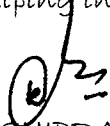
It is a matter of great pleasure that I am submitting this dissertation to Jawaharlal Nehru University for the award of M.Phil degree. On the successful completion of my work, I would like to gratefully acknowledge the people who motivated, guided and assisted me in some way or the other. This work is the result of best wishes of these people.

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## **Abbreviations**

<b>AEDPA</b>	<b>Anti-terrorism and Effective Death Penalty Act</b>
<b>AFSPA</b>	<b>Armed Forces Special Powers Act</b>
<b>ATAP</b>	<b>Anti-terrorism Training Assistance Programme</b>
<b>CBI</b>	<b>Central Bureau of Investigation</b>
<b>CBRN</b>	<b>Chemical, Biological, Radioactive and Nuclear terrorism</b>
<b>CIA</b>	<b>Central Intelligence Agency</b>
<b>CSI</b>	<b>Container Security Initiative</b>
<b>CTJWG</b>	<b>Counter-terrorism Joint Working Group</b>
<b>DEA</b>	<b>Drug Enforcement Agency</b>
<b>DHS</b>	<b>Department of Homeland Security</b>
<b>DSATA</b>	<b>Diplomatic Security Anti Terrorism Assistance</b>
<b>FBI</b>	<b>Federal Bureau of Investigation</b>
<b>FISA</b>	<b>Foreign Intelligence Surveillance Act</b>
<b>FISC</b>	<b>Foreign Intelligence Surveillance Court</b>
<b>FTO</b>	<b>Foreign Terrorist Organization</b>
<b>GWOT</b>	<b>Global War on Terrorism</b>
<b>HUA</b>	<b>Harkat-ul-Ansar</b>
<b>HUM</b>	<b>Harkat-ul-Mujahedeen</b>
<b>IED</b>	<b>Improvised Explosive Device</b>
<b>IFRI</b>	<b>International Financial Regulatory Institutions</b>
<b>IIRIRA</b>	<b>Illegal Immigration Reform and Immigrant Responsibility Act</b>
<b>INCLE</b>	<b>International Narcotics &amp; Law Enforcement</b>
<b>JEM</b>	<b>Jaish-e-Mohammad</b>

<b>JWG</b>	<b>Joint Working Group</b>
<b>KYKL</b>	<b>Kanglei Yawol Kanna Lup</b>
<b>LOC</b>	<b>Line of Control</b>
<b>LT</b>	<b>Lashkar e-Tayyiba</b>
<b>LTTE</b>	<b>Liberation Tigers of Tamil Elam</b>
<b>MCOCA</b>	<b>Maharashtra Control of Organized Crime Act</b>
<b>MISA</b>	<b>Maintenance of Internal Security Act</b>
<b>NCTC</b>	<b>National Counterterrorism Center</b>
<b>NSC</b>	<b>National Security Council</b>
<b>NSG</b>	<b>National Security Guard</b>
<b>NSL</b>	<b>National Security Letter of the Act</b>
<b>POTA</b>	<b>Prevention of Terrorist Act</b>
<b>PRWORA</b>	<b>Personal Responsibility and Work Opportunity Reconciliation Act</b>
<b>RAW</b>	<b>Research &amp; Analysis Wing</b>
<b>SLAF</b>	<b>Sri Lankan Armed Forces</b>
<b>TADA</b>	<b>Terrorist and Disruptive Activities (Prevention) Act</b>
<b>UAPA</b>	<b>Unlawful Activities (Prevention) Act</b>
<b>ULFA</b>	<b>United Liberation Front of Assam</b>
<b>UNGA</b>	<b>United Nations General Assembly</b>
<b>UNSC</b>	<b>United Nations Security Council</b>
<b>UNSCR</b>	<b>United Nations Security Council Resolutions</b>
<b>WMD</b>	<b>Weapons of Mass Destruction</b>

## **Introduction**

The term, terrorism is difficult to define as a country's terrorist can be a freedom fighter for another country. It can be understood as a calculated and premeditated use of violence against an individual, group or a large collectivity in such a manner that the target is rendered physically defenseless against that attack or against the affects of that violence. The basic component of any terrorist act is 'fear' which is used to achieve a political effect. Thus it is not just a physical assault but rather a psychological weapon used against the innocent people that sends shock waves in society and leaves the body wounded and mind shattered. It is a means to raise wars by racist, ethnic groups, religious groups and minorities to establish their identity and has long been associated with religious and class conflicts and with social justice ideologies and issues. It recognizes no community. Thus the phenomenon of terrorism can be seen as comprised of human elements and ideological elements.

Terrorism can be seen as an onslaught against civilization and democracy, and also as a growing threat to the maintenance of an orderly society. Terrorism is not necessarily a phenomenon committed by individuals or groups but in many cases states are also involved and are a total party in cooperation with few terrorist groups in the commissioning of terrorist acts. Most international and domestic terrorism these days is neither left nor right, but ethno separatist in inspiration. Ethno based terrorists have more power and strength than movements based on other aspects as they have a large reservoir of public support. These are groups formed on the basis of their common ethnic origin and history and they gather a much larger support base in their society. Hence, it is difficult to break these bonds compared to those of other groups, which are based on economic and political factors. Terrorism has also increased in severity. The number of countries in which terrorist incidents have taken place has increased.



There is hardly any part of the world that is left without a real or potential threat of terrorist attacks and therefore has become a global concern today.

### ***India's Concern Regarding Terrorism***

India is one of the most terrorism afflicted countries in the world. The nature of terrorism in India is very complex. It is affected by both, cross border as well as domestic terrorism, and has been waging a protracted war against terrorism within its own borders. As one of the world's most ethnically, linguistically, and religiously diverse countries, India has dealt with numerous separatist and insurgent movements over the past 30 years, including a Sikh uprising in the state of Punjab in the 1980s, a Muslim separatist movement in the state of Jammu and Kashmir from 1989 to the present, and various ethnic separatist movements in the northeastern states. Another challenge facing the Indian government is a leftist extremist movement (Maoist and Naxalite) that is spreading in the rural areas of eastern and central India.

India has long sought to sensitize the international community on the dangers of terrorism in Kashmir, which could not be tackled without certain amount of international cooperation. It has also warned about the rising threat of terrorism to regional security. India has more strategic vulnerability in its Northwest than any other part. Nepal, Bangladesh and Sri Lanka present enormous challenges in view of terrorism situation in their territories, but Pakistan linked with China remains central to India's core strategic concerns and has suffered at the hands of Pakistan sponsored terrorists for a long time over two decades.

Internal instability resulting from diversity is further complicated by colonial legacies such as international borders that separate members of the same ethnic groups, creating flash points for regional dissidence and separatism.

American concern with Islamic terrorism had led to a convergence of Indian and US interests, and a consequent improvement in relations between the two countries. In 1998, the al Qaeda struck a major blow with powerful RDX explosive at the American Embassies in Dar e Salaam in Tanzania and Nairobi in Kenya resulting in death of many Americans but terrorism has become a concern for the U.S. only after it was attacked in its home on September 11, 2001 on the World Trade Center towers and the pentagon, the symbols of American economic and military might. The US's positive attitude towards India during the Kargil crisis in 1999 was the biggest gain for India as far as its diplomacy was concerned. This brought about a major transformation in US's attitude towards terrorism in Kashmir and the Bush administration did not allow Musharraf to go ahead with Pakistan's traditional policy of sponsoring terrorism in Kashmir.

The US recognized India as "a key partner in the global coalition against terrorism" which had to be "ended everywhere." The US Annual Report on Terrorism, Patterns of Global Terrorism: 1999, pointed out that in 1999 the locus of terrorism directed against the United States had shifted from the Middle East to South Asia. In this regard a branch of FBI was established in New Delhi on September 22, 1999. To further strengthen the base, India and the US established a forum to cooperate and coordinate efforts against terrorism and in January 2000, a Counter Terrorism Joint Working Group (CTJWG). This step was essentially viewed as a 'confidence building measure' to tackle the menace of terrorism. The group met eleven times since its inception.

### ***Scope of the Study***

The focus of the proposed study would be from 1999 to the end of Bush Administration i.e., 2008. This period (1999 to 2008), is significant as the Indo-US relationship has explored a new avenue for interactions by entering into a series of agreements on counter terrorism cooperation. This cooperation will build upon a broad range of understanding

between the two countries and also develop new areas of collaboration. As the tensions in South Asia can only be resolved by the nations of South Asia, India is committed to enhancing cooperation, peace, and stability in the region with the help of bilateral as well as multilateral agreements.

The gathering momentum in the Indo-US relations during the last years of Clinton Presidency underwent a dramatic transformation. The U.S.-India Joint Working Group (CTJWG) on Counter terrorism was established in January 2000 and meets regularly. The two countries also share relevant intelligence. The CTJWG has met eleven times since its inception. The CTJWG has proved to be a useful mechanism for exchange of information, intelligence sharing, anti-terrorism training programmes and for strengthening institutional links between crime prevention agencies in both the countries.

Since 2002 India and the US have held a number of naval, air, and ground exercises. The period between 2005 and 2008 witnessed a series of bilateral agreements and initiatives towards counter terrorism. The process of dialogue has led to an understanding of each other's strategy and methods of fighting terrorism. It has also led to a better understanding of each other's threat perceptions. Increased cooperation on information sharing and research into terrorist recruitment and radicalization, and into strategies to combat these trends are to serve both countries interests.

*The Objectives of the Study* is to know the developments in counter-terrorism cooperation between the U.S. and India, by analyzing and discussing the mechanism of counter-terrorism cooperation as a means of achieving national security for India. To study the changing trends in terrorism and its influence on the counter-terrorism agreements between India and the U.S. and to study the efficacy of the legal provisions to counter terrorism in both the countries are also a part of it.

The entire study will revolve around the following two *hypotheses*

- The Indo-US counter-terrorism agreements would change the perspective of cross-border terrorism in Indo-Pak Border.
- The counter terrorism cooperation between India and the U.S. enhances intelligence sharing on global and domestic terrorist threat to India and strengthening operation, management and surveillance techniques of law enforcing agencies in India.

### ***Research Methodology***

For pursuing the research proposal, descriptive, analytical and inductive reasoning is followed. Primary sources especially, U.S. and Indian official documents related to the concerned topic are analyzed to understand the area of cooperation and nature of understanding. The annual U.S. Country Report on Terrorism and other relevant publications and reports, news paper clippings, news clippings, research journals and also data collected from the internet sources particularly the web sites of the governments of both India and the US dealing with the subject is also used to substantiate the proposed study.

### ***Organisation of the Study***

The whole work is organized into four major sections dealing with different issues of the same problem.

Terrorism is not a new phenomenon and it has experienced a lot of changes with time. Though terrorism has gained many new dimensions there are many elements which are unchanged and therefore first chapter will focus upon both the changing and continuing trends of the phenomenon. Along with qualitative dimension the quantitative dimension

of terrorism will also be dealt with. This chapter will examine the terrorism trends at global level, the nature of terrorist threat encountered by India and the U.S., and the convergence of Indo-U.S. interests on terrorism. The two democratic countries of the world, India and the U.S. are also the most terror afflicted countries. This made them to come closer and bind into a strategic relationship in the form of a joint working group on counter terrorism. The second chapter discusses and analyzes the series of counterterrorism agreements concluded between the U.S. and India and its relevance to both the countries. India has been a victim of internal as well as cross border terrorism. The third chapter will study various terrorist attacks that took place in India between the period 1999 and 2008 and how the U.S. responded to it. The fourth chapter deals with a comparative study between provisions included in the counterterrorism laws in India and the US and their efficacy in dealing with the menace. The last part summarizes the entire study in the form of conclusion.

## Chapter-1

# Trends in Global Terrorism

### 1.1 *Defining Terrorism*

There is no internationally accepted definition of terrorism.<sup>1</sup> What constitutes terrorism will differ from country to country, as well as among various sections of a country's population.<sup>2</sup> A country's terrorist can be a freedom fighter for another country. The question of definition becomes even more crucial an issue in the wake of the US and British declaration of a global war against terrorism and the assumption that those countries who did not join the campaign were to be considered terrorists themselves.<sup>3</sup> The concept of terrorism has and continues to encompass many meanings and interpretations. It would be difficult to come up with a conclusive and comprehensive interpretation of its meaning which would not offend some or other constituencies.

John Whitbeck perhaps best captures the difficulty of conceptualising terrorism: Terrorism is simply a word, a subjective epithet, not an objective reality and certainly not an excuse to suspend all the rules of international law.<sup>4</sup> United Nations Security Council Resolution 1566, adopted on October 8, 2004, defines terrorism as: criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular person, intimidate a population or compel a government or an international organization to do or to abstain from doing

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<sup>1</sup> Most of the writers agree to this point, see. Annette Hubschle, Lisa Curtis (2008), Rex A. Hudson (1999), John Gearson 2002, Karsten Wezlaff 2004

<sup>2</sup> Rex A. Hudson 1999

<sup>3</sup> M Baregu, Beyond September 11: Structural causes and behavioral consequences of international terrorism, in International Peace Academy, *Responding to terrorism: What role for the United Nations?* Chadbourne & Parke, New York City, 2002, pp 40–41.

<sup>4</sup> J. Whitbeck, Terrorism: The word itself is dangerous, December 2001, <[www.pugwash.org/september11/whitbeck.htm](http://www.pugwash.org/september11/whitbeck.htm)>.

any act. The U.S. National Counterterrorism Center (NCTC) describes terrorism as 'premeditated; perpetrated by a sub-national or clandestine agent; politically motivated, potentially including religious, philosophical, or culturally symbolic motivations; violent; and perpetrated against a noncombatant target.'<sup>5</sup> Most of the writers in the west agree with the definition of NCTC. That's why, Annette Hubschle writes in her article, 'Terrorism' is a dynamic, highly subjective and mostly Western construct. Over the years it has encompassed many different meanings. 'Terrorism' is a concept that traces its roots back through Western political thought.' Further her words add much fancy when she says that terrorism, like beauty, is in the eye of the beholder. Her argument has got directions from the earlier findings as she claims that Schmid and Jongman recorded 109 different definitions in a survey in the mid-1980s.

Following the event of 11 September, 2001 in the United States, terrorism and its ramifications have become a hotbed of scholarly debate. Many definitions pertaining to this were born and persist around this highly disputed concept, such as that 'terrorism is a new phenomenon', 'a weapon of the weak', 'is only perpetrated by groupings', 'deranged individuals or transnational networks', and is closely linked to religious 'extremism'. Are these dimensions sufficient enough for the definition of terrorism or these are just myths. Annette Hubschle in her article, 'T-word: conceptualising Terrorism' sees that the views about terrorism emerged after the 9/11 event are just myths. Her argument is based on the following points.

1. 'Terrorism' *per se* is nothing new; it was popular and originated in 18<sup>th</sup> century during French Revolution. According to the 1798 supplement of the *Dictionnaire* of the Académie Française, the words 'terrorism' and 'terrorist' stemmed from the '*régime de la terreur*', a period in French history that followed the storming of the Bastille and the uprisings of 1789.
2. Following the French Revolution, the agency of terrorism changed from a state actor to sub-national groups. Under the Nazis and Fascists and during Stalin's rule, terrorism was firmly placed at the doorstep of the state again; refuting theories that terrorism was only a strategy of the weak.

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<sup>5</sup> See Curtis, Lisa 2008

3. The terrorism began with the state actor so to argue it is only perpetrated by groupings, deranged individuals or transnational networks is only a myth. He defines in his article how it was initially a positive idea during revolution when people look it for the social change. Once in France, social revolutionaries succumbed to the state power, then state defined a partial definition of the terrorism and butchered the revolutionaries, thus it was started in the way of state sponsored violence.<sup>6</sup> Initially, terrorism embraced a positive suggestion. Revolutionary leader Maximilien Robespierre held the view that revolution and terror had to team up in order for democracy to triumph. He declared that “terror is nothing but justice, prompt, severe and inflexible; it is therefore an emanation of virtue”.
4. After 9/11 it is noticed that it is motivated by religious extremism, is it so? Does it not have its earlier motivation inclined towards religious extremism? Annette Hubschle explained by taking the example of US how she has used this aspect from the past. The terrorist campaigns of the Ku Klux Klan earlier indicated the long history of right-wing extremist movements in the US. Initially right-wing extremists were driven by religious and political motivations.

The above said story of Annette Hubschle hints towards the lack of sufficient understanding on the term. That’s why she still considers it as a concept rather than definition. From conceptualisation to definition of the concept: ‘One person’s terrorist is another person’s liberation fighter perhaps best captures the problematic nature of that terminology. The international community has been actively seeking consensus on the definition of terrorism for many years. Thirteen separate international conventions on terrorism have been created, each covering a specific type of activity linked to terrorism. Despite UN pressure, broad ratification has been difficult to achieve. The task of creating a comprehensive, binding international convention against terrorism has proved to be a slow and tiresome process, as all fails when the question of defining terrorism is tackled. A major bone of contention is the question

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<sup>6</sup> In July 1794, the Revolution ‘ate its own children’ and Robespierre and his closest associates succumbed to the guillotine. The reign of terror had come to an end. Thereafter the terminology became synonymous with the abuse of office and power.<sup>6</sup> Terrorists were identified as any people who attempted to further their views by a system of coercive intimidation. It should be noted that in its origins, terrorism was perpetrated by the state. (See. Annette Hubschle page 04)



of whether terrorism should apply to the actions of states in the same manner that it applies to the actions of non-state actors.<sup>7</sup>

Considering the broad nature of what ‘terrorism’ has come to include, it is hardly surprising that decision-makers have failed to come up with a generally agreed and universal definition. There seems to be at least some consensus on what forms of violence are *not* captured by the concept. Explaining many difficulties in defining it, Annette Hubschle warned to decision-makers not to hurry any decision pertaining to counter-terrorism strategies. When terrorism is not defined, then how can counter-terrorism policy be made? The question really leaves many logical imprints for the counter terrorism policy makers as well as researchers.

Karsten Wezlaff in his article ‘Terrorism: game theory and other explanations’, explains the possible dimensions of the difficulties in defining terrorism. To distinguish different kinds of terrorism, first and foremost we must ask who perpetrates terrorism: the state, sub-state groups, or individuals. Each dimension marks specific characteristic of terrorism (see Table).

### **Dimensions of terrorism**

<i>Variable</i>	<i>Classification</i>
Perpetrator number	Individual vs. group
Sponsorship	State vs. sub-state vs. individual
Relation to authority	Anti-state/antiestablishment/ Separatistvs.prostate/pro-establishment Locale Intrastate vs. transnational
Military status	Civilian vs. paramilitary or military
Spiritual motivation	Secular vs. religious
Financial motivation	Idealistic vs. entrepreneurial
Political ideology	Leftist/socialist vs. rightist/fascist vs. anarchist
Hierarchical role	Management vs. follower

<sup>7</sup> See P. Cryan, Defining terrorism, 29 November 2001, [www.counterpunch.org/cryan1.html](http://www.counterpunch.org/cryan1.html)

Willingness to die	Suicidal vs. non-suicidal
Target	Property (including data) vs. individuals vs. masses of people
Methodology	Bombing, assassination, kidnapping/hostage taking, mass poisoning, rape, other (e.g., bioterrorism, cyber-terrorism)

Whatever be the defining words, terrorism in all its forms, is in fact response to a superior force. Through the exploitation of terror, the terrorists have always used their capabilities as force multipliers. It is no longer just a physical warfare but has already taken a shape of psychological warfare which can be enriched and carried much further with enlarged effects through modern media. Though rarely accepted, the vast majority of all terrorist violence, including suicide attacks, remains totally purposeful and, though rarely successful, are undertaken with ends in mind.

Terrorism acquired many new and different forms. These forms can be studied under the umbrella of trends.

## 1.2 Defining Trends

Terrorism has never been static. Its mutations are visible with reference to time and space. Various Changes in the infrastructure of the terrorist organizations such as command and control, capabilities, recruiting, and financing are equally important in order to study trends. The increasing or decreasing capabilities of a particular group to inflict serious damage will decide the course of counter terrorism strategy. The changes are not only observed in the capacities to cause damage but also in terrorist's ideologies and inspirations. The level of popularity and the government support commanded by an organisation is not always the same.<sup>8</sup>

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<sup>8</sup>Pearl, Raphael, "Trends in Terrorism: 2006", *CRS report for congress*, Updated March 12, 2007.

Therefore, trends in terrorism can be defined as changes in the type, number, and lethality of terrorist attacks (*modus operandi*), attitudes of terrorist groups, and other factors, over time.<sup>9</sup>

### ***1.3 Importance of Trends***

The trends in terrorism influence government responses, and in the same manner government antiterrorism strategies and tactics also affect terrorism trends. As Bruce Hoffman says, “Terrorists always have to stay one step ahead of what their enemies are doing and one step ahead of the counterterrorism technology curve. If they do not stay ahead, they are not going to succeed. And if they do not succeed they will not achieve their objectives”.<sup>10</sup>

As terrorists seek to surprise the world by innovative ways and more fluid organizational structures with the evolution of new political, technological and economic landscape, the data being collected to identify and track terrorism also needs to be changed.

Updated knowledge about trends in terrorist activities can assist policymakers in a number of areas including (1) prioritizing counter-terror resources; (2) targeting terrorists and terrorist activity with the intention of preventing attacks; and (3) showing anti-terror progress where it has been achieved.<sup>11</sup>

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<sup>9</sup> Ibid

<sup>10</sup> Hoffman, Bruce “The Terrorism Threat and U.S. Government Response: Operational and Organizational Factors”, Edited by James M. Smith and William C. Thomas, March 2001.

<sup>11</sup> Pearl, Raphael, “Trends in Terrorism: 2006”, *CRS report for congress*, Updated March 12, 2007.

## 1.4 Trends in Terrorism

The US State Department report includes *five major trends* in the evolution of terrorism.

The first major trend is the emergence of many *micro-actors* having been spurred by the widespread use of the internet, militant preachers and the impact of Arabic language television. Organisations' ideological, motivational and propaganda roles, according to the report, are reduced to operational ones. Such operational cells are diverse in identity profiles, structures, motives, and tactics. They are more techno savvy and small, decentralized, and without regular communication with other groups or cells. These characteristics make their actions extremely difficult to detect or counter. As a result, a growing percentage of future terrorist attacks may be carried out by micro-actors using traditional bombs and bullets rather than more lethal weapons.

The second major trend according to the report is *Increased Sophistication*, where the terrorists exploit the global movement of information, finance, and ideas to their benefit by improving their technological sophistication across many areas of operational planning, communications, targeting, and propaganda.

The third trend directs towards the growing *overlap of terrorist activities with International Crime*. Here terrorists use the same supply, transport, and money-moving networks used by criminal groups creating a major vulnerability that can be exploited by law enforcement authorities.

An *increase in suicide bombings* is the fourth major trend according to the report which also says that a *decline in State-Sponsored Terrorism*, with a few notable exceptions, is the fifth major trend.<sup>12</sup>

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<sup>12</sup>Ibid

In addition to this, there are a few other trends visible in the area of terrorism. To make the things easy to understand, these trends can be broadly divided into two--

### 1.4.1 *Traditional Terrorism*

Traditional terrorism tended to be an outgrowth of national liberation struggles, or of anti-capitalist movements, and frequently had state backing. It was therefore often possible to observe the ideological steps through which the players passed in their conversion from political activism to terrorism.<sup>13</sup> These liberation or terrorist groups of the 1970s and 1980s had hierarchical organizational entities with visible and recognizable command control apparatuses. They had pyramid-shaped structures, identified by their leader or commander-in-chief at the top. For example, the leaders of the Red Army Faction were—Andreas Baader and Ulrike Meinhof and generally it was referred to as the *Baader-Meinhof* organization after its leaders. Similarly, the *Fatah Revolutionary Council* was called as the *Abu-Nidal* Organization.

Their motivations, wants and ambitions, though objectionable, heinous and intolerable, were crystal clear. They skillfully fitted together the actions to suit their agendas. They made a sense of what they wanted and who they were.<sup>14</sup> They planned incidences of hijacking, planted bombs on planes, but still those types of things would kill at most in the low hundreds, and more likely, only a handful of deaths. Traditional groups tended to operate within what has been called a coercive diplomacy framework. They utilized violence as a means to achieve certain ends. Their use of violence can be termed “instrumental”.<sup>15</sup> They weren’t contemplating incidences of violence that were expected to kill tens of thousands.

Terrorists of those days were proud about their operations. They, in fact, told the world that they did so. They issued communiqués. They not only told us what they did, but often in turgid, overwrought, agonizing, complex prose, explained exactly

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<sup>13</sup> Mahapatra, Chintamani and Tripathy, Amulya (edi.) “Western approach to international terrorism, Saroj Kumar Rath, *Transnational Terrorism: perspectives on Motives, Measures & Impacts*,” 2007.

<sup>14</sup> See Hoffman, Bruce 1998

<sup>15</sup> Zanini, Michele, ‘*Countering the New Terrorism*’, RAND, 1999.

why they did it.<sup>16</sup> This trend, however, changed during 1990s and terrorism took a new shape and colour.

#### 1.4.2 *Modern Terrorism*

The modern era of transnational terrorism began in 1968 with terrorists travelling between countries and maintaining a presence in multiple countries to achieve their greatest impact<sup>17</sup>. The negative consequences of traditional terrorism were generally confined to one or two countries but the modern or new can cast its negative impacts at a global or regional levels. Terrorist organizations of today are more amorphous and less distinctive. These organizations are not organized in a hierarchical pattern and are much flatter in design along the lines of networks or organizations that function much more competitively.

The groups today feel that their independence actually helps to carry out ambitious types of operations in a much better manner. Thus we can see a greater willingness by groups to inflict massive indiscriminate casualties. One fundamental point of difference that can be observed about the modern terrorism is that groups today claim credit less frequently than they did in the past. There are a variety of reasons behind this. For some groups, terrorism is less of a means to an end than an end in itself.<sup>18</sup> As the violence has become more indiscriminate, the terrorists themselves have become more reluctant to claim credit for events.

With the advent of information revolution, the cost of communication is lowered which allows organizations to push functions outside a controlling hierarchical structure. This multiplies the opportunities for the organization to learn, making it more flexible and adaptive. The organization becomes more resilient because if one or

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<sup>16</sup> See Hoffman, Bruce 1999

<sup>17</sup> Collective versus Unilateral Responses to Terrorism Author(s): Todd Sandler Source: Public Choice, Vol. 124, No. 1/2, Policy Changes and Political response: Public Choice Perspective on the Post-9/11 World (Jul., 2005), pp. 75-93 Published by: Springer Stable URL: <http://www.jstor.org/stable/30026704>

<sup>18</sup> See Hoffman, Bruce, forward, 1999

even several of its constituent entities are destroyed, the others carry on. A network, unlike a hierarchy, cannot be destroyed by decapitation.<sup>19</sup>

The nature of terrorism seemed to have changed fundamentally. Terrorists no longer seemed bound by previous limits, when they sought attention to their cause, not deaths. By the 1990s, terrorists sought mass and indiscriminate killing and justified it by invoking higher, religious authorities. Issues other than politics, including religion, millenarianism, racism, and financial gain, motivate today's terrorists. Religious terrorism in particular illustrates how the motivations of modern terrorist groups are changing.

Religiously motivated terrorist groups grew six-fold from 1980 to 1992 and continued to increase throughout the mid-1990s. Hoffman uses the growing lethality of terrorism as a productive starting point to deduce trends in what some have coined "post modern terrorism".<sup>20</sup> He equates the higher lethality of religiously motivated terrorist attacks to differing value system that allows the perpetrators to justify in their minds the deaths of large number of people. "For the religious terrorist, violence is a divine duty... executed in direct response to some theological demand...and justified by scripture".<sup>21</sup> For religious terrorists, the use of violence not only has an instrumental purpose but violence also is an end in itself. It is viewed as "a sacred duty executed in direct response to some theological demand or imperative," and is often viewed as "a divine duty or sacramental act".<sup>22</sup> Thus, religion acts as a legitimizing force backing the use of higher levels of violence.<sup>23</sup> This is reflected by the fact that many religious terrorist groups will only act if their attack is sanctioned by religious authorities.<sup>24</sup> In addition to religious terrorism, modern terrorism has much more in store.

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<sup>19</sup>Tucker, David "Terrorism and Political Violence", School 13(autumn, 2001), pp. 1-14 what's New about the New Terrorism and How Dangerous Is It?

<sup>20</sup> Dishman, Chris "Trends in Modern Terrorism" (review article), *Studies in Conflict & terrorism*, 1999.

<sup>21</sup> Hoffman, Bruce "Countering the New Terrorism", RAND, 1999.

<sup>22</sup>Hoffman, Bruce "Inside terrorism", 2008

<sup>23</sup>Juergensmeyer, Mark "Terror in the Mind of God: The Global Rise of Religious Violence", 2002

<sup>24</sup> Hoffman, Bruce "Inside Terrorism", 2008

Chemical, Biological, Radioactive and Nuclear terrorism (CBRN), also called as the Weapons of Mass Destruction (WMD), in the hands of a terrorist poses the single gravest threat to international peace and security today.<sup>25</sup> With the advent of many scientific developments in the last 2-3 decades, there are major advancements in the methodologies of terrorism also. The use of these WMDs, in most cases would cause tremendous fear. This dreadful nature creates its own dangers and if victims panic and try to flee, they may spread contamination and disease still further. These weapons are also inherently indiscriminate.

The very nature of these weapons makes it impossible to aim at a particular target. The radius of injury depends on conditions that are impossible to control or predict with certainty. These weapons' fear-inspiring all-encompassing, unpredictable nature is what makes them consummate instruments of terror.<sup>26</sup> The probability of attack by chemical, biological, radioactive, or nuclear (CBRN) means are relatively low but if an event or incident occurs, its impact will be high. It may take a shape of public emergency or public disaster generating a greater social impact than conventional weaponry and devices.<sup>27</sup>

In the last 25 years, only four significant attacks by terrorists using poison, disease, or radioactive material as weapons and a few instances where groups or individuals showed interest in using such weapons have occurred. The first incident was in 1984 in Oregon when a religious cult sought to depress voter turnout in a local election by clandestinely contaminating restaurant salad with salmonella, sickening at least 751 people. In 1990, in northern Sri Lanka, the Liberation Tigers of Tamil Elam (LTTE) attacked a Sri Lankan Armed Forces (SLAF) base with chlorine gas, injuring more than 60 military personnel and enabling the LTTE to rout the fort. An attack on the

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<sup>25</sup> See <http://www.state.gov/t/isn/rls/rm/73260.htm>

<sup>26</sup> See [http://www.sam.gov.tr/perceptions/.../Perception\\_RashedUzZaman.pdf](http://www.sam.gov.tr/perceptions/.../Perception_RashedUzZaman.pdf)

<sup>27</sup> Veness, David "Studies in Conflict & Terrorism, Terrorism and Counterterrorism: An International Perspective", 2001.



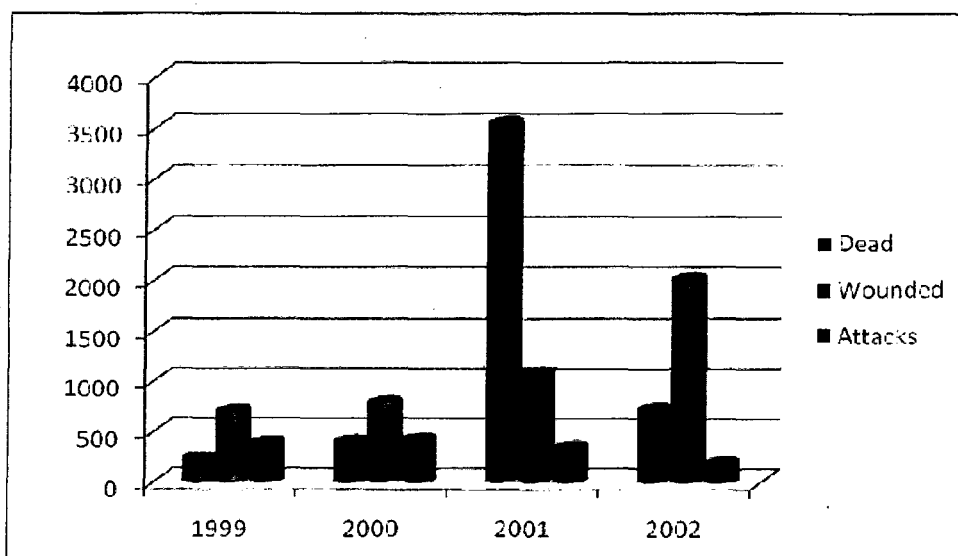
•  
Tokyo subway with liquid sarin in 1995 and the 2001, anthrax attacks in the United States.<sup>28</sup>

As the present study focuses upon the period between 1999 and 2008, let's take a look at the quantitative dimensions of terrorism trends across the world during this period.

### 1.5.1 Trends in Global Terrorism

The year, 1999, marks some important terrorism trends with loosely networked individuals and groups having turned increasingly to other sources of funding, including private sponsorship, narco trafficking, crime, and illegal trade as the State support has gone down. This shift parallels a change from primarily politically motivated terrorism to terrorism that is more religiously or ideologically motivated. Another and the most important trend is the shifting of the locus of terrorism from the Middle East to South Asia, specifically Afghanistan.<sup>29</sup>

**Total Attacks, Dead and Wounded between 1999 and 2002**



*Source: Patterns of Global Terrorism, 1999, 2000, 2001, 2002*

<sup>28</sup> John Parachini, Putting WMD Terrorism into Perspective, The Washington Quarterly, Autumn 2003

<sup>29</sup> Patterns of Global Terrorism, 1999,

According to the US State department, during 1999, there were 392 international terrorist attacks across the world in which 233 persons were killed and 706 wounded. In 186 incidents in 1999, bombings remained the predominant type of terrorist attack.<sup>30</sup>

Year 2000, witnessed 423 international terrorist attacks resulting into 405 people dead and 791 injured an increase of 8 percent from the 392 attacks recorded during 1999. The number of casualties caused by terrorists also increased in 2000. This year also bombing was the predominant method.<sup>31</sup>

In 2001, on September 11, the most horrific attack in the history of terrorism occurred in the US when the twin towers of World Trade Centre in New York were blown away by terrorists killing approximately 3000 persons. A total of 3,547 persons were killed in international terrorist attacks in 2001, the highest annual death toll from terrorism ever recorded. Ninety percent of the fatalities occurred in the September 11 attacks.

The number of persons wounded in terrorist attacks in 2001 was 1080. There was also an increase in violence in the Middle East and South Asia which accounted for the increase in casualty totals for 2001. The number of international terrorist attacks in 2001 declined to 346, down from 423, the previous year. One hundred seventy-eights of the attacks were bombings against a multinational oil pipeline in Colombia—constituting 51 percent of the year's total number of attacks.<sup>32</sup>

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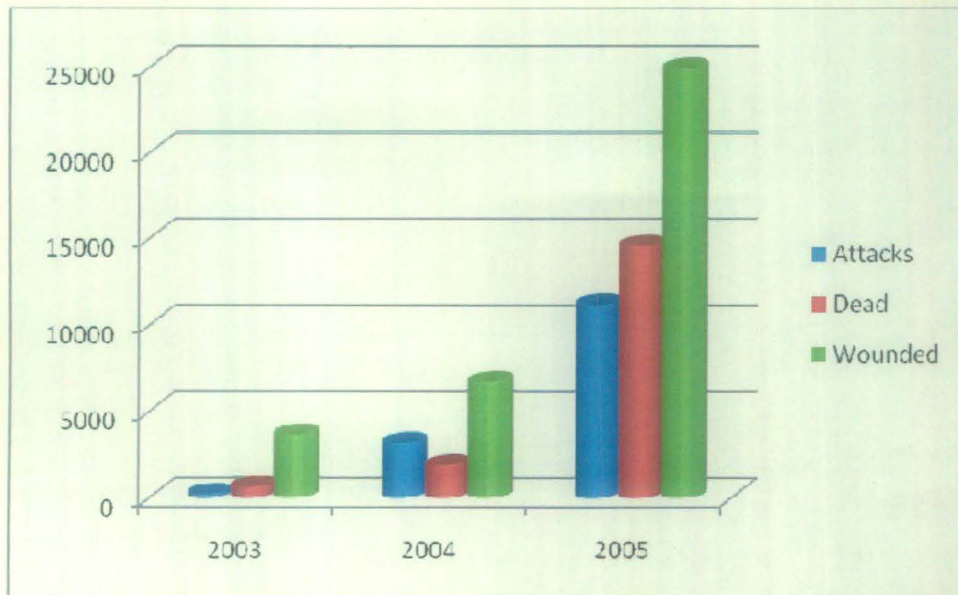
<sup>30</sup> Ibid.

<sup>31</sup> Patterns of Global Terrorism, 2000.

<sup>32</sup> Patterns of Global Terrorism, 2001.

Terrorists conducted 199 attacks globally killing 725 persons in 2002, a significant drop of 44% from the 355 attacks recorded during 2001. A total of 2,013 persons wounded.<sup>33</sup>

### Total Attacks, Dead and Wounded between 2003 and 2005



*Source: Patterns of Global Terrorism, 2003 & Country Reports on Global Terrorism, 2004 and 2005*

### *Terrorism has surged since 2003*

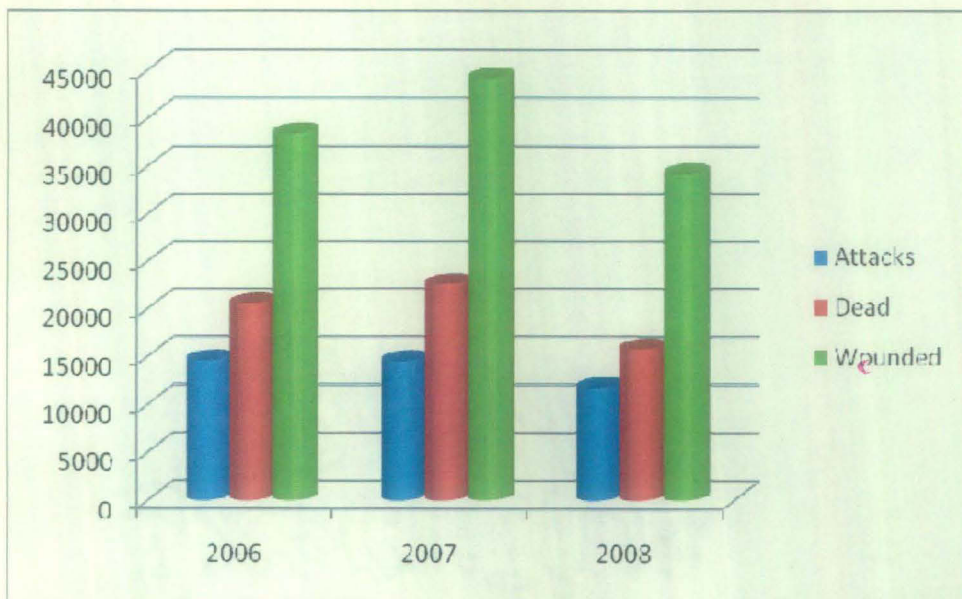
In the three years since the invasion of Iraq, the Bush Administration's own data has revealed an astonishing increase in worldwide terrorism. Year 2003 witnessed total 208 terrorist attacks across the globe causing 625 deaths and 3,646 injuries. The figure above represents the lowest annual total of international terrorist attacks since 1969. In 2003, the highest number of attacks (70) and the highest casualty count (159 persons dead and 951 wounded) occurred in Asia. In 2004, a total of 3,168 attacks occurred killing 1,907 and injuring 6,704 people.<sup>34</sup>

<sup>33</sup> Patterns of Global Terrorism, 2002.

<sup>34</sup> Flash Report, The Bush Administration's Data on Global Terrorism in 2005  
<http://oversight.house.gov/documents/20060428112209-29811.pdf>

The new data from 2005 shows that the number of reported terrorism incidents has increased exponentially in the three years since the United States invaded Iraq. There were 11,157 terrorist attacks that caused 14,560 deaths in 2005; this is an increase of over 5,000% in the number of terrorist attacks and over 2,000% in the number of deaths in three years<sup>35</sup>. The number of people injured was 24,875.

### Total Attacks, Dead, and Wounded between 2006 and 2008



*Source:* Country reports on terrorism, 2008. Released on April 30, 2009  
<http://www.state.gov/s/ct/rls/crt/2008/122452.htm>

There were total 14,545 terrorist attacks in various countries during 2006, resulting in over 20,468 deaths and wounding 38,386. Compared to 2006, attacks remained approximately the same in 2007, accounting to 14,506, while deaths rose by 2,040, totaling to 22,508. The largest number of reported attacks and deaths occurred in Near East and South Asia. These two regions accounted for about 87 percent of the 355 casualty attacks, while only 45 casualty attacks occurred in Africa, East Asia & Pacific, Europe & Eurasia, and Western Hemisphere.<sup>36</sup>

TH-17573



<sup>35</sup> Ibid.

<sup>36</sup> NCTC, 2007 Report on Terrorism, April 30, 2008.  
<http://wits.nctc.gov/reports/crot2007nctcannexfinal.pdf>

During 2008, total 11,770 terrorist attacks against noncombatants occurred in various countries, resulting in over 15,765 deaths. The number of persons wounded was 34,124. Compared to 2007, attacks decreased by 2,636, or 18 percent, in 2008 while deaths due to terrorism decreased by 6,643, or 30 percent. Suicide attacks declined from 525 in 2007 to 404 in 2008. This is largely due to declining violence in Iraq. Attacks by female suicide bombers accounted for almost 9 percent of all suicide attacks worldwide.<sup>37</sup>

As this study includes the terrorism in India, let's have a look at the events that India witnessed between 1999 and 2008.

### ***1.5.2 Terrorism Trends in India***

<b>Year</b>	<b>Trends</b>
<b>1999</b>	India faced the ongoing problem of insurgencies in Kashmir and the northeast. There were many serious attacks from Kashmiri militant groups on Indian Government, military, and civilians in India-held Kashmir and elsewhere in the country. In the northeast, Nagaland's Chief Minister escaped injury when a local extremist group attacked his convoy. <sup>38</sup>
<b>2000</b>	The problem of insurgency in Kashmir persisted. Massacres of civilians in Kashmir during March and August were attributed to Lashkar-e-Tayyiba (LT) and other militant groups. Apart from this, many violent separatist movements also hurt India in the northeast region. <sup>39</sup>
<b>2001</b>	The insurgency problem in Kashmir was continued. India experienced many serious attacks. Militants detonated a bomb at the main entrance of the Jammu and Kashmir legislative assembly building in Srinagar on 1 October, 31 persons were killed and at least 60 others were injured. The Kashmiri terrorist group Jaish e-Mohammed claimed responsibility for the attack. On 13 December Indian Parliament was targeted by armed group in New Delhi.

<sup>37</sup> See <http://wits.nctc.gov/Reports.do?f=crt2008nctcannexfinal.pdf>

<sup>38</sup> Patterns of global terrorism, 1999

<sup>39</sup> Patterns of global terrorism, 2000.

	<p>The incident resulted in the death of 13 terrorists and security personnel. India blamed FTOs Lashkar-e-Tayyiba and Jaish e-Mohammed for the attack and demanded that the Government of Pakistan deal immediately with terrorist groups operating from Pakistan or Pakistan-controlled territory.</p>
<p><b>2002</b></p>	<p>India also faced continued violence associated with several separatist movements based in the northeast. On 22 January 2002, armed gunmen fired on a group of police outside the American Center in Kolkata, (Calcutta), killing four and wounding at least nine. In May assault on an army base in Jammu killed 36, an attack in July in Kashmir killed 27 civilians, and two attacks on the Raghunath temple in Jammu at least 19 were killed. The Government of India asserted that Lashkar-e-Tayyiba (LT) was behind a series of high-profile attacks. India also accused the LT of masterminding the 26 September attack at the Akshardham temple in Gujarat, which killed 31 persons. Therefore, United States designated Lashkar-e Tayyiba a Foreign Terrorist Organization and designated it pursuant to Executive Order 13224.</p>
<p><b>2003</b></p>	<p>Jammu and Kashmir was main target of killings of civilians by foreign-based and Kashmiri militant groups in which the murder of numerous political leaders and party workers is included. The Indian Government asserted that Lashkar-i-Tayyiba and Jaish-e-Mohammed were behind a number of high-profile attacks in the state, which included the massacre of 24 Hindu civilians in southern Kashmir in March and an attack on 17 October outside the Chief Minister's residence compound in Srinagar. Attacks took place in other parts of the country as well. Indian police said they had captured or killed all of the individuals responsible for the twin bombings on 25 August in Mumbai that left 53 dead and 160 injured. The Indian Government asserted that the responsible individuals were associated with Lashkar-i-Tayyiba. The People's War Group—a Maoist "Naxalite" organization—claimed responsibility for a car-bomb attack in October that seriously injured</p>

	Chandrababu Naidu, chief minister of Andhra Pradesh.
2004	<p>Separatist terrorists and insurgents staged hundreds of attacks on people and property especially in Jammu and Kashmir, in the northeastern states, and the "Naxalite (Maoist) belt" in eastern India. The Government noted a significant decline in infiltration from Pakistani Kashmir during attributing the drop in large part to the fence it constructed during the year-long cease-fire with Pakistan and more effective counter-insurgency methods. Nevertheless, in Jammu and Kashmir insurgent and terrorist groups made numerous attempts to kill Indian and Kashmiri politicians, targeted public areas frequented by tourists, and attacked security forces. More than 500 civilians were killed in these attacks. Foreign Terrorist Organizations Lashkar e-Tayyiba (LT) and Jaish-e-Mohammad (JEM), operating through front groups in India under a number of new names, claimed responsibility for attacks on prominent Indian politicians. In eastern India, the primary Naxalite groups took steps towards consolidation by combining to form the Communist Party of India (Maoist). Naxalite violence dropped significantly in 2004, but the future of peace talks was uncertain at year's end.</p>
2005	<p>As in previous years, terrorists staged hundreds of attacks on people and property in India. The most prominent terrorist groups were extremist separatists operating in Jammu and Kashmir, Maoists in the "Naxalite belt" in eastern India. The federal and state governments have tried various strategies to address some of these grievances within the context of Indian democracy, but the government is firm: groups must cease violence before negotiations can begin, and the government will not entertain territorial concessions.</p>

Some terrorist groups operating in India sought to raise their profile. On May 22, there were nearly simultaneous bombings of two movie theaters in New Delhi by a Sikh terrorist organization, Babbar Khalsa International. One person dead and more

than 60 injured. On October 29, a series of explosions in crowded marketplaces and on a public bus in New Delhi killed approximately 60 and injured more than 150 on the eve of diwali. The Indian Government blamed the designated Foreign Terrorist Organization (FTO) Lashkar e-Tayyiba (LT) for the attack. Kashmiri terrorist groups made numerous attacks on elected Indian and Kashmiri politicians, targeted civilians in public areas, and attacked security forces. The designated FTOs LT and Jaish-e-Mohammad (JEM) claimed responsibility for many of these attacks.

Nevertheless, civilian fatalities from terrorism in Jammu and Kashmir continued a five-year decline in the first nine months of 2005. The Indian Government and military credit improved tactics and a fence that runs along the Line of Control (separating the Indian and Pakistani sides of Kashmir) for having significantly reduced the number of terrorists who cross into Indian Kashmir, thus resulting in a lower number of attacks and fatalities in J & K.

Naxalite terrorism, covered a broad region of eastern, central, and southern India, the growing sophistication and lethality may pose a significant long-term challenge. The Naxalites launched two mass attacks in the second half of 2005, in Uttar Pradesh village. They also attacked the Jehanabad Prison in Bihar, killing two persons, freeing more than 300 inmates, and abducting about 30 inmates who were members of an anti-Naxalite group.

In the year 2006, terrorists attacked hundred times on people and property. The most prominent terrorist groups were again the violent extremists operating in Jammu and Kashmir; Maoists operating in the "Naxalite belt" in various parts of country and ethno-linguistic nationalists in India's northeastern states. The federal and state governments tried various strategies to address some of these grievances within the context of Indian democracy with a condition that groups must cease violence before negotiations.



India alleged, based on numerous arrests and several major attacks, that Foreign Terrorist Organizations (FTOs) began a campaign in the Indian heartland to gain support from India's minority Muslim population for terrorist attacks. In addition, two prominent Pakistani-based FTOs, Lashkar-e-Taiba (LT) and Jaish-e-Mohammad (JEM) were blamed for several attacks.

On July 11, terrorists set off seven blasts on packed commuter trains in Mumbai, killing at least 209 people and injuring more than 700. On March 7, terrorists set off three blasts in the holy city of Varanasi, killing 21 and injuring 62 people. On September 9, terrorists set off a series of blasts outside a mosque in the western Indian city of Malegaon that killed 38 people and wounded more than 50. On October 27, Karnataka state police in Mysore arrested two suspected terrorists, who belonged to the terrorist group Al-Badr. Police believed the suspects were inserted as an advance team to establish a base in southern India from which they would facilitate terrorist attacks on economic and government targets, especially in nearby Bangalore, a high-tech city.

In addition, terrorist groups continued their attacks in Jammu and Kashmir against Indian and Kashmiri politicians, civilians in public areas, and security forces. Indian experts asserted that the July 11 attack killed eight tourists and injured 43 in Srinagar. Indian officials admitted that terrorist infiltration into Jammu and Kashmir increased in 2006, although they also pointed to an overall decline in violence and infiltration since 2000.

Naxalite terrorism, which covered a broad region of eastern, central, and southern India, grew in sophistication and lethality. Naxalites launched several high-level attacks, and expanded the rural territory under their control. On July 17, at least 25 people were killed, 80 injured, and approximately 250 people were missing following an attack by some 800 armed Naxalites in the Dantewada district of Chhattisgarh.

The United Liberation Front of Assam (ULFA), an ethnic separatist group, conducted multiple terrorist attacks against civilians and security forces in the Northeastern Indian state of Assam resulting in numerous deaths and injuries. In one of the more violent series of attacks attributed to ULFA, on November 5 several bombs exploded in a crowded market and at an oil refinery in Assam's capital city Guwahati, killing 12 people and injuring a few dozen.

In Manipur, a Northeast Indian state affected by over 20 insurgent groups, on August 16 a grenade attack on a Hindu temple in the capital, Imphal was faced resulting death of four people, and 34 were injured. An ethnic Meitei separatist group, Kanglei Yawol Kanna Lup (KYKL), was suspected to be behind this attack.

In Tamilnadu of India, the infiltration by members of the Liberation Tigers of Tamil Eelam (LTTE) was a great concern who engaged in violent conflict with the army in neighboring Sri Lanka.

In 2007, India's rank among the world's most terror-afflicted countries continued. More than 2,300 people died in the conflict in Jammu and Kashmir, in leftist Naxalites and Maoists attacks in eastern and central India, and in the assaults by ethno-linguistic nationalists in the northeastern states. The Indian government's counterterrorism efforts remained hampered by outdated and overburdened law enforcement and legal systems. The Indian court system was slow, laborious, and prone to corruption; terrorism trials can take years to complete. Many of India's local police forces were poorly staffed, lacked training, and were ill-equipped to combat terrorism effectively. The Indian government accused Islamic extremists for the following terrorist attacks:

- 1 The February 19 attack on the Friendship Train service between New Delhi and Lahore, Pakistan that killed dozens;

- 2 The May 18 bomb blast at the Mecca Masjid (Mosque) in Hyderabad that killed eleven
- 3 The August 25 nearly simultaneous explosions on at an amusement park and a market in Hyderabad that killed dozens;
- 4 The October 11 blast at a Sufi mosque in Ajmer, Rajasthan, that killed three;
- 5 The October 14 explosion in a cinema in Ludhiana, Punjab, that killed seven; and
- 6 The November 23 three simultaneous explosions on in judicial complexes in Lucknow,
- 7 Varanasi and Faizabad (Uttar Pradesh) that killed 13. Indian officials claim that the perpetrators of these attacks have links to groups based in Pakistan and Bangladesh, particularly Lashkar-e-Tayyiba, Jaish-e-Mohammad, and Harkat-ul-Jihad Islami, among others.

These groups also have links to terrorist activity in Jammu and Kashmir. The number of civilians killed reduced half of that in the previous year. The level of infiltration across the Line of Control also felled down, but noted that insurgents had in some case shifted routes to enter India through Bangladesh and Nepal. Attacks in Kashmir continued. For example, on October 11, two civilians and five soldiers were killed by an improvised explosive device (IED), and on July 29, six people were killed in a bomb explosion.

The main worry for Government of India was threats from leftist extremist (Maoist or Naxalite) groups to internal stability and democratic culture. Leftist extremist groups were very active in rural eastern and central India in the states of Jharkhand, Chattisgarh, Andhra Pradesh, Bihar, Uttarakhand, West Bengal, Orissa, Maharashtra and Karnataka. Hundreds of people lost their lives in conflicts between the government and leftist extremist groups. There were at least 971 Naxalite attacks in

the first seven months of the year. The trend to target elected officials was continued. Leftist extremists killed the son of a former Chief Minister of Andhra Pradesh during a cultural performance in the city of Hyderabad. Ethnic-linguistic separatist groups were active in numerous attacks in Northeastern India, particularly in the states of Assam, Nagaland, Manipur, Tripura, and Meghalaya.

Several terrorist groups such as ULFA and People's Liberation Army were active in northeastern part. At least 850 died in conflicts between dozens of insurgent groups and security forces, and in internal conflicts. The government felt very tight handed to provide security and check these leftist and northeastern extremists' attacks because of their operation in remote areas, and inhospitable terrain. These groups increased the level of sophistication of attacks by using satellite phones and sophisticated IEDs this year.

In 2008, India's rank among the world's most terrorism-afflicted countries was continuing. On November 26, which is also known as '26/11', terrorists struck at a variety of locations in Mumbai on November 26, killing at least 183 people, including 22 foreigners, six of whom were Americans and 14 members of the police and security forces. Over 300 were injured.

The place chosen for attacks in Mumbai were the places frequented used by foreigners and wealthy Indians. The route to enter Mumbai for attackers was through sea and attacked people in two hotels, a Jewish center, the main train station, and additional locations. The terrorists appeared to have been well-trained and took advantage of technology, such as Global Positioning System trackers. Local and state police proved to be poorly trained and equipped, and lacked central control to coordinate an effective response. This attack was the most recent in a long list of lethal terrorist incidents this year. Among the major events:

May 13	Jaipur experienced serial bomb blasts at crowded market areas and at Hindu temples. At least 60 people were killed, and more than 150
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	injured.
June 29	Maoist insurgents attacked and killed 33 security forces in Malkangiri district in the eastern state of Orissa.
July 7	Indian interests were attacked in Afghanistan when terrorists drove a vehicle-borne IED into the outer perimeter of the Indian Embassy in Kabul on July 7. Two Indian diplomats died, and a number of Afghan citizens were wounded.
July 25	Serial bombs were set off in Bangalore in both business and industrial areas. At least one individual died, while eight were injured.
July 26	In Gujarat's capital, Ahmedabad, 21 devices exploded killing 54 and injuring at least 156. These explosions took place in market areas, on buses and other vehicles, and at the hospital to which the wounded from the first serial bomb blast were being treated.
September 13	Terrorists detonated serial bombs in New Delhi in a variety of market places and other crowded public areas. These attacks killed at least 20 individuals and wounded more than 80.
October 30	Insurgents detonated a series of nine bomb blasts throughout the northeastern state of Assam killing approximately 110 people.

None of the perpetrators of these attacks has yet been prosecuted. The Indian government assessed that South Asian Islamic extremist groups including Lashkar-e-Tayyiba, Jaish-e-Mohammad, and Harakat-ul-Jihad-i-Islami (Bangladesh) as well as indigenous groups were behind these events. Eastern India had a long history of Maoist (left-wing extremism), and insurgent terrorist activity that has challenged state writ and control, governance structures, and the government. There were 50 terrorist attacks in Eastern India that killed approximately 500 peoples.

Insurgent groups in the northeast were active to fight for recognition, political, and economic rights, or independence, as they claim. Failure to properly accommodate the competing interests of diverse ethnic groups, low levels of development, and the success of previous insurgent movements in creating new Indian states were cited as helpful factors for these activities. The Government of India banned United

Liberation Front of Assam (ULFA) which was involved in several terrorist attacks, including the bicycle bomb blast on September 18 in Chirang district, resulting in 20 injuries and the October 30 serial blasts.

The Communist Party of India (Maoists), commonly referred to as Maoist/Naxalites, were active in the states of Chhattisgarh, Andhra Pradesh, Karnataka, Orissa, Bihar, Jharkhand, and West Bengal, the so-called "Red Corridor." Companies, Indian and foreign, operating in Maoist strongholds were sometimes targets for extortion.

State governments expressed interest in augmenting their security forces by either creating or buttressing state-level assets, or hosting central level units to address the increased terrorist threat. Chhattisgarh government invested in counterinsurgency training for police and paramilitary forces at its Jungle Warfare Training Center. However, there is no clear unified command structure between state and federal forces in counterinsurgency efforts, which hampers their efficiency.

Specifically in response to the Mumbai attacks, the Indian government has brought the National Investigative Agency, to create national-level capability to investigate and potentially prosecute. Some existing laws were amended to strengthen security's hand and law enforcement agencies in combating terrorism. Illicit funding sources that may have been exploited to finance terrorist operations were being closely investigated. Indian authorities believe that the Mumbai terrorists used various funding sources including credit cards, hawala, charities, and wealthy donors. In addition to the Mumbai attacks, the rise in terrorist attacks and their coordinated nature throughout India suggested the terrorists were well-funded and financially ordered.

Indian officials, particularly in West Bengal and Assam, were concerned about the porous India-Bangladesh border; of which only 2500 of the 3000 km land border has been fenced (total land and water border is 4100 km). India's inability to protect its porous maritime border has been under media scrutiny since it came to light that the November 26 Mumbai attackers arrived by sea. In Tamil Nadu, India's security

agencies, acknowledged that the government was unable to monitor sufficiently the thousands of small commercial fishing vessels that ply the waters between India and Sri-Lanka.

## ***1.6 Convergence of India and US's Interests***

India is one of the most terrorism afflicted countries in the world<sup>40</sup>. The nature of terrorism in India is very complex as it is afflicted not only with external or cross-border terrorism but also internal separatist forces. As one of the world's most ethnically, linguistically, and religiously diverse countries, India has dealt with numerous separatist and insurgent movements over the past 30 years, including a Sikh uprising in the state of Punjab in the 1980s, a Muslim separatist movement in the state of Jammu and Kashmir from 1989 to the present, and various ethnic separatist movements in the northeastern states.

Another challenge the Indian government facing is the leftist extremist movement (Maoist and Naxalite) that is spreading in the rural areas of eastern and central India. India has more strategic vulnerability in its Northwest than any other part. Nepal, Bangladesh and Sri Lanka present enormous challenges in view of terrorism situation in their territories, but Pakistan linked with China remains central to India's core strategic concerns and has suffered at the hands of Pakistan sponsored terrorists for a long time over two decades.

Internal instability resulting from diversity is further complicated by colonial legacies such as international borders that separate members of the same ethnic groups, creating flash points for regional dissidence and separatism. India has long sought to sensitize the international community on the dangers of terrorism in Kashmir, which

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<sup>40</sup> Country Report on Terrorism. 2007

could not be tackled without certain amount of international cooperation. It has also warned about the rising threat of terrorism to regional security.

India's experience of being the target of externally promoted terrorism, particularly after the IC814 hijack (December 1999) and Kargil intrusions (May 1999), provided the context behind the need to set up a mechanism of cooperation for the United States, which too had witnessed attacks by Al Qaida on its interests in the East African capitals of Dar es Salaam (Tanzania) and Nairobi (Kenya) in 1998. The establishment of the US-India Counter-terrorism Joint Working Group (CTJWG) in January 2000 was essentially viewed as a 'confidence building measure' to tackle the menace of terrorism.<sup>41</sup> The developments of this cooperation will be discussed in the next chapter.

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<sup>41</sup> D'Souza, Shanthie Mariet "Indo-US Counter-Terrorism Cooperation: Rhetoric Versus Substance", *Strategic Analysis*, 2008.



## Chapter 2

# Indo-US Counter Terrorism Agreements

### *2.1 Background Of Indo-US Counter Terrorism Cooperation*

India, the world's largest democracy could never enjoy a smooth relationship with the world's oldest democracy. Thus indicating that sharing the same value system cannot be the cementing agent to hold states together in international relations. A historic look at the present U.S. policies clearly indicates a shift towards India.

Cooperation between India and the United States in the area of terrorism can be traced back to early 1980s when India experienced the problem of insurgency in Punjab. During this time the Indian intelligence officers received training in anti-hijacking and hostage negotiation techniques from their American counterparts.<sup>1</sup> Rajiv Gandhi, the then Indian Prime Minister, visited the United States in June 1985. It was during his visit that the exchange of intelligence began when the U.S. Federal Bureau of Investigation (FBI) shared information of a plot to assassinate him. India continued to face state-sponsored terrorism by Pakistan in Indian Kashmir, even in late 1980s and the early 1990s but it was never accepted publicly by the US.

In January 1992, counter terrorism experts from the U.S. Central Intelligence Agency (CIA) and the Indian Research & Analysis Wing (RAW) began yearly brainstorming sessions on terrorist threats and assessments.<sup>2</sup> India experienced one of the gravest terrorist events in the form of serial blasts in Bombay in March 1993 but US did not extend any support to India. During the same year (1993), the U.S. State Department warned Pakistan on account of its alleged support of terrorist activities in Kashmir and

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<sup>1</sup> Manjeet S. Pardesi, Counterterrorism Cooperation with the United States and Japan: An Indian Perspective. [http://csis.org/files/media/isis/pubs/090201\\_bsa\\_pardesi.pdf](http://csis.org/files/media/isis/pubs/090201_bsa_pardesi.pdf)

<sup>2</sup> Ibid.

Punjab. In addition to this she was put under "active continuing review" in order to determine whether it should be placed on the terrorist state list.<sup>3</sup> However, according to the State Department, Pakistan implemented "a policy of ending official support for terrorists in India", and hence it was removed from the informal terrorist watch list. The State Department terrorism report, 1994 which was released in April 1995, stated that there were credible reports in 1994 of official Pakistani support to Kashmiri militants who undertook attacks of terrorism in Indian-controlled Kashmir.<sup>4</sup>

Indo-U.S. relations escalated slowly as the two sides worked together when two American tourists were abducted in Kashmir in 1995 by terrorists belonging to the group Harkat-ul-Ansar (HUA) and operating under the name Al Faran. One of the Americans managed to escape while the other was possibly killed. After this event the cooperation between India and the U.S. intensified and in 1997 both the countries signed an Extradition Treaty. This led to the extradition of several Sikh militants wanted for violent acts in India.<sup>5</sup>

The trend of U.S. coming closer to India can be observed during the second term of President Clinton. Pakistan waged a war against India by attacking the place called Kargil in Kashmir in 1999. The US managed to signal its stand on the Kargil issue to India and proved it through intelligence sharing. This positive attitude was the biggest gain for India as far as its diplomacy was concerned and this eventually paved the way for building a new level of political confidence between New Delhi and Washington.

In this event the U.S. not only pressured Pakistan to withdraw its troops from Kargil, but

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<sup>3</sup> The terrorist state list is maintained pursuant to Section 6(j) of the Export Administration Act of 1979, currently includes Cuba, Iran, Iraq, Libya, North Korea, and Syria. When a state is placed on the terrorist list, it is ineligible for U.S. aid; and U.S. representatives are required to vote against any loans to that country by the multilateral lending agencies, such as the World Bank and the International Monetary Fund. Section 505 of the International Trade and Security Act of 1985 also authorizes the banning of imports of goods and services from any country supporting terrorism.

<sup>4</sup> LePoer, Barbara Leitch, Pakistan-U.S. Relations, *CRS Issue brief*, Updated November 7, 1996.

<sup>5</sup> Pardesi, Manjeet S. Counterterrorism Cooperation with the United States and Japan: An Indian Perspective. [http://csis.org/files/media/isis/pubs/090201\\_bsa\\_pardesi.pdf](http://csis.org/files/media/isis/pubs/090201_bsa_pardesi.pdf)

also chided Pakistan for its role in promoting terrorism.<sup>6</sup> Both the countries moved one step closer when, the American coordinator for counter-terrorism, Michael A. Sheehan, visited India in September 1999 and proposed for setting up a permanent FBI office in Delhi, which was accepted by India in principle. This concretised regular training for Indian security personnel on anti- terrorism operations.<sup>7</sup>

In the same year, in December, an Indian Airlines flight was hijacked from Kathmandu, Nepal to Kandahar, Afghanistan by five Pakistani citizens with links to Harkat-ul-Mujahdeen (HUM). The hijackers demanded the release of three militants imprisoned in Indian jails and who were linked to Jihadi organizations in Pakistan.<sup>8</sup> Congressman, Frank Pallone condemned this act and said, "I hope this incident will alert the world to the threat India faces from this terrorist movement and that Pakistan must be held accountable for contributing to this violence and instability. There should be more pressure brought to bear on Pakistan to be part of the solution, instead of continuing to exacerbate this problem". He also added that the incident demonstrated the need for the U.S. to upgrade its cooperation with India on counter-terrorism efforts.<sup>9</sup>

This incident once again compelled India to demand Pakistan be declared a state sponsor of terrorism. The United States denied the Indian request but immediately established a Joint Working Group (JWG) in January 2000 to counter terrorism after high-level talks in London between the then Indian Foreign Minister, Jaswant Singh and U.S. Deputy Secretary of State, Strobe Talbott. Counterterrorism cooperation became an important factor in U.S. policy towards India, and demonstrated the growing trust between the two countries. The group has met eleven times since its inception in January 2000. The developments in this bilateral relationship can be seen through series of agreements done between the two countries.

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<sup>6</sup> Nautiyal, Annapurna, Current Trends in India-U.S. Relations: Hopes for a Secure Future, *Strategic Insights*, Volume V, Issue 4 (April 2006)

<sup>7</sup> Joseph, Josy, FBI to set up office in Delhi, train Indian personnel, New Delhi, Sept. 29, 1999. <http://www.rediff.com/news/1999/sep/29fbnews>

<sup>8</sup> See [http://www.indianembassy.org/archive/IC\\_814.htm](http://www.indianembassy.org/archive/IC_814.htm)

<sup>9</sup> Ibid.

## ***2.2 Indo-U.S. CTJWG Joint Statements***

As both India and the United States have a shared interest in strengthening a regime to counter international terrorism, this working group is intended to enhance the effectiveness of the efforts taken in this direction. The inaugural meeting of the U.S.-India Counter-terrorism Working Group which was held on February 8, 2000 in Washington, DC, included an inter agency group of counter terrorism and law enforcement officials from both the countries. Concerned about the growing menace of international terrorism, extremism, and drug trafficking the two sides unequivocally condemned all acts, methods, and practices of terrorism as criminal and unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious, or any other nature that may be invoked to justify them. It was agreed upon to intensify the joint cooperation to ensure that the perpetrators of the hijacking of Indian Airlines Flight 814 are brought to justice, as part of their joint efforts to combat international terrorism. The Indian government agreed to the U.S. offer of Anti terrorism Assistance programs, though the specifics of the programme were to be determined in future visits. It was also decided to convene a meeting of each side's legal experts in April, 2000 to discuss the Indian-proposed U.N. Terrorism Convention. Inter-agency teams from the two countries agreed on a range of counter terrorism measures which included sharing of experience, exchange of information, and coordination of approaches and action.<sup>10</sup>

The second meet which was held in the same year between September 25 and 26 in New Delhi continued as a part of the wide ranging architecture of institutional dialogue established by the U.S and India. This time the leaders of both the countries decided to expand the mandate of the Joint Working Group to include discussion on the issues such as narco-terrorism and Afghanistan. The delegations included an inter agency group of

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<sup>10</sup> [http://www.indianembassy.org/pic/PR\\_2000/feb\\_2000/pr\\_feb\\_08\\_00.htm](http://www.indianembassy.org/pic/PR_2000/feb_2000/pr_feb_08_00.htm)

counter-terrorism and narco-terrorism law enforcement officials. This meeting echoed the concern expressed in the inaugural meeting. The Group expressed support for a comprehensive UN Convention on terrorism and hoped for an early international consensus on the text of the proposed convention in the Sixth Committee of the UN. The Indian government welcomed further Anti-terrorism assistance programmes from the U.S. along with the increased levels of counter narcotics training and assistance. As in the first meet, the inter-agency teams from the two countries, in this meet also agreed on a range of measures including sharing of experience, exchange of information and coordination of approaches and action in order to combat international terrorism.<sup>11</sup>

The third meeting of the U.S.-India Counterterrorism Working Group was held in Washington, D.C. on June 26, 2001. Repeating the same concern expressed in the previous meets, both the countries agreed that the policies of the Taliban continue to foster terrorism that threatens the interest of both countries, as well as regional and international stability. They affirmed their support for United Nations Security Council Resolutions 1267 and 1333 imposed on the Taliban for supporting terrorism, harboring Usama bin Ladin and failing to close down terrorist training camps in Afghanistan. They agreed on the critical importance of the effective implementation of these resolutions, including through an appropriate monitoring mechanism. In addition, the two sides continued consultations on the India-proposed Comprehensive Convention against International Terrorism being discussed in the Sixth Committee of the UNGA, and reiterated support for its early finalization.

The Indian side welcomed the U.S. decision to qualitatively upgrade and widen the scope of the Antiterrorism Training Assistance Program, in connection with which the two sides agreed to hold a joint survey later this year. The Indian side welcomed the U.S. offer to share experience and expertise in strengthening counterterrorism institutional structures in India. Interagency teams from the two countries decided to enhance exchange of information and strengthen coordination of approaches and actions in

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<sup>11</sup> [http://www.indianembassy.org/indusrel/jwg\\_terrorism\\_september\\_26\\_2000.htm](http://www.indianembassy.org/indusrel/jwg_terrorism_september_26_2000.htm)

combating international terrorism. The two sides welcomed the fact that the two governments had reached ad referendum agreement on the text of a mutual legal assistance treaty, and agreed to recommend to their respective governments that the treaty be signed as soon as possible.<sup>12</sup>

The fourth meeting, held on 21-22 January 2002, recalled that India and the United States have been victims of terrible acts of terrorism since their last meeting in June 2001. The delegations expressed satisfaction with their cooperation in response to the terrorist attacks in the United States on 11 September and on the Indian Parliament on 13 December last year. They reaffirmed their commitment to strengthen this cooperation and also noted that all countries have the obligation to cooperate in bringing terrorists to justice. They welcomed the new international resolve, commitment and partnership in combating the menace of terrorism and expressed satisfaction with the progress in the global war against terrorism, but recognised that the campaign will be long drawn and multi-faceted, involving political, diplomatic, military, intelligence and financial measures. It was emphasised that success in the war against terrorism depended heavily on international cooperation as well as national commitment to renounce use of or support to terrorism.

Condemning all acts of terrorism, both the countries, reaffirmed their nations' commitment to cooperate to prevent acts of terrorism and to eradicate terrorist organisations, which are a threat to international peace and security. A strong support was expressed for the full implementation of UNSC Resolution 1373 of September 2001, which provides for a comprehensive approach for sustained global and regional cooperation, national responsibility and building domestic capabilities in combating terrorism.

The fourth and the fifth meets conveyed a message that the resolve of India and the United States to fight terrorism has never been stronger, and their commitment to

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<sup>12</sup> [http://www.indianembassy.org/indusrel/2001/jwg\\_jun27\\_01.htm](http://www.indianembassy.org/indusrel/2001/jwg_jun27_01.htm)

intensify bilateral cooperation in this endeavour was deeper than ever before. The delegations reviewed the international terrorism situation, including in South Asia, Central Asia and Southeast Asia. They shared their assessment of the impact of the military, financial and other measures taken against terrorist groups and networks after September 11 and December 13. They exchanged information on legislative, institutional and law enforcement steps that the two governments are taking to strengthen homeland/internal security and agreed to further share experience in this regard at the next meeting of the Joint Working Group. Experts on the two sides had detailed discussions on financing of terrorist activities and agreed that the widespread use of informal channels for financial flows presents a special challenge to governments. They agreed that closer cooperation and strengthening mutual capabilities in cutting off financial flows to terrorist organizations will constitute an important component of this counter-terrorism cooperation.

Counter-terrorism officials on the two sides reviewed the anti-terrorism training and capacity building programmes conducted by the United States. The Indian side welcomed U.S. offer to further expand the programme, covering preventive, protective and consequence management capabilities in both conventional and WMD terrorism. The Indian delegation also welcomed the U.S. pilot project involving equipment and technology to strengthen border management and surveillance. The delegations also discussed forensic cooperation. In addition, the two sides added aviation security to their expanding counter-terrorism agenda. Indian and U.S. officials discussed ways to further strengthen their intelligence and investigative cooperation, including the possibility of access to each other's databases on terrorists.

A Joint Initiative was launched on Cyber-terrorism, and the delegations welcomed the decision of the India-U.S. Defence Policy Group in December 2001 to add a new emphasis in their defence cooperation on counter-terrorism initiatives, including expanding mutual support in this area.<sup>13</sup>

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<sup>13</sup> <http://mea.gov.in/pressrelease/2002/01/22pr02.htm>

The year, 2001 has been a watershed for the two democracies in confronting the challenge of terrorism. During this period they have broadened their exchange of information and assessments on the international and regional terrorist situation, strengthened intelligence and investigative cooperation, qualitatively upgraded and expanded anti-terrorism training programmes for Indian law enforcement officials, signed a Mutual Legal Assistance Treaty, launched a bilateral Cyber Security Forum, with a wide-ranging programme of action to address cyber terrorism and information security, introduced military-to-military cooperation on counter terrorism to supplement the initiatives of the India-US Defence Policy Group in this area, worked together closely on multilateral initiatives on terrorism, including on the implementation of UNSC Resolution 1373, initiated dialogue and cooperation in homeland/internal security, terrorist financing, forensic science transportation security and border management; and took concrete steps to detect and counter the activities of individual terrorists and organisations of concern to the two countries. The delegations also discussed the nexus between weapons of mass destruction, proliferation and terrorism.

The delegations reviewed their cooperation in the areas of anti-terrorism assistance and capacity building programmes conducted by the United States, border monitoring, military-to-military cooperation, law enforcement exchanges and legal assistance, internal/homeland security, counter terrorism finance and money laundering operation, transportation and aviation security and cyber terrorism. Both sides also agreed to continue their dialogue on technology tools for enhancing border management.<sup>14</sup>

The Sixth meeting on August 31-September 1, 2004 in New Delhi shared assessments about the increase in arms and narcotics trafficking in the region and the linkages between trafficking in narcotics and financing of terrorism, exchanged information on the law enforcement, legislative, financial and other measures taken in the field of counter-terrorism. The US side reiterated support for India's early membership to the

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<sup>14</sup> [http://www.indianembassy.org/press\\_release/2002/jul/12.htm](http://www.indianembassy.org/press_release/2002/jul/12.htm)



International Financial Regulatory Institutions (FATF/EGMONT Group). Training and capacity building programmes were discussed and both sides agreed to continue their on-going cooperation in this field and also explore the possibility of cooperation in new areas of mutual interest. It was agreed to look for ways to further ongoing cooperation against narcotics trafficking and the financing of terrorism and work towards early ratification and implementation of the Treaty on Mutual Legal Assistance. Perspectives were exchanged on multilateral efforts to counter-terrorism. Both sides agreed that the institutional mechanism set up by the UN Security Council should continue to be strengthened. The on-going cooperation in counter-terrorism was reiterated, in particular in areas of capacity building, exchange of information and intelligence and regular sharing of assessment of emerging trends and concerns relating to international terrorism.<sup>15</sup>

The seventh meeting of the India-US Joint Working Group on Counter terrorism discussed advanced US-India cooperation in areas of common concern such as bioterrorism, aviation security, advancements in biometrics, cyber-security and terrorism, WMD-terrorism, terrorist finance and money laundering and violent extremism. Both sides agreed to share information on a real time basis, respond to counterterrorism assistance requests expeditiously and collaborate to upgrade preparedness and capability to deal with acts of terrorism. Joint counterterrorism exercises were scheduled and specific training programs in priority areas developed. The delegations also focused on improving the current mechanisms for extradition and legal cooperation.<sup>16</sup>

On February 28, 2007, the Indo-U.S. joint working group on counter terrorism met in New Delhi and discussed regional counter terrorism efforts, threat assessments in South Asia and the Middle East, bioterrorism, weapons of mass destruction, and the on-going Anti-terrorism Assistance Training Program. The two parties also discussed terrorist finance and money laundering, the ideological dimensions of terrorism, information

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<sup>15</sup> <http://meaindia.nic.in/speech/2004/09/01js01.htm>

<sup>16</sup> <http://www.state.gov/r/pa/prs/ps/2006/64967.htm> 12/8/2008

sharing, and widened cooperation for preventing terrorist acts. There was agreement to find new ways to forge institutional linkages to foster closer interaction and cooperation. They concurred that no country today is safe from terrorism and the cooperation between India and the United States not only strengthens the fight against the scourge of terrorism, but is a symbol of the way in which like-minded democracies can work together as partners in countering the global menace of terrorism.<sup>17</sup>

The Indo-US joint working group on counter-terrorism, which met in Washington on November 30, 2007, talked about bilateral cooperation in fighting the global menace of terrorism and asked the international community to come together to combat it in a sustained and comprehensive manner. Both the countries appealed all states to abide by their commitment under the United Nations Global Counter Terrorism Strategy adopted by the UN General Assembly in September 2006. The tenth meet repeats the earlier discussions on host of issues like regional counter-terrorism efforts, threat assessments in South Asia, Middle East and South East Asia, bio-terrorism, anti-terrorism assistance training programme and co-operation in the field of forensic epidemiology. Other issues discussed were, terrorist financing and money laundering, ideological dimensions of terrorism, information sharing and widened cooperation for preventing terrorist acts.<sup>18</sup>

Delegates from the United States and India, in the eleventh U.S.-India Counter terrorism Joint Working Group on June 17, 2009 focused on assessing the global terrorist threat, fighting terrorism through technological advancements, and counterterrorism cooperation between India and the United States. Other issues discussed included terrorist finance and money laundering, capacity building, and expanded information sharing. Both sides agreed to identify measures to strengthen institutional linkages leading to closer interaction and cooperation.<sup>19</sup>

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<sup>17</sup> <http://newdelhi.usembassy.gov/pr022807.html>

<sup>18</sup> <http://www.rediff.com/news/2007/nov/30terror.htm>

<sup>19</sup> <http://www.state.gov/r/pa/prs/ps/2009/06a/125098.htm>

### ***2.3 Analysis of the Joint Indo-U.S. Statements on Counterterrorism Working Group***

In January 2000, the United States and India agreed to establish a Joint Working Group on Counter-terrorism as a part of the wide ranging architecture of institutional dialogue established by the two sides during the visit of President Clinton to India in March 2000. This group is seen as a useful mechanism by both sides to get a first hand understanding of each other's specific concerns.

The inaugural meeting of the U.S.-India Counter-terrorism Working Group was held on February 8, 2000 in Washington DC. Ambassador Michael A. Sheehan, U.S. Coordinator for Counter-terrorism and Joint Secretary Alok Prasad of the Ministry of External Affairs headed the delegations of US and India respectively. Both the parties expressed concern at the growing menace of international terrorism, extremism, and drug trafficking and unequivocally condemned all acts, methods, and practices of terrorism as criminal and unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious, or any other nature that may be invoked to justify them. Inter-agency teams from the two countries agreed on sharing experience, exchange information, and coordinate approaches and action as the working group is intended to enhance the effectiveness of counter terrorism efforts worldwide.

Expressing satisfactions with their cooperation in response to the terrorist attacks in the United States on 11 September and on the Indian Parliament on 13 December, they reaffirmed their commitment to strengthen this cooperation and also noted that all countries have the obligation to cooperate in bringing terrorists to justice. Strengthening mutual capabilities in cutting off financial flows to terrorist organisations was also taken as an important component of this cooperation. India and the US both agreed to intensify their joint cooperation to ensure that the perpetrators of the hijacking of Indian Airlines Flight 814 are brought to justice, as part of their joint efforts to combat international

terrorism. The Indian government agreed to the U.S. offer of Antiterrorism Assistance programs.

In addition to this both the countries strengthened intelligence and investigative cooperation, Qualitatively upgraded and expanded anti-terrorism training programmes for Indian law enforcement officials, signed a Mutual Legal Assistance Treaty, launched a bilateral Cyber Security Forum, with a wide-ranging programme of action to address cyberterrorism and information security, introduced military-to-military cooperation on counterterrorism to supplement the initiatives of the India-US Defence Policy Group in this area, worked together closely on multilateral initiatives on terrorism, including on the implementation of UNSC Resolution 1373, initiated dialogue and cooperation in homeland/internal security, terrorist financing, forensic science transportation security and border management, and taken concrete steps to detect and counter the activities of individual terrorists and organisations of concern to the two countries. US side reiterated support for India's early membership to the International Financial Regulatory Institutions (FATF/EGMONT Group).

Cooperation in areas of common concern such as bioterrorism, aviation security, advancements in biometrics, cyber-security and terrorism, WMD-terrorism, terrorist finance and money laundering and violent extremism were also part of the agreements. Joint counterterrorism exercises were scheduled and specific training programs in priority areas were developed. The delegations also focused on improving the current mechanisms for extradition and legal cooperation. They also agreed to find new ways to forge institutional linkages to foster closer interaction and cooperation. They concurred that no country today is safe from terrorism and the cooperation between India and the United States not only strengthens the fight against the scourge of terrorism, but is a symbol of the way in which like-minded democracies can work together as partners in countering the global menace of terrorism.

## Chapter 3

### America's Response to Indian Terrorist Episodes

A series of counter terrorism agreements between the U.S. and India has strengthened the relations between both the countries and also imparted a sense of responsibility towards each other to combat terrorism. The evaluation of the nature of counter terrorism cooperation can be done on the basis of U.S's response to the various attacks that took place in India after the formation of the Counter Terrorism Joint Working Group, (CTJWG) in the year 2000. Both the countries came closer through bilateral agreements only in 2000, but the support for dealing with terrorism can be seen even before that.

Let's take a look at a few episodes of terrorist attacks in India and how the U.S. responded to it.

#### *3.1 The Kargil War of 1999 between India and Pakistan*

India and Pakistan had reached some understanding on placing of armies on the frontier. Traditionally the armies of both the countries withdrew from their most advanced positions in the mountains to avoid the difficulties of manning them during the winter and then returned to them in the spring. The two armies respected each other's deployment pattern and did not try to take advantage of this seasonal change. But in the spring of 1999 the Pakistanis sought to gain a strategic advantage in the northern front of the LOC in a remote part of the Himalayas called Kargil. In the winter of 1999, cheating on the tradition, Kashmir militants, backed by Pakistan and regular army units moved early into the evacuated positions of the Indians and thus gained a significant tactical advantage over the only ground supply route Indian forces used to bring in supplies to the most

remote eastern third of Kashmir.<sup>1</sup> The former Pakistan leader, Gen. Musharraf, who led this operation, has disclosed in an interview in July 2009 that regular Pakistan army soldiers were involved. Therefore, the issue of Kashmir militant is clearly fake.

This Pakistani military incursion came after the then Prime Minister, Atal Bihari Vajpayee had made a bold effort in early 1999 at reconciliation with Pakistan by traveling by bus to the Pakistani city of Lahore for a summit with Nawaz Sharif. The spirit of Lahore was intended to be the mechanism for breaking the two giants of south Asia out of their half century of violence and fear and moving the subcontinent to a better future. Instead, the Indians felt betrayed, deceived and misled by Pakistan and were determined to recover their lost territory. By the end of June 1999, the situation started deteriorating as the two parties were engaged in an intense conflict along the Kargil front and both were mobilizing their forces for larger conflict. The casualties were also mounting on both the sides. As the Indian forces made progress against the Pakistanis and their militant allies, Nawaz Sharif urgently requested American intervention to stop the Indian counterattack.

Washington was firm and quickly made its view clear that Pakistan should withdraw its forces back behind the Line of Control immediately. Karl Inderfurth and Undersecretary Thomas Pickering conveyed this view privately to the Pakistani and Indian ambassadors in Washington in May 1999 but the message did not work and so the U.S. went public and called upon Pakistan to respect the LOC. The Clinton administration took a strong position on the Kargil incursion and for the first time there was open acknowledgment that the militants are supported, supplied and sustained by Pakistan. Karl Inderfurth, Assistant Secretary of State for South Asia, and the key official dealing with the crisis in the State Department, clearly said that the "Indians are not going to cede this territory" and the militants must leave. He also told *The New York Times*, "They have to depart,

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<sup>1</sup>Riedel, Bruce (2002) "American Diplomacy and the 1999 Kargil Summit at Blair House".  
URL: <http://www.sas.upenn.edu/casi>

either voluntarily or because the Indians take them out."<sup>2</sup>

Bill Clinton sent letters to each pressing for a Pakistan's withdrawal and Indian restraint. It came as a surprise to both the countries because Pakistan assumed that the U.S. would always back them against India and India could not believe that the U.S. would judge the crisis on its merits, rather than side automatically with its long time Pakistani ally.

On July 2, 1999, Prime Minister, Nawaz Sharif , through telephonic conversation with Bill Clinton appealed for American intervention immediately to stop the fighting and to resolve the Kashmir issue. The President was very clear and said that he could help only if Pakistan first withdrew to the LOC. Clinton also consulted with Indian Prime Minister Vajpayee on the phone and reassured him that the U.S. would not stand for Pakistani aggression and would not reward them for violating the LOC. Vajpayee was adamant and was not ready for any negotiation under threat of aggression.

On the July 3, 1999, when Nawaz Sharif requested for a meeting with Clinton in Washington in order to solve the Kargil problem, the President repeated his caution — “Come only if you are ready to withdraw, I can't help you if you are not ready to pull back”.<sup>3</sup> This crucial pro-India stand taken by the Clinton Administration was an important signal to New Delhi and its foreign policy, especially dealing with the Kashmir issue. The clarity of the American position on Kargil and its refusal to give Pakistan any reward for its aggression had an immediate and dynamic impact on the relationship. Clinton's visit, after a quarter century gap in Presidential visits to India, symbolized a new level of maturity in the relationship between the world's two largest democracies.

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<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

### ***3.2 Hijacking of Indian Airlines Flight IC-814, 1999***

On December 24, 1999 Indian Airlines Flight IC-814 took off from Kathmandu at 4.15 pm (IST). The traffic control reported as asserting that shots were heard on the plane. The five armed hijackers made the pilot, Captain Saran to divert the plane over Lucknow and head for Lahore in Pakistan. When the Lahore airport authorities refused to permit the aircraft to land, they forced the pilot to head it back to Amritsar in India. The plane landed at Amritsar and the hijackers demanded that the aircraft be refueled. The airport was sealed off and the airport authorities sent a tanker for refueling, but due to some problem they sought that the aircraft be brought closer to the tank. After a 25-minute wait, the hijackers made the aircraft take off and killed a passenger, Mr. Katyal. They headed for Lahore, with just enough fuel for the trip. India persuaded the Pakistani authorities to permit the aircraft to land. Lahore airport was sealed off.

It was refueled and then headed for Kabul. But because of the lack of night-landing facilities in Kabul, the plane was diverted towards Dubai. It finally landed at the Al-Minhat air force base. The hijackers demand food, medicines and a step ladder since none was available. The UAE officials agreed to negotiate if the women and children are allowed to disembark. The hijackers release 25 passengers, and allowed the body of Mr. Katyal to be released to the UAE authorities.

The flight took off from Dubai for Afghanistan at the early hours on December 25, 1999 and landed at Kandahar at 0855 hours. Senior Indian officials opened talks with the hijackers to secure the release of hostages. The hijackers initially demanded the release of Mohammad Masood Azhar, who was serving jail sentence in India for terrorist activities. Azhar was a Pakistani national and also the General Secretary and ideologue of the Harakat-ul-Mujahideen (HUM), an organization based in Pakistan which was in October 1997 designated as a Foreign Terrorist Organization by the United States Department of State. Later, the hijackers of the Indian Airlines flight IC-814 demanded the release of 35 other jailed terrorists besides Mohammad Masood Azhar and US \$200 million for the



release of 154 hostages. The hijackers also demanded that the body of Harkat-ul-Ansar chief in Jammu & Kashmir Sajjad Afghani be exhumed and the coffin be handed over to them. Later the hijackers dropped their demands for a \$200 million ransom and the exhumed remains of Afghan terrorist Sajjad Afghani.

India released three jailed Islamic terrorists and flew them to Afghanistan, where they were exchanged for the hostages aboard the Indian Airlines flight. Jaswant Singh, External Affairs Minister went to Afghanistan and received the passengers. The passengers were flown back to New Delhi on December 31, 1999. On January 6, 2000, the hijackers were identified as Pakistani nationals with links to ISI, an intelligence organization of the Pakistan Government.

On December 27, 1999 the United States Government condemned in the strongest terms the hijacking of Indian Airlines flight 814 and the holding of 160 passengers as hostages since December 24. They considered this terrorist act as inhuman and called for the immediate safe release of all hostages. Obviously, the hijackers were responsible for the safety of the hostages they were holding.

The press statement by James B. Foley, Deputy Spokesman on December 31, 1999 said, "We join India and those other countries affected by the hijacking of Indian Airlines Flight 814 in welcoming home the hostages who were released December 31. We reiterate our condemnation of this horrific and inhuman act.

We are gratified that the hijacking was resolved with no additional loss of life. Our sympathy goes out to the family of Mr. Katyal, the Indian national who was killed during the hijacking. We wish to acknowledge the important role played by the United Nations and the International Committee of the Red Cross, which provided valuable humanitarian support to alleviate the plight of the hostages during this ordeal.

We were in close touch with the Indian government during this incident and were impressed by the tireless efforts of Prime Minister A.B. Vajpayee, External Affairs Minister Jaswant Singh, and other Indian officials to resolve the incident. We will continue to work with India and others to strengthen our cooperation to combat international terrorism.

The release of the hostages is not the end of the matter. We will work with other governments to see that those responsible are brought to justice. In this connection, all parties to the relevant international convention on aircraft hijacking are obliged to prosecute or extradite those who committed this hijacking and the murder of Mr. Katyal during the course of it. This should be our highest priority in the days ahead<sup>4</sup>.

On December 31, 1999 Rep. Frank Pallone, strongly condemned the hijacking and warned of the danger of the armed separatist movement operating in India's state of Jammu and Kashmir. He also said that the incident demonstrated the need for the U.S. to upgrade its cooperation with India on counter-terrorism efforts. He also added that the hostage situation was linked to the militant movement waging a campaign of terror and violence against both military and civilian targets in an effort to end Indian governance of Kashmir. Pakistan has acknowledged its "political and moral" support for the separatist movement, but Pallone has frequently charged that Pakistan's support goes far deeper. He hoped this incident would alert the world to the threat India faced from this terrorist movement and believed that Pakistan must be held accountable for contributing to this violence and instability. There should be more pressure brought to bear on Pakistan to be part of the solution, instead of continuing to exacerbate this problem.<sup>5</sup>

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<sup>4</sup> See [http://www.indianembassy.org/archive/IC\\_814.htm](http://www.indianembassy.org/archive/IC_814.htm)

<sup>5</sup> Ibid.

### ***3.3 Attack on Indian Parliament***

On December 13, 2001 terrorists attacked the Parliament of India resulting in a 45-minute gun battle in which 9 policemen and parliament staffer were killed. The attack took place around 11:40 am (IST), minutes after both Houses of Parliament had adjourned for the day. Senior Ministers and over 200 Members of Parliament were inside the Central Hall of Parliament when the attack took place. The suspected terrorists dressed in commando fatigues entered Parliament in a car through the VIP gate of the building. Displaying Parliament and Home Ministry security stickers, the vehicle entered the Parliament premises. The terrorists set off massive blasts and used AK-47 rifles, explosives and grenades for the attack. All the five terrorists were also killed by the security forces and were identified as Pakistani nationals<sup>6</sup>. The situation on both the sides got heated up, severing transportation links between Pakistan and India, and each country ordered the other to cut its diplomatic staff by half.

Indian minister for External affairs, Mr. Jaswant Singh said that attack on Parliament was not just an attack on the “stones and mortars of a building called Parliament but on the very sovereignty of India.” He also added that India had patience, but “it is not infinite”. On December 26, 2001 Secretary of State Colin Powell added to the U.S. foreign terrorist list the Lashkar-e-Taiba and the Jaish-e-Muhammad, saying that the Pakistan-based Kashmiri militant groups have conducted numerous terrorist acts in India and Pakistan. On December 30, 2001 President Bush called Indian Prime Minister Vajpayee and Pakistan President Musharraf, encouraging India to avoid war while pressing Pakistan to take additional strong and decisive measures to eliminate terrorism.<sup>7</sup>

Describing this incident Prime Minister A.B.Vajpayee proffered the argument that “India has always acted on the basis of careful deliberations but those who ask us to be

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<sup>6</sup> See [http://www.indianembassy.org/new/parliament\\_dec\\_13\\_01.htm](http://www.indianembassy.org/new/parliament_dec_13_01.htm)

<sup>7</sup> LePoer, Barbara Leitch, *India-U.S. Relations*, CRS Issue Brief for Congress Updated December 31, 2001

restrained should try talking to our neighbour". While keeping all options open, with regard to take punitive measures, Vajpayee expressed the preference for diplomacy than to war. The Indian prime minister was quoted saying categorically "we are trying to solve the problem through diplomatic means (but) there are other alternatives. We will decide about them after careful deliberations".<sup>8</sup>

In response to the attacks on the Indian Parliament, the U.S. President, Mr. Bush, called upon the Pakistan President, Gen. Pervez Musharraf, to "take decisive action against the LeT, the JeM and other terrorist organisations, their leaders, finances and activities."

US State Department spokesman Richard Boucher said that the U.S. expected India to take "appropriate action" following the terrorist attack on Parliament and promised all help to New Delhi on the issue. He also added, "The Indian Government, as we understand it, is still investigating the situation. First and foremost, we think they will try to figure out who was responsible for these horrible acts and take appropriate action on that. That is what we look to them to do, we have offered them assistance. At this point they have not taken us up on it. Frankly, they have a lot of forensic and law enforcement capability. They may not need it, but we will be in continuing contact with the Indian government."<sup>9</sup>

### ***3.4 The Godhra Riots***

According to the U.S. State Department's, *Patterns of Global Terrorism-2001*, In February 2002, a group of Hindu Karsevaks (religious volunteers) returning by train from the city of Ayodhya — the site of the razed Babri Masjid Mosque and the proposed Ram Janmabhoomi Temple were attacked by a Muslim mob in the town of Godhra, Gujarat,

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<sup>8</sup> Mishra, Rajesh Kumar, *South Asian Security Quagmire: US-India relations after December 13*, Paper no. 379, December 21, 2001.

<sup>9</sup> See <http://www.rediff.com/news/2001/dec/15parl1.htm>.

and 58 people were incinerated. In the sectarian rioting that followed, over 900 people were killed, most of them Muslim.

The inability of the state government to restore law and order led to the insertion of the Indian military into the state. Despite military help, sporadic violence continued. Indian and foreign human rights groups have been critical of the handling of the situation by the Gujarat and Indian governments. The seemingly poor response by the government led to a motion to censure it in the Indian parliament. While the Bharatiya Janata Party (BJP) survived the censure, some of its coalition partners, such as the Telugu Desam Party (TDP), expressed their displeasure against the government's policies by abstaining from voting. The government's inability to successfully quell violence in Gujarat has led to rifts within India's National Democratic Alliance—a coalition led by the BJP. In July the troubled Narendra Modi led government in Gujarat was finally dissolved.<sup>10</sup>

The report, though describes the incidence, fails to give any information about how U.S. responded to it. But, three years after the incidence, responding to the human rights violation, the US State Department, in 2005 rejected Narendra Modi's application for a visa when he wanted to visit America. The United States State Department has confirmed in a letter to Congresswoman Betty McCollum that Gujarat Chief Minister Narendra Modi will not be granted a visa to attend the World Gujarati Conference that is being held in New Jersey.<sup>11</sup>

### ***3.5 Serial blasts in Mumbai***

Mumbai experienced a terrible attack on July 11, 2006 when seven blasts rocked the suburban trains which, according to police, killed 174 passengers and injured more than 300. The PTI report said that the blasts took place in a span of 30 minutes in first class compartments of suburban trains. The seven bomb blasts that ripped through the seven

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<sup>10</sup> See *Patterns of Global Terrorism*, 2001. Released in April, 2002

<sup>11</sup> See <http://www.rediff.com/news/2008/aug/30modi.htm>

suburban trains at various stations during the peak hours in the evening are--Khar at 1824 hrs, Bandra at 1824 hrs, Jogeshwari at 1825 hrs, Mahim at 1826 hrs, Mira Road at 1829 hrs, Matunga at 1830 hrs and Borivali at 1835 hrs. The Western Railway suspended its suburban services soon after the blasts. Local telephone lines were jammed as panic-stricken commuters called their near and dear ones to alert them of the blasts.

The United States condemned the multiple blasts in Mumbai on July 11, 2006, calling them "senseless acts of violence" aimed at killing innocent people. The State Department Spokesman, Sean McCormack, condemning the blasts in the strongest possible terms said, "These are senseless acts of violence designed to strike at those innocent people who are just going about their daily lives, people who are commuting home on a train. And so it was a terrible tragedy for the people of India and our thoughts and prayers are with them at this difficult time."

"We have been in touch with the Indian government concerning these attacks and, of course, we will offer any assistance they might request. I understand that the investigation is ongoing as to who is responsible for these attacks," McCormack added.

In addition to this, there are some more opinions regarding the tragedy from the U.S.

Lantos, an active member of the Congressional Caucus on India and Indian Americans, noted -- 'As we in the US Congress are moving ahead with efforts to change the geo-strategic pact with India, we now have fresh incentive to forge even closer ties, should the Indian government ask for assistance with the investigation, I call on the United States government to underscore the importance of these ties by committing every available resource to get to the bottom of this latest outrage.' US Congressman Eliot Engel, another active member of the India Caucus and senior member of the House International Relations Committee, echoed Lantos' remarks.

'Once again the horror of terrorism has struck, this time during rush hour in Mumbai. India and the United States are the largest and oldest democracies in the world, but, tragically, we are also targets of the world's most deadly terrorists,' Engel said. 'Let us stand with India during this dark hour,' he said, and extended his deepest sympathies to the people of India. 'They will have our support as they rebuild, recover, and take steps to prevent future acts of terrorism,' he added.<sup>12</sup>

### ***3.6 Multiple attacks in Mumbai, 2008***

On November 26, 2008 at approximately 9:30 p.m. local time a number of well trained militants came ashore from the Arabian Sea on small boats and attacked numerous high profile targets in Mumbai with automatic weapons and explosives. Among the multiple sites attacked in the peninsular city known as India's business and entertainment capital were two luxury hotels—the Taj Mahal Palace and the Oberoi-Trident—along with the main railway terminal, a Jewish cultural center, a café frequented by foreigners, a cinema house, and two hospitals. By the time the episode ended some 62 hours later, about 174 people, including nine terrorists, were killed and hundreds injured. 26 of 174 were foreigners. According to the Indian officials there were ten attackers and one among those was captured. Each militant was carrying an assault rifle with 10-12 extra magazines of ammunition, a pistol, several hand grenades, and about 18 pounds of military-grade explosives. They also employed sophisticated technology including global positioning system handsets, satellite phones, Voice over Internet Protocol (VoIP) phone service, and high-resolution satellite photos of the targets.

The attackers were said to have demonstrated a keen familiarity with the Taj hotel's layout in particular, suggesting that careful advanced planning had been undertaken. According to a high ranking Mumbai police official, the militants made no demands and

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<sup>12</sup>See <http://www.rediff.com/news/2006/jul/11train14.htm>

had killed most of their hostages before being engaged by the commandos on the next morning.<sup>13</sup> The entire episode engaged two full days. India's elite National Security Guard commandos units did not arrive on the scene until the next morning. The commandos arrived after more than ten hours of the attack. This delay in fact handed a tactical advantage to the militants.

Indian Prime Minister Manmohan Singh apologized to the Indian people on behalf of his government for being unable to prevent the attacks. He said his government will pursue a three level response to include (1) seeking to galvanize the international community to deal sternly with what Singh labeled the "epicenter of terrorism, which is located in Pakistan;" (2) taking a strong posture toward the Islamabad government in pressing it to end the use of Pakistani territory for staging terrorist attacks, and (3) recognizing that self-help measures to improve India's own domestic security are required.<sup>14</sup>

President Bush, President-elect Barack Obama and other senior U.S. officials joined the State Department in issuing immediate statements of support for and condolences to the Indian government and people. H.Res. 1532, in the House of Representatives, agreed to by unanimous consent on December 10, 2008, condemned the attacks, offered condolences and support to the people and government of India, and expressed U.S. congressional desire to improve coordination between the United States and India to combat terrorism and advance international security. The resolution also called upon the Pakistani government to cooperate fully with India in bringing the culprits to justice and to prevent Pakistan's territory from "serving as a safe-haven and training ground for terrorists."

The Bush Administration claimed that it is carefully monitoring the related developments and assured of sending the FBI agents to Mumbai to assist in the investigation. On November 30, the Administration also announced that it would dispatch Secretary of

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<sup>13</sup> See Kronstadt Alan K., "Terrorist Attacks in Mumbai, India, and Implications for US Interests", *CRS Report for Congress*, December 19, 2008.

<sup>14</sup> See [http://www.indianembassy.org/newsite/press\\_release/2008/Dec/6.asp](http://www.indianembassy.org/newsite/press_release/2008/Dec/6.asp).



State, Rice to India as “a further demonstration of the U.S. commitment to stand in solidarity with the people of India as we all work together to hold these extremists accountable.”

Rice met with Indian External Affairs Minister Pranab Mukherjee on December 3 and assured her interlocutors that the United States “stands in solidarity with the people of India,” and she pledged full cooperation in bringing the perpetrators to justice and ensuring that future attacks are prevented. On November 28, 2008 The US assured Indians of sending a team of FBI investigators and forensic scientists to Mumbai<sup>15</sup> as the counter-terrorism officials were reported to be stunned at the level of coordination in the terror attacks in the city.

The FBI team coordinated with Indian intelligence and security agencies about the planning and evidence collected on the attacks, a media report here said. The US officials estimate that the widespread carnage could have been carried out for relatively small price tag of between USD 100,000 and USD 200,000 which, they say, is the cost of machine guns, grenades, ammunition and boats used, said ABC News.

The television network said intelligence agencies around the world are scrambling to identify the source of this latest threat in view of the “remarkable” coordination and sophistication. The command centres, set up by terrorists in places they attacked, may have allowed them to communicate from site to site. The attacks, US officials said, appear to mimic Al Qaeda tactics simultaneous attacks on high profile targets in the heart of the financial district.

Reports have arisen indicating that some degree of warning was available to Indian authorities, although it is not clear how actionable such intelligence was. U.S. intelligence

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<sup>15</sup> See <http://www.indianexpress.com/news/mumbai-attacks-fbi-team-sent-to-mumbai/391788>

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<sup>16</sup> See <http://www.indianexpress.com/news/mumbai-attacks-fbi-team-sent-to-mumbai/391788>

## Chapter-4

### Legal Provisions to Counter-terrorism in India and the U.S

#### *4.1 Historical Background of Terrorist Laws in India*

Cross border terrorism has victimized India since ages. Being a multi lingual, multi-cultural and heterogeneous society, it is not only troubled by cross-border terrorism but also by internal ethnic, regional, religious and separatist disturbances thus creating multifarious challenges in the management of its internal security. India has tried to deal with this menace in the best possible manner time to time, keeping in mind that the ordinary criminal justice system is not sufficient enough to handle these extra ordinary crimes. India has historically favoured fighting terrorism with special laws because laws hold an esteemed position in democracy. The anti-terrorist laws are stringent and are not healthy for the societies with democratic setup, as they greatly enhance the coercive powers of the state, effecting changes in the structures of governance, leading to suspicion and distrust among the citizens. But terrorism provides for the most plausible justification for enhancing the powers of the state through such extraordinary laws.

In the past India handled terrorism with the help of a range of laws. The first law that came into existence soon after the independence was, **Armed Forces Special Powers Act, 1958**. This was enacted principally to deal with the insurgents in the Naga Hills district of Assam in the north-east India. It was a very stringent law and suppressed civil liberties. This law is currently operational in Jammu and Kashmir under a lot of criticism. **The Unlawful Activities (Prevention) Act, 1967, (UAPA)**, enacted on December 30, 1967 was designed in such a manner that it was strictly limited to deal with the associations and activities that questioned the territorial integrity of India. This law failed to work as the complexities of the crimes increased, and there was need for a new set of

stringent laws with some more power granted to the concerned officials. The next law that came in to existence was **The Maintenance of Internal Security Act (MISA)**, passed in 1973 by the Indian Parliament during the Prime Minister ship of Mrs. Indira Gandhi. This law provided the Indian law enforcement agencies with unlimited powers leading to indefinite preventive detention of individuals. The officials had the strength of carrying out searches and were equipped with the power of seizure of property without warrants. They were also empowered with telephone and wiretapping. The legislation gained a lot of criticism for its disregard of legal and constitutional safeguards of civil rights. During the period of national emergency (1975-1977) thousands of innocent people were believed to have been arbitrarily arrested, tortured and in some cases, forcibly sterilized. Thus, a new major Act was passed in 1987, which was called as '**Terrorist and Disruptive Activities (Prevention) Act, (TADA)**'. It came into force on September 3, 1987. This act had much more stringent provisions than the UAPA and it was specifically designed to deal with terrorist activities in India. TADA increased the powers of the officials to such a great extent that many instances of misuse could be seen. It was reviewed every 2 years. It lapsed in 1995.

The new Anti-terrorist law that followed was the **Maharashtra Control of Organised Crime Act, 1999 (MCOCA)** which was enforced on 24th April 1999. This law was specifically made to handle the rising organized crime in Maharashtra especially in Mumbai due to the underworld. This law, in addition to terrorism, took note of organized crime. It also included 'promotion of insurgency' as a terrorist act. A person was presumed guilty unless he was able to prove his innocence. This law did not stipulate prosecution of police officers found guilty of its misuse.

**Prevention of Terrorist Act (POTA)** came into existence on 28 March, 2002. Unlike MCOCA, it did not take note of organised crime and stipulated prosecution of police officers found guilty. The officer could be jailed for two years if found guilty of any corrupt action. This law had been a controversial issue since its enactment and it was

repealed in September, 2004. This again was replaced by another law which came as an amendment of the old law of 1967, now called, **Unlawful Activities (Prevention) Act, 2004**. India experienced a very disgusting terrorist attack in November 2008 in Mumbai. After this attack, the government felt a need for a few stringent changes in the law. In December, 2008 the law was amended which was later called as, **Unlawful Activities (Prevention) Amendment Act, 2008**. This is a principal act and does not have a provision for a review.

#### *4.1.1 Nature and Scope of the Unlawful Activities (Prevention) Amendment Act, 2008.*

The act nowhere defines the word, 'terrorist' or 'terrorism' but describes 'terrorist act' in a very comprehensive manner. This definition did not exist in the 1967 Act and was added with an amendment in 2008.<sup>1</sup> The previous Act only defined and dealt with unlawful activity.<sup>2</sup>

The Unlawful Activities (Prevention) Amendment Act, 2008 makes it necessary to take prior sanction of the Central or the State government for cognizance of any offence under this Act. The arrested person is considered innocent unless he/she is proved guilty through the prosecution. Those arrested must be produced before a magistrate within 24 hours. Confessions are not admissible before police officers according to the amended law. The bail request by the accused should not be denied for the first three months.

Any association declared unlawful by the central government is prohibited from dealing in any manner with moneys, securities or credits pays. If a person is accused of being

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<sup>1</sup>The UAPA, 2008, section 15.

<sup>2</sup>An unlawful act included an intention to bring about cession of a part of the territory of India or which incites any individual or group of individuals to bring about such cession or secession; or which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India, or which causes or is intended to cause disaffection against India. UAPA, 2008, Section 2.

connected to funds of such association is liable for imprisonment for not less than five years. If the Central government declares any association as unlawful then it must give grounds for such a declaration. The act also gives power to the Central government to add or remove an organization in the schedule as a terrorist organization.

Assisting an unlawful organization in its activities will invite a term of seven years and fine while raising funds and conspiracy for a terrorist act will impose a term of not less than five years. Harboring terrorist act and organisation will lead to an imprisonment of not less than three years. A person may be imprisoned for life if found to be a member of a terrorist organization. If a person threatens witnesses then he/she will be imprisoned for up to three years. If a person, accused of being a member of an unlawful association, takes part in meetings, contributes to, or receives or solicits any contribution for the purposes of the association or in any way assists the operations of such association then he/she is liable for a term of two years and fine.

A person possessing unlicensed firearms, ammunition, explosive, etc, which is capable of causing mass destruction and commits any act resulting in loss of human life or grievous injury to any person or causes significant damage to any property, and if such act has resulted in the death of any person is liable for imprisonment for maximum two years along with fine.

The Act gives validity to the evidences collected through electronic or oral communication, or by interception of wireless. The Act also provides for the protection of witnesses by keeping their identities secret even in orders, judgments and records of the Court.

This act expands the scope of investigation of terrorist activities. Its influence is no longer confined to acts that strike terror or disrupt the supplies of essential needs and services, for the Indian people or within the territory of India, but also includes the protection and safeguard of the people of Indian origin in other foreign countries.

#### ***4.2 Historical Background of Terrorist Laws in the US***

The perfectly planned and equally successful terrorist attacks on the World Trade Centre in New York on September 11, 2001 shocked the world by exposing faulty intelligence and a leaky defense system of one of the most powerful nations of the world. In response to these exposed weaknesses the Department of Homeland Security was created and the USA PATRIOT Act was passed by the US in 2001.<sup>3</sup> It made the most drastic law of the US within weeks and without any significant debate and discussion. But this Act was clouded with controversy not only because of the suppression of valuable rules and regulations, statutes and constitution but also has been passed in an unconventional and undemocratic manner. The then president, Bush in his state of the union address in January 2003 stated that the US does not need permission slip to defend itself and will act unilaterally in defence of perceived threats. It is, however, not a new practice in the US. If you look back in to the history, you will see that the US has left no stone unturned to pass draconian laws which caused a lot of harassment and made the lives of innocent citizen miserable. Their civil liberties had to be replaced by their sense of national security. While the supreme court in a landmark decision held, “The constitution of the United States is a law for rulers and the people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times and under all circumstances.”<sup>4</sup> We have seen that this is seldom followed.

Some of the unconstitutional and tyrannical laws of the US can be summarized as follows:

The Alien and Sedation Act of 1798 are known for their stringent character. This Act was passed by the Congress in an effort to strengthen the Federal Set up<sup>5</sup> as there was a “threat of war with France”<sup>6</sup> and the US was not able to get rid of aliens. The Act targeted Aliens on one hand and the opposition wing in politics on the other. As per the provisions of the Act, an immigration defaulter had to pay a heavy price for not conforming to the order and standard of entering into the US. Any person, or organization which was dangerous to the peace and stability of the country, anyone speaking in public places against the US or criticizing the US policy of war, speaking or writing against the constitution were viewed by the state as culprits and heavy punishments were imposed on them. Another important aspect of the act was that it aimed at the political behaviour of the opposition. In a democratic setup the opposition has a significant place and is the other half of the administration. The role of the opposition is to criticize the policies of the ruling party and bring to their notice the lacunae in the policies being implemented. Thus the presence of the opposition party is always seen as a complete democracy but the law passed by the congress became a tool of exploitation at the hands of the ruling party by means of which they tried to suppress the voice of the opposition ruthlessly. Thus the act has been famous only for advocating national security at the cost of essential civil liberties.

Besides this, the US congress passed four other important laws such as **The Alien Enemies Act**, passed on June 6, 1798 which allowed the war time arrests, imprisonment and deportation of aliens who are subject of enemy power. **The Naturalization Act** was passed on June 18, 1798. As per the provisions of this Act, it was mandatory for every alien to be residing for fourteen years in the US (instead of five years) to become eligible for US citizenship. Another law was the **Alien Act** which passed on June 25, 1798 and which empowered the president to deport any immigrant who was thought to be

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<sup>3</sup>Shariff, Ismail, America At The Crossroads, World Affairs, Vol. 12, No.2, Summer, 2008, p.98

<sup>4</sup>Exparte Milligan, 4 Wallace 2 (1866).

<sup>5</sup>The Alien and Sedation Act, 1798



dangerous to the peace and safety of the US even during peace time. While in international relations, the term alien enemy is used to mean “a person who is a subject or citizen of a nation hostile to or at war with the nation in which the alien is found,”<sup>7</sup> but the Act covers a wide range of persons who are citizens of even those countries which are not at war with the US.

The fourth one was the **Sedition Act**, which was passed on July 14, 1798. The Act announced that whoever is involved in any act of treason including the publication of false, scandalous and malicious writings would be punishable with imprisonment and fine. As many as twenty five writers and editors were arrested on account of this Act because they were involved in republican newspapers. Benjamin Franklin Bache was the editor of “Philadelphia Democrat-Republican Aurora”. He was charged with libeling President Adams.<sup>8</sup> The arrest of Bache in fact made the Americans angry and they cried for repeal of the Act. Later on when Thomas Jefferson became Republican President of the US he released every convicted person and paid back all fines with interests.<sup>9</sup> This was a time when Americans had questioned the authenticity and constitutionality of the Act and stood for their civil liberties.

**Espionage act of 1917:** The US Congress passed Espionage Act of 1917 on June 15, 1917 when US declared war against Germany during the First World War.<sup>10</sup> This Act announced that a fine of ten thousand dollars and twenty years imprisonment would be imposed for interfering with the recruitment of troops or disclosure of information relating to national security.<sup>11</sup> There were also penalties for refusal of performing military

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<sup>6</sup> Milestone Historic Documents, Available at <http://earlyamerica.com/milestone/sedition>

<sup>7</sup> West's Encyclopedia of America Law, 2<sup>nd</sup> Ed, Vol.1, Thompson Gale, 2005, p. 214

<sup>8</sup> Milestone Historic Documents, Available at <http://earlyamerica.com/milestone/sedition>

<sup>9</sup> Ibid.

<sup>10</sup> Primary Documents, First World War.com, Available at <http://www.firstworldwar.com/source/espinoageact.htm>

<sup>11</sup> Sec-3, Espionage Act, 1917.

duty. Those who demonstrated or conducted rally against war or protested against the U.S. policy of entering into war were arrested and put behind the bars.

Those who wrote in newspapers or organized any talk against war were also punished severely. Hundreds and thousands of innocent people were sent to prison for no wrong doing. The Act, however, has been criticized by the libertarians on the ground that it was highly unconstitutional and motivated against any radical or socialist uprisings. A number of left wing political persons were arrested.<sup>12</sup> Eugene V. Debs was sentenced to 10 years imprisonment for giving a speech in Ohio on 16th June, 1918 against the Espionage Act of 1917.<sup>13</sup>

Though the intention of the act was to control radical and socialist movements but a large number of US citizens were harassed and sent to prison for no wrong doing. Essential right and liberties of the citizens were suspended. Many constitutional provisions were abrogated and the US was made a police state. Though the Act was amended in May 1918, one more act came into being in the same year. The Sedition Act of 1918 was an amendment to the Espionage Act of 1917. The Sedition Act of 1918 was more powerful than the earlier one. The Act prescribed strict disciplinary actions against those who tried to be disloyal, outrageous or use abusive language against American state, American Flag or American Armed forces.<sup>14</sup> The Act also made it mandatory for the post master to thoroughly check the mails received and delivered as per provisions of the Act.<sup>15</sup>

While the Espionage Act declared it a crime to help the enemies of the US, the Sedition Act announced that it was a crime to express an opinion against the US. The Sedition Act, 1918 enhanced the police power for repressing the American citizens who protested

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<sup>12</sup>Espionage Act,1917, Available at, <http://www.spartcus.schoolnet.co.uk/FWWespionage.htm>

<sup>13</sup>Ibid.

<sup>14</sup>From Wikipedia, The Free Encyclopedia. Available at [http://en.wikipedia.org/wikisedition\\_act](http://en.wikipedia.org/wikisedition_act) of 1918

<sup>15</sup>Sec.4, The Sedition Act,1918.

against the State and State activities. Any anti-US slogan, writing or protesting were severely punished by the government. "No person can willfully make or convey false reports or statements with regard to military, when the US is at war".<sup>16</sup> Similar to its predecessor the Sedition Act of 1918 was also known for its suppression of human rights and liberties and for limiting constitutional guarantees. However, both these acts were repealed in 1921.<sup>17</sup>

**The National Security Act of 1947** which was legislated soon after the Second World War to rearrange US foreign policy and military foreign policy created a famous and powerful National Security Council (NSC). It was from this time onwards that the United States of America started taking a keen interest in shaping and formulating a vibrant national security. The National Security related issues (short term as well as long terms) were discussed in this body of a selected few. Though successive presidents who later came to office adopted their own styles of structure and functioning of the NSC but the body never deviated from its core national security methods. Right from this time, the US has been pursuing and maintaining a strict policy on national security which is inevitably limiting civil rights and liberties. The National Security Act, 1947 had not only made the national security as the primary concern of the administration but it has also made to believe that the U.S. is under threat from outside and unless, the borders would be guarded appropriately and national security be made an agenda in the foreign policy of the U.S., there can be no real progress.

There is no doubt that the national security act of 1947 was signed and passed after the Second World War, but the intention was to respond properly to any challenge made by any foreign power on the sovereignty and integrity of the U.S. It was a time when terror of the Second World War was yet to fade away from the minds of the Americans and

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<sup>16</sup>Sec.3, The Sedition Act of 1918.

<sup>17</sup>Ibid.

they were always apprehending either from the German led axis power or from the Russian led allied power. It was during those troubled times the US made issues pertaining to their national security their primary concern. From 1947 onwards, the US presidents have given extreme importance to national interest and security. They never sidetracked from this principle and followed this in their respective foreign policies. While President Dwight D. Eisenhower had his own priorities but he always took care to engage the NSC in every key decision relating to the US foreign policy. J.F Kennedy was in no case less than his predecessors in matters relating to national security but he was interested in discussing the matter with his close confidence. These selected few, on behalf of the President were analyzing, interpreting and even reaching out to a conclusion on national security.

However, the relation between the white house and NSC got a tremendous boost in the period of the US President Richard M. Nixon who was a versatile leader and relentlessly worked for providing full protection to the US. President Nixon along with his ablest aid Henry A. Kissinger had reshaped the NSC with full vigour. The NSC played the key role in the formulation of the foreign policy during this period. It is no uncommon in the U.S. that an advice given by the National Security Council too often is disrespected by the President and the President initiates his own method of planning and executing it. But during the Nixon administration, every foreign policy decision and national security was taken up by the Nixon-Kissinger duo without any difference and conflict. They were acting as a team and reaching out to a solution. The acumen ship of Henry A. Kissinger in making fine policy is highly appreciated in the U.S. He was the person who almost single handedly transformed and reshaped national security and brought the NSC into a closed circuit link with the white house and on his advice during the time of the Vietnam War that the US President declared a cease fire to the unending and difficult war. So right from 1947 the US has been equivocal on matters relating to national security, even though, the technique has changed especially after 9/11 but the modus operandi has remained the same.

**Anti-terrorism and Effective Death Penalty Act of 1996**, enacted on April 24, 1996 by the Clinton administration as an effective tool to deter terrorism and to deal terrorists with death penalty. Soon after the Oklahoma City bombing, the Clinton Administration did not leave any stone unturned to intercept and obstruct terrorism. The act was stringent and in many ways limiting the essential civil liberties such as habeas corpus of the citizens of the US. The act not only did away with the power of habeas corpus but also limited the power of federal judges to grant relief rules to the state court of adjudication of the claim proved, in a decision that its unreasonable or contrary to.

The AEDPA of 1996 thus, was very powerful in limiting habeas petitions which is violation of Art-I of the U.S. constitution.<sup>18</sup> But the Supreme Court in a different case<sup>19</sup> came to the conclusion that such limitations on habeas petitions did not unconstitutionally suspend the petitions. The Oklahoma City Federal Building bombing made the USA to pass stricter immigration law, in the form of this act<sup>20</sup>. With the help of this act, the US tried to check the menace of unlawful immigrations. This law amended a number of provisions of the INA. Essential rights and liberties of both citizens and non-citizens were suppressed and national security was upheld. But in reality, this act failed to protect the Americans appropriately. Interestingly, when the act was in operation, the terrorist attacks of 9/11 took place and caused death and terrible destructions.

The repercussions of the Act were such that many Americans failed to cope up with them. They sought the repeal of the act which had harsh effects on the residents and their relatives.<sup>21</sup> The role of INS officials during this time was severely criticized and frowned upon by the law abiding citizens. People who entered the country once with a valid visa were never tracked down by the INS in case of an over-stay or any terrorist related activities. The INS could not solve the problem of immigration satisfactorily. Some

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<sup>18</sup> Art-I, Sec-9, Clause 2, The U.S. Constitution.

<sup>19</sup> Felker. v. Turpin, 518 U.S. 651.

<sup>20</sup> Stock, Margaret D., "United States Immigration Law in a World of Terror". The Federalist Society. Available at [http://www.fed\\_soc.org/Publications/Terrorism/immigration.htm](http://www.fed_soc.org/Publications/Terrorism/immigration.htm)

<sup>21</sup> Ibid.

elected officials even called for a return to a “Fortress America” proposing harsh measures to target or reduce immigration altogether.<sup>22</sup>

However the AEDPA Act did many commendable tasks in expediting many procedures for removal of alien terrorists. It expanded the criteria of deportation and allowed the deportation of non-violent offenders even before they served their term in the jail. The Act is similar to IIRAIRA in many ways as both AEDPA and IIRAIRA permitted terrorism charges to be brought against an alien for any alleged association with an organization designated as a terrorist by the secretary of state.<sup>23</sup>

**The Personal Responsibility and Work Opportunity Reconciliation Act, 1996** too had harsh provisions on immigration. The Act prohibited legal immigrants from obtaining Food Stamps and Supplemental Security income. It allowed screening of recipient of these programs. The act increased the responsibility of immigrant sponsors by making the affidavit of support legally enforceable, imposed new requirements on sponsors and required the INS to verify the status of the immigrants who were getting public benefits.<sup>24</sup>

**The Illegal Immigration Reform and Immigrant Responsibility Act of 1996** was the strictest law of immigration which was legislated by the Clinton Administration. The act is known for its powerful sanctions, such as a person can be booked for deportation under this law, if he has been proved to be guilty of minor offence of shoplifting (meaning stealing goods or articles from retail shops). The application of The Act was not only strict on illegal immigrants but it was also harsh on those who were seeking a work permit in the US. As it is largely believed that the 9/11 happened due to lapse in the rules of immigrations, this act asks for thorough examination of the immigration status of job

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<sup>22</sup> Krikorian, Mark and Camarota, Steven, How did the Terrorist get in? San Francisco Chronicle, 19<sup>th</sup> September, 2001.

<sup>23</sup> West's Encyclopedia of American Law, 2nd Ed, Vol.1, Thompson Gale, 2005, p.214.

seekers. This Act made significant contribution to check illegal immigration into the US for enhancing border patrol to ten thousand for five years and fences were erected in the heavy traffic areas. The Act provided measures to guard the borders of US and expedite removal of criminal aliens.<sup>25</sup>

The act had not only harassed law abiding citizens and families, but had stricter measures and increased penalty on the offenders for illegal entry into the USA, passport fraud, Visa-overstay and inability to leave the USA for whatever reasons. The act also had expedited removal to speed up deportation and made the grounds of admissibility stricter. The IIRAIRA made various provisions with regard to bar of admissibility of aliens for 3-years and 10-years for any wrong doing inside the US. This provision of barring aliens expired (Sunset) in January 14, 1998. Later on President Bill Clinton, increased the number of available H-1B visas to double.<sup>26</sup> But by this measure only a few students could respite and the position of foreign nationals remained almost unchanged. Though this Act was in favour of national security, it limited the civil liberties of both citizens and non-citizens to a considerable extent.

The enactment of the USA PATRIOT ACT, 2001 has been so effective that a pretty good number of laws have either been amended or conformed to suit the Act. The following, **Electronic Communication Privacy Act of 1986<sup>27</sup>**, the **Computer Fraud and Abuse Act of 1986,<sup>28</sup>** the **Foreign Intelligence Surveillance Act of 1978,<sup>29</sup>** the **Family Educational Rights and Privacy Act of 1974,<sup>30</sup>** the **Money Laundering Control Act of 1986,<sup>31</sup>** the **Bank Secrecy Act of 1970,<sup>32</sup>** the **Right of Financial Privacy Act of 1978,<sup>33</sup>**

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<sup>24</sup>Danilov, Dan P., Attorney, Immigration to the USA, (7<sup>h</sup> Ed., Self Counsel Press Inc., USA, 1999).

<sup>25</sup>Ibid

<sup>26</sup>Ibid.

<sup>27</sup>See 18 US Code Sec.2510.

<sup>28</sup>See 18 US Code Sec.1030.

<sup>29</sup>See 3118 US Code Chp.36

<sup>30</sup>See 20 US Code Sec.1232.

<sup>31</sup>See 18 US Code Sec.1956 &Sec.1957.

<sup>32</sup>See 31 US Code Sec.5311-5332.

the **Fair Credit Reporting Act**, the **Immigration and Nationality Act of 1952**, the **Victims of Crime Act of 1984**,<sup>34</sup> the **Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994**<sup>35</sup> are the important contributors to the shaping of the USA PATRIOT Act.

#### *4.2.1 Nature and Scope of the USA PATRIOT Act, 2001*

The nature and the scope of the **Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001**, popularly known as the **USA PATRIOT ACT, 2001** are very vast. The act has provisions for intercepting and obstructing terrorists in the US and fighting war on terrorism around the world, though it is known to disqualify certain essential civil liberties of the people. The act contains over one fifty sections and ten titles.<sup>36</sup> The Act is reviewed after a tenure of four years through the provision of ‘Sunset Clause’<sup>37</sup>, unless the US Congress authorize for its renewal. The most dangerous section that raise civil liberties concerns are Title 2 of the Act. This is the reason why the sections under title 2 have been described as “Grandfather Section” of the Act. They give full power to the Department of Justice and The White House to authorize the law enforcements authorities to conduct surveillance and investigations without any limitations.

In **Title-I**, the act provides for enhancing domestic security against terrorism. The first and foremost measure the Bush Administration has taken to wipe out terrorism is to increase domestic security by counter terrorism fund, sense of Congress condemning discrimination against Arab and Muslims, to increase funding for technical support centre at the FBI, to request for military assistance, to expand National Electronic Crime Task

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<sup>33</sup>See 12 US Code Sec.3401.

<sup>34</sup>See 42 US CA Sec.10601.

<sup>35</sup>See 15 US Code Sec.6101-6108.

<sup>36</sup>West's Encyclopedia of American Law, 2<sup>d</sup> Ed, Vol.1, Thompson Gale, 2005,



Force Initiative and Presidential Authority. It asserts for the protection of safety, liberty and civil rights of all Americans.

In **Title-II**, the law enhances the surveillance procedures by granting increased powers to various government agencies and bodies. This title also contains a sunset clause which determines the date of expiry of certain provisions of the law. There is an expansion in the powers of the federal agencies regarding intercepting, sharing, and using private telecommunications, especially electronic communications, along with the cyber crimes investigations. It also sets out procedures and limitations for individuals to seek redress in case of any violation of their rights. Citizens who feel that there has been a violation of his/her rights pertaining to the communication privacy by government personnel can file a complaint against the government of the US through the above procedure.

The Title enables the government agencies to gather intelligence information from both U.S. and non-U.S. citizens, regarding the clandestine activities of suspected terrorists. It also enables the Foreign Intelligence Surveillance Court (FISC), which presides over applications made by the U.S. government under FISA, to authorize the search and surveillance in the U.S. of officers and employees of foreign powers and foreign members of international terrorist groups. The maximum tenure of Search for intelligence purposes is 90 days for physical search and 120 days for both surveillance orders and physical search orders. The maximum life of an order involving an agent of a foreign power is 120 days, with extensions for up to a year.

**Title-III** is cited as the 'International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001'. Money laundering provides the financial fuel that permits transnational criminal enterprises to conduct and expand their operations to the detriment of the safety and security of the people. The defects in financial transparency on which

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<sup>37</sup>Sunset Provisions are those provisions which expire after a fixed tenure as given in the act.

money launderers rely, are critical to the financing of global terrorism and the provision of funds for terrorist attacks. This title increases the strength of the United States' measures to prevent, detect, and prosecute international money laundering and the financing of terrorism.

It provides the Secretary of the Treasury to take measures tailored to the particular money laundering problems presented by specific foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts. This title strengthens the ability of financial institutions to maintain the integrity of their employee population and also prevents the use of the United States' financial system for personal gain by corrupt foreign officials and facilitates the repatriation of any stolen assets to the citizens of countries to whom such assets belong.

Subtitle-A of Title-3 deals about the International Counter Money Laundering and Related Measures which is undertaken in several ways--by restricting or prohibiting the use of certain types of bank accounts, by adding new penalties for corruption and through regulations that are designed to facilitate and encourage reporting and communication between financial institutions and the U.S. government.

The Act contains a number of new money laundering crimes, as well as amendments and increased penalties for earlier crimes. It outlaws laundering from any of the proceeds from foreign crimes of violence or political corruption, prohibits laundering the proceeds from cybercrime or supporting a terrorist organization and increases the penalties for counterfeiting, and explicit authority to prosecute overseas fraud involving American credit cards, and endeavours to permit prosecution of money laundering in the place where the predicate offense occurs.

In addition to this there are several sections that establish special measures that financial institutions must undertake. It also discusses the process of implementing the special measures.

The Act enables confiscation of all of the property of any individual or entity that participates in or plans an act of domestic or international terrorism; it also permits confiscation of any property derived from or used to facilitate domestic or international terrorism. There is also a provision for criminal penalties for the government officials found involved in an act of corruption while performing his/her duties. Such an official will be fined by an amount that is not more than three times the monetary equivalent of the bribe in question. They may be imprisoned for not more than 15 years, or they may be fined and imprisoned.

Subtitle-B of Title-3 is an attempt of making it difficult for the money launders to operate while facilitating the law enforcement and regulatory agencies to police money laundering operations in a better manner.

To make the process more effective the law includes Anti Money Laundering programs and strategy. It makes the financial institutions implement anti money laundering programs. The Secretary of the Treasury is given authority to set minimum standards of these programs.

Subtitle-C of Title-3 deals with the Currency Crimes and Protection. It attempts to prevent bulk cash smuggling and allows for forfeiture in currency reporting cases. It also introduces a number of measures to deal with counterfeiting. Any person through any luggage, merchandise or other container moves into or out of the U.S. with more than US\$10,000 is a criminal offence. The penalty for such an offense is up to 5 years imprisonment and the forfeiture of any property up to the amount that was being smuggled.

In **Title-IV**, protection of Borders is provided. This is an important measure to fight against terrorism. While, Sub-title-A provides for protecting the northern border, Subtitle-B is for Enhanced Immigration Provisions, and Subtitle-C provides for the

Preservation of Immigration Benefits for the Victims of Terrorism. This is a welfare measure.

In **Title-V**, the act deals with the Removal of obstacles in investigating terrorism through various techniques which includes Payment of rewards, which allows the U.S. Attorney General to pay rewards pursuant of advertisements for assistance to the Department of Justice to combat terrorism and prevent terrorist acts. This allows the Department of State to offer rewards, in consultation with the Attorney General, for the full or significant dismantling of any terrorist organisation and to identify any key leaders of terrorist organisations. Another technique is DNA analysis of violent and sexual offenders.

In **Title-VI**, the act provides aid to the victims of terrorism and families of Public Safety Officers who were injured or killed in terrorist attacks while performing duties. The payments should be made not later than 30 days after the injury has been certified if it was sustained while investigating, undertaking rescue or recovery efforts related to a terrorist attack. An officer may receive benefits up to \$100,000 for 'permanent and total disability' in the allowable reasons. While in Subtitle-A, Aid to Families of Public Safety Officers is provided, in Subtitle-B, amendments to the victims of Crime Act, 1984 is explained.

In **Title-VII**, the act provides for increased information sharing for critical infrastructural protection by allowing the Director of the Bureau of Justice Assistance which is a part of the Justice department, to make grants and enter into contracts with State, local criminal authorities, and non-profit organizations to stop criminal activities like terrorist conspiracies and activities that cross jurisdictional boundaries.

In **Title-VIII**, the act has strengthened the criminal laws against terrorism. It contains the definitions of domestic terrorism and international terrorism and the rules it can be dealt with. It prescribes for the punishment for those who are involved, provide material

support with or harbor terrorism or terrorist act. It also penalizes for the terrorist conspiracies.

In **Title-IX**, the act provides for improved intelligence and responsibilities of Director of Central Intelligence regarding foreign intelligence collected under FISA, 1978. The training of government officials regarding identification and use of foreign intelligence etc. are also explained.

**Title-X** is a set of miscellaneous provisions which contains review of the department of justice, sense of Congress, definition of electronic surveillance, venue in money laundering cases, and crimes against charitable Americans etc.

The interesting aspect of the patriot act is that unlike other acts it is not only confined solely to the United States of America, but includes authority to exercise its power, jurisdiction and administrative authority across the physical boundaries of the entire nations of the world. This implies that any kind of terrorism or terrorist activity in the US or across the globe which concerns or affects the national security will be inviting appropriate and stringent action by the US government. The purview of this act includes any individual or an organization or even a nation which may be involved in any suspicious activities related to terrorism or acts of terrorism. The Act also differentiates between the lawful and unlawful combatants and even enemy combatants at large and gives out specifications regarding interception, obstruction, deportation and detention of the culprits. Because of these specifications and the immense scope of its jurisdiction the Act actually broadens itself to the entire world. This particular act in a way outmatches all the other similar previous acts. The Act covers such a broad range that it is nearly impossible for any unlawful activity which can be classified into a terrorist activity can actually escape the scope of the USA PATRIOT ACT.

It is noteworthy that the Act clearly makes a distinction between “Domestic” and “International” terrorism, wherein the former includes unlawful terrorist activities posing danger to human life and liberty and those who violate, some way or the other, the criminal laws within the territorial jurisdiction of the US. If these activities are being done to intimidate civilian population in order to influence any policy of the government or to intimidate the government by threatening to affect the masses by any means like kidnapping and assassination then these acts will be referred to as terrorist acts. The acts which are not violent but are crucial to human life and have potential to inflict harm to an individual physically or psychologically will be labeled as a terrorist activity. The PATRIOT Act is, however, silent regarding the definition of international terrorism.

The Act provides with the definition of a ‘Terrorist Organization’, which states, ‘group of two or more individuals, whether organized or not organized, engaged in a terrorist activity is a terrorist organization’. The term ‘terrorist activities’ also finds a place in the Act. ‘An activity that commits or instigates to commit, to prepare a plan, to gather an information on potential targets for, to solicit funds or other things of value for, to solicit any individual to engage in terrorist activity in an individual capacity or as a member of an organization’, is a terrorist activity.

This Act makes distinction between enemy combatants and lawful combatants where, the enemy combatants are identified as generally the members of armed forces of the State which is at war with another State. However it may be noted that this term used by the US means a person of Al-Qaeda or Taliban who may be detained under the act. A lawful combatant is the one being involved in an armed conflict, whether in uniform or not, and if he follows the laws of war, then he qualifies the status of the prisoner of the War. However the same combatant will become an unlawful combatant, if captured, when he isn't the prisoner of the war. The President, however, can make use of his war power and declare the culprit as either enemy combatant, unlawful combatant or a terrorist or even a suspect and act accordingly.

One of the most significant aspect of the PATRIOT Act is that while it is being practiced upon, no other law will actually have superiority over this law, and if at all the other law remains in practice then it must confirm to the present or else it would remain invalid. It is also interesting to note that the previous laws which were enacted to fight against terrorism were a reflection of the past needs and thus it becomes much more understandable that, new laws regarding the same issues must be created which would cater the present needs. Perhaps this need motivated the policy makers to rethink for new ways and means to fight terrorism. This is the reason why the new revised act, expanded the limited scope of all the previous acts making it more efficient and at the same time improving upon past failures. It is important to take into consideration that nothing contained in this act shall be deemed to be valid only of the fact that the incidence of terrorism had taken place before the commencement of this act, nothing contained in this Act shall be ineffective because a law is already in force or a proceeding under any other law is being in force. All other laws will have to be null and void if, they do not confirm to the provisions of this act.<sup>38</sup>

The act has been designed to be reviewed and many provisions are to be expired in the course of time as per the 'Sunset Provisions'.<sup>39</sup> All the twenty five sections that are provided in the Title-2 of the act are to be sunset, implying that they will be expired after a particular tenure. However, in July 2005, both the houses of the Congress approved the USA PATRIOT Improvement and re-authorization Act-(H.R.3199). This has been passed to safeguard the civil liberties of the citizens. Hence, the USA PATRIOT Improvement and Re-authorization Act of 2005 made 14 provisions of the 16 troublesome provisions permanent once again. The reauthorization act consists of 7 titles in all and deals with the problems concerning mainly with the conflict between national

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<sup>38</sup>The US Code Titles 8, 12, 15, 18, 20, 31, 42, 47, 49, 50 are amended and the new sections have been incorporated.

<sup>39</sup>See Section 224, the USA PATRIOT ACT, 2001.

security and civil liberties. The Act also provides for a greater congressional as well as judicial oversight of the sections previously mentioned.

Other than the Sunset Provision amendment, the USA PATRIOT Act also made similar modifications and which includes the FISA telephone records and the roving wiretaps. As per the law, the FISA wiretaps are orders upon a finding of a probable cause to believe that the target of the electronic surveillance is a foreign power, or an agent of a foreign power. The law amended the FISA to authorize the installation and the use of the multi point or roving wiretaps for foreign intelligence. It is the 'Roving' wiretap order which is issued against a suspect rather than a particular phone or computer that the target might use, thus allowing law enforcement mechanism to use single wiretap order to convey any communication device that the target uses or may use.

It is only after September 11 events that the Act was redesigned in a manner such that, for the information purposes, caller and his changing location and number could be detected with an ease. This also includes tracing of personal information and obstruction of communications. Initially this move did not get any appreciation from the citizens and the proponents of civil liberty as they seek prevention of the right to privacy. Responding to which the Bush administration passed another law namely the Re-authorization Act to provide a balance between civil liberties and national security. Later the 2006 modifications to the same Act included an addition of Section-2271 to amend several provisions, mainly Foreign Intelligence Surveillance Act and National Security Letter of the Act. The provisions of the Section 2271 include FISA and five federal statutes. It grants the recipients of Section-215, the right to petition a FISA judge to modify or quash the non-disclosure requirement that accompanies such an order.

The Section-215 of the USA PATRIOT Act also authorizes the director of FBI to apply the FISA court to issue orders allowing the administration to get access to any tangible things such as papers, documents, books, articles, etc., whoever possesses it in foreign



intelligence, international terrorism and other related cases. The section prescribes that no person can disclose the order to other person that FBI has sought the tangible things from. However the USA patriot Improvement and Re-Authorization act of the year 2005, does provides for a judicial review of the case relating to Section-215 orders, thus making justice available to the person concerned. It must be taken into consideration that while seeking justice the recipient is required to disclose it to the FBI or the government agency the identity of the person to whom the discloser will be made, this may be treated as unconstitutional because it prohibits the recipient of the order or the NSL to seek legal assistance. The right to seek legal assistance may be severely violated by this provision.

#### ***4.3 Comparison between the Counter-Terrorism Laws in India and the US***

India and the US are equally vulnerable to terrorism. Both the democracies have tried to deal with this problem in number of ways and legal source is one of those. With the changing nature of terrorism, these countries strengthened their counter terrorism laws in order to handle it in effective manner. But there are many differences in the nature of terrorist threats that both the countries face. Thus we can find the differences in the formulation, structure and content of the laws in both the countries.

While the USA PATRIOT Act, 2001 defines terrorism, the Unlawful Activities Prevention Amendment Act, 2008 nowhere defines terrorism or terrorist but it describes a 'terrorist act'.

Indian government has inserted the anti- terrorism provisions into the ordinary criminal law, thus making the legislation permanent, unless it is repealed or amended. TADA and POTA had a sunset clause but the existing, UAPA act, 2008 lacks this mechanism and thus cannot be reviewed. This is not the case with The USA PATRIOT Act, 2001. It has a separate sunset clause, which enables the review of the entire law after every four years.

The pre-charge detention under UAPA, 2008 is 180 days which is much longer than the permitted maximum detention in the US, where it is only 48 hours. This is a disproportionate violation of the right to liberty and presumption of innocence. The UAPA 2008 denies bail to all non-citizens who have crossed boundaries illegally while the detention under the USA PATRIOT Act, the alien will be charged with a criminal offence not later than seven days after the commencement of the detention and if the requirement of the preceding sentence is not satisfied, he will be released. He can only be detained for maximum up to six months only if the release of the alien will threaten the national security of the United States or the safety of the community or any person.

In the US there is a provision for criminal penalties for the government officials found involved in an act of corruption while performing his/her job. Such an official will be fined by an amount that is not more than three times the monetary equivalent of the bribe in question. They may be imprisoned for not more than 15 years, or they may be fined and imprisoned. The UAPA, 2008, grants immunity from prosecution or other legal proceedings to the central and State governments and their employees.

Though there are many differences, a few similarities can also be seen in both the laws.

The USA PATRIOT Act, 2001 and UAPA, 2008 enhance the powers of the government officials to handle terrorism in an effective manner. Both the laws grant consent to the evidences collected through interception of wireless, electronic or oral communication. Like the US, where the trials are held in military tribunals, India also allows for trials to occur in special courts with the government-appointed judges.

Both the laws have enhanced provision of extra territorial jurisdiction which allows extending the law to terrorism in foreign territories. This particular aspect will be helpful in international cooperation against 'global terrorism'.

## *Summary*

Law is the quickest and the most effective measure technique for any state to assert its authority against a non-state actor. As the non-state actors do not possess any legislative powers, laws provide a hard-hitting portrait of the foundation for any political negotiation or settlement. Special laws enhance the state's ability to bring terrorists to justice. After studying the laws in detail and comparing them, it is clear that there are more differences rather than similarities in both the laws. This is also because there is a gulf of difference between both the societies. But putting the differences aside, there is a need and scope for a lot of improvements in Indian laws which can make them more effective along with securing the human rights and civil liberties.

## CONCLUSION

A close look into the trends of global terrorism reveals that there are dramatically fewer international terrorist incidents than in the mid-eighties but these few incidences are resulting into higher casualties. This trend reflects, in part, the changing motivation of the terrorist groups. Today, a growing percentage of terrorist attacks are designed to kill as many people as possible. Seemingly, religiously motivated terrorist groups, such as Al-Qaida, represents a growing trend towards hatred of the United States. Some terrorist groups are driven by ethnic hatred. Such groups lack a concrete political goal and are interested to punish their enemies by killing as many of them as possible, resulting into the attacks less likely to be followed by claims of responsibility or lists of political demands.

The terrorist threat is also changing in ways that make it more dangerous and difficult to counter. The shift in terrorist motives has contributed to a change in the way some international terrorist groups are structured. Because groups based on ideological or religious motives lack a specific political or nationalistic agenda, they have less need for a hierarchical structure. Instead, they can rely on loose affiliations with like-minded groups from a variety of countries to support their common cause. Increase in the sophistication of weapons is also one of the most disturbing trends of today's terrorism.

No part of the world is immune to this threat and thus makes it a global concern. As terrorism is a global phenomenon, it cannot be handled by any single nation no matter how powerful or equipped it may be. This threat of new terrorism needs to be addressed by the international community as a whole with strong and possibly quick measures. As India has always been a victim of both domestic as well as cross-border terrorism, it needs a strong counterterrorism mechanism which involves bilateral and multilateral relations with the stronger and better equipped countries which are affected by a common

threat of terrorism and also share a common goal to curb it at an international level. The interests of India and the U.S., though worlds apart, at least converge on this particular issue. However, the centers of terrorist threat is closer to Indian (Pak-Afghan borders) than to U.S. Yet this common threat resulted into a bilateral counter terrorism cooperation leading to the formation of Counter Terrorism Joint Working Group (CTJWG) and till date it has met eleven times since its inception in January, 2000.

There has been a significant evolution in the counter terrorism mechanism after the WTC attack on September 11, 2001 in the U.S. The cooperation which was handled secretly by the intelligence agencies at both the strategic as well as tactical levels and considered that greater secrecy makes the cooperation more effective adopted a separation between strategic and tactical mechanisms. While the intelligent agencies continue to be responsible for tactical cooperation, with secrecy being emphasized, there is a larger involvement of Ministries and Departments outside the intelligence agencies in promoting the strategic cooperation.

The JWGs are chaired by the Additional Secretary in the ministry of External Affairs dealing with the diplomatic aspects of counterterrorism cooperation. They include representatives from the intelligence agencies and the Ministries of Home Affairs and Defence and other concerned departments. They meet periodically, review cooperation at the strategic level and recommend future course of action. The intelligence agencies continue with the implementation part based on the recommendations away from the public glare. Major areas of cooperation have been expanded to greater intelligence sharing, an upgraded Anti-terrorism Training Assistance Programme (ATAP) for Indian law enforcement officials, the launching of a cyber security forum to focus on cyber terrorism and information security, improving border monitoring, counterterrorism equipment sales, counter-narcotics, money laundering, and the ratification and implementation of the Treaty on Mutual Legal Assistance.

The U.S. has responded to the cross border terrorist attacks on India from time to time along with the internal communal disturbances within the country with concern since the inception of the CTJWG and even before that. During kargil war in 1999, Washington was firm and quick in making its view clear that Pakistan should withdraw its forces back behind the line of control (LOC) immediately and for the first time acknowledged that the militants are supported and sustained by Pakistan. After the hijacking of Indian Airlines Flight, IC-814 in 1999, the U.S. strongly commended the need to upgrade its cooperation on counter terrorism efforts. In the case of the communal riots in Godhra, in the state of Gujarat, the U.S. responded sternly against the then chief Minister, who was responsible for the human rights violation, by not granting him the visa when he wanted to visit the U.S. for a Gujarati/diaspora conference. The latest multiple attacks in Mumbai in 2008 were responded with passing a resolution (H.Res.1532) in the House of Representatives on December 10, 2008 which condemned attacks, offered condolences and complete support to the people and the government of India. The Bush Administration also assured of sending the FBI agents to Mumbai to assist in the investigation. Besides the latest visit of Secretary of State, Hillary Clinton has affirmed that the 26/11 perpetrators should be brought to justice and that Pakistan should cooperate.

One can witness considerable counter-terrorism cooperation between the two countries in the area of law enforcement which includes programmes developed by the Department of Homeland Security (DHS) taking Container Security Initiative (CSI) to promote improved port and nuclear security. The Federal Bureau of Investigation (FBI) has expanded cooperation with its Indian counterparts, by providing training on combating cyber-crime, drug trafficking, and counter-terrorism. Regular information exchange between the CIA and RAW intensified since the Kargil crisis began, and was visible in the release of tapes containing conversations between Pakistan Army chief General Pervez Musharraf and his chief of general staff, Lt Gen Mohd Aziz, on May 26, 1999. The tapes were released to the press and diplomatic missions later to prove the Pakistan Army's involvement in the Kargil intrusions. Since 2004 the FBI has been conducting a course on 'surveillance and detection' for Indian police officers under its ATAP.

Recently it ran an 'Evidence Recovery, Preservation and Exploitation' course to train India's Central Bureau of Investigation (CBI), police and National Security Guard personnel to collect evidence in case of mass casualty attacks, There is an involvement of FBI and CBI in sharing information on terrorists.

Under Diplomatic Security Anti-Terrorism Assistance (DSATA) joint training of security and law enforcement officials has been conducted in India and in the United States at Washington DC, Louisiana, and New Mexico. The programmes provide both equipment and training in explosives investigation and countermeasures, hostage negotiation, counter-terrorism legislation, counter-terror police training, especially for Jammu & Kashmir, and courses to combat WMD. The Indian government is modifying and even replicating many of these courses for use in its domestic law enforcement training programmes. The Drug Enforcement Agency (DEA) is working with the State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL) and the DHS to conduct projects for India's Narcotics Control Bureau that deal with law enforcement, intelligence infrastructure enhancement, provision of technical equipment, and capability upgrades.

The above developments indicate that primarily there are no structural impediments to closer counterterrorism cooperation between the United States and India, but even then a significant degree of difference persists. American and Indian interests, no doubt do go well together, but are not convergent. While India is attacked in its homeland from outside along with the domestic attacks, for the U.S. terrorism is mostly an attack on its interests abroad. India is surrounded by the enemies at its borders while the case is different for the U.S. There are also differences in the two countries' domestic strategies and legal framework in combating terrorism.

Though India and the U.S. are together in dealing with the terrorist activities, the cooperation lacks the consistency and it is more of a tactical type than a strategic type as it erupts only when some incidence of attention occurs. India has suffered a lot by the Pakistan sponsored terrorism over decades. It has also experienced the U.S. role of double standards. Despite unhappiness and disappointments in India over the repeated U.S. failure to act against Pakistan, a consensus has developed since the terrorist strikes of 9/11 that the Indo-U.S. cooperation in counter terrorism should be kept sustained and further developed. While the Indo-U.S. cooperation on counterterrorism is based on a national consensus and will continue whichever party is in power in the country, the U.S.'s counterterrorism cooperation is not based on such a political consensus in Pakistan.

Taking into consideration the complexities of the relations between India and the US the cooperation can be much better placed if strategy is devised with complete understanding of each others' sensitivities. While military cooperation from 2001 to 2005 surpassed progress made in other spheres of Indo-US relations, the increased defence cooperation did not necessarily emerge from 'a common perception on security'. While the bilateral military interactions are growing, the joint exercises will continue to have limited utility without a greater focus on planning for potential combined operations that will advance the interests of both countries.

So long as the U.S. is in the forefront of the war against terrorism as far as Pakistan is concerned, India should follow the strategy of using all diplomatic levers to achieve the goal of eradicating terrorism without fighting a war with Pakistan. But at the same time, must retain the option of use of coercive power in case the U.S. fails to end the scourge of terrorism in south Asia.

India should, therefore, focus on counter-terrorism co-operation with the U.S. in meeting the likely threats from new terrorism. Future counterterrorism strategies to deal with new terrorism would require a strong naval power, brain power and a high degree of skills relating to information technology (IT). India has all of them in much



greater measure than any other Asian country. It also has ample experience in countering terrorism of various hues and valuable insights arising there from. But the political factors will continue to influence the pace and adequacy of the cooperation. These assets, if further developed and used intelligently, could make India a valuable partner of the US in countering the terrorism of tomorrow and bring a value addition to the present cooperation.

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## APPENDIX

### Indo-U.S. Counterterrorism Agreements

*February 8, 2000*

*Washington, DC*

Last month, the United States and India agreed to establish a Joint Working Group on Counter-terrorism. The agreement was announced following meetings between Deputy Secretary Strobe Talbott and Foreign Minister Jaswant Singh in London.

The inaugural meeting of the U.S.-India Counter-terrorism Working Group was held today in Washington. Ambassador Michael A. Sheehan, U.S. Coordinator for Counter-terrorism, hosted the meeting at the Department of State. The Indian delegation was headed by Joint Secretary Alok Prasad of the Ministry of External Affairs. Both delegations included an interagency group of counter-terrorism and law enforcement officials. The two sides expressed concern at the growing menace of international terrorism, extremism, and drug trafficking.

The two sides unequivocally condemned all acts, methods, and practices of terrorism as criminal and unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious, or any other nature that may be invoked to justify them.

The two sides agreed to intensify their joint cooperation to ensure that the perpetrators of the hijacking of Indian Airlines Flight 814 are brought to justice, as part of their joint efforts to combat international terrorism.

The Indian government agreed to the U.S. offer of Antiterrorism Assistance programs, the specifics to be determined in future visits. The group also decided to convene a meeting of each side's legal experts in April to discuss the Indian-proposed U.N. Terrorism Convention.

Inter-agency teams from the two countries agreed on a range of measures to enhance cooperation between the two countries to combat international terrorism. The two sides would share experience, exchange information, and coordinate approaches and action.

Both India and the United States have a shared interest in strengthening a regime to counter international terrorism. This working group is intended to enhance the effectiveness of our efforts to counter international terrorism worldwide.

The next meeting of the U.S.-India Counter-terrorism Working Group will be held in India on mutually agreed dates.

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*September 26, 2000*

*New Delhi*

India and the United States have institutionalized their co-operation to combat international terrorism through a Joint Working Group on counter terrorism. The first meeting of the joint working group was held on February 7-8, 2000 in Washington. This joint working group is also a part of the wide ranging architecture of institutional dialogue established by the two sides during the visit of President Clinton to India in March 2000.

During the recent visit of Prime Minister Vajpayee to the United States, Prime Minister and President Clinton reaffirmed the importance of this working group for intensifying co-operation between the two countries to combat international terrorism. The two leaders also decided to expand the mandate of the Joint Working Group to include discussion on such issues as narco-terrorism and Afghanistan.

The second meeting of the Joint Working Group was held on September 25-26, 2000 in New Delhi. Mr. Alok Prasad, Joint Secretary in the Ministry of External Affairs led the Indian delegation. Ambassador Michael A. Sheehan, U.S. Coordinator for Counter-terrorism led the U.S. delegation. Both delegations included an interagency group of counter-terrorism and narco-terrorism law enforcement officials. Ambassador Sheehan also called on the Foreign Secretary, the Home Secretary and other senior officials.



The two sides expressed concern at the growing menace of international terrorism, extremism and drug trafficking. The two sides unequivocally condemned all acts methods and practices of terrorism as criminal and unjustifiable whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.

The Indian government welcomed further Anti-terrorism assistance programmes from the U.S. the specifics to be determined in future visits and the increased levels of counter narcotics training and assistance. The Group expressed support for a comprehensive UN Convention on terrorism and hoped that there would soon be an international consensus on the text of the proposed convention in the Sixth Committee of the UN.

Inter-agency teams from the two countries agreed on a range of measures to enhance cooperation between the two countries to combat international terrorism. The two sides would share experience, exchange information and coordinate approaches and action.

Both India and the United States have shared interests in strengthening a regime to counter international terrorism. The Joint Working Group is intended to enhance the effectiveness of our bilateral co-operation and the international efforts to counter terrorism worldwide.

The next meeting of the India - U.S., Joint Working Group on Counter-Terrorism will be held in Washington on mutually agreed dates.

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*June 26, 2001*

*Washington, DC*

In January 2000, the United States and India announced the establishment of a Joint Working Group on Counterterrorism.

The third meeting of the U.S.-India Counterterrorism Working Group was held today in Washington, D.C. Acting Coordinator for Counterterrorism, Edmund Hull, hosted the meeting at the Department of State. The Indian delegation was headed by Joint

Secretary Jayant Prasad of the Ministry of External Affairs. Both delegations included an interagency group of counterterrorism and law enforcement officials.

The two sides expressed concern at the growing menace of international terrorism, extremism, and drug trafficking. The two sides unequivocally condemned all acts, methods, and practices of terrorism as criminal and unjustifiable, wherever and by whoever committed, and whatever the considerations that may be invoked to justify them.

Both sides agreed that the policies of the Taliban continue to foster terrorism that threatens the interest of both countries, as well as regional and international stability. They affirmed their support for United Nations Security Council Resolutions 1267 and 1333 imposed on the Taliban for supporting terrorism, harboring Usama bin Ladin and failing to close down terrorist training camps in Afghanistan. They agreed on the critical importance of the effective implementation of these resolutions, including through an appropriate monitoring mechanism. In addition, the two sides continued consultations on the India-proposed Comprehensive Convention against International Terrorism being discussed in the Sixth Committee of the UNGA, and reiterated support for its early finalization.

The Indian side welcomed the U.S. decision to qualitatively upgrade and widen the scope of the Antiterrorism Training Assistance Program, in connection with which the two sides agreed to hold a joint survey later this year. The Indian side welcomed the U.S. offer to share experience and expertise in strengthening counterterrorism institutional structures in India. The Indian government accepted a U.S. offer for a seminar to counter chemical, biological, radiological, and nuclear (CBRN) terrorist threats later this year. Interagency teams from the two countries decided to enhance exchange of information and strengthen coordination of approaches and actions in combating international terrorism.

The two sides welcomed the fact that their two governments had reached an agreement on the text of a mutual legal assistance treaty, and agreed to recommend to their respective governments that the treaty be signed as soon as possible.

The next meeting of the U.S.-India Counterterrorism Working Group will be held in New Delhi on mutually agreed dates.

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*January 22, 2002*

*New Delhi*

The fourth meeting of the India-U.S. Joint Working Group on Counter-terrorism was held on 21-22 January 2002. The Indian delegation was led by Mr. Jayant Prasad, Joint Secretary in the Ministry of External Affairs and the U.S. delegation was headed by Ambassador Francis X. Taylor, U.S. State Department Coordinator for Counter-terrorism. Both delegations included an interagency group of counter-terrorism, law enforcement, defence and finance officials.

The two delegations recalled that India and the United States have been victims of terrible acts of terrorism since their last meeting in June 2001. They welcomed the new international resolve, commitment and partnership in combating the menace of terrorism. They expressed satisfaction with the progress in the global war against terrorism, but recognised that the campaign will be long drawn and multi-faceted, involving political, diplomatic, military, intelligence and financial measures. The two sides emphasised that success in the war against terrorism depended heavily on international cooperation as well as national commitment to renounce use of or support to terrorism. They unequivocally condemned all acts of terrorism, whatever the considerations that may be invoked to justify them, and reaffirmed their nations' commitment to cooperate to prevent acts of terrorism and to eradicate terrorist organisations, which are a threat to international peace and security.

The delegations expressed satisfaction with their cooperation in response to the terrorist attacks in the United States on 11 September and on the Indian Parliament on 13 December last year. They reaffirmed their commitment to strengthen this cooperation and also noted that all countries have the obligation to cooperate in bringing terrorists to justice. They condemned this morning's attack at the U.S. Consulate in Kolkatta and conveyed their condolence to the families of the victims.

The two delegations expressed their strong support for the full implementation of UNSC Resolution 1373 of September 2001, which provides a comprehensive approach for sustained global and regional cooperation, national responsibility and building domestic capabilities in combating terrorism. In addition, the two sides continued consultations on the India-proposed Comprehensive Convention against International Terrorism being discussed in the Sixth Committee of the UNGA, and reiterated support for its finalisation and adoption.

The delegations reviewed the international terrorism situation, including in South Asia, Central Asia and Southeast Asia. They shared their assessment of the impact of the military, financial and other measures taken against terrorist groups and networks after September 11 and December 13. They also exchanged information on legislative, institutional and law enforcement steps that the two governments are taking to strengthen homeland/internal security and agreed to further share experience in this regard at the next meeting of the Joint Working Group. Experts on the two sides had detailed discussions on financing of terrorist activities and agreed that the widespread use of informal channels for financial flows presents a special challenge to governments.

They agreed that closer cooperation and strengthening mutual capabilities in cutting off financial flows to terrorist organisations will constitute an important component of their counter-terrorism cooperation.

Counter-terrorism officials on the two sides reviewed the anti-terrorism training and capacity building programmes conducted by the United States. The Indian side welcomed U.S. offer to further expand the programme, covering preventive, protective and consequence management capabilities in both conventional and WMD terrorism. The Indian delegation also welcomed the U.S. pilot project involving equipment and technology to strengthen border management and surveillance. The delegations also discussed forensic cooperation. In addition, the two sides added aviation security to their expanding counter-terrorism agenda. Indian and U.S. officials discussed ways to further strengthen their intelligence and investigative cooperation, including the possibility of access to each other's databases on terrorists.

The delegations welcomed the launch of the Joint Initiative on Cyber-terrorism, agreed on by Prime Minister Vajpayee and President Bush during their meeting in November 2001 in Washington D.C. The U.S. side informed that the Coordinator for Cyber-terrorism in the U.S. National Security Council will visit in the next few weeks for the first round of discussions with his counterpart in the National Security Council Secretariat.

The delegations also welcomed the decision of the India-U.S. Defence Policy Group in December 2001 to add a new emphasis in their defence cooperation on counter-terrorism initiatives, including expanding mutual support in this area. The two sides were briefed by defence officials on the two sides on the cooperative programmes, which will be executed by Subject Matter Expert Exchanges and Joint Combined Exchange Training in the coming months, and other events that will be finalised at the forthcoming meetings of the Executive Steering Groups of the two militaries.

The delegations reaffirmed their commitment to further deepen and expand counter-terrorism cooperation between India and the United States. Ambassador Taylor invited the Indian delegation to Washington D.C. in summer of 2002 for the fifth meeting of the Joint Working Group.

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*July 12, 2002*

*Washington, DC*

The fifth meeting of the India-US Joint Working Group on Counterterrorism was held on July 11-12, 2002 in Washington D.C. Coordinator for Counterterrorism Francis X. Taylor hosted the meeting at the Department of State. Joint Secretary Jayant Prasad of the Ministry of External Affairs headed the Indian delegation. Both delegations included officials and experts from their respective governments in line with the multi-disciplinary approach needed to successfully fight terrorism. The India-US Joint Working Group on Counterterrorism was established in January 2000. The Joint Working Group has met three times in the past twelve months, reflecting the importance that the two sides attach to international cooperation in combating terrorism. The past year has been a watershed for the two democracies in confronting

the challenge of terrorism. During this period, India and the United States have accomplished much in their counterterrorism cooperation. They have, inter alia:-

- Broadened their exchange of information and assessments on the international and regional terrorist situation;
- Strengthened intelligence and investigative cooperation;
- Qualitatively upgraded and expanded anti-terrorism training programmes for Indian law enforcement officials;
- Signed a Mutual Legal Assistance Treaty;
- Launched a bilateral Cyber Security Forum, with a wide-ranging programme of action to address of cyber terrorism and information security.
- Introduced military-to-military cooperation on counterterrorism to supplement the initiatives of the India-US Defence Policy Group in this area;
- Worked together closely on multilateral initiatives on terrorism, including on the implementation of UNSC Resolution 1373;
- Initiated dialogue and cooperation in homeland/internal security, terrorist financing, forensic science transportation security and border management; and
- Taken concrete steps to detect and counter the activities of individual terrorists and organisations of concern to the two countries.

The two delegations reviewed the international terrorist situation, including in South Asia, Central Asia and Southeast Asia. They shared their assessment of the impact of the military, law enforcement, financial and other measures taken against terrorists and their networks over the last six months. They expressed satisfaction at the progress made in the campaign against Al-Qaeda, but also recognised that the efforts of Al-Qaeda cadres and associates to regroup in other countries and to form coalitions

within other groups continue to pose a serious threat. The two sides agreed to further intensify intelligence sharing and coordinate action in pursuit of the remains of Al-Qaeda members and associated terrorist groups. The delegations also discussed the nexus between weapons of mass destruction, proliferation and terrorism.

The delegations reviewed their cooperation in the areas of anti-terrorism assistance and capacity building programmes conducted by the United States, border monitoring, military-to-military cooperation, law enforcement exchanges and legal assistance, internal/homeland security, counterterrorism finance and money laundering operation, transportation and aviation security and cyber terrorism.

The delegations expressed their strong support for the full and effective implementation of UNSC Resolution 1373 and the work of the UN Security Council's Counterterrorism Committee. UNSCR 1373 provides a comprehensive and mandatory framework for sustained global action against terrorism. In addition, both sides consulted on the possibility of an early finalisation of an effective Comprehensive Convention on International Terrorism.

The two delegations reviewed cooperation in the areas of extradition and mutual legal assistance with a view to deepening and broadening that cooperation. Both sides agreed to continue full cooperation in the investigation of the hijacking of Indian Airlines flight 814.

Recognising the importance of equipment and technology in strengthening counterterrorism capability, the US Technology Support Working Group will meet with its Indian counterpart before the next JWG. Discussions on counterterrorism equipment between the US Department of Defence and India's Ministry of Defence will continue under the aegis of the Defence Policy Group. Both sides also agreed to continue their dialogue on technology tools for enhancing border management.

India and the United States unequivocally condemned all acts of terrorism, whatever the supposed justification, and reaffirmed their nations' commitments to cooperate in preventing acts of terrorism and neutralising terrorist organisations, which are a threat to international peace and security.

The resolve of India and the United States to fight terrorism has never been stronger, and their commitment to intensify bilateral cooperation in this endeavour is deeper than ever before. Nowhere is this more evident than in the mutual support rendered in response to terrorist attacks in the two countries.

The Joint Working Group agreed to hold its sixth meeting in New Delhi at the beginning of 2003.

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*September 01, 2004*

*New Delhi*

The Sixth meeting of the India-US Joint Working Group on Counter Terrorism was held on August 31-September 1, 2004 in New Delhi. The Indian delegation was led by Ms. Meera Shankar, Additional Secretary (International Security) in the Ministry of External Affairs. The American side was led by Coordinator for Counter-Terrorism in the US Department of State, Ambassador J. Cofer Black. Both delegations included an inter-agency/inter-ministerial group of officials dealing with counter-terrorism and law enforcement.

The discussions included an assessment of the current international terrorism situation, a review of the US-led operations in Afghanistan and a review of the trends and concerns about the situation in South Asia, including cross border terrorism. The two sides shared assessments about the increase in arms and narcotics trafficking in the region and the linkages between trafficking in narcotics and financing of terrorism. The destabilizing impact of these linkages was a matter of growing concern to both countries. Both sides agreed that, even as the challenge posed by international terrorism continues to mutate, it is important for the international community to strengthen counter-terrorism cooperation to effectively meet this challenge.

The two sides exchanged information on the law enforcement, legislative, financial and other measures taken in the field of counter-terrorism since the last meeting in July 2002 and the more recent discussions held during Ambassador Cofer Black's visit to New Delhi in March 2004. The US side reiterated support for India's early membership to the International Financial Regulatory Institutions (FATF/EGMONT Group). Training and capacity building programmes were discussed and both sides



agreed to continue their on-going cooperation in this field and also explore the possibility of cooperation in new areas of mutual interest. It was agreed to look for ways to further ongoing cooperation against narcotics trafficking and the financing of terrorism and work towards early ratification and implementation of the Treaty on Mutual Legal Assistance.

Perspectives were exchanged on multilateral efforts to counter-terrorism. Both sides agreed that the institutional mechanism set up by the UN Security Council should continue to be strengthened. The two sides unequivocally condemned all acts, methods and practices of terrorism and agreed that measures in the multilateral context should be comprehensive, sustained and responsive to different regional situations.

Set up in 2000, the Joint Working Group is seen as a useful mechanism by both sides to get a first hand understanding of each other's specific concerns. The importance attached by their respective Governments to the on-going cooperation in counter-terrorism was reiterated, in particular in areas of capacity building, exchange of information and intelligence and regular sharing of assessment of emerging trends and concerns relating to international terrorism.

It was agreed to hold the next session of the India – US Joint Working Group on Counter-terrorism on mutually acceptable dates in Washington in April 2005.

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*April 20, 2006*

*Washington, DC*

The 7th meeting of the India-US Joint Working Group on Counterterrorism, which was established in 2000, was held in Washington on April 19-20, 2006. The Indian delegation was led by Ambassador K.C. Singh, Additional Secretary (International Organizations), Ministry of External Affairs, Government of India. The U.S. delegation was led by Ambassador Henry Crumpton, Coordinator for Counterterrorism, Department of State. A list of the delegations is attached.

The discussions advanced US-India cooperation in areas of common concern such as bioterrorism, aviation security, advancements in biometrics, cyber-security and terrorism, WMD-terrorism, terrorist finance and money laundering and violent

extremism. Both sides agreed to share information on a real time basis, respond to counterterrorism assistance requests expeditiously and collaborate to upgrade preparedness and capability to deal with acts of terrorism. Joint counterterrorism exercises will be scheduled and specific training programs in priority areas developed. The delegations also focused on improving the current mechanisms for extradition and legal cooperation.

The two sides agreed that the next session of the Joint Working Group would be held in New Delhi later this year.

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*February 28, 2007*

*New Delhi*

The following is a joint statement issued at the end of a meeting of the Indo-U.S. joint working group on counterterrorism:

The Indo-U.S. joint working group on counterterrorism met today to discuss cooperative strategies to fight the global menace of terrorism. The U.S. delegation, led by the Acting Coordinator for Counterterrorism, Frank Urbancic, met over a full day with K.C. Singh, Additional Secretary for International Organizations at the Ministry of External Affairs, who hosted the delegation.

They discussed, inter alia, regional counterterrorism efforts, threat assessments in South Asia and the Middle East, bioterrorism, weapons of mass destruction, and the on-going Anti-terrorism Assistance Training Program. The two parties also discussed terrorist finance and money laundering, the ideological dimensions of terrorism, information sharing, and widened cooperation for preventing terrorist acts.

They also agreed to find new ways to forge institutional linkages to foster closer interaction and cooperation. They concurred that no country today is safe from terrorism, and the cooperation between India and the United States not only strengthens the fight against the scourge of terrorism, but is a symbol of the way in which like-minded democracies can work together as partners in countering the global menace of terrorism.

The next meeting of the counter-terrorism joint working group will take place in Washington in the fall.

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*November 30, 2007*

*Washington DC*

The Indo-US joint working group on counter-terrorism, which met in Washington on Thursday, talked about bilateral cooperation in fighting the global menace of terrorism and asked the international community to come together to combat it in a sustained and comprehensive manner.

"Both sides strongly condemned terrorism in all its forms and manifestations and underscored it as a major threat to democracy, pluralism, international peace and security," said a statement from the Indian Embassy.

India and the US asked all states to abide by their commitment under the United Nations Global Counter Terrorism Strategy adopted by the UN General Assembly in September 2006. They also asked for expeditious finalisation of the draft UN Comprehensive Convention on International Terrorism.

"There can be no justification for any act of terrorism on any grounds. It is imperative for the international community to come together to combat terrorism in a long term, sustained and comprehensive manner," the statement said.

The Indian delegation was led by Ambassador K C Singh, Additional Secretary for International Organisations at the Ministry of External Affairs while the US delegation was led by the Coordinator for Counter-terrorism, Ambassador Dell Dailey.

Host of issues like regional counter-terrorism efforts, threat assessments in South Asia, Middle East and South East Asia, bio-terrorism, anti-terrorism assistance training programme and co-operation in the field of forensic epidemiology were discussed during the day-long meeting.

Other issues which were also discussed include terrorist financing and money laundering, ideological dimensions of terrorism, information sharing and widened cooperation for preventing terrorist acts.

The next meeting of the counter-terrorism joint working group will take place in New Delhi in 2008 on a mutually convenient date, the statement said.

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*August 25, 2008*

*New Delhi*

The 10th India-US Joint Working Group on counter terrorism met today to discuss bilateral cooperation in fighting the global menace of terrorism. The Indian delegation was led by Shri Vivek Katju, Additional Secretary for Political and International Organizations at the Ministry of External Affairs of India, while the US delegation was led by the Coordinator for Counter-Terrorism, Ambassador Dell Dailey.

1. During the Joint Working Group meeting, both sides strongly condemned terrorism in all its forms and manifestations. The Joint Working Group underscored terrorism as a major threat to democracy, pluralism, international peace and security. Both sides renewed their commitment to fight the menace of terrorism and reiterated the need for the international community to come together to combat terrorism in a long term, sustained and comprehensive manner.
2. India and the US called upon all states to abide by their commitments under the UN Global Counter Terrorism Strategy adopted by the UN General Assembly in September 2006 and called for the urgent finalization of the draft UN Comprehensive Convention on International Terrorism.
3. They discussed, inter alia, threat assessments in South Asia and the Middle East. They also exchanged views on cooperation in bio-terrorism, ongoing Anti-terrorism Assistance Training Program, regional counter-terrorism efforts and cooperation in the field of forensic epidemiology. Other issues discussed included terrorist financing and money laundering. Both sides agreed to identify measures to strengthen institutional linkages leading to closer interaction and cooperation in the field of counter-terrorism.

The next meeting of the Counter-Terrorism Joint Working Group will take place in Washington DC in 2009 on a mutually convenient date.

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*June 18, 2009*

*Washington, DC*

Delegates from the United States and India held the 11<sup>th</sup> U.S.-India Counterterrorism Joint Working Group on June 17 to discuss efforts to coordinate global counterterrorism initiatives. Coordinator for Counterterrorism Daniel Benjamin hosted the event, and Special Secretary for International Organizations Vivek Katju led the Indian delegation.

India and the United States strongly condemned terrorism in all of its forms and manifestations, recognizing it as a major threat to democracy, international peace, and security. They reiterated that there can be no justification for any act of terrorism on any grounds. It is imperative for the international community to come together to combat terrorism in a long-term, sustained, and comprehensive manner. India and the United States also called upon all states to abide by their commitments under the UN Global Counter-Terrorism Strategy adopted by the UN General Assembly in September 2006.

Sessions during this year's meeting focused on assessing the global terrorist threat, fighting terrorism through technological advancements, and counterterrorism cooperation between India and the United States. Other issues discussed included terrorist finance and money laundering, capacity building, and expanded information sharing. Both sides agreed to identify measures to strengthen institutional linkages leading to closer interaction and cooperation.

The next meeting of the Joint Working Group will take place in India on a mutually convenient date.

