

**INDIA'S COUNTERTERRORISM STRATEGY: AN
ASSESSMENT OF ANTI-TERROR LAWS AND
INSTITUTIONAL MECHANISMS**

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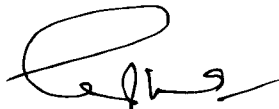
DECLARATION

I declare that the dissertation entitled “**INDIA’S COUNTERTERRORISM STRATEGY: AN ASSESSMENT OF ANTI-TERROR LAWS AND INSTITUTIONAL MECHANISMS**” submitted by me 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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To
My Revered Mummy and Papa

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Needless to say the errors in the dissertation are all mine.


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ABBREVIATIONS

ATS -	Anti-Terrorism Squad
ATTF -	All Tripura Tiger Force
BSF -	Border Security Force
CIA -	Central Intelligence Agency
CIT -	Counter Intelligence Team
CJM -	Criminal Justice Model
CoBRA -	Combat Battalions for Resolute Action
CPI (M) -	Communist Party of India (Maoist)
CPI (ML) -	Communist Party of India (Marxist-Leninist)
CRPF -	Central Reserve Police Force
CTJWG -	Counter Terrorism Joint Working Group
DNI -	The Director of National Intelligence
ECJM -	Expanded Criminal Justice model
FBI -	Federal Bureau of Investigation
HuJI -	Harkat-ul-Jihad-al-Islami
HuM -	Harkat-ul-Mujahideen
HUMINT -	Human Intelligence
IB -	Intelligence Bureau
IED -	Improvised Explosive Device
IM -	Indian Mujahideen
ISI -	Inter-Services Intelligence
JeM -	Jaish-e-Muhammad
JuM -	Jamait-ul-Mujahideen
KACOCA -	Karnataka Control of Organized Crime Act
LeJ -	Lashkar-e-Jabbar
LeT -	Lashkar-e-Taiba
LTTE -	Liberation Tigers of Tamil Eelam
MACs -	Multi Agency Centres
MCC -	Maoist Communist Centre
MCOCA -	Maharashtra Control of Organized Crime Act
MISA -	Maintenance of Internal Security Act
NIA -	National Investigation Agency
NSA -	National Security Act
NSCS -	National Security Council Secretariat
NSG -	National Security Guard
OSINT -	Open Source Intelligence
PDA -	Preventive Detention Act
POTA -	Prevention of Terrorism Act
POTO -	Prevention of Terrorism Ordinance
PWG -	People's War Group
R&AW -	Research and Analysis Wing
SIMI -	Students Islamic Movement of India
SMACs -	State Multi Agency Centres
SNA -	Social Network Analysis
SP -	Superintendent of Police

TAAA - Terrorist Affected Area Act
TADA - Terrorist and Disruptive Activities Act
TECHINT - Technical Intelligence
UAPA - Unlawful Activities Prevention Act
UK - United Kingdom
ULFA - United Liberation Front of Assam
UP - Uttar Pradesh
UPA - United Progressive Alliance
US - United States
WM - War Model

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Preface

Terrorism is a complex phenomenon. It is a method whereby an organized group seeks to achieve its avowed goals chiefly through the systematic use of violence. India has been victim of both conventional and non-conventional threats for a long time. But among all the challenges terrorism has been a major threat, which India has experienced for decades. To meet the challenge of terrorism, India has adopted various strategies. At socio-economic level, the strategy involves measures to reduce the grievances of concerned communities so that the level of terrorism can be controlled. In this regard India has adopted certain steps by providing education and employment concessions aimed at alleviating the socio-economic grievances of ethnic and religious communities. Use of coercion is one of the major aspects of Indian strategy. Highly skilled and trained forces are used to combat terrorism in Kashmir and North-East. The military with specialist expertise is used for retaliatory response to terrorism. The task of dealing with terrorism has become tough for India. Laws are part of its counterterrorism strategy. India has framed various laws both at national and state levels. The institutional structure for counterterrorism consists of the state police, intelligence, paramilitary forces and the national intelligence community like the Research and Analysis Wing (R&AW). Besides, there are various governmental agencies which are working against terrorism, such as the National Security Guard (NSG), the Anti Terrorism Squad (ATS) and the National Investigation Agency (NIA).

The main objectives of the study are:

- To examine the challenges of terrorism to India's security.
- To examine various strategies of India to counterterrorism.

- To make an assessment of how anti-terrorism laws have contributed to counterterrorism strategies.
- To examine the effectiveness of institutional structures which are used for countering terrorism.

In this context, the study has posed the following questions:

- Are India's counterterrorism strategies able to deal with the challenges of terrorism?
- Why terrorism occurs again and again even though India has developed institutions and deployed forces to counterterrorism?
- What is the role of legislation in countering terrorism in India?

The study has tested the following hypotheses:-

- Anti-terror legislation has failed to prevent terrorism because of its cross-border dimensions.
- An effective counterterrorism strategy entails political measures to address the root cause of terrorism.

The study is divided into five chapters. The first chapter is analytical in nature. It defines terrorism and counterterrorism. It also identifies various counterterrorism strategies and evaluates how and when they succeed. The second chapter explains the nature and dimensions of terrorism in India. It evaluates the challenges facing the Indian states and its comprehensive responses to terrorism. The third chapter examines the various anti-terror laws that India has enacted to counterterrorism. It mainly deals with the national laws and their implementations. The purpose of the chapter is to demonstrate how these laws have strengthened the Indian government's counterterrorism strategies. The fourth chapter deals with the government mechanisms created specially to combat terrorism. It covers their functions and

activities and explores how institutions like the National Intelligence Agency contribute to combating terrorism. While summarizing the study, the concluding chapter tests the hypotheses. It also makes an assessment of India's responses to terrorism.

Chapter 1: Counterterrorism Strategy: A Conceptual Framework

Terrorism has for long been part of human society, but of late it has assumed even more horrific proportions. In the post-Cold War period it has achieved the status of a critical threat. There are many causes for the rise of terrorism, such as social, economic, cultural and political. Any nation that has not satisfactorily attended to these problems makes itself a potential target for the emergence of terrorism. If people do not find the system or the political processes compatible to their demands, they may opt for terrorism as a weapon to change the system. The present chapter discusses what terrorism is, various causes that lead to terrorism, the goals of terrorism, and counterterrorism and its elements.

The word terrorism is derived from the Latin word *terrere* which means to tremble. It is a process which makes use of threat of violence against humanity, individuals or groups. Terrorism is an act or a series of acts which are used to create coercion in society. It is a method whereby an organized group desires to achieve its aim through the systematic use of violence. Terrorism is characterized as an act that seeks to arouse not only the ruling government but also to make people aware that the regime in power is no more trustworthy. The terrorists' aim is to replace the present governmental system with their own regime, and to run the political system according to their understanding.

Terrorists see non-combatants as the softest and easiest target for their aims. Terrorism is a random process. During the attack the terrorist does not aim at any particular person but attacks randomly. It is a premeditated criminal act, politically motivated, potentially including religious, philosophical, ideological, or culturally symbolic motivations. The true target of the terrorism remains society as a whole.¹

Definition of Terrorism

There is as yet no consensus among scholars on the definition of terrorism.

The Federal Bureau of Investigation (FBI) of United States of America defines

¹ Brian T. Bennett, *Understanding, Assessing, and Responding to Terrorism* (New Jersey: John Wiley & Sons, 2007), p. 3

terrorism as “The unlawful use of force or violence against persons or property to intimidate or coerce a government, civilian population, or any segment thereof, in furtherance of political or social objectives.”² The FBI further describes terrorism as either domestic or international, depending on the origin, base and objectives of the terrorist organization. The United Kingdom’s Terrorism Act 2000 defines terrorism as follows:

(1) In this Act "terrorism" means the use or threat of action where:

- (a) the action falls within subsection (2),
- (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public and
- (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.

(2) Action falls within this subsection if it:

- (a) involves serious violence against a person,
- (b) involves serious damage to property,
- (c) endangers a person's life, other than that of the person committing the action,
- (d) creates a serious risk to the health or safety of the public or a section of the public or
- (e) is designed seriously to interfere with or seriously to disrupt an electronic system.³

The Security Council, in its resolution 1566 (2004), stated that:

“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 persons, intimidate a population or compel a government or an

2 Chris Quillen, “A Historical Analysis of Mass Casualty Bombers”, *Studies in Conflict and Terrorism*, vol. 25, no. 5, September-October 2002, p. 282

3 “Terrorism Act 2000”, *Office of the Public Sector Information*, available at: http://www.opsi.gov.uk/acts/acts2000/ukpga_20000011_en_1#1, accessed on 5th July, 2010

international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature.”⁴

Terrorism is the act of destroying or injuring civilian lives or the act of destroying or damaging civilian or government property without the expressly chartered permission of a specific government. In terrorism individuals or groups act independently of government on their own accord and belief, in an attempt to achieve some political goal.

The US Department of Justice describes terrorism as “premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience.”⁵ The US Department of Defense notes that the calculated use of unlawful violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological objectives.⁶

The Supreme Court of India has given a “workaday” definition of terrorism in the following words in *Mohd. Iqbal M. Sheikh vs State of Maharashtra*:

... it may be possible to describe [terrorism] as use of violence when its most important result is not merely the physical and mental damage of the victim but the prolonged psychological effect it produces or has the potential of producing on time society as a whole.... If the object of the activity is to disturb harmony of time society or to terrorize people and the society, with a view to disturb the even tempo, tranquillity of the society, and a sense of fear and

4 “Delivering Counter-terrorism Assistance”, *United Nations office on Drugs and Crimes terrorism Prevention Branch, April 2005*, available at:

www.unodc.org/pdf/crime/terrorism/Brochure_GPT_April2005.pdf, accessed on 3rd March, 2010

5 “terrorism”, *National Institute of Justice*, available at:

<http://www.ojp.usdoj.gov/nij/topics/crime/terrorism/>, accessed on 13th July, 2010

6 Bruce Hoffman, *Inside Terrorism* (New York: Columbia University Press, 2006), p. 31

insecurity is created in the minds of a section of the society or society at large, then it will, undoubtedly be held to be a terrorist act.....⁷

Hoffman considers terrorism as:

the deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change. All terrorist acts involve violence or the threat of violence. Terrorism is specifically designed to have far-reaching psychological effects beyond the immediate victim(s) or object of the terrorist attack. It is meant to instill fear within, and thereby intimidate, a wider 'target audience' that might include a rival ethnic or religious group, an entire country, a national government or political party, or public opinion in general. Terrorism is designed to create power where there is none or to consolidate power where there is very little. Through the publicity generated by their violence, terrorists seek to obtain the leverage, influence and power they otherwise lack to effect political change on either a local or an international scale.⁸

Ganor notes that "Terrorism is the deliberate use of violence aimed against civilians in order to achieve political ends."⁹ In the view of Lequeur (1987), "terrorism constitutes the illegitimate use of force to achieve a political objective when innocent people are targeted."¹⁰ Harmon describes terrorism as "the deliberate and systematic murder, maiming, and menacing of the innocent to inspire fear for political ends."¹¹

Schmid (1988) considers terrorism to be:

an anxiety-inspiring method of repeated violent action, employed by (semi-)clandestine individual, group, or state actors, for idiosyncratic, criminal, or political reasons, whereby—in contrast to assassination—the direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message

7 V. P. Srivastav, *Prevention of Terrorism Act: Myth and Reality* (Delhi: Indian Publishers' Distributors, 2005), pp. 3-15

8 Bruce Hoffman, *Inside Terrorism* (New York: Columbia University Press, 2006), p. 41

9 Boaz Ganor, "The Relationship between International and Localized Terrorism", *The Jerusalem Center for Public Affairs*, vol. 4, No. 26, 28 June 2005, available at:

<http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DBID=1&LNGID=1&TMID=111&FID=379&PID=1859&IID=557>, accessed on 9th May, 2010

10 Walter Laqueur, *The Age of Terrorism* (United Kingdom: Little Brown and Company, 1987), p.72

11 Christopher Harmon, *Terrorism Today* (London: Frank Cass, 2000), p. 1

generators. Threat- and violence-based communication processes between terrorist (organization), (imperilled) victims, and main targets are used to manipulate the main target (audience(s), turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought.¹²

Causes of Terrorism

Economic

Terrorism is more common in developing nations rather than in the poorest societies or in the developed West, and it is especially likely to emerge in societies characterized by rapid modernization and lack of political rights. Poverty contributes indirectly to the potential for political violence. The failure of a country to create a viable economy is one of the root causes of civil war. A lower level of development creates masses of young people with few economic alternatives, driving them towards rebel and terrorist groups. Zero opportunity costs become natural recruits for rebel and terrorist groups.¹³ Poverty is cited by militants to justify their actions, claiming that they act on behalf of groups that are repressed or marginalized by dominant groups. These claims echo the essential insight of the relative deprivation theory of political violence where people become resentful and disposed to political action when they share a collective perception that they are unjustly deprived of economic and political advantages or deprived of the opportunities enjoyed by other groups. So the groups who are disadvantaged because of class, ethnic or religious cleavages give support and rise to terrorist movements.¹⁴

12 Jongman Schmid, *et al.*, *Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories, and Literature* (Amsterdam: Transaction Books, 1988), p. 28

13 David Keen, "The Economic Functions of Violence in Civil War", *International Institute of Strategic Studies*, paper no. 320, 1998, available at:

<http://www.iiss.org/publications/adelphi-papers/adelphi-paper-list/>, accessed on 7th July, 2010

14 Tedd Robert Gurr, *Why Men Rebel* (New Jersey: Princeton University Press, 1970), pp. 1-36

The wealthier countries are also perceived to be more prone to terrorism. Sometimes various groups remain unhappy with national resource distribution and use terrorism in wealthier nations, while resorting to civil war in poorer economies. Furthermore, well-developed economies offer terrorists more vulnerable and worthwhile targets as well as easier access to weapons, the mass media or sophisticated means of communication and transportation. The poor structural economic conditions of a country such as poverty or uneven income distribution may also be considered as the causes of terrorist activity. Both in intra-country and international comparison, poverty and inequality are recognized as more drastic and threatening in less developed countries. Consequently, terrorist organizations are able to recruit new members and find popular support more easily and cost-effectively in such countries which offer only few economic opportunities and which exhibit a high amount of discontent and desperation associated with low economic development, poverty and inequality.¹⁵

Socio-political

In socio-political terms, discrimination on the basis of people's ethnic or religious origins is the chief cause of terrorism. When minorities are systematically deprived of rights to equal social and economic opportunities or are impeded from expressing their cultural identities they may resort to self-determination movements, and if they are barred from political access, they likely to choose violent forms of struggle, including terrorism.¹⁶ The process of modernity, which includes urbanization, far-going changes in social habits, and historical traditions paves the way for violence and government inability to avert terrorism. The emergence of grievances of sub-groups like an ethnic minority, lack of opportunity for political participation, elite dissatisfaction along with mass passivity and action-reaction syndrome catalyses the birth of a terrorist organization. The obstacles to prosperity and development posed by society itself lead to group

¹⁵ Tim Krieger and Meierrieks, "What Causes Terrorism", *Centre for International Economy*, June 8, 2009, available at:

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1148682, accessed on 12th July, 2010

¹⁶ Ted Robert Gurr, "Economic Factors", in Louise Richardson, ed., *The Roots of Terrorism*, (New York: Routledge, 2006), p. 88

mobilization, individual action, creation of terrorist organizations or entry into them.¹⁷

When systematic social and political inequalities across groups coincide with sharp restrictions on political rights then disadvantaged groups are ripe for recruitment by political movements. Militants possess choices. They organize strikes, demonstrations, political agitation, economic boycott, sabotage and warfare. They opt for tactics in a larger campaign that leaders choose and discard depending on opportunities and costs. The prospects of reform lead to the militants' incentive for political actions. The regime on the other hand may use repression to reduce the opportunity costs of oppositional violence, including terrorism. Repressive tactics by the state may also alienate the public from the state and generate sympathy for the terrorists' cause.¹⁸

Poor governance (especially in failed or failing states) itself paves the way for terrorism, which benefits from the administrative vacuum. Demographic problems, political alienation, religious fanaticism, despair in the state and structural inequalities, etc. also play vital role in the rise of terrorism.

Radicalization and a wave of terrorist attacks result when militants capitalize on popular outrage about a specific hostile event. Members of diaspora like Kurds, Sikhs, Tamils and many others are motivated by discrimination and repression against their kindred in their homelands or somewhere else to organize and support violent resistance. The diaspora activists are very much sensitive to their brethren in host land, homeland or third or fourth countries of residence.¹⁹

17 Rakesh Gupta, *Terrorism, Communalism and Other challenges to Indian Security* (Delhi: Kalpaz Publication, 2004), pp. 113-15

18 Ted Robert Gurr, "Economic Factors", in Louise Richardson, ed., *The Roots of Terrorism*, (New York: Routledge, 2006), p. 99

19 Ibid., p. 91

Role of the state

Several states provide financial support, arms, training, asylum, and other forms of assistance to various terrorist groups. State support appears to be more important to terrorist groups operating in foreign territory. Indigenous terrorist groups obtain most of their support from domestic sources. A growing number of governments themselves use terrorist tactics, employ terrorist groups, or exploits terrorist incidents to wage war on foreign foes or domestic enemies living abroad.²⁰ States make calculated decisions to engage in, sponsor, or give support to international terrorism in furtherance of foreign policy objectives. The increase in state-sponsored terrorism implies that the states involved have made some sort of cost-benefit analysis which has indicated that employing terrorist tactics is cost-effective.²¹

States supporting terrorist activities do so with the intention of deniability, trying to conceal the involvement of their personnel and the traces of their actions. They keep themselves away from the operations. Totalitarian states employ terror inside the state easily and are susceptible to supporting it internationally. The terrorists remain puppets for these governments and officials promoting the nation's interest. Totalitarian states which support terrorism conduct proxy wars using terror as a weapon. This kind of situation is increasing because by opting for this method the state can achieve strategic ends where the uses of conventional arms forces are not effective.²²

The impacts of globalization, rapid modernization and socio-economic and cultural disruptions are related with the rise of terrorism, and are often exploited by terrorists. Terrorism occurs in diverse and divergent social, political and economic conditions and needs to be viewed through historical, cultural, demographic, economic, social and political angles also. Terrorist acts and

20 Brian M. Jenkins, "Statements about Terrorism", *International Terrorism*, vol. 463, September 1982, pp. 11-23

21 Grant Wardlaw, "Policy Dilemmas in Responding to International Terrorism", *The Australian Quarterly*, vol. 58, no. 3, 1996, pp. 278-85

22 Niranjana Dass, *Terrorism and Militancy in South Asia* (New Delhi: M.D. Publications, 2007), p. 385

motivations differ among groups and individuals, within and across nations and regions as well as religions. The causes to which terrorists appeal are often but not always known in specific cases. Poor governance (especially in failed or failing states), demographic problems (a bulging youth population), political alienation and despair, religious fanaticism, structural inequalities, etc are also equally responsible for terrorism. The combination of many factors prepares the ground for terrorism, which is a long-term process not an immediate reaction.

Goals

One of the goals of terrorism may be to influence a government or a group of governments to take a certain course of action or perhaps to terminate a course of action.²³ The aim of terrorism is also to influence government decisions, legislation and other critical decisions. These goals are fulfilled through spreading violence and confusion. Terrorism may also have some fixed goals like to ruin the national economies and disrupt foreign policies, and damage or destroy critical infrastructure of the nations. Discouragement of foreign investment, tourism, or assistance programmes affects a country's economy and support of the government in power.²⁴ Sometimes their goal is revenge for perceived persecution.²⁵

Terrorists frame their goal to harass, weaken, or embarrass government security forces so that the government overreacts and appears repressive.²⁶ Another aim is to gain maximum publicity at minimum risk, particularly those involving explosive devices. Terrorists aim to remain in the forefront, so they switch tactics in order to maximize publicity.²⁷ One of the major terrorist goals is to obtain worldwide, national, or local recognition for their cause by attracting the attention

23 Frank Bolz, Jr., et al., *The Counterterrorism Handbook: Tactics, Procedures, and Techniques* (New York: Taylor and Francis, 2005), p. 21

24 "Goals and Motivations of Terrorists", available at:
<http://www.terrorism-research.com/goals/>, accessed on 12th July, 2010

25 Brian T. Bennett, *Understanding, Assessing, and Responding to Terrorism* (New Jersey: John Wiley & Sons, 2007), p. 4

26 Frank Bolz, Jr., et al., *The Counterterrorism Handbook: Tactics, Procedures, and Techniques* (New York: Taylor and Francis, 2005), p. 22

27 Ibid.

of the media. Terrorist groups have become experts at leveraging the media to assist in their objectives. Media attention also helps the terrorists' recruiting and financing goals.²⁸

Nature

The nature of terrorism is not based on the causes generating it such as socio-political or poverty. It is motivated by material gain also. Terrorism can be prosecuted on the basis of its constituent acts – murder, destruction of property, and so on – but the political nature of terrorism suggests that it gives a higher priority to the political angle than regular organized crime. Terrorism involves the killing of non-combatant civilians for monetary, materialistic or some other gains. This goes to the heart of the illegitimacy of terrorism. The targeting of non-combatant civilians is a means to an end: “the real target is public opinion, and the success of a terrorist act can often be gauged by the amount of publicity received”.²⁹ Media exposure achieves free advertising about the political cause or social grievance.³⁰

Counterterrorism

Counterterrorism is the combination of policies and methods to combat both domestic as well as international terrorism. It is a strategic measure which is intended to avert terrorism. Counterterrorism is an application of policies which can control the act of terrorism and terrorist activities. Counterterrorism is an offensive measure used to reduce the vulnerability of forces, individuals and property to terrorism, to include counterforce activities and containment by military forces and civil agencies. Bruce Newsome describes counterterrorism as defensive and offensive measures against political violence.³¹ Counterterrorism actions address not simply the treatment of and response to action that have taken place and the prevention of future acts of terrorism but also the reaction of the

28 Brian T. Bennett, *Understanding, Assessing, and Responding to Terrorism* (New Jersey: John Wiley & Sons, 2007), p. 4

29 Paul J. Smith, *The Terrorism Ahead* (England: M.E. Sharpe, 2008), pp. 12-14

30 Ibid.

31 Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), p. 364

audience to the act or threats.³²

Counterterrorism includes a broad spectrum of responses from conventional war against states that harbour or sponsor terrorists through law enforcement to arrest terrorists within the country. It is decidedly a proactive function which contains both intelligence gathering and analysis of security-related information or “intelligence”. It takes the fight to the terrorists with offensive military activities, covert operations and law enforcement efforts. Ideally, comprehensive and coordinated intelligence activity guides all three tasks and helps link them together. But to make it effective these tasks need to be combined into a comprehensive plan, a grand strategy combining various elements of national power to defeat terrorism.³³

Over the last decade terrorists have become much more international and forced counterterrorism strategies also to become international. This in a way helps to trace the terrorist networks through intelligence sharing.³⁴ Coordinated action by nations has resulted in various international counterterror policies and treaties. The counterterrorism strategy involves diplomacy, intelligence, law enforcement, and financial efforts intended to defeat international terrorism. Due to the changing character of terrorism international coordination becomes the most important aspect of counterterrorism.

Counterterrorism measures need to be within the framework of rule of law and human rights. Without attention to human rights and rule of law, a framework for counterterrorism will make the states concerned appear hypocritical and also pose a danger of a drift towards autocratic rule.³⁵ The primary objective of counterterrorism strategy is the protection and maintenance of liberal democracy

32 Leonard Weinberg, “Democracy and Terrorism” in Louise Richardson, ed., *The Roots of Terrorism* (New York: Routledge, 2006), p. 56

33 Thomas R. Mockaitis, *The “New” Terrorism: Myths and Reality* (London: Praeger Security International, 2007), pp. 100-05

34 Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), p. 365

35 Ben Clarke, “Effective Counter Terrorism: Sound Foreign Policy, Intelligence Gathering, Policing, Social Engineering and Necessary Use of Force” in Robert Imre, ed., *Responding to Terrorism: Political, Philosophical and Legal Perspectives* (England: Ashgate, 2008), pp. 192-93

and the rule of law. Because the terrorist groups form an ad hoc structure, most of the counterterrorism strategies are incremental, pragmatic and defensive with marginal pay-offs.³⁶

Intelligence is the key concept in counterterrorism. Nations that have suffered from or are suffering from the evil of terrorism have tried to maintain the interception of communications, and the tracing of persons as central activities of combating terrorism. But today to meet the growing challenge of terrorism these actions are not enough. The need is for new technologies, law enforcement and expanded range of military operations.

The response to terrorism is broadly divided in two models, i.e. Criminal Justice Model (CJM) and War Model (WM). The CJM regards terrorism as a crime and functions on the fundamental premise of preservation of democratic principles in the fight against terrorism. Arrests and penalization of terrorists are the aims of CJM when terrorists adhere to the rule of law. It possesses rigid constitutional boundaries and its nature is circumscribed by the standard rule of authority. This being the fundamental premise, it is safeguarded even at the expense of effectiveness of counterterrorism measures.³⁷

The WM considers terrorism as a tactic exercised in guerrilla activities or even acts of rebellion. It follows the apprehending of terrorists and elimination of terrorism. It gives preference to restraining and countering terrorism rather than upholding liberal democratic principles. In WM the onus for response lies in the mechanism of use of force. This lies with the military and the special units.

However, due to shortcomings and certain grey areas in both types of responses, nations usually opt for Expanded Criminal Justice Model (ECJM), which is a hybrid of CJM and WM. The ECJM regards terrorism as an exceptional phenomenon that is not necessarily an act of war, yet also deviating from the standard definition of a felonious crime and conceives the aim of arrests and

36 Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), p. 365

37 Graeme C.S. Steven and Rohan Gunaratna, *Counterterrorism: A Reference Handbook* (California: ABC-CLIO, 2004), p. 101

penalization of terrorists. Under ECJM, forces responding are primarily police and secret services, occasionally complemented by special anti-terrorism units. The nature of response includes preventive arrests, surveillance techniques and gathering intelligence data where methods typically used by the secret services are employed with the intention of bringing suspect to trial.³⁸

Counterterrorism measures comprise both defensive measures, to reduce vulnerability to terrorist acts, and offensive measures, to prevent, deter, and respond to terrorism.³⁹ The offensive measures also carry a contingency plan which enables a nation-state to respond to and address the challenge of any terrorist incident. There is need for these diverse responses due to the dynamic nature of terrorism and its capability to act at various planes and levels.⁴⁰

The role of counterterrorism is vital in the present context of terrorism. If states do not construct these counter laws or policies, then the entire world will suffer from this menace. But sometimes counterterrorism measures affect the masses adversely as well. The strategies and the policies framed to protect the common citizen may victimize the common citizen in various ways, especially by encroaching on the liberty of the common citizens.

Some of the various counterterrorism measures are considered in the ensuing paragraphs.

Political measures

A number of political measures can be used to counter terrorism and to resolve its causal factors. But states need to address the terrorists' specific political, economic, or social grievances by changing policy to accommodate the terrorists or by offering some kind of concessions. By addressing a group's legitimate grievances, the state shows that it has done something in response; then, if the groups persist in their terrorist activities they may lose popular support and

38 Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), pp. 366-67

39 Graeme C.S. Steven and Rohan Gunaratna, *Counterterrorism: A Reference Handbook* (California: ABC-CLIO, 2004), p. 102

40 Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), p. 368

credibility. The state can also appease the general populace. If the grievances are social or economic, engaging in measures that are seen to redress the grievances through employment schemes, anti-discrimination measures, poverty reduction schemes like land redistribution, and opening legal economic alternatives to black-market activities, etc. can work effectively.⁴¹

Conflict resolution is also a part of political measures. This comprises public dialogue, secret mediation or negotiation to try and initiate peace processes. Steps can be taken to encourage opposition groups or to develop alliances with opponents of terrorist groups in order to further decrease the appeal of the group. Even amnesties can be used to weaken the groups and their popular appeal. But banning membership of such groups and their front organizations, and declaring their political and military wings illegal can work more effectively if their sponsorship is banned as well. Diplomacy and foreign liaison between intelligence and counterterrorist agencies are also important. Diplomatic pressure can be used to lever state sponsors to decrease their support by expelling diplomats from states supporting terrorist organizations.⁴²

Judicial measures

An important judicial measure to combat terrorism includes the signing and ratification of international conventions and protocols targeting terrorism. There has been an expansion of extradition treaties and efforts to increase compliance with well-founded extradition requests for suspected terrorists in various states' territories, in the efforts to enhance mutual legal assistance with other states and in the exchange of information with judiciaries in other countries. For effective judicial measures, effective criminal jurisdiction is mandatory.⁴³

41 Graeme C.S. Steven and Rohan Gunaratna, *Counterterrorism: A Reference Handbook* (California: ABC-CLIO, 2004), p. 102

42 Ibid, pp. 102-03

43 Ibid, p. 104

Punitive measures

Punitive measures include economic sanctions like arms embargoes, freezing assets and diplomatic boycott. Blocking the assets of the state sponsors can also become a bargaining tool. The key aspect of countering terrorism is the severing of the group's means of financing, by banning fundraising and transfer of funds from potential front organizations of terrorist groups, which should be done nationally or internationally. Reducing bank secrecy is one of the measures. Offering financial rewards for information leading to the arrest of terrorists is another measure that can be effective.

Military measures

By making use of military skills, resources, and experience, civil powers can avoid spending money to duplicate and develop similar capabilities in other agencies and services. The military can be incorporated into the civil system and perform peacekeeping duties, help the police by patrolling areas and searching for weapons, and assist in cross-training. Special forces exhibit the "willingness to take the fight to the terrorists; to meet them on their own ground rather than passively wait for them to strike," which has led to the major counterterrorist successes.⁴⁴

Intelligence agencies

The importance of intelligence in countering terrorism cannot be over-emphasized.⁴⁵ Intelligence can be acquired through signals, electronic communications, and human sources agents, as well as through open sources, surveillance and a variety of other means. But what is important is to ensure that intelligence agencies have plenty of personnel with diverse experience. Agents and analysts need to have linguistic, cultural and regional expertise in all the geographic areas. These are needed for a variety of reasons to infiltrate terrorist

44 J.S. Adam, *Secret Armies* (London: Pan, 1989), pp. 81-82

45 Stewart Foster, "Maintaining a Co-ordinated Approach to Counter-Terrorism", *The Australian Quarterly*, vol. 58, no. 3, 1996, pp. 321-25

cells, recruit agents/informers, and acquire information to understand the nature of terrorist objectives and plans, their political motivations and alignments; the leadership and membership; the logistics and financial resources; the links with other terrorist groups, terrorist states, and international organized crime, which would help in preventing terrorist acts.⁴⁶

Movement restriction

Movement restriction is also an important tool to control terrorism. The economic globalization, the reduction in trading barriers and borders and the ensuing freedom of movement have benefited terrorists and allowed them to move not only themselves but funds, materials and equipment more easily. So to reduce terrorism more effective travel and immigration measures need to be introduced.⁴⁷

The Media

David Rapoport notes:

The relationship between publicity and terror is paradoxical. Publicity focuses attention on a group, strengthening its morale and helping to attract recruits and sympathizers. But it also helps an outraged public to mobilize its vast resources and produces information that the public needs to pierce the veil of secrecy all terrorist groups require.⁴⁸

The media can convey the terrorist's message and can spread fear and terror in society. This should be considered significant because the public's fear of terrorism and sense of insecurity influence political, social and economic decisions, regionally and internationally. One may therefore win the battle against terrorism by thwarting terror attacks, but lose the war when the threat of terrorism succeeds in disrupting the daily life of civilians.⁴⁹ The media can assist in

46 Graeme C.S. Steven and Rohan Gunaratna, *Counterterrorism: A Reference Handbook* (California: ABC-CLIO, 2004), p. 111

47 Ibid., p. 113

48 David Rapoport, "The Media and Terrorism; Implications of the Unabomber Case", *Terrorism and Political Violence*, vol. 8, no. 1 (spring) 1996, p. 8

49 "Media Enhances Terrorism", available at:

countering terrorism but only to some extent; otherwise it plays a bigger role in spreading terrorism.

Counterpropaganda

The importance of propaganda and publicity to the terrorist is paramount and the importance of countering such propaganda, from a counterterrorism perspective, is extremely valuable and beneficial. Conflict resolution techniques encourage and facilitate dialogue, mediation and negotiation which are important in breaking down negative stereotypes of opposing factions that may perpetuate the use of violence. One of the tactics is to target those involved with the conflict or terrorist campaign by trying to establish and ultimately build on a common theme, belief, or value base with political opponents. During the delegitimation of group, it is important to convey and emphasize the inhumanity and immorality of the terrorists' activities while emphasizing that the actual impact is relatively small. These techniques help to reduce support as well as the sympathy base and detract from any propaganda success through sensationalized media reporting.⁵⁰

Counterterrorism and the role of the Police

The role of the police in counterterrorism is also significant. The role of the police is to ensure that the law and its principles are upheld and maintained, along with gathering and preparing evidence for use in law courts ranging from forensics to eyewitness accounts. The role of the police includes protective security and the hardening of possible, probable and high-risk targets in order to deter and prevent attacks. The police also engage in preparedness exercises and contingency planning. The police have their own intelligence capability that runs their own undercover agents, uses informers, and organizes witness protection and relocation schemes. Various attempts are made at controlling infiltration of police through

<http://www.ict.org.il/>, accessed on 30th June, 2010
50 Graeme C.S. Steven and Rohan Gunaratna, *Counterterrorism: A Reference Handbook* (California: ABC-CLIO, 2004), pp. 115-17

external checks on police officers by internal affairs departments or intelligence agencies.⁵¹

Hence, we can conclude that terrorism has posed biggest challenge to the world but to avert this menace prevention through placing and detonating of bombs is not sufficient, need to prevent financing, procuring, recruiting, researching, networking and mobility. As terrorism has become headache worldwide so to counter it responses and set of counterterrorism measures are required. Due to its huge and divers operations international measures and responses can counter such entities. So formation of effective set of measures and responses required that could help in curbing this menace because without framing such measures and responses the innocents would remain victim and sufferer of terrorism.

⁵¹ Ibid., p. 114

Chapter 2: Nature of Terrorism and Counterterrorism Strategy in India

India has been facing the challenge of terrorism and insurgency since its independence in 1947, commencing with the Naga insurgency in the North-East. But in the last two decades the nature of terrorism has changed. Currently, terrorism in India is not limited to Kashmir but has spread in various forms, including Naxalism. Various other domestic terrorist organizations have also emerged. The present chapter discusses the nature of terrorism in India and the counterterrorism strategy.

India has been a victim of terrorism due to its varied regional, ethnic and ideological factors. The ethnic and regional insurgencies in the North-East, jihad extremism in Kashmir and terrorism in Punjab have become the basic case studies of terrorism in India, but Naxalism has recently emerged as an important case study. Naxalism has been in existence for quite some time in India, but because of the recent changes in the environment and rising Naxal brutality the government has declared Naxalism as a terrorist movement.

The areas most affected by terrorism are Kashmir, the North-East and the Red corridor. India has faced terrorist movements in the states of Punjab and Jammu and Kashmir which abut Pakistan. The part insurgent-part terrorist movements in the North-East share borders with Myanmar and Bangladesh. Bihar, another state known for the terrorist phenomenon, shares a border with Nepal. Terrorism has also affected certain other coastal and inland states and cities like Mumbai, Delhi, Andhra Pradesh, Madhya Pradesh, and Orissa.

Kashmir has been home to a number of militant groups seeking independence for the region since the 1980s. Several issues, including the problems of governance, narrow political interests of the Union and state governments, and social, political and communal mobilization of Kashmiri society, converged in the late 1980s. The Kashmir conflict has strong religious and ethnic dimensions, as two-thirds of the state's population are Muslim. Because Kashmir is a Muslim-majority state, Pakistan avows that it does not consider the border of Kashmir touching Pakistan as the borderline between India and Pakistan. The popular disaffection in the

Kashmir Valley was exploited by Pakistan to initiate armed conflict. Thus, after 1987, the “conflict of” Kashmir merged with the “conflict in” Kashmir, leading to an armed conflict. There are more than 2500 hardcore terrorists operating in Kashmir. More than 50,000 people have migrated from the valley. More than 23,000 people have been killed in the state till the last decade and fatalities are mounting.

Pakistan’s main objective in Kashmir has been to use that issue as a means to bleed India, force India to give up its claims especially to the Kashmir Valley, and also to annex the state. Over the years there have been slow changes in these objectives. Currently, Pakistan’s primary objective is not to annex the state but to annex Pakistan-occupied Kashmir permanently, and to loosen India’s control over the Kashmir Valley.¹

The insurgency in North-East India, which is connected to the rest of India by a narrow strip of land known as the Siliguri Corridor or Chicken’s Neck, has been the oldest terrorist-related problem of India. Most of this region stands apart ethnically and linguistically from the rest of India. Some insurgent groups call for a separate state; some others for autonomy; while some extremist groups demand complete independence. Tensions exist between these states and the central government. Tensions also exist between the tribal people indigenous to these states, and migrant people from other parts of India. The main reason for the terrorist activities in the region is the feeling of neglect by the rest of India to their plight, which has led the natives of these states to seek greater participation in self-governance. Territorial disputes also exist between Manipur and Nagaland on the one hand, and Meghalaya and Mizoram and Tripura on the other. These are due to linguistic issues and language and tribal identities. For terrorism-related fatalities in the region during 2005-2010 see Annexure 1.

1 D. Suba Chandran and P.R. Chari, *Armed conflicts in South Asia 2008: Growing Violence*, (New York: Routledge, 2008), p. 98

As regards Naxalism, the movement started in 1967 from the village of Naxalbari in West Bengal. The movement waned in the early 1970s, but has in the last three decades assumed menacing proportions. As of 2009, Naxalites were active across approximately 220 districts in twenty states of India accounting for about 40 per cent of India's geographic area, and are concentrated in an area known as the Red Corridor, where they control an area of 92,000 square kilometres. The term Red Corridor signifies an impoverished region in eastern India that experiences considerable Naxalite-Maoist militant activities. It is seen from Map 1 that the entire eastern coastal region along the Bay of Bengal is affected by Maoist terror, posing a serious threat to the integrity of India, and is now expanding to the west and north. Jammu and Kashmir, Haryana, Punjab, Delhi, Himachal Pradesh, Uttarakhand and Rajasthan are also getting infected by this movement. Poor governance, want of social justice, lack of electoral reforms, corruption in the judiciary and bureaucracy, poor state of rural roads, absence of primary healthcare and education and employment opportunities are considered as the real causes of the rise of Maoism.² For state-wise fatalities in Maoist-related violence see Annexure 2.



Various Terrorist Organizations

Terrorist groups in India comprise both those having their origins abroad and also home-grown groups. Some of these are briefly described below. All these organizations have been officially declared by the central government as terrorist organizations and have been banned.

TH-17627

Al-Badr is an Islamic militant group operating in the Jammu Kashmir region. It is run by the Pakistani Inter-Services Intelligence (ISI) since 1998. It has links with Jamaat-e-Islami and al-Qaeda. The group's stated purpose is to liberate the Indian state of Jammu and Kashmir to merge with Pakistan. Al-Badr has been banned by India under the Unlawful Activities (Prevention) Act, 2004.

² Col. Rajinder Singh, "Combating Red Terror", *Indian Defence Review*, vol. 25, no. 1, Jan-Mar 2010, pp. 160-61

The *All Tripura Tiger Force (ATTF)* has as its main objective to expel all Bengali-speaking settlers settled in Tripura after 1956 and to return tribal lands to their original owners under the Tripura Land Revenue and Land Reforms Act.

Lashkar-e-Taiba (LeT) operates both in Pakistan and Jammu and Kashmir. The group receives funding from Pakistan's intelligence services. It is one of the largest and most active Islamist militant organizations in the entire South Asia. Its objective is to introduce an Islamic state in South Asia and to "liberate" Muslims residing in Indian Kashmir. LeT members have carried out major attacks against India.

Jaish-e-Muhammad (JeM) is another Pakistan-based terrorist group operating in Jammu and Kashmir and seeks to drive India out of Jammu and Kashmir and transfer control of the region to Pakistan. JeM is a major Islamic mujahideen organization based in Pakistan. It has carried out several attacks primarily in Indian-administered Kashmir.

Harkat-ul-Mujahideen-al-Islami, earlier known as Harakat al-Ansar, is a Pakistan-based Islamic militant group operating primarily in Kashmir. In 1997, the United States designated HuM as a foreign terrorist organization. The group is a splinter of *Harkat-ul-Jihad-al-Islami (HuJI)*. HuJI is a Sunni Islamic fundamentalist terrorist organization most active in Pakistan, Bangladesh and India since the early 1990s. The organization is exporting jihad to the Indian state of Jammu and Kashmir under the patronage of ISI and the Pakistani establishment.

United Liberation Front of Assam (ULFA) has sought to establish an independent socialist state in Assam since its founding in 1979. ULFA seeks to establish a sovereign Assam via an armed struggle.

The Communist Party of India-Maoist (CPI Maoist), also known as Naxalites, aims to overthrow the government of India through violent activities. In 2006

Prime Minister Manmohan Singh referred to the Naxalites as the single biggest internal security challenge faced by the country.

Deendar Anjuman is an Islamic organization based in Karnataka. It was first banned in 2001 and thereafter the ban has been extended periodically. In its notification in the Gazette of India on 29 August 2007 the Ministry of Home Affairs declared Deendar Anjuman “an unlawful association” as its activities could “create tension among the Christians and other communities with a view to disrupting the social fabric and tarnish the secular fabric credential of the country.” On 29 November 2008 a Special Court in Karnataka condemned 11 members of Deendar Anjuman to death and 12 more members to life imprisonment for their role in church blasts across Karnataka in 2000. This group was also involved in church blasts across neighbouring Andhra Pradesh and Goa.

The Students Islamic Movement of India (SIMI) has the stated mission of “liberation of India” from Western materialistic cultural influence and to convert India’s Muslim society to live according to the Muslim code of conduct. SIMI was banned by the Indian Government in 2002 for its involvement in terrorist attacks in India. It is suspected that SIMI is now also operating under the name of Indian Mujahideen.

The Indian Mujahideen (IM) has claimed responsibility for several terrorist attacks in India, including the bomb blasts in Ahmedabad and Delhi in 2008. The IM is believed to be a “shadow amalgam of the SIMI and Lashkar-e-Taiba”.³

Causes Influencing the Rise of Insurgent/Terrorist Movements in India

The main cause encouraging the rise of terrorist organizations in India is the substantial difference in the living standards and the varied cultures, ethnic,

3 “List of Designated Terrorist Organizations”, available at: [http://www.encyclopedia.org/List of designated terrorist organizations](http://www.encyclopedia.org/List_of_designated_terrorist_organizations), accessed on 4th December, 2009

religious or other groups. India is composed of societies who are deeply fragmented by caste and community, and further fragmented on account of linguistic, regional and cultural differences. There are also enormous inequalities in the social structure. The mixed administrative and political baggage in the states of the region makes way for the manifestation of discontent in terms of violence, which has consistently escalated over the last half century. The complex interplay of domestic, regional and international factors prepares the breeding ground for this most powerful threat to the nation's security.

The reasons for the rise of terrorism in India range from the unfinished agenda of partition, ethnic inconsistencies, poverty and accompanying deprivations such as unemployment, low levels of literacy and the alienation of whole cultural or ethnic groups brought about by the threat to life by frequent communal violence and destruction of means of livelihood. The additive to all this is religious extremism in the form of fundamentalist indoctrination. Religious fundamentalism has been unabashedly pitted against communism. In India "religious fervour and economic deprivation ... make a highly combustible mixture which is certain to produce more explosions."⁴ The economic factors include the absence of land reforms, rural unemployment, exploitation of the landless labourers by landowners, etc. States like Andhra Pradesh, Madhya Pradesh, Orissa and Bihar are prime examples of this crisis. These economic grievances and perceptions of gross social injustice have given rise to ideological terrorist groups such as the various Marxist/Maoist groups operating under different names.

The growth of terrorist movements in India has links to the willingness of some nations to directly or indirectly sponsor campaigns of terror, often through proxies and other means. State sponsorship of groups has strained relations between India and Pakistan, Afghanistan and Pakistan, and India and Bangladesh. India's Naga and Mizo insurgents received training in China, but the military assistance ended after the death of Chinese leader Mao Zedong. Pakistan's state sponsorship of

4 John Bary, ed., *The Future of Political Violence, Destabilization, Disorder and Terrorism*, (RUSI/Macmillan, 1986), p. 134

terrorism in Jammu and Kashmir continues to cast its shadow on the ongoing peace process between India and Pakistan. Foreign support has also contributed to the heightening of the salience of national security concerns, aggressive nationalism and militarism in India. Terrorist groups operating in India often have links with ideologically similar groups active in the neighbouring countries which offer sanctuary, training facilities and allow their sovereign territory to become a conduit for supply of arms and funds to militant groups. Ironically, the threat of terrorism or militant challenges has often been used as an excuse for undermining democracy and an increasing communalization of society.

The funds for the terrorists are generally transmitted through the informal hawala channel. In October 2008 the Mumbai Police Crime Branch found out that the Indian Mujahideen was receiving money from the Gulf countries through the hawala networks and Western Union Money Transfer. Similarly, Kashmir-based separatist groups such as Hizbul Mujahideen and LeT are also suspected of using hawala transaction as a source to fund their activities.⁵

Secessionism too is a motivational factor for terrorism in India. The problem of secessionism has occurred over the last fifty years mainly in three regions – Punjab, Kashmir and the North-East, where people are on the social and physical fringes of India. Language, religion and the feeling of alienation set these people apart from the people of the heartland of the country. All the three are concentrated at the outer limits of India adjoining a neighbouring country that has the desire and the ability to create problems in India's internal security.⁶

Sectarian forces also play an increasingly dominant role in political and social matters. The drift of the state towards sectarian identity has disturbed the internal social balance and political harmony. It has marginalized minorities (religious,

5 B. Raman, "Counter-Terrorism: The Indian Experience", *South Asia Analysis Group*, paper no. 649, available at:

<http://www.southasiaanalysis.org/%5Cpapers7%5Cpaper649.html> , accessed on 3rd June, 2010

6 Arun Sahagal, "Dealing with the Problem of Terrorism in India", available at: <http://www.ifa.org.np/document/saarcpapers/arun.pdf> , accessed on 15th February, 2010

social, cultural and regional) and driven them to desperation, which generates violence in the clash of perceived or real interests between the dominant majorities and neglected minorities.

In the case of Assam and Tripura, unabated infiltration of Bangladesh nationals into these two states with the motive of upsetting the demographic balance first, and then swallowing up a big chunk of territory has been actively encouraged by the regimes in Dhaka. The problem of migration from East Bengal (later East Pakistan and then Bangladesh) to Assam dates back to about a hundred years to Nawab Salim Ullah Khan of Bengal. According to the Group of Ministers Report of February 2001, "Illegal migration from across the borders has continued for over five decades. Today, we have more than 15 million Bangladeshis, which have implications to national security."⁷

In Assam and Tripura due to the widening communication gap between Government and the masses the political system has been weak to fulfil the people's economic demands. The political processes in the states of the North-East also have been very slow because of which the tribes of these areas have not been inclined to regard India as their own land and lack faith in the central government. They find their compatibility and ease with other nations. This clearly is a sign of political failure by the central government in handling the situation in this region.

Goal of Terrorism in India

Terrorism is threatening India's national security. Territorial integrity, political independence, fundamental political institutions and cultural values have been targeted by terrorists in India. The neighbouring nations that support terrorism target the democracy and secular character of India. The goal of Pakistan-promoted terrorism is to affect India's national integrity. Gen. Pervez Musharraf, the President of Pakistan, said in April 1999: "India is a hegemonic power and low

7 M.S. Jamwal, "Counter Terrorism Strategy", *Strategic Analysis*, vol. 27, no. 1, 2003, p. 64

intensity conflict (read terrorism) against it would continue even if the Kashmir problem is solved to our satisfaction.”⁸

Terrorists operating in India consider that by means of violence they can achieve their goals and no other instrument of conduct of international relations like international organizations, international law and diplomacy can work as effectively as terrorism does. India is targeted for alleged violation of human rights in Kashmir and the North-East by the national and international human rights watch groups as well. Continuous fight against terrorism in Kashmir and the North-East is expected to weaken the nerves of the Indian government, which is the aim of terrorism.

Pakistan-sponsored terrorism in India possesses the singular aim of dismembering the country. The pervasive feeling of revenge for the partition of 1971 has been the prime factor behind Pakistan’s proxy wars in India. Attempts were made to create a buffer state of Khalistan but failed. Now they have shifted their operations to Jammu and Kashmir and have gained roots.

The aim of terrorism in India is to divide society and weaken the social fabric with a persistent atmosphere of tension. Religion, as a most sensitive issue, becomes a handy tool in this enterprise. Facilitating this process where Muslims are concerned is the poor socio-economic status of Muslims in general. Also, Muslims have to some extent been used as a “political football” by the forces on the so-called “Hindu Right”.⁹ Attracting youth who are deprived, poor and unemployed, providing them arms and training makes them belligerent against the social structure.

⁸ Ibid., p. 66

⁹ Sandy Gordon, “Policing terrorism in India”, Springer, vol. 50, no. 1-2/ September, 2008, available at: <http://www.springerlink.com/content/4810521n21736460/>, accessed on 2nd July, 2010

Strategies Followed by Terrorists

One of the new methods adopted by Islamist terrorists is the use of people who have never before travelled to Pakistan or the Middle East and to enlist people already employed at targeted locations, so that getting past security becomes easier. The handlers are now focusing on people who have easy access to targeted locations.¹⁰

Naxalites, driven by their dual objectives of armed struggle and mass agitation, have also developed and implemented new strategies and tactics. In order to expand their mass agitation activities, the Maoists have identified three broad issues around which to mobilize support; first fight against the economic development policies of the government, particularly the setting up of Special Economic Zones and other large-scale industrial projects leading to displacement of tribal people and forest dwellers; second, resist the continuing discrimination against the minorities like Dalits and support their struggle; and third, extend support to the struggle of the oppressed nationalities, particularly in Kashmir and India's North-East, for their right to self-determination. The first two aims have taken operational effect, the last remains at the level of ideological attachment.

At the military level, the Naxalites have evolved two important tactics to strengthen their armed struggle; the tactic of simultaneous attacks used extensively in 2005 gave way to "swarming attack" and the "hit and run" tactic was replaced with "mobile" attacks aimed at hitting specific targets with impunity.¹¹

Of late, terrorists have been doing a thorough reconnaissance of the targeted places before attacking. In the November 2008 Mumbai attack David Coleman Headley

10 Mateen Hafeez, "Pakistan again using mafia links for terror strikes", *The Times of India*, 17 March, 2010

11 D. Suba Chandran and P.R. Chari, *Armed conflicts in South Asia 2008: Growing Violence* (New York: Routledge, 2008), pp. 132-33

played a vital role in reconnoitring the targeted points and sending information to the LeT, which carried out the massacre.

An increase in suicide terrorist missions has also been noticed. With the improved overall security arrangements, suicide missions are considered as a low-cost option. Recent intelligence reports from Pakistan point to the LeT recruiting surrendered Taliban militants for possible use in India. It has been reported that 130 such militants are under training in an “institute” in Lahore, for the past three months. This might result in an increase in suicide bombing or high-risk commando style attacks in India.¹²

Terrorists are also using cyber technology as a tool for terrorism, for sending e-mail messages before and after conducting their operations and by hacking into networks.

Indiscriminate shooting is another strategy where they do not target any specified person or group. The attack on the Indian Parliament building in 2001 by LeT and JeM was one of such attacks.

The German Bakery blast of Pune in February 2010 shows that terrorists have switched to renowned places but smaller cities because smaller cities normally have smaller police forces and are likely to be less well protected. There is a better chance of succeeding without being caught. They choose these places for their popularity among foreigners and local people. The objective behind targeting popular places is to create fear amongst the target population.¹³

12 Mateen Hafeez, “Pakistan again using mafia links for terror strikes”, *The Times of India*, 17 March, 2010

13 R. Swaminathan, “Terrorism: Present Challenges and Trends”, *South Asia Analysis Group*, paper no. 7340, 2010, available at: <http://www.southasiaanalysis.org/%5Cpapers38%5Cpaper3740.html> , accessed on 4th June, 2010

Cross Border Terrorism

India has been suffering from cross-border terrorism for the last two decades from Pakistan and Bangladesh. Various sponsorships, supports and safe havens have been provided by these states, which has kept cross-border terrorism alive in Kashmir, North-East and many regions which share boundaries with another country. Cross-border terrorists or Islamic insurgents in Kashmir are basically from Pakistan-administered Kashmir and Afghanistan. The Pakistan government calls these insurgents “Kashmiri freedom fighters”, and says it gives them only moral and diplomatic support. Al-Qaeda had strong ties with Kashmir militant groups like LeT and JeM in Pakistan. In January 2010 U.S. Defense secretary Robert Gates on a visit to Pakistan stated that Al-Qaeda was seeking to destabilize the region and planning to provoke a nuclear war between India and Pakistan.¹⁴

Pakistan’s ISI continues to sponsor covertly cross-border terrorism in India. ISI provides arms and logistics to the LeT, JeM, and HuM. It also provides financial incentives to their cadres to kill Indian security personnel; the more senior the rank, the higher the payment. With army support, via a barrage of cross-border artillery fire, the ISI assists terrorists in moving back and forth across the Line of Control (the de facto border dividing Kashmir), and the international border with India. All of this continues to take place despite General Musharraf’s pledge to the US and the UK on 6 June 2002 to stop cross-border infiltration “permanently” in Kashmir.¹⁵

Some insurgent terrorist groups from the North-East are operating from Bangladesh, while certain terrorist groups with religious orientation get haven in Nepal. India and Myanmar share 1,640 km long border, through which the armed outfits sneak to that country and carry out offensive activities on the Indian side.

14 Zahid Hussain, “Indo-Pak tension worst in 20 Yrs”, *The Times of India*, 29 January, 2010

15 Rahul Roy Chaudhury, “India’s Response to Terrorism after 13 December 2001”, *Conflict, Security & Development*, vol. 3, no. 2, 2003, p. 278

There are also links between ULFA and ISI. ULFA leaders have been used by ISI to kill Hindu (Bihari) people to make space for migrants from Bangladesh in Assam. China earlier provided shelter and support to ethnic-separatist militancy in the North-East.¹⁶ Indian Naxalite groups like MCC – active in Bihar, Jharkhand, Madhya Pradesh and Orissa – and PWG in Andhra Pradesh have established close links with Nepalese Maoists. The porous India-Nepal border, especially along Bihar, makes it the ideal place for terror training.¹⁷

Effects of terrorism on Indian democracy

Terrorism today poses the gravest threat to India's sovereignty and its integrity. It destabilizes the fundamental rule of law, denies rights to the citizens, endangers the social fabric, and threatens the political and economic stability of the nation.¹⁸ Undoubtedly, terrorism undermines the human rights of people. No society that respects the rights of its people can be silent when the most fundamental right to life and liberty is violated. After the various rounds of terrorist attacks, people start losing faith in the government. The continuous terrorist attacks in India have taken a heavy human toll, affected the social and economic development of the country and undermined the democratic and secular fabric and the governance capabilities of our society.¹⁹

The increasing home-grown terrorism has also impacted Indian democracy. Various Indian Islamist terrorist organizations like SIMI, Harkat-ul-Jehad, JeM, Harkat-ul Mujahideen (HuM), Al Badr, Jamait-ul-Mujahideen (JuM), Lashkar-e-Jabbar (LeJ), HuJI, Al Barq, Tehrik-ul-Mujahideen, Jammu & Kashmir National Liberation Army, etc., are the domestic product of external Islamic terrorism in India. These Indian Islamic organizations are sponsored, stimulated and provoked by external Islamist terrorist groups who are operating in India in the guise of

¹⁶ "ISI-ULFA link exposed- Musharraf met Chetia in Dhaka", 10 January, 2010, available at: www.zenews.com/news594150.html, accessed on 8th July, 2010

¹⁷ "Major Naxalite Outfits", available at:

www.hindustantimes.com/news/specials/naxalism/majoroutfits.html, accessed on 12th July, 2010

18 Wilson John and P.V. Raman, "Effective Legislation Critical for Fighting Terror", *Observer Research Foundation*, Article no# 5, 2006, p. 1, available at:

www.observerindia.com/cms/.../py060831_1162551713391.pdf, accessed on 6th March, 2010

19 Raj Kumar, "Terrorism and Indian Democracy", *The Hindu*, 30 July, 2008

home-grown Indian terrorist groups. The Naxalite groups like Communist Party of India (Marxist Leninist) Janashakti, Communist Party of India-Maoist (CPI-Maoist) etc. are also home-grown terrorist groups who have ruined the life of the common masses and have created panic for the system as well. Apart from the dilemma of home-grown terrorist groups from Jammu and Kashmir, the Naxalite issue has emerged as one of the greatest home-grown problems for India.

The incipient problem of secessionism in Jammu and Kashmir and the North-East has also been aggravated by external forces.

The agenda for promotion of human rights faces considerable challenges on account of frequent terrorist attacks, communal violence, and pervasive exploitation on account of caste and gender differences which has put a question mark before the nation and its policies. Feeling of insecurity among the masses is the result of terror attacks. They have weakened the faith of the masses in the system. Insecurity of human life and human rights has become a greatest challenge for India.

Responses

India has been facing terrorism for a long time. It has also been following various policies to handle it. Whether it is Jammu and Kashmir, the North-East or the Naxal movement, India has tried to do its best to deal with these problems. Whether it is political, social, military or economic measures, various steps have been taken to combat and reduce terrorism in India. At the political level India has made various international alliances and in return has drawn international support against terrorism. India's Central Bureau of Investigation and European Europol decided to have effective coordination to check crimes. India and Australia are also united against terrorism. The U.S. and India have together launched a formal Counter Terrorism Joint Working Group (CTJWG) and also launched the Joint Initiative on Cyber Crime. Recently, India and Bangladesh have signed three pacts to combat terrorism and organized crime – the Agreement on Mutual Legal

Assistance in Criminal Matters, Agreement on Transfer of Sentenced Persons, and Agreement on Combating International Terrorism, Organized Crime and Illicit Drug Trafficking. Both nations are working on an Extradition Treaty.

At the socio-economic level, the government's strategy involves measures to reduce the grievances of the aggrieved communities so that the level of terrorism can be controlled. Steps taken include providing education and employment, and concession aimed at alleviating socio-economic grievances of ethnic religious communities. The central government has been continuously supporting and assisting the state governments in their efforts to bring about all-round economic development and to provide avenues for gainful employment to the people, with focus on planned and balanced regional development. Priority has been accorded to building physical, economic and social infrastructure, thereby improving the productive potential of the states, besides improving the quality of life of the people.²⁰

Use of coercion is one of the major aspects of Indian strategy. Highly skilled and trained forces are used to achieve particular goals like combating terrorism in Kashmir and the North-East. The military with specialist expertise is used for retaliatory response to terrorism. The Government of India is assisting the state governments for augmenting and upgrading their police forces to deal with insurgency and militancy. Towards this end, 51 Indian Reserve Battalions have been sanctioned for the North-East, including Sikkim. These include nine battalions each for Assam, Tripura, and Manipur, and seven for Nagaland. Forty-two Indian Reserve Battalions have been raised so far in the states of the North-East, including Sikkim. To combat the menace of Naxalism a high-level Task Force under the Cabinet Secretary has been formed.²¹

The war against terrorism is between a coalition of democracies and terrorism. But that does not isolate terrorism. There are many countries which are not democratic

20 Ministry of Home Affairs, available at:
<http://www.mha.nic.in>, accessed on 12th June, 2010

21 Ibid.

or are semi-democratic, whose support needs to be enlisted. India's main enemy today is not Pakistan or Afghanistan; it is terrorism. India should therefore contribute in building the broadest possible anti-terrorist coalition.²²

Anti-terror laws are part of India's response toward terrorism. The nation has framed such laws which could actually help to avert terrorism, like the Maintenance of Internal Security Act 1973 (MISA), the Unlawful Activities Prevention Act 1967 (UAPA), and the National Security Act. The Terrorist and Disruptive Activities Act (TADA) and Prevention of Terrorism Act (POTA) were anti-terror laws in the real sense, but they were defamed for their draconian misuse and created a strong demand for their repeal, and finally came to an end. Currently India has the UAPA (Unlawful Activities (Prevention) Act, 2008) in place of TADA and POTA.

Anti-terror laws at the state level include the Maharashtra Control of Organized Crime Act 1999 (MCOCA), the Chhattisgarh Special Public Security Act, 2005, Karnataka Control of Organized Crime Act 2009 (KACOCA), the Andhra Pradesh Control of Organized Crime Act 2001, the Punjab Disturbed Areas Act, 1983, etc. However, this study is confined to the national laws.

So we can conclude that nature of terrorism in India is based on number of factors which leads to the existence of various terrorist organizations, including home grown terrorist groups. Multiple causes are equally accountable for the emergence of terrorism as those factors influences insurgents/terrorists and give rise to their activities. While taking India into consideration in relation of terrorism, role of cross border terrorism and role of state in support of terrorism is inevitable. But to meet the challenge of terrorism India has constructed framework of legal provisions and strategies. But laws play major role in handling terrorism.

22 Balraj Puri, "India and the War Against Terrorism", *Economic and Political Weekly*, vol. 36, no. 40, Oct. 6-12, 2001, pp. 3805

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Chapter 3: Anti-Terrorism Laws and Their Contribution to Counterterrorism Strategy

Every state prepares some strategy, both national and international, to combat terrorism. Laws are a part of this strategy. India has also been framing various laws for a long time to maintain its internal security. But ordinary laws would not help in the case of terrorism, which is an extraordinary situation. Hence the need is to frame certain laws, rules and regulations which could deal with this extraordinary situation.

The threat to India's territorial and internal security has existed mainly in four forms: rebellion in Punjab, militancy in Jammu and Kashmir, insurgency in the North-East and left-wing extremism in various geographically contiguous regions. Every dilemma possesses its distinct identity, which is moulded by its geo-political and socio-economic context. India's national security strategy is not fully established, it is still evolving. The need is to frame clear-cut strategy which meets both national and international challenges. India always opted for the use of force to deal with the challenges, whether terrorism or others, but has found the military approach inadequate. Strong counter-terror laws are required.

The Indian constitution gives authority to Parliament to legislate on the issue of national security and enables the central government to make use of military and central police forces to help state civilian authorities to save India's internal security. To fulfil these purposes the government has framed several counter-terror laws that have been implemented, repealed and re-enacted.

India possesses three categories of security laws. The first category applies to the entire territory of the Union of India. Among these are the Preventive Detention Act (PDA) 1950; Unlawful Activities Prevention Act (UAPA) 1967, amended a second time in 2008; Maintenance of Internal Security Act (MISA) 1971; National Security Act (NSA) 1980; Terrorist Affected Area Act (TAAA) 1984; Terrorist and Disruptive Activities Act (TADA) and Prevention of Terrorism Act (POTA) 2002. The second category comprises area-specific laws, which include Anti-Hijacking Act (1982), and Armed Forces Special Powers Acts of Jammu and Kashmir, Punjab and Chandigarh. The aim behind these acts was to entrust special

powers to the security forces to eradicate violence from their areas of operation. The third category includes legislation enacted by state governments like the Madras Suppression Act (1948); Assam Disturbed Areas Act (1955); Punjab Disturbed Areas Act (1983); Maharashtra Control of Organized Crime Act (1999) and so on.¹

TADA, POTA, and UAPA (2004 and amended 2008) are specifically anti-terror Acts. For the first time, the state through these laws attempted to create legislative instruments to curb terrorist activities in India, recognizing that terrorism is a special crime that needed special laws for an effective response.

The first law made in independent India to deal with the challenge of terrorism and terrorist activities came into force on 30 December 1967. It was named Unlawful Activities (Prevention) Act 1967, and is now known as Unlawful Activities (Prevention) Amendment Act, 2008.

At present, the legislations in force to check terrorism in India are the NSA 1980 and the Unlawful Activities (Prevention) Amendment Act, 2008. But NSA is basically related to the maintenance of internal security and peace. There have been other anti-terrorism laws in force at different points of time to counter and curb terrorism but they lapsed or were repealed due to their draconian features and their misuse.

Unlawful Activities (Prevention) Act 1967, (UAPA)

The UAPA was designed to deal with associations and activities that questioned the territorial integrity of India. Its ambit is limited to meet the challenges of territorial integrity. The Act was a self-contained code of provisions for declaring secessionist associations as unlawful, adjudication by a tribunal, control of funds and places of work of unlawful associations, penalties for their members, etc. The Act has worked holistically as such and is completely within the purview of the

¹ N. Manoharan, "Trojan Horses: Terrorism Laws and Security in India", *Economic and Political Weekly*, vol. XLIV, no. 46, 2009, p. 22

central list in the 7th Schedule of the Constitution).² The Act provided effective prevention of certain unlawful activities of individuals and associations and for dealing with terrorist activities and for matters connected therewith.

This Act was aimed at effective prevention of unlawful activities in the territory of the Indian Union. The National Integration Council appointed a Committee on National Integration and Regionalization to look into, *inter alia*, the aspect of putting reasonable restrictions in the interests of the sovereignty and integrity of the nation. UAPA was amended by the Unlawful Activities (Prevention) Amendment Act 2004, in order to incorporate the provisions of POTA, which was repealed by Parliament in the wake of nation-wide protests against its draconian provisions.³ After the Prevention of Terrorism Act, 2002, was repealed through an Ordinance, the President of India, on 21 September 2004, promulgated an Ordinance to amend UAPA and it was amended in December 2008. The Act is intended to deal with terrorism, and was adopted in haste following the November 2008 terrorist attacks in Mumbai. It borrows provisions from the previous, unsuccessful anti-terror laws, rather than offering a new approach. Although, according to the government, the December 2008 amendments balance the need to fight terrorism with the need to protect civil liberties, it appears that no fresh insights have been gained in this regard.⁴ The amendments of 2008 have made it another draconian law, as discussed below:

- Under UAPA (2004) a criminal court possessing jurisdiction under the Code would try offences under this Act. The amended act provides for a Special

² Siddharth, "Anti-terrorism laws in India & need of POTA", available at: http://www.legalserviceindia.com/articles/anti_pota.htm, accessed on 21st January, 2010

³ Agney Sail, "Background Information On Repressive Laws in India", 2007, available at: http://www.binayaksen.net/wp-content/uploads/indian_repressive_laws.pdf, accessed on 16th January, 2010

⁴ "Repeating the Mistakes of Past", 22 January, 2009, available at: <http://www.hrdc.net/sahrdc/hrfeatures/HRF191.htm>, accessed on 27th February, 2010

Court constituted under Section 11 or under Section 21 of the National Investigation Agency Act, 2008.⁵

- Clause 2(g) of the 2004 Act included the words “for the purpose of a terrorist organisation”. The words “or terrorist gang” have been added by the amended act.
- UAPA (2004) under Section 2, clause (h) defined “property” as property and assets of every description, whether corporeal or incorporeal, moveable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, and includes cash and bank account. The 2008 amendment has inserted words like legal documents, instruments in any form including electronic or digital evidencing and property or assets by means of bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit, cash and bank account including funds.⁶
- A new Section (A) has been inserted after Section 16. Section 16(A) specifies that
whoever intentionally, by use of force or threat of use of force or by any other means, demands any bomb, dynamite or other explosive substance or inflammable substances or fire arms or other lethal weapons or poisonous or noxious or other chemicals or any biological, radiological, nuclear material or device, with the intention of aiding, abetting or committing a terrorist act, shall be punishable with imprisonment for a term which may extend to ten years, and shall also be liable to fine.
- Some other provisions of Section 17 of the UAPA prescribe life imprisonment or fine for those involved in terrorist activities and who raise or provide funds for terrorist acts. Though the UAPA does not contain features like

⁵ “The Unlawful Activities (Prevention) Amendment Bill, 2008”, available at: <http://www.satp.org/satporgtp/countries/india/document/papers/76-c.htm>, accessed on 13th March, 2010

⁶ “Unlawful Activities Prevention (Amendment) Act, 2008”, available at: <http://www.indlaw.com/search/acts/Default.aspx>, accessed on 6th July, 2010

admissibility of confessions, it has some special features like use of wiretaps as evidence and stringent bail conditions, etc.

- Under Section 18 two subsections have been inserted. Section 18(A) speaks of punishment for organizing of terrorist camps, imparting training in terrorism, that shall be punishable with imprisonment for a term of five years but which may extend to imprisonment for life. Section 18(B) provides punishment of the same duration for recruiting of any person or persons for terrorist acts.
- In Section 24(2) by an amendment after the words “proceeds of terrorism whether held by a terrorist or”, the words “terrorist organisation or terrorist gang or” have been inserted.
- Section 25 has been amended to add the use of credit or debit cards or cards which serve a similar purpose in the explanation of word “cash”.
- Insertions have been made in Section 43, A-F. Section 43(A) is about arrest, search, etc.; Section 43(B) deals with procedure of arrest, seizure, etc.; 43(C) deals with application of provisions of Code; 43(D) deals with modified application of certain provisions of the Code. Earlier under Section 167 (clause a), time period for police custody was 15 days which has been increased up to 30 days; the detention period in the 2004 act was 90 days under clause (b), but has been extended to 180 days. Section 43(E) deals with conceiving presumption as to offence under Section 15. Section 43(F) deals with who has an obligation to furnish information.⁷

The amended Act also suggests that if any Indian national is involved in a terror-related case, he/she cannot be released on bail or on his own bond unless the public prosecutor has been given an opportunity of being heard on the application for such release.

⁷ “The Unlawful Activities (Prevention) Amendment Bill, 2008”, available at: <http://www.satp.org/satporgtp/countries/india/document/papers/76-c.htm>, accessed on 13th March, 2010

- Section 51(A) and 51(B) have been newly introduced. Section 51(A) grants certain powers to the central government for the prevention of, and for coping with terrorist activities, in which the central government can freeze, seize or attach funds and other financial assets or economic resources held by, on behalf of or at the direction of the individuals or entities listed in the Schedule to the Order, or any other person engaged in or suspected to be engaged in terrorism. It also prohibits any individual or entity from making any funds, financial assets or economic resources or related services available for the benefit of individuals or entities listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism and will prevent the entry of individuals into or transit through India listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism.⁸
- Amendments along with acts in schedules have also been made. In the principal Act, after Entry 32, a new schedule 33 has been inserted while dealing with the organizations listed in the Schedule to the United Nations Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007 made under Section 2 of the United Nations (Security Council) Act, 1947 (43 of 1947) and amended from time to time. Currently, it extends the ban on any outfit which has already been prohibited by the world body.
- Despite pressure from other parties, the government has not acceded to the demand that confessions to the police be admissible as evidence. This has allayed the fears that the enforcement machinery would use impermissible means to obtain confessions. The organization to be set up under the new Bill, the National Investigation Agency, has been given the power to investigate and prosecute offences affecting the sovereignty, security and integrity of India. How far have the investigative agencies been empowered to monitor organizations suspected of or capable of terrorist activities and whether the

⁸ "Unlawful Activities Prevention (Amendment) Act, 2008", available at: <http://www.indlaw.com/search/acts/Default.aspx>, accessed on 6th July, 2010

leaders and other leading members of such organizations will be placed under constant or intermittent surveillance as they already pose threats or are capable of doing so, is also not clear. Where admissibility of electronic and other evidence obtained during such surveillance can be permitted is also a matter for discussion.⁹

- The Act also envisages the setting up of Special Courts to fast-track the criminal justice delivery system.

Section 43(A)-43(F) of UAPA 2008 is the same as POTA's provision where pre-trial imprisonment was till 180 days, 30 days of police custody and denial of bail if a prima facie case exists (which is easy on a well-written FIR) and the blanket denial of bail to foreigners also including the adverse inference provisions – if there is recovery of arms, explosives and other substances, suspected to be involved, including fingerprints on them. Secondly, in Section 53 the definition of “terrorist act” includes not just radioactive and nuclear material, but anything that may threaten India or overawe or kidnap constitutional and other functionaries listed by the government. Thirdly, under Section 18(A) and 18(B) new offences for organizing terrorist training camps or recruiting terrorists explains punishment. There are salutary provisions against raising funds likely to be for terrorist use (Section 17) and all these can be frozen through Section 51(A) but safeguards exist except judicial review. Criminalizing intent to aid terrorists and terrorist organizations is extended to aid to terrorist gangs (Section 23).

As with POTA and TADA, at risk are the minorities, legal and illegal Muslim migrants, Christians, political activists like V. Gopalswamy (Vaiko) who campaigned for the secessionist LTTE of Sri Lanka, and the Binayak Sens who are dedicated to social work but whom the state apparatus suspects as subversives.

⁹ Geeta Madhavan, “Spotlight on the New Anti-Terror Laws”, *South Asia Analysis Group*, paper no. 30, 2008, available at: <http://www.southasiaanalysis.org/papers30/paper2990.html>, accessed on 14th March, 2010

There are no safeguards or review committees. After months in pre-trial detention under brutal investigation, the police will extract even untruths. The Bill will cast a shadow on all Indian citizens. It is founded on the principle that everyone is suspicious or a suspect, without making any distinction between the two. This Bill goes further than TADA or POTA in its creation of a suspicious state because it is as draconian as they were.¹⁰

Optimistically, the counterterrorism measures taken by the new Act strengthen the police, the interrogation agencies and the intelligence agencies without any fear of misuse of powers invested in them. However, certain features that would have complemented the tenability of new laws seem to have been overlooked. The Bills have been passed by Parliament more to appease those who have accused the state of being soft on terrorism and to placate those who have exhibited anger towards the entire political establishment of the country than as a positive step to curbing terrorism. In that perhaps lies the inherent weakness of the legislation which aspires to address the new threats and yet imitates to some extent the earlier ones.¹¹

Terrorism and Disruptive Activities (Prevention) Act 1987, (TADA)

TADA was the first legislative effort by the Union government to define and counter terrorist activities. It was formulated in 1985 in the backdrop of growing terrorist violence in Punjab, which had its violent effects in other parts of the country too, including the capital New Delhi.¹² This Act was passed to make special provisions for the prevention of and to cope with terrorists and their disruptive activities in many parts of the country. It was expected that this Act would control the menace of Khalistan secessionism within two years. The life of

¹⁰ Rajeev Dhavan, "India's Unlawful Activities Prevention Act (UAPA): The Return of TADA and POTA", *International South Asia Forum*, 2009, available at:

<http://www.insafbulletin.net/archives/459>, accessed on 16th February, 2010

¹¹ Geeta Madhavan, "Spotlight on the New Anti-Terror Laws", *South Asia Analysis Group*, paper no. 30. 2008, available at:

<http://www.southasiaanalysis.org/papers30/paper2990.html>, accessed on 14th March, 2010

¹² "(The) Terrorist and Disruptive Activities (Prevention) Act, 1987", available at:

<http://www.satp.org/satporgtp/countries/india/document/actandordinances/Tada.htm>, accessed on 11th June, 2010

the Act was accordingly restricted initially to only two years, but was regularly extended every two years, in 1987, 1989, 1991 and 1993.

The Supreme Court of India declared that TADA was an extreme measure, to be resorted to when police cannot tackle the situation under the ordinary penal law. The intent was to provide the special machinery to combat the growing menace of terrorism in different parts of the country. The Act provided special procedures aiming at speedy disposal of cases, because the prevalent ordinary procedural laws were inadequate and insufficient to deal with the terrorists and disruptive activities who were supporting the claim for secession of parts of India from the Union.¹³

In 1993, TADA was in force in twenty-two out of the twenty-five states and two out of the seven Union territories. The exceptions were Kerala, Orissa, Sikkim, Andaman and Nicobar, Dadra and Nagar Haveli, Daman and Diu, Lakshadweep, and Pondicherry. While immediate events formed the context for the introduction and continuation of the Act (bomb blasts in Delhi and other places in 1985 and Bombay blasts in 1993), the expansion of terrorist activities from Chandigarh and Punjab to Delhi, Haryana, UP and Rajasthan and specific states like Punjab, Kashmir and Assam were cited as justification for subsequent extensions of the Act. Significantly, however, states that did not figure in the official list of “problem states”, most notably Gujarat, used the Act extensively.¹⁴

This Act contained some unusual features like Section 2(1) (f), where TADA could come into force in a region when a state or central government notified an area as affected whereas no criterion for the notification was laid down in the Act.

- The definition of terrorist acts (Section 3) was as follows:

Whoever with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or lethal weapons or

¹³ A. Subramanayam Raju, *Terrorism in South Asia: A Viewpoint from India* (New Delhi: India Research Press, 2004), pp. 253-54

¹⁴ Ujjwal Kumar Singh, *The State, Democracy and Anti-Terror Laws in India* (New Delhi: Sage Publications, 2007), p. 51

poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community, or detains any person and threatens to kill or injure such person in order to compel the Government or any other person to do or abstain from doing any act, commits a terrorist act.¹⁵

- Section 4 laid down the punishment for a disruptive activity, defined as “any action taken, whether by act or by speech or through any other media or in any other manner” which “questions, disrupts or is intended to disrupt”, whether directly or indirectly, “the sovereignty and integrity of India” or which “intends to bring about or supports any claim, whether directly or indirectly, for the cession of any part of India or the cession of any part of India from the Union”. This was wide enough to cover a wide range of activities.¹⁶
- Section 5 dealt with the possession of certain unauthorized arms, etc. in specified areas. If any person possessed any arms and ammunition, or bombs, dynamite or other explosive substances unauthorized in a notified area, he “shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.” Section 6 enhanced the penalties.¹⁷

An accused under ordinary law would get different treatment if TADA provisions were added to the charges. Sukhdev Singh (Sukha) and Harjinder Singh (Jinda), two Khalistani militants who were hanged in October 1992 on the charge of General Vaidya’s assassination, were tried by the TADA Designated Court on charges of murder and conspiracy under sections of IPC (120-B (criminal conspiracy), 302 (murder), 307 (attempt to murder) among

¹⁵ “(The) Terrorist and Disruptive Activities (Prevention) Act, 1987”, available at: <http://www.satp.org/satporgtp/countries/india/document/actandordinances/Tada.htm> , accessed on 11th June, 2010

¹⁶ Ujjwal Kumar Singh, *The State, Democracy and Anti-Terror Laws in India* (New Delhi: Sage Publications, 2007), p. 52

¹⁷ “(The) Terrorist and Disruptive Activities (Prevention) Act, 1987”, available at: <http://www.satp.org/satporgtp/countries/india/document/actandordinances/Tada.htm>, accessed on 11th June, 2010

others) and under TADA (Section 3 (terrorist activities) and Section 4 (disruptive activities)).

- The court, however, found inconsistencies in the prosecution's case and dismissed all charges against the accused, including TADA charges, except the charge of murder of General Vaidya and attempt to murder his wife. Although acquitted of TADA offences, the trial continued in the Designated Court since TADA explicitly required trying of other offences by the same court. Ordinary law relating to death sentence makes it mandatory for the High Court to confirm it. Under TADA, the role of the High Court is eliminated and an appeal was therefore made to the Supreme Court, which confirmed the death sentence.¹⁸
- Section 9 dealt with the Special Court for the crime where the central government or a state government may, by notification in the official Gazette, constitute one or more Designated Courts for such area or areas or for such case or class or group of cases as may be specified in the notification.
- A major feature of TADA was the expiry of the law which shall not affect "any investigation, legal proceeding" etc., that may have been initiated when the Act was still in force, which shall continue "as if this Act has not expired". The experience with TADA has shown that the provision of continuation after expiry imparts a prolonged life after death to the Act. Cases under TADA continue to be tried in various designated courts and the Supreme Court several years after it has expired. While confirmed figures of the number of TADA detainees under trial and imprisoned are not available, newspaper reports and fact-finding investigations by civil rights groups show that there are thousands of such detainees in various jails all over India. A newspaper report of 1999 suggests that 3,000 to 7,000 cases still remained to be decided. While a large number of TADA cases have resulted in acquittals, judgements in some other cases are still to be delivered. By one account, three years after TADA was revoked, the state of Assam had nearly 1,000 TADA detainees in prisons. Until

¹⁸ Ujjwal Kumar Singh, *The State, Democracy and Anti-Terror Laws in India* (New Delhi: Sage Publications, 2007), p. 72

2000, five years after the lapse of TADA, trials had yet to be completed in 4,958 cases, of which 1,384 were still being investigated. Since 1991, only fourteen persons had been convicted under TADA in the state, despite a total of 26,000 arrests having been made. Considering that only four out of 1,237 TADA-related cases have ended in conviction orders, it is quite possible that the majority of those still languishing in jails would probably be acquitted.¹⁹

The manner in which TADA was implemented shows how the “prevention of terrorist and disruptive activities” became effectively an instrument to contain and repress identity struggles. It was a powerful act but it targeted minority communities in Punjab, Gujarat and Maharashtra and tribal people and peasants associated with Marxist-Leninist groups in Jharkhand and Andhra Pradesh. The Act came to be widely seen as communal and sectarian, not only because of its use against identity struggles of the Sikhs in Punjab and the Kashmiri Muslims, but also because it came to be used generally against minorities not associated with these movements, and who were arrested under the Act simply because they were Muslims or Sikhs. A large number of those arrested in Delhi and Uttar Pradesh were also Sikhs and majority of the arrested were Muslims in Gujarat and Rajasthan. The Sikhs were the first to come under its purview, almost all the accused in Punjab being Sikhs, not all of whom were necessarily connected with the Khalistan movement. Large numbers of Sikhs, who had settled in the Terai region of Uttar Pradesh from the time of partition, became victims of repression in the wake of Khalistani violence in the area. Again, a significant number of Muslims were arrested in Jammu and Kashmir for their association with the struggle in the region. Rajasthan was among the four states mentioned in the initial “Statement of Objects and Reasons” and the arrest of Muslims under the Act was commonly reported. In 1991, the Home Minister Digvijay Singh reported in the Rajasthan Assembly that of the 228 arrested, 101 were Muslims, 96 Sikhs, and 3 Hindus. No charges were established in 178 cases. In July 1993, the government withdrew cases against 72 persons. By 1993, Gujarat had climbed ahead of Punjab (14,457) in the number of TADA detainees with 3452 more TADA arrests adding to its 1992 total of 14,094. In Gujarat, arrests under TADA were applied in cases

¹⁹ Ibid, p. 67-8

associated with communal violence where most of the persons arrested were Muslims. In Bombay, in the large-scale organized violence against Muslims and linguistic minorities, TADA was not invoked. But soon after the Bombay blasts, Muslims were brought under its purview.²⁰

Kashmiri Muslims were yet another ethnic group who bore the brunt of this Act. Whereas the use of TADA against ethnic minorities has almost inextricably attached the epithets “extremist”, “terrorist” and “anti-national” onto them, turning them into objects of suspicion, assertions of democratic self-determination, such as tribal movements in Vidarbha, Telangana, Godavari and Bastar Forests, were also brought under the scope of the Act. In the wake of the riots that followed the demolition of Babri Masjid in December 1992, a number of people were arrested in Nowgong. Among those arrested was Abdul Khaleque, who was accused of having participated in the riots on 8 December 1992. It turned out, however, as pointed out later by the Designated Court, that Khaleque was in jail since 9 September under a different TADA case.²¹

A survey of TADA cases reveals many instances of false arrests, police excesses, and extortion. Under the Act, the total number of detainees was around 76,000. Of these, 25 per cent of the cases were dropped by the police without charges; trials were completed in only 35 per cent of the cases and 95 per cent of these trials ended in acquittals. The conviction rate was less than 1.5 per cent and there were reports of human rights violations committed by the police abusing their excessive powers under the Act.²²

A high-level inquiry committee appointed by the Maharashtra government to review TADA cases observed that out of 20 cases involving 150 accused reviewed by it so far, the act was wrongly applied in at least 16 cases. The review committees of TADA stated that 5,000 cases inappropriately applied TADA and

²⁰ Ibid, p. 53

²¹ Ibid, pp. 50-4

²² Swati Mehta, “Human Rights and Anti-Terror Laws: India sets an example”, 2004, available at: www.humanrightsinitiative.org/.../nl/.../india/hr_anti_terror_laws.pdf, accessed on 25th April, 2010

asked for the withdrawal of those. Finally, after a long run of misuses, TADA came to an end in 1995.

Prevention of Terrorist Activities Act 2002, (POTA)

The Prevention of Terrorist Activities Act (POTA) was an anti-terrorism legislation enacted by the Parliament of India in 2002. The act replaced the Prevention of Terrorism Ordinance (POTO) of 2001 and was supported by the governing National Democratic Alliance. POTA came into the statute book after five Pakistani terrorists attacked the Indian Parliament on 13 December 2001, killing seven persons and placing the country in a state of red alert. In response to the domestic pressures for the failure to combat the menace of terrorism, the central government in March 2002 passed POTA, through a joint session of Parliament. The Act was repealed in 2004 by the United Progressive Alliance coalition.

POTA was considered as a political law, with a strong ideological content, manifested both in the context of its inception and subsequent implementation. The criminalization of “abetting” a terrorist, which had been struck down in TADA by the Indian Supreme Court, was revived under POTA. It criminalized the membership of an organization labelled “terrorist” by the central government regardless of criminal intent or activity. The statute, however, was silent as to how the State must prove that a person indeed was part of such a terrorist organization.²³

This Act provided the legal framework to strengthen administrative rights to fight terrorism within the country and was to be applied against any persons and an act covered by the provisions within the Act and it was not meant as a substitute for action under ordinary criminal laws. K.P.S Gill, who was credited for his leadership role in suppressing the Khalistan movement, said that POTA was not an

²³ Siddharth, “Anti-terrorism laws in India & need of POTA”, available at: http://www.legalserviceindia.com/articles/anti_pota.htm, accessed on 21st January, 2010

incarnation of TADA and contained far greater safeguards against the possibility of abuse and significant penalties for malicious prosecution.²⁴

Some special features of the Act may be noted:

- Section 3(a) of the Act defined a terrorist act:

Whoever with the intent of threatening the unity, integrity, security and sovereignty of India or strike terror in the minds of people or any section of the people does any act or thing by using dynamite or explosive substances or inflammable substance or firearms or other lethal weapon or poisonous or noxious gases or other chemical or any substance of a hazardous nature in such a manner as to cause death or injuries to any person or loss or damage to property or disruption of any supplies or services essential for life ...²⁵

- Section 4 referred to possession of certain unauthorized arms.

If any person is in unauthorized possession of any bombs, dynamite or hazardous explosive substance or other lethal weapons capable of mass destruction or biological or chemical substances of warfare in any area, whether notified or not.

- Section 7 conferred the powers of investigations to officers:

If any officer (not below the rank of SP) investigating an offence committed under this Act, has reason to believe that any property in relation to which an investigation is being conducted represents proceeds of terrorism he shall with prior approval in writing from Director General of Police of which the property is situated can make an order to seize or attach such property.

- Section 20 presumed that an individual charged with being a member of a terrorist organization is a terrorist unless that person could show that he or she had not participated in terrorist activities and that the organization itself not

²⁴ Ujjwal Kumar Singh, *The State, Democracy and Anti-Terror Laws in India* (New Delhi: Sage Publications, 2007), p. 34

²⁵ "The Prevention of Terrorism Act, 2002", available at: <http://www.satp.org/satporgtp/countries/india/document/actandordinances/Pota.htm>, accessed on 18th May, 2010

declared illegal by the State at the time when the person joined. Clearly, the onus was placed on the individual.²⁶

- Section 21 was related to the offence where support was given to a terrorist organization:

A person commits an offence if he invites support for a terrorist organization, and support is not, or is not restricted to, the provisions of money or other property; a person commits an offence if he arranges, manages or assists in managing or arranging a meeting which he knows is a terrorist organization; helping to further the activities of a terrorist organization and if addressed by a person who belongs or professes to belong to a terrorist organization.

- Section 22 referred to fundraising for a terrorist organization: If anyone provides, receives money or property with the intention of terrorism will be considered as an offence.
- Section 27 conferred power to direct for samples, etc.

If a police officer investigating a case and makes request to Chief Metropolitan Magistrate to obtain hand writing, footprints, photographs, blood, saliva, semen, hair, voice of any accused person reasonably suspected to be involved in the commission of this act it will be lawful for the judge to give such orders as the case may be. If any accused person refuses to give such samples the Court shall draw adverse inference against the accused.

- Section 49(2) enabled the police to place a suspected terrorist in jail for up to ninety days without any court proceedings. The period could be extended by another three months if the prosecution submitted a report to the court explaining the State's need for additional time.²⁷
- Section 49(6) and 49(7) laid down that bail might not be granted if the prosecution opposed the bail petition, or until the court was satisfied that the accused was not guilty (which no court can be till the trial is over). Moreover, Section 49(7) through a peculiar ambivalence of words and subsequent

²⁶ Siddharth, "Anti-terrorism laws in India & need of POTA", available at: http://www.legalserviceindia.com/articles/anti_pota.htm, accessed on 21st January, 2010

²⁷ "The Prevention of Terrorism Act, 2002", available at: <http://www.satp.org/satporgtp/countries/india/document/actandordinances/Pota.htm>, accessed on 18th May, 2010

misinterpretations, allowed for consideration for bail only after a year from the date of arrest. Provisions pertaining to both evidence and bail made trials under POTA, as in other extraordinary laws, heavily tilted in favour of the prosecution.²⁸

POTA was similar to its predecessor in its provisions and in its implementation. There was no dearth of reports of it being abused for politically motivated arrests and torture. V. Gopalswamy (Vaiko), who was a Member of Parliament and leader of the main opposition party in Tamil Nadu, was incarcerated for over a year under this law without any charges being filed in court. Many tribal women and children in Jharkhand were arrested and placed in custody for long periods under this law. On 19 February 2003, almost 200 people were arrested under POTA, including “a 12-year old boy and an 81-year-old man.” Similarly, many Muslims were held under the law in Gujarat after anti-Muslim riots. Despite the fact that this Act was not applied in fifteen states and six Union territories, in the remaining fourteen states, a total of 301 cases were registered involving over 1,600 persons over the two and a half years since it was enacted. It was in this scenario of excessive abuse of the law that the new government, elected in May 2004, promised to repeal POTA.²⁹

The implementation of POTO/POTA saw that the investigation and trial in cases of violence against Muslims in Gujarat following the burning of a coach of the Sabarmati Express in Godhra in February 2002 languished, while POTA was invoked in the coach-burning case. Six charge sheets were filed in the POTA case that was brought against the 131 accused, all of whom were Muslims; most of the accused remained in prison, without having been brought to trial for over a year.³⁰

In Uttar Pradesh, twenty-five Dalits were arrested under POTA between April and July 2002. Tribal people in the area claim that POTA was used to characterize

²⁸ Ujjwal Kumar Singh, *The State, Democracy and Anti-Terror Laws in India* (New Delhi: Sage Publications, 2007), p. 40

²⁹ Swati Mehta, “Human Rights and Anti-Terror Laws: India sets an example”, 2004, available at: www.humanrightsinitiative.org/.../nl/.../india/hr_anti_terror_laws.pdf, accessed on 25th April, 2010

³⁰ Ujjwal Kumar Singh, *The State, Democracy and Anti-Terror Laws in India* (New Delhi: Sage Publications, 2007), p. 54

their struggle for workers' rights as membership in Maoist-Leninist groups. In one district, "nine out twelve people arrested were bonded labourers who refused to return to work because of the physical abuse of their employer."³¹ After the Gujarat communal riots, the Gujarat police arrested hundreds of Muslims and charged them with violating POTA, but not a single Hindu was charged under POTA.

Article 14 of the Constitution of India reads, "The State shall not deny for any person equality before the law or the equal protection of the law." Article 15 reiterates this tenet more specifically by prohibiting the State from discriminating against any citizen on the basis of religion, race, caste, sex, place of birth or any of them. Although much of the litigation involving these two articles has dealt predominantly with promoting affirmative action-type policies on behalf of lower castes and women, S.P. Sathe, a pre-eminent Indian constitutional law scholar, has noted that the Supreme Court has explicitly held that the right to equal protection extends to all State policies.³²

At the Peoples Tribunal on POTA and Other Security Legislation at the Press Club in New Delhi on 16 July 2004 a 629-page report based on depositions made before the Tribunal by victims and their families from ten states in India, as well as expert depositions by lawyers and activists, showed that such security legislations grant sweeping powers to authorities, which lead to misuse of these powers and severe restriction of basic rights. At the same time, such legislations do not address the political, social and economic roots of the problem. The tribunal concluded that the review of victim and expert testimony showed that the misuse of the Act is inseparable from its normal use. The tribunal stated that the statute meant to terrorize not so much the terrorists as ordinary civilians and particularly the poor and disadvantaged such as Dalits, religious minorities, Adivasis, and working

³¹ Aditya Krishnamurthy, "Should India Revamp its Anti-Terrorism Laws After the July 11 Serial Explosions on Trains in Mumbai?" available at:

www.legalserviceindia.com/articles/terror_pota.htm, accessed on 5th July, 2010

³² Siddharth, "Anti-terrorism laws in India & need of POTA", available at:

http://www.legalserviceindia.com/articles/anti_pota.htm, accessed on 21st January, 2010

people. It recommended that POTA be repealed and that too in such a manner that the POTA charges are deleted from all existing investigations and trials. But, if the State desired, these might continue under other laws and charges. Finally, on 17 September 2004 the Union Cabinet in keeping with the UPA government's Common Minimum Programme approved ordinances to repeal POTA.³³

Assessment

Anti-terror laws could not prevent harassment of the civilians and the innocents, which increased the public discontent and strengthened the belief of the repressive nature of these laws and regimes. The safeguards in terror legislation are not adequate to prevent misuse. Jaswant Singh said that the singling out of Punjab for emergency treatment may have contributed to the psychological isolation of the beleaguered state.³⁴ This is applicable to other parts of India as well. Enactment of anti-terror laws without sufficient safeguards to restrain its misuse and ensure national uniformity in its application led to human rights abuses and disparate patterns of enforcement throughout the country.

Special laws are subject to less democratic scrutiny in developing countries, where the institutions are not adequate to conduct such scrutiny. Till now no counterterrorism law has proved itself effective to meet the menace of terrorism. Rather, they have been counterproductive because of significant human rights concerns. The main objective of scrutiny of laws should be to moderate political antagonism rather than aiding the repressive arms of the State. As the socio-economic pressures, unmet political aspirations, bitter experiences of repressive arms of the State, etc. contribute to the terrorist reservoir, the aim of terror laws should be to take all these into consideration.

Attentiveness to human rights is not a moral or legal imperative; it is a crucial strategic necessity. Laws related to terrorism must ensure that terrorist activities

³³ "Repeal of POTA-Justified", available at:

<http://www.legalservicesindia.com/articles/pota.htm> , accessed on 23rd April, 2010

³⁴ Jaswant Singh, "Beleaguered State", *Seminar*, no. 345, 1988, p. 19

and offences are investigated, prosecuted, and adjudicated effectively so that it can bring down the crisis of legitimacy. For this, in criminal justice system inclusive reforms are required.

Chapter 4: Institutional Mechanisms and Their Efficacies

The institutional mechanisms of any nation facing the challenge of terrorism play a vital role in maintaining internal security and peace. The purpose of these setups is to maintain harmony and remove distress caused by the terrorist threat from society. Institutional mechanisms contain intelligence, military and paramilitary forces, and various agencies including special squads. The role of intelligence, however, is paramount. This chapter discusses the institutional mechanism of intelligence in India. It also discusses the various agencies that have a counterterrorism orientation.

Intelligence

Intelligence is the collection of information, especially of military and political value. Intelligence has to be collated, analysed and disseminated to the users at the right time.

The means of information gathering include espionage, communication interception, cryptanalysis, cooperation with other institutions, and evaluation of public sources. The functions of an intelligence agency include gathering of information, its analysis in areas relevant to national security; providing early warning of impending crises; serving national and international crisis management by helping to determine the intentions of current or potential opponents; and sometimes acting covertly to influence the outcome of events in favour of national interests. Intelligence agencies are also involved in defensive activities such as counter-espionage and counterterrorism.¹

Intelligence organizations in the country have been at the receiving end of criticism from time to time, be it the intrusion in Kargil in 1999, the attack on the Indian Parliament on 13 December 2001, the Indian embassy bombing in Kabul and the most recent Mumbai terror strike. While there are many shortcomings in intelligence coordination in the country, wherein most recipients feel that the

¹ V. K. Singh, *India's External Intelligence Secret of Research and Analysis Wing* (New Delhi: Manas Publications, 2007), pp. 157-61

information is insufficient or so fuzzy that it is non-actionable by the operating agencies, the police, security organizations and others, intelligence agencies have constantly refuted this claim. Whatever is the case, operationalizing intelligence remains a key challenge for countering terrorism in the country and the issue needs to be addressed on priority.²

India has two intelligence agencies, namely Intelligence Bureau (IB) and Research and Analysis Wing (R&AW), both operating under the Ministry of Home Affairs. Each agency acts in its own domain with relative freedom and reports directly to the highest political or ministerial authority.

Intelligence Bureau (IB)

The Intelligence Bureau (IB) is reputed to be the oldest intelligence agency in the world. In the past it was tasked with all intelligence targeting but in recent times it has focused on internal security. The IB is used to garner intelligence from within India and also execute counterintelligence and counterterrorism tasks. The collection mechanisms of the IB vary depending on the region, but the IB operates both at the state and the national level. At the national level the IB has several units (in some cases Subsidiary Intelligence Bureaus) to keep track of issues like terrorism, counterintelligence, threat assessment, and sensitive areas (i.e. Jammu and Kashmir, North East Region, etc.). At the state level all IB officers are part of the State Special Bureau and report to a Central Intelligence Officer (the intelligence advisor to the Governor). These offices and the intricate process of deputation is an organic linkage between the IB and the state police agencies. IB also passes on intelligence between other intelligence agencies and the police.³

² Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), pp. 170-71

³ Intelligence Resource Programme, available at:

<http://www.fas.org/irp/world/india/ib/index.html> , accessed on 5th June, 2010

Research and Analysis Wing (R&AW)

The Cabinet Secretariat Research and Analysis Wing is India's external intelligence agency. R&AW has become an effective instrument of India's national power and has assumed a significant role in formulating India's domestic and foreign policies. RAW has engaged in disinformation campaigns, espionage and sabotage against Pakistan and other neighbouring countries.⁴ It has been organized on the lines of the United States' Central Intelligence Agency (CIA). Its present objectives include:

- To collect aggressive intelligence via espionage, psychological warfare, subversion and sabotage.
- To monitor the political and military developments of adjoining countries, which have a direct bearing on India's national security and on formulating its foreign policy.
- To mould international public opinion with the help of the strong and vibrant Indian diaspora.
- To maintain active collaboration with other secret services in various countries. R&AW also obtains information critical to Indian strategic interests, both by overt and covert means.⁵

Being the external intelligence agency of India RA&W has played a vital role in domestic problems also, e.g. during the creation of Bangladesh, and during Operation Smiling Buddha of 1974 when for the first time R&AW was involved in

4 "Research and Analysis Wing [RAW]", available at :

<http://www.globalsecurity.org/intell/world/india/raw.htm>, accessed on 4th December, 2010

5 Asoka Raina, *Inside RAW: The Story of India's Secret Service* (New Delhi: Vikas Publications, 1981), p. 125

a project inside India. In the amalgamation of Sikkim in the Indian Union the role of R&AW was particularly notable. In the Special Operation of the mid-1980s, R&AW set up Counter Intelligence Team-J (CIT-J) singling out the Khalistan movement to ferry weapons and funds across the border. In Operation Chanakya, R&AW infiltrated various ISI-backed Kashmiri separatist groups and restored peace in the Kashmir Valley. R&AW also collected military intelligence and provided evidence about ISI's involvement in training and funding Kashmiri separatist groups.⁶ R&AW has also been credited with creating a split in the Hizb-ul-Mujahideen. About 2–6 months before the terrorist attack in Mumbai on 26 November 2008 R&AW intercepted several telephone calls through Signal Intelligence which pointed at impending attacks on Mumbai Hotels by Pakistan-based terrorists. R&AW alerted the office of the National Security Advisor, but the intelligence was ignored. On 15 January 2010, in a successful snatch operation R&AW agents nabbed Sheikh Abdul Khwaja, one of the handlers of the 26/11 attacks, chief of HuJI India operations and a most wanted terror suspect in India, from Colombo and brought him over to Hyderabad for formal arrest.⁷

Problem of Coordination

There are many factors that have a direct bearing on the performance of the counterterrorism agencies like inter-agency rivalry, ambiguity about their role and responsibilities vis-à-vis the intelligence agencies, lack of accountability and absence of a suitable supervisory mechanism. The rivalry between R&AW and IB has done incalculable damage not only to the agencies themselves but also the nation. Some of the reasons for this professional jealousy are historical. It seems to be the contention of the IB and the R&AW that what happened in Mumbai was a serious instance of physical security failure and failure to act on available intelligence and not an instance of intelligence failure.⁸

6 Rory McCarthy, "Dangerous game of state-sponsored terror that threatens nuclear conflict", *The Guardian*, 25 May, 2002

7 Abhishek Sharan and Ashok Das, "26/11 attacks handler arrested", *The Hindustan Times*, 18 January, 2010

8 B. Raman, "Accountability of Intelligence Agencies", *South Asia Analysis Group*, Paper no. 2958, 3 December, 2008, available at:

<http://www.southasiaanalysis.org/%5Cpapers30%5Cpaper2958.html>, accessed on 13th April, 2010

Investigation of the serial bomb blasts in New Delhi on 13 September 2008 also highlighted that the tragedy could have been averted only if the police had effectively decoded conversations of the cell phone of Mohammad Atif Ameen, leader of the Indian Mujahideen module that was behind the blasts. The purport of the conversation intercepted by the police was not immediately evident as the calls were not effectively analysed. It was only at the investigation stage on deliberate examination of the intercepts that a conspiracy was unravelled. This once again highlights inadequacies in effective utilization of intelligence inputs for preventive measures.⁹

The lack of external checks on the intelligence agencies of the country is one of the drawbacks of our system. Democracies like USA, UK and Australia have paramilitary oversight over their intelligence agencies. In India the only attempt to introduce an oversight mechanism was made during the tenure of Prime Minister V.P. Singh, but before the exercise could be completed that government fell due to withdrawal of support by the BJP. But the need for a mechanism for external evaluation of the performance of intelligence agencies cannot be denied.¹⁰

Security Agencies

Central Reserve Police Force (CRPF)

The Central Reserve Police Force (CRPF) is a paramilitary security agency functioning under the Ministry of Home Affairs. The CRPF is the largest paramilitary force in the world with the basic role of striking reserve to assist the states/Union territories in police operations to maintain law and order and contain insurgency. The force is also being used for various police duties in states.¹¹ CRPF personnel are rushed at short notice to tackle an internal emergency situation such as riots, insurgency, external aggression, terrorist incidents and rescue and relief

9 Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), p. 175

10 V.K. Singh, *India's External Intelligence Secret of Research and Analysis Wing* (New Delhi: Manas Publications, 2007), pp. 166-68

11 "Central Reserve Police Force", available at:

http://crpf.nic.in/crpf_h.htm, accessed on 18th May, 2010, accessed on 1st July, 2010

operations in disaster management. Some highlights in the CRPF's history are given below.

- On 13 December 2001, CRPF troopers killed all five terrorists who had entered the premises of the Parliament.
- In 2008 a wing called Combat Battalions for Resolute Action (CoBRA) was added to the CRPF to counter the Naxalite movement.
- On 2 September 2009, 5000 CRPF soldiers were deployed for a search and rescue mission to find the Andhra Pradesh Chief Minister Y. S. Rajasekhara Reddy, whose helicopter went missing over the Nallamalla Forest Range in Andhra Pradesh. This was the largest search operation ever mounted in India.
- In November 2009, CoBRA led the operations against Maoist insurgents in an operation popularly known as Operation Green Hunt.

Border Security Force (BSF)

The Border Security Force (BSF) is a border patrol agency of the Government of India. Its primary role is to guard India's international borders during peacetime and also prevent transnational crime, including trafficking. In war, the BSF has a supplementary role with the Army and functions directly under the operational command of the Army. As a paramilitary force, BSF units are called upon to undertake various internal security duties and are also employed in aid to civil administration. The BSF has the mandate to promote a sense of security among the people living in the border areas.

Although the BSF was originally charged with guarding India's external boundaries, recently it has been involved in counterinsurgency and counterterrorism operations. As part of this mandate, during the insurgency in

Jammu and Kashmir in 1989, the government deployed the BSF to Jammu and Kashmir to assist the CRPF and the state police in combating Islamic militants.¹²

Since the CRPF's CoBRA battalions have had a mixed success in combating Naxals, the BSF is assisting the CRPF in this operation. Meanwhile, efforts are also being made to replace the BSF units with fresh units from the CRPF that have undergone specialized training in counterterrorism.¹³

National Security Guard (NSG)

The National Security Guard (NSG) was set up in 1984 as a Federal Contingency Deployment Force to tackle all facets of terrorism in the country. The NSG was formed after an analysis of 1984 Operation Blue Star. The NSG, operating under the oversight of the Ministry of Home Affairs, is a Special Response Unit in India that has primarily been utilized for counterterrorism activities. The role of the NSG includes protecting VIPs, conducting anti-sabotage checks, rescuing hostages, neutralizing terrorist threats to vital installations, engaging terrorists and responding to hijacking and piracy. The Special Action Group is the strike force in anti-terrorist and anti-hijack operations, supported by the SRG and others.¹⁴

Some highlights of the NSG's history are given below:

- 30 April 1986 – In Operation Black Thunder I, overcame the Khalistani militants who had taken over the Golden Temple.
- 12 May 1988 — In Operation Black Thunder II, overcame the Khalistani militants hiding in the Golden Temple.
- 25 April 1993 — In Operation Ashwamedh, rescued an Indian Airlines Boeing 737 hijacked by Islamic militants.

¹² "BSF Role in CI Operations in Kashmir – A Glance", available at: <http://bsf.nic.in/press/pr41.htm>, accessed on 19th May, 2010

¹³ "Border Security Force", available at: <http://bsf.nic.in/introduction.html>, accessed on 6th February, 2010

¹⁴ "History, Role and Task", (Ministry of Home Affairs), available at: <http://nsg.gov.in/june08/history.htm>, accessed on 5th May, 2010

- 15 July 1999 — Rescued 12 hostages held by armed terrorists who stormed an apartment complex in Kashmir and killed 4 persons.
- 25 September 2002 — In Operation Vajra Shakti successfully freed hostages held by terrorists who killed 29 worshippers at the Akshardham Temple in Ahmedabad.
- 26 November 2008 Mumbai attacks — In Operation Black Tornado and Operation Cyclone flushed out the terrorists and rescued hostages.

NSG is now primarily utilized for counterterrorism activities in Jammu and Kashmir. Its deployments generally remain classified. In December 2008, Germany offered to give additional assistance and training to the NSG by the famous GSG-9. Additionally, after the Mumbai terrorist attack, equipment upgrades have been sanctioned and most of the proposed items have been procured and deployed, most notably the Corner Shot weapon system.¹⁵

Anti-Terrorism Squad (ATS)

The Anti-Terrorism Squad (ATS) was created by the Government of Maharashtra on 8 July 2004. ATS aims at collecting and collating information about any anti-national element active in any part of Maharashtra. ATS works in coordination with IB and R&AW and exchanges information with them. It coordinates with similar agencies of other states. ATS aims at tracking and neutralizing the activities of terror groups, mafia and other organized crime syndicates and detecting rackets of counterfeit currency and smuggling narcotic substances. Several states in India have created ATS units in their respective police forces, including Gujarat, Uttar Pradesh and Rajasthan. Some of the known operations of ATS are given below:

¹⁵ "National Security Guards", available at: <http://www.bharatmilitary.com/forums/f17/nsg-commandos-pictures-185/>, accessed on 24th April, 2010

- 2008 Mumbai attack: ATS officers responded to the terrorist strike in Mumbai on 26 November. During this operation ATS Chief Hemant Karakare was killed while fighting the terrorists.
- Noida shootout, 24 January 2009: The ATS cars chased and shot two terrorists on the outskirts of Noida in the National Capital Region. ATS officer Sharma was wounded in the gunfight.
- The ATS took over investigation of smuggled vessels arriving at the Alang Ship Breaking facilities and their connection with material supplies and resources for terrorists, including the Mumbai attack.¹⁶

National Investigation Agency (NIA)

A large number of terrorist incidents are found to have complex interstate and international linkages, and possible connection with other activities like trafficking in arms, drugs, counterfeit currency and infiltration from across the borders, etc. Terrorist attacks are planned centrally and executed in a very coordinated manner. On the other hand, investigation and trial of these cases in different states where such terrorist attacks take place tend to be state-centric. This is exploited by the planners and handlers of terrorist attacks. This phenomenon calls for an agency at the central level for investigation of offences related to terrorism and certain other acts, which have national ramifications. The National Investigation Agency has been set up for this purpose in a concurrent jurisdiction framework, with provisions for taking up specific cases under specific Acts for investigation. The NIA came into force on 30 December 2008.¹⁷

The NIA is mandated to investigate and prosecute offences affecting the sovereignty, security and integrity of India, friendly relations with foreign states

¹⁶ Hiral Dave, "ATS takes over probe of vessels seized near Alang", *Indian Express*, 18th May 2010

¹⁷ "National Investigation Agency", available at: <http://www.nia.gov.in/aboutus.aspx>, accessed on 6th May, 2010

and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations and other international organizations and for matters connected therewith or incidental thereto. As per the National Investigation Agency (Manner of Constitution) Rules, 2008, NIA is to provide assistance to, and seek assistance from other intelligence and investigation agencies of the central government and state governments.

Some highlights of the NIA's history are the following:

- NIA has taken up the investigation of the ATS case related to recovery of high quality fake currency notes of the denomination of Rs. 1000 and Rs. 500 amounting to Rs. 3.45 lakh.
- NIA is handling the investigation against David Coleman Headly alias Dawood Gilani (US citizen) and Tahawwur Hussain Rana (Canadian citizen) and others who entered into a criminal conspiracy with members of LeT and HuJI to commit terrorist acts in New Delhi and other places in India.
- NIA is dealing with the case relating to the bomb explosion at the Moffusil Bus Stand, Kozhikode (Kerala).
- The case of Margao bomb explosion in Goa is also under investigation by NIA.
- The case related to the discovery of IED explosive substance at Sancoale, Goa is also under the scrutiny of NIA.¹⁸

¹⁸ "National Investigation Agency: cases of NIA", available at: <http://www.nia.gov.in/niacases.aspx>, accessed on 6th May, 2010

Criticism

India's counterterrorism measures, however, have been criticized on the following grounds:

- The lack of institutionalized guidelines for area of operations creates a hurdle in performing anti-terror tasks. There is needless overlap of work and duplication of efforts.
- Forces and agencies face lack of financial accountability, staffing pattern and improper tasking.
- Since most agencies are area oriented and fixated on bureaucratic rules of information processing, the scope for innovation becomes limited. It may be more worthwhile to strive for reform within the existing structures, rather than creating new organizations. The aim should be to introduce accountability into a system, where there is currently hardly any.
- The lack of coordination amongst agencies leads to lack of properly assessed information reaching the higher echelons of decision-making at the right time.
- Indian intelligence is hampered by politicization and bureaucratization.
- The existing security systems in India are a legacy of the British colonial past. Systems based on this outdated legacy need to be discarded and replaced with those based on innovative thinking.¹⁹
- The intelligence bodies in India are not represented in NIA so that they directly know what intelligence is needed or what gaps need to be plugged.

India's counterterrorism infrastructure has been under scrutiny for long with fragmentation of anti-terror efforts of the central and state intelligence and police agencies. Political consensus has also been missing with no joint meeting held for a federal anti-terror agency and exploration of all possible models to tackle the

19 A.K.Verma, "Restructuring of Indian National Security Architecture", *South Asia Analysis Group*, 2010, Paper no. 3658, 11 February, 2010, available at: <http://www.southasiaanalysis.org/%5Cpapers37%5Cpaper3658.html>, accessed on 25th June, 2010

menace of criminal or extremist terrorism until the terrorist attack on Mumbai. The key problems with Indian counterterrorism philosophy and response may be summarized as follows:

1. Lack of political consensus towards the threat of terrorism.
2. Lack of synergy of effort followed through a unifying doctrine.
3. The inability of the system to differentiate between response for insurgency and terrorism. The two are different challenges requiring different responses.
4. Coordination of intelligence is poor.
5. The mechanism lacks effective operational utilization of intelligence to prevent terror episodes.
6. Lack of adequate counterterrorism capability of police forces is also a big drawback of the system.
7. The protracted judicial process also encourages indirectly terrorist activities.²⁰

Operationalizing intelligence is another part of the same problem. Misled by the police brass some top political leaders in the country have stated that terror warnings are like weather bulletins. The inability of the local police to exchange terror advisory into preventive actions on the ground is a gaping hole in India's policing abilities.

The information provided by the intelligence agency is not followed up till the scope of any possible attack emanating from the thread of input is eliminated. There is lack of high quality of analysis by specialists. The conversation intercepts are not analysed thoroughly and remedial actions are not taken properly.

Introduction of action taken reports on intelligence inputs is also lacking. The intelligence agency does not have sufficient confidence or is not fully empowered to carry out checks for this purpose. Since intelligence and operational

²⁰ Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), p. 165.

responsibilities are generally concentrated under one head at a very senior level, even at the ministerial level, particularly at the Centre where there is no operational head of the police, this failing is particularly noticeable. Central intelligence agencies are not empowered to seek follow-up of their inputs from the operational authorities to ensure that action is not left halfway. Again, the hazards are apparent in creating inter-agency acrimony. The informer network is not fully activated, communication monitoring lacks enhancement, public nodes such as cyber cafes are not sensitized and a high level of information umbrella has not been created down to the grassroots to ensure that any deviant activity is quickly processed and countered to avoid leading to an incident.²¹

Electronic and communication surveillance is an important facet during any terrorist exercise. Terrorist groups survive on communications. They use internet, multiple SIMs and evasive means to ensure that they leave no trail. Legal provisions are not efficient enough to tap communication networks.²²

The political parties lack consensus on the strategy to deal with terrorism. Issues are taken lightly or used for promoting personal agendas.²³

There is no dedicated agency to coordinate intelligence collection for implementation of security measures. The National Security Council Secretariat (NSCS) is trying to perform this job with other jobs too.²⁴

The purpose behind creating various squads and agencies is to reduce crime and to eliminate terrorism from society, but the issue of human rights violations invariably comes up.

21 Rahul K. Bhonsle, *Mumbai 26/11: Security Imperatives for the Future*, (Delhi: Vij Books, 2009), pp. 179-81

22 Ibid.

23 Vivek, "Internal Security", *Institute for Defence Studies and Analysis*, 2009, available at <http://www.idsa.in/system/files/internalsecurity2009.pdf>, accessed on 5th July, 2010

24 Gautam Sen, ed., *Impediments to National Security* (University of Pune, 2007), pp. 377-8

Lack of suitable transportation has also hampered the response time of the NSG. During the 1999 hijacking of the Indian Airlines Flight 814, the NSG unit was stuck in rush hour traffic due to a lack of helicopters. During the Mumbai attack, the unit was delayed due to lack of aircraft in Delhi and then lack of ground transportation in Mumbai. Most of the NSG are assigned as bodyguards for various political leaders, leaving a significantly lesser number of commandos who may be able to assist when the need arises.

NIA also has come in for criticism. Its officers enjoy all powers, duties, privileges and liabilities which the local police officers have in connection with cases related to terror. Though law and order is a state subject, officers of the NIA above the rank of sub-inspector have special powers to pursue and investigate any offence related to terror across the country. The trial of offences under this Act has been given precedence over others. The Special Court has been empowered to restrict the publication of any or all of its proceedings if it considers it for public interest, under the clause of protection of witnesses.

The presumption that an accused person has committed an offence, unless proved otherwise, also goes against the very notion of justice as prescribed in our legal texts. The accused would be detained for a period of 180 days if the investigation procedure has not been completed.²⁵

The above discussed shortcomings in the structure created to combat terrorism show that there is need to enhance and develop the intelligence framework as well as need to modify the pattern of strategies to combat terrorism, with particular emphasis on human intelligence. Technical Intelligence (TECHINT) has severe limitations. Any Social Network Analysis (SNA) software cannot map a terrorist network only on the basis of internet. For foolproof information on terrorist network, an intelligence input from the ground is needed. There is need of good intelligence setup which could function with a combination of TECHINT and Human Intelligence (HUMINT). Secondly, development of software for mapping

²⁵ "The National Investigation Agency Act, 2008 a Critical Review", available at: <http://www.nirmauni.ac.in/law/ejournals/previous/article4-v1i1.pdf>, accessed on 12th March, 2010

terror networks is not a job done by mere software programmers. For development of such good software, a cross-disciplinary research is a way for a new beginning.

To face the challenge of terrorism there is a need is to strengthen the National Security Council Secretariat (NSCS) with more people who are expert in the field with a young brain. Building up a separate cadre not relying on the existing cadres will help in strengthening NSCS. There is a need to improve the ability to anticipate and prevent surprises, through closely networked intelligence collaboration and upgradation of both human and technological intelligence. There is also a need to develop a net-centric information command structure that enables both state and central agencies to access and exploit information in a secure manner and well in time.²⁶

To combat terrorism there is need to ensure a strong network of Multi Agency Centres (MACs), State Multi Agency centres (SMACs) and SIB, to enhance TECHINT capability and popularize the use of frontier technologies in gathering TECHINT and OSINT. India should go for the model set up by the US in respect the Director of National Intelligence (DNI) and Homeland Security, which should be carefully studied and adapted to suit India's needs.

²⁶ Rahul K. Bhonsle, *Mumbai 26/11: Security Imperatives for the Future* (Delhi: Vij Books, 2009), p. 188

Chapter 5: Conclusion

Terrorism, a phenomenon against humanity, has become one of the biggest menaces for the entire world. To accomplish their objectives terrorists target non-combatants as they are soft targets and can influence governments in fulfilling their demands.

Terrorism is an activity based on diverse goals. Terrorists aim to accomplish their demands by influencing governmental decisions, through creating fatalities, by discouraging foreign investment and by damaging the economy of a country. These activities create the ground for negotiating with the demands of the terrorists. Killing civilians and destroying infrastructure of the nation has become a common aspect of terrorism with the purpose of gaining rapid publicity and to demonstrate their existence and level of brutality.

The nature of terrorism relies upon its causes and goals. With the changing nature of cause and goals the temperament of terrorism and its tactics also change. In course of time the terrorists' demands and the mode of projection of their demands have undergone a radical change. Terrorism is now considered a cost-effective weapon to fulfil demands, whether social or political. The role of poverty in generating terrorism is considerable, though it is not the sole cause. Social inequalities too lend existence to terrorism. These include discrimination on various sensitive issues like ethnic origin and religion.

In keeping with the universal growth of terrorism, counterterrorism also has become an international phenomenon. Counterterrorism is an offensive measure used to reduce the impact of terrorism. With the changing nature of terrorism aspects of counterterrorism have also changed.

Responses towards terrorism come in two models, namely, Criminal Justice Model (CJM) and War Model (WM). However, recognizing the shortcomings in both models the current trend across nations is to resort to the Expanded Criminal Justice model (ECJM).

Counterterrorism measures and responses must, however, adhere to the framework of rule of law. The chief aim of the counterterrorism strategy is to protect democracy. The process of counterterrorism includes several factors like military, anti-terror agencies, technology, etc. Intelligence, however, plays a vital role in this effort.

To combat the menace of terrorism there is a need to frame a set of strategies; it cannot be done solely by intelligence or military means. Measures to combat terrorism include both defensive and offensive measures. Political, judicial and punitive measures are part of the counterterrorism strategy, which includes use of military, police and intelligence also. The media can also become effective in responding to terrorism provided its tendency towards sensationalism is curbed.

Terrorism has always been a part of independent India's existence. Earlier, terrorism used to be either in the context of Kashmir, the North-East or Punjab, but over the decades terrorism in India has gone into a different phase. Naxalism was active in India for some time but was confined to limited areas. Recently, however, Naxalism has become a major threat for the entire country as a terrorist phenomenon.

Also, earlier a few terrorist organizations were active in India, but their number has increased manifold. Home-grown terrorist groups are supported and aided by external forces. India is a region of a complex society, including a diversity of religions, castes and communities with regional and linguistic differences. Hence, in working out a mode of peaceful coexistence problems are bound to occur. Issues like social inequality and political failures, economic disparities and unemployment, secessionism and sectarian forces etc. are a few causes that have led to terrorism in India. Economic causes also create home-grown terrorists. When youth suffers from unemployment and faces poverty it leads them toward terrorism as a means of survival. Economic crisis and negligence by the government bring anti-national feeling and facilitate the choice of the path of violence and resistance.

The goals of terrorism in India are not limited to the accomplishment of the terrorists' demands but also seek to weaken the nerves of the government. Pervasive terrorism and incapability of the system in handling this challenge weakens the faith of the common citizen in the system of governance. Creation of distraction among the masses by making use of religion and other sensitive issues has always been the goal of terrorists in India. Technology has supported the growth of terrorism in India, such as the use of advanced methods and arms and advanced training to militants.

India has adopted various methods to combat terrorism, both at the socio-economic and political level. Use of military is one such measure. But for a threat like Naxalism use of other forces is required. CRPF has been entrusted with the task of defeating this menace and military support will be there to enhance the CRPF's efficacy. Various legal provisions are also available in India to combat terrorism. Anti-terror laws, however, are not permanent and get repealed due to their draconian nature. India possessed strong laws like MISA, TAAA, NSA, UAPA, PDA, TADA and POTA, all of which tended to be misused. Currently, only UAPA and NSA remain in the statute book. NSA is an internal security act. Only UAPA 2008 is an anti-terror law.

TADA was enacted in 1987 as anti-terror law in response to growing terrorism in Punjab but it was misused against Sikhs in various regions, so finally it was repealed in 1995. Next POTA came into existence in 2002 but it was misused against Muslims in different regions and was also repealed in 2004. The terrorist attack on Mumbai on 26 November 2008 necessitated a strong anti-terror law. Finally in December 2008, UAPA as amended UAPA 2004 emerged as the only anti-terror law of the country. The provisions of UAPA 2008, however, are derived from the ill-famed TADA and POTA, and the legislation gives signs of going the same way as its predecessors.

The Indian institutional mechanism active against terrorism consists of intelligence agencies, paramilitary forces, military, special squads and forces. IB

and R&AW are the key intelligence services but internal conflicts, bureaucratization, and lack of financial accountability have led to poor quality of work.

CRPF is entrusted with handling the menace of Naxalism, but poor finances and training are constraining its performance. The need is to enhance the quality of forces, including local police forces, in tackling terrorism in their own regions. The Anti-Terror Squad, an innovation of Maharashtra, has been taken up by other states to fight the menace of terrorism and related crime. After the terrorist attack on Mumbai in November 2008 NIA also has been created with the purpose of investigation and prosecution of offences directed against the sovereignty, security and integrity of India.

Currently, state actors are playing a vital role in support of terrorism through active encouragement, funding and by granting haven. In cross-border terrorism India is the biggest sufferer in South Asia. Pakistan is the main progenitor of cross-border terrorism. The survival of terrorism in Kashmir, the North-East and Punjab is the result of cross-border support given by Pakistan to the terrorists in those regions. India has repeatedly called upon Pakistan to end its sponsorship of terrorism in India so that a conducive environment can be created for the resumption of bilateral dialogue directed towards achieving peace between the two countries. As regards Bangladesh, the key security concern is related to uncontrolled migration of Bangladesh citizens into India. Both Bangladesh and Burma play a central role in aggravating cross-border terrorism in India, especially by supporting the militants from the North-East. The Maoist movements are partially supported by Nepal where Indian Maoists shares the same ideology with Nepal's Maoist camp.

Internally, in tackling terrorism in India there is noticeable lack of coordination among the various organs of government. The Judiciary, the Executive and the Legislature make disjointed efforts in the war against terrorism. The Executive remains confused in formulating responses to fight terrorism. The lengthy judicial

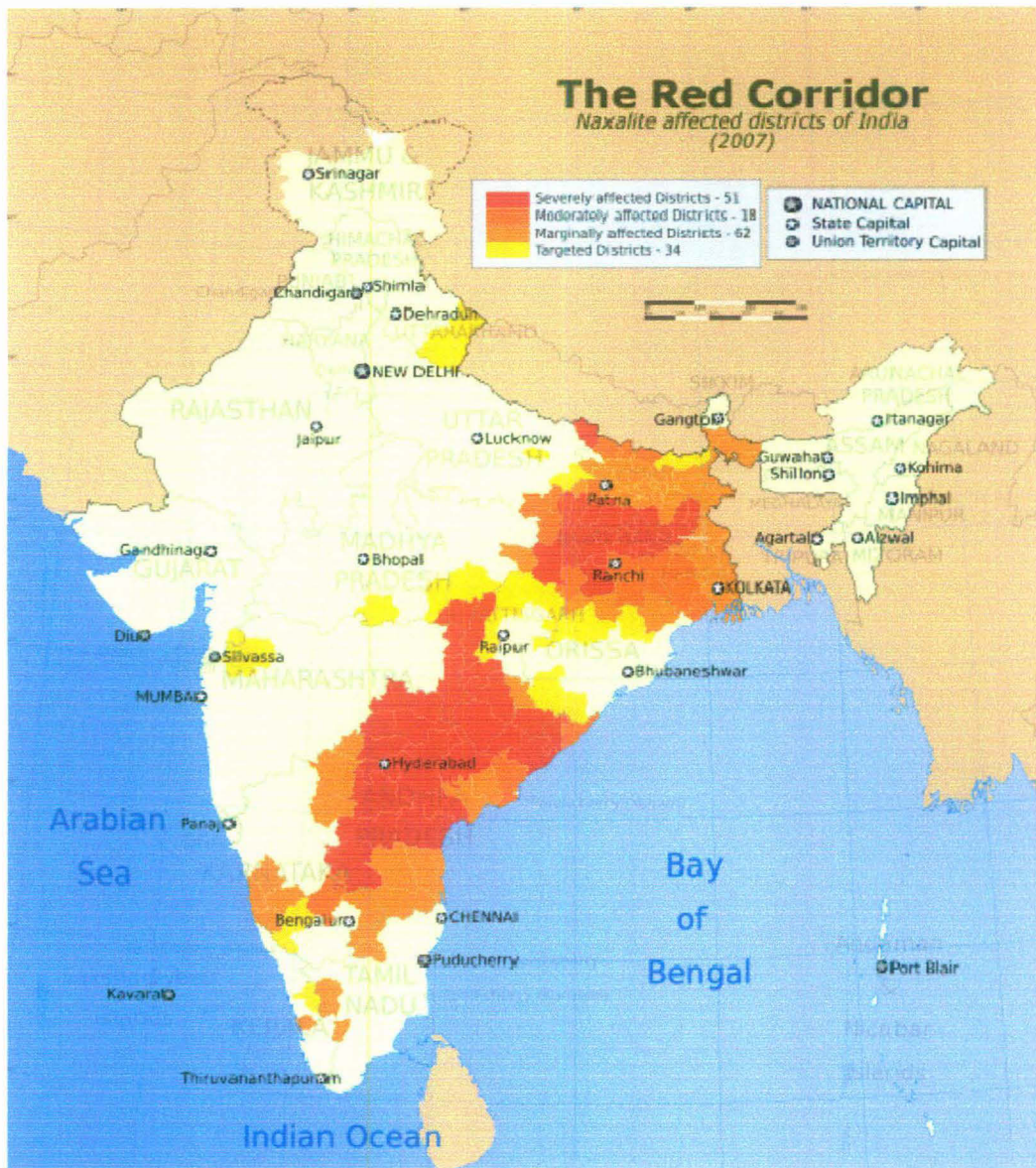
process provides space for the growth of terrorist groups. India lacks adequate legal provisions to prevent intimidation of the witnesses testifying against the terrorists. The judiciary tends to avoid convicting terrorists purely on the basis of circumstantial evidence, however strong and continuous it may be. The result is a very low conviction rate of less than 10 per cent in terrorism-related cases as against 80 per cent plus in Western countries. To worsen matters, the investigative and prosecution process deals with terrorism with the normal laws of the land, which were enacted long before terrorism emerged as a major threat to national security.

The anti-terrorism laws in India were created, enacted and repealed because those laws gave extraordinary power to the police officials, which resulted in abuse of power. TADA and POTA were India's boldest initiatives to fight terrorism intended to disband terrorist outfits and choke their funding. During the tenure of POTA 32 organizations were banned. Democracy does not allow human rights violation and functioning of draconian laws, but why should the country suffer for the failure of the system? If an anti-terror law is enacted in India, it should be rigorous enough to book the culprit and ensure that he does not go scot-free just because of the shortcomings in the ordinary law. The need is to design laws that centralize power and control over anti-terrorism policy, and provide for strong judicial review and oversight of its implementation.

Along with anti-terror laws India's counterterrorism strategy also needs refurbishing, with the inclusion of visionary political measures. India requires political initiatives like international coordination to fight against terrorism, negotiations with nations supporting terrorism in India, providing new people-oriented measures in regions affected with anti-India feelings, making feasible negotiations with the domestic terrorist organizations, and giving attention to areas that are suffering from social and economic crisis, with the overall objective of making them realize that they have a stake in the nation's welfare and to instil trust in police and the justice system which currently is sorely lacking.

Hence, study validates the hypothesis and proves that anti-terror legislation of India has failed to prevent terrorism and activities related to it because of its cross-border dimensions where role of states has played vital role in enhancing terrorism. The study verifies that cross border terrorism has weakened the anti-terror laws of India. Lack of effective political measures too has lessened the strength of Indian counterterrorism strategy as it has been unable to address the root cause of terrorism. Thus, the flaws in India's major anti-terror laws and imperfection in institutional mechanism set-up proves the hypothesis of the study.

Map 1: The Maoist Terror Belt in India



Source: India's "Red Corridor", available at:

<http://southasiarev.wordpress.com/2009/03/06/map-indias-red-corridor-2007/>

Annexure 1

Fatalities in Terrorist Violence in India's Northeast 2005-2010

Year	Civilians	SFs	Terrorists	Total
2005	334	69	314	717
2006	232	92	313	637
2007	457	68	511	1036
2008	404	40	607	1051
2009	270	40	542	852
2010	35	6	145	186
Total	1732	315	2432	4479

Data till July 12, 2010

2005

States	Civilians	Security Force Personnel	Terrorists	Total
Arunachal Pradesh	0	0	0	0
Assam	149	10	83	242
Manipur	138	50	143	331
Meghalaya	2	1	26	29
Mizoram	2	0	0	2
Nagaland	9	0	31	40
Tripura	34	8	31	73
Total	334	69	314	717

2006

States	Civilians	Security Force Personnel	Terrorists	Total
Arunachal Pradesh	0	0	0	0
Assam	96	35	43	174
Manipur	107	37	141	285
Meghalaya	7	0	17	24
Mizoram	1	0	1	2
Nagaland	10	1	81	92
Tripura	11	19	30	60
Total	232	92	313	637

2007

States	Civilians	Security Force Personnel	Terrorists	Total
Arunachal Pradesh	2	3	16	21
Assam	269	19	149	437
Manipur	150	40	218	408
Meghalaya	4	1	13	18
Mizoram	2	0	6	8
Nagaland	20	0	88	108
Tripura	10	5	21	36
Total	457	68	511	1036

2008

States	Civilians	Security Force Personnel	Terrorists	Total
Arunachal Pradesh	0	0	2	2
Assam	224	16	133	373
Manipur	131	13	341	485
Meghalaya	0	1	12	13
Mizoram	0	4	1	5
Nagaland	42	2	101	145
Tripura	7	4	17	28
Total	404	40	607	1051

2009

States	Civilians	Security Force Personnel	Terrorists	Total
Arunachal Pradesh	0	0	9	9
Assam	175	21	196	392
Manipur	77	18	321	416
Mizoram	1	0	0	1
Meghalaya	1	0	4	5
Nagaland	7	0	11	18
Tripura	9	1	1	11
Total*	270	40	542	852

2010

States	Civilians	Security Force Personnel	Terrorists	Total
Arunachal Pradesh	0	0	0	0
Assam	20	3	67	90
Manipur	14	3	70	87
Mizoram	0	0	0	0
Meghalaya	1	0	6	7
Nagaland	0	0	1	1
Tripura	0	0	1	1
Total*	35	6	145	186

* Data till July 12, 2010

Source: South Asia Terrorism Portal, available at:
<http://www.satp.org/satporgtp/countries/india/database/fatalitiesnortheast2006.htm>

Annexure 2

Fatalities in Left wing extremism-2005-2010

2005

States	Civilian	SF	Naxal	Total
Andhra Pradesh	132	21	167	320
Bihar	25	29	52	106
Jharkhand	49	27	20	96
Chhattisgarh	52	48	26	126
Orissa	13	1	3	17
Maharashtra	2	17	8	27
Karnataka	2	6	4	12
Uttar Pradesh	1	0	6	7
West Bengal	5	1	0	6
Total*	281	150	286	717

2006

States	Civilian	SF	Naxal	Total
Andhra Pradesh	18	7	127	152
Bihar	16	5	19	40
Jharkhand	18	47	29	94
Karnataka	0	0	1	1
Chhattisgarh	189	55	117	361
Maharashtra	13	3	33	49
Orissa	3	4	16	23
West Bengal	9	7	4	20
Uttar Pradesh	0	0	2	2
Total	266	128	348	742

2007

States	Civilian	SF	Naxal	Total
Andhra Pradesh	24	4	45	73
Bihar	23	21	5	49
Jharkhand	69	6	45	120
Karnataka	1	1	6	8
Chhattisgarh	95	182	73	350
Maharashtra	9	2	8	19
Orissa	13	2	8	23
West Bengal	6	0	1	7
Uttar Pradesh	0	0	1	1
Total	240	218	192	650

2008

States	Civilian	SF	Naxal	Total
Andhra Pradesh	28	1	37	66
Bihar	35	21	15	71
Jharkhand	74	39	50	153
Karnataka	3	1	3	7
Chhattisgarh	35	67	66	168
Maharashtra	2	5	7	14
Orissa	24	76	32	132
West Bengal	19	4	1	24
Uttar Pradesh	0	0	2	2
Tamil Nadu	0	0	1	1
Total	210	214	214	638

2009

States	Civilian	SF	Naxal	Total
Andhra Pradesh	10	0	18	28
Bihar	37	25	16	78
Chhattisgarh	87	121	137	345
Jharkhand	74	67	76	217
Maharashtra	12	52	23	87
Orissa	36	32	13	81
Uttar Pradesh	1	0	2	3
West Bengal	134	15	9	158
Total*	391	312	294	997

2010

States	Civilian	SF	Naxal	Total
Andhra Pradesh	6	0	7	13
Bihar	30	6	7	43
Chhattisgarh	58	135	69	262
Jharkhand	41	12	20	73
Karnataka	0	0	1	1
Maharashtra	6	2	2	10
Orissa	29	18	13	60
Uttar Pradesh	0	0	0	0
West Bengal	243	33	40	316
Total*	413	206	159	778

*Data till July 12, 2010

Source: South Asia Terrorism Portal, available at:

http://www.satp.org/satpor/tp/countries/india/maoist/data_sheets/fatalitiesnaxal.asp

ANNEXURE 3

Major Terrorist Attacks in India Since 2000

- *December 22, 2000*: Lashkar-e-Taiba militants attack the Red Fort in Delhi that left two Army personnel and a civilian dead.
- *October 1, 2001*: At least 38 people were killed in a suicide bomb explosion and gunfire at the assembly in Kashmir in an attack by suspected Islamic militants.
- *December 13, 2001*: Heavily armed Islamic militant group opened fire in Parliament complex, killing several people in an unprecedented attack on the seat of power in the world's biggest democracy. 7 people were killed in this attack.
- *January 22, 2002*: Four people were killed in an attack on the American Center, Kolkata by Lashkar-e-Taiba militants.
- *March 30, 2002*: Seven Hindus killed in an attack by Islamic militants on the Raghunath Temple in Jammu.
- *May 14, 2002*: More than 30 army men were killed in a terrorist attack on an Army camp near Jammu.
- *September 24, 2002*: 31 people were killed when 2 Lashkar-e-Taiba militants attacked the Akshardham temple in Gandhinagar, Gujarat.
- *December 2, 2002*: Two persons were killed and 31 injured in a powerful explosion in a bus outside the crowded Ghatkopar railway station in Mumbai. Students Islamic Movement of India was suspected to be behind the blasts
- *December 6, 2002*: Twenty-five people were injured in a bomb blast by members of the Students Islamic Movement of India at McDonald's fast food restaurant at Mumbai Central railway station. The bomb was planted in the air conditioner duct. It was suspected to be a crude bomb.
- *January 27, 2003*: At least 30 people were injured when a bomb planted on a bicycle went off throwing splinters of sharp nails outside Vile Parle railway station in Mumbai. Members of SIMI were found guilty behind the attack.

- *March 13, 2003*: A powerful bomb blast shattered a bogie of a local train at Mulund railway station in Mumbai during peak hours killing 11 people and injuring more than 65. This was the most powerful serial explosion.
- *August 23, 2003*: Two bombings at the Gateway of India and the Mumba Devi temple in Mumbai killed 52, injured 167. Terrorists from Lashkar-e-Taiba and the Students Islamic Movement of India were found to be behind the attacks.
- *July 28, 2003*: Bus blast kills 3 and injures 31 others in Mumbai. Pakistani intelligence agency: ISI and members of the Students Islamic Movement of India were found to be behind the blast.
- *July 5, 2005*: Five Bangladeshi terrorists, trained by the Jaish-e-Mohammad, attacked the Ram Janmabhumi in Ayodhya, all 5 killed, 1 civilian died.
- *October 29, 2005*: 70 people were killed and 224 injured in serial bombings in major Delhi markets on Diwali eve. A Pakistani group, Islamic Inquilab Mahaz, claimed responsibility for the attack. The group is linked to Lashkar-e-Taiba.
- *March 7, 2006*: At least 37 persons were killed and over 101 injured when two blasts rocked Varanasi. The first blast took place at the Sankat Mochan Hanuman temple, the second at the Varanasi railway station. Terrorists from Lashkar-e-Taiba were found to be behind the attack.
- *June 1, 2006*: Three heavily armed terrorists were killed in an encounter with the police when they tried to drive through the security cordon guarding the RSS headquarters in Nagpur. Two policemen were injured in the encounter.
- *July 11, 2006*: Seven explosions ripped through crowded commuter trains and stations in Mumbai, killing at least 200 people and leaving 700 more bloodied and injured. Lashkar-e-Taiba and local Students Islamic Movement of India (SIMI) activists were found to be behind the attacks.
- *September 8, 2006*: Series of bomb blasts in the vicinity of a mosque in Malegaon, Maharashtra. The explosions, which caused the deaths of at least 37 people and injured over 125. The Maharashtra Police associated the blasts to be the handiwork of Student Islamic Movement of India.

- *February 18, 2007:* Samjhauta Express bombings. At least 68 people were killed in this blast.
- *May 18, 2007:* At least 13 people were killed, including 4 killed by the Indian police in the rioting that followed, in the bombing at Mecca Masjid, Hyderabad that took place during the Friday prayers.
- *August 25, 2007:* Two blasts in Hyderabad's Lumbini Park and a restaurant. At least 42 people were reported to have died in the two bombings, the banned Harkat-ul-Jihad-al-Islami militant outfit of Bangladesh is suspected for the serial blasts.
- *October 11, 2007:* One blast at a shrine of a Sufi Muslim saint in the town of Ajmer which killed three people and injured 17 others.
- *November 23, 2007:* A series of near-simultaneous explosions at court house complexes in the cities of Lucknow, Varanasi, and Faizabad. 16 people were killed. Indian Mujahidin has claimed responsibility of these blasts.
- *May 13, 2008:* 9 bomb blasts along 6 areas in Jaipur. 63 were killed and 216 or more people were injured. Indian Mujahideen claimed responsibility for the attacks.
- *July 25, 2008:* 9 low intensity bomb blasts in Bangalore in which 2 people were killed and 20 injured. The Times of India reported that either the banned organization Students Islamic Movement of India or the militant organization Lashkar-e-Toiba could be behind these blasts.
- *July 26, 2008:* 17 serial bomb blasts in Ahmedabad in which 56 people were killed and over 200 people were injured. Indian Mujahideen claimed responsibility for the terror attacks.
- *September 13, 2008:* 5 synchronized bomb blasts in Delhi at least 30 people killed and over 100 injured.
- *September 27, 2008:* Bombings at Mehrauli area 2 bomb blasts in Delhi flower market.

- September 29, 2008: 8 persons were killed and 80 injured in bombings in Maharashtra (including Malegaon) and Gujarat bomb blasts.
- *November 26, 2008*: Coordinated attack in Mumbai. At least 173 people were killed and wounded at least 308. The attack was made by Lashkar-e-Taiba,
- *January 01, 2009*: 3 serial bomb blasts in Guwahati. At least six deaths and 67 injuries have been reported. The United Liberation Front of Asom (ULFA) was suspected of having carried out these bombings.
- *April 6, 2009*: 2009 Assam bombings in the Maligaon and Dhekiajuli areas of the Assamese capital Guwahati on the eve of the Assamese Rajya Sabha MP and Indian Prime Minister's visit to address poll rallies. The ULFA militants were suspected behind this attack.
- *February 13, 2010*: A bomb explosion at the German Bakery in Pune killed 9 people, and injured at least 60 more. Two little known group calling themselves the Laskhar-e-Taiba Al Alami and the Mujahideen Islami Muslim Front claimed they were behind the bomb attack.
- *April 6, 2010*: In Dantewada, Chattisgarh, about 300 rebel naxals attacked on CRPF battalion as it was returning from an operation where 76 personnel were killed. It was the biggest attack to date by Naxal fighters against security service personnel.

Bibliography

PRIMARY SOURCES

“Border Security Force”, available at:

<http://bsf.nic.in/introduction.html> , accessed on 6th February, 2010.

“BSF Role in CI Operations in Kashmir – A Glance”, available at:

<http://bsf.nic.in/press/pr41.htm> , accessed on 19th may, 2010.

“Central Reserve Police Force”, available at:

http://crpf.nic.in/crpf_h.htm , accessed on 18th May, 2010.

“Delivering Counter-terrorism Assistance”, *United Nations office on Drugs and Crimes terrorism Prevention Branch, April 2005*, available at:

www.unodc.org/pdf/crime/terrorism/Brochure_GPT_April2005.pdf , accessed on 3rd March, 2010.

“History, Role and Task”, (Ministry of Home Affairs), available at:

<http://nsg.gov.in/june08/history.htm> , accessed on 5th May, 2010.

“National Investigation Agency”, available at:

<http://www.nia.gov.in/aboutus.aspx> , accessed on 6th May, 2010.

“National Investigation Agency: cases of NIA”, available at:

<http://www.nia.gov.in/niacases.aspx> , accessed on 6th May, 2010.

“terrorism”, *National Institute of Justice*, available at:

<http://www.ojp.usdoj.gov/nij/topics/crime/terrorism> , accessed on 13th July, 2010.

Terrorism Act 2000”, *Office of the Public Sector Information*, available at:

http://www.opsi.gov.uk/acts/acts2000/ukpga_20000011_en_1#1 , accessed on 5th July, 2010.

SECONDARY SOURCES

BOOKS

Adam, J.S., *Secret Armies* (London: Pan, 1989).

Art, Robert J. and Louise Richardson, eds., *Democracy and Counterterrorism: Lessons from the Past* (Washington D.C: Endowment of the United States Institute of Peace, 2007).

Avasthi, Abha ed., *Dimensions of Violence and Terrorism* (Lucknow: Bharat Book Centre, 1998).

Bary, John, ed., *The Future of Political Violence, Destabilization, Disorder and Terrorism* (RUSI/Macmillan, 1986).

Bennett, Brian T., *Understanding, Assessing, and Responding to Terrorism* (New Jersey: John Wiley & Sons, 2007).

Bhatnagar, Ved, *Challenges to India's Integrity: Terrorism, Casteism, Communalism* (Jaipur: Rawat Publications, 1998).

Bhonsle, Rahul K., *India's National security: The Asymmetrical challenges* (Delhi: Knowledge World Publisher, 2009).

Bhuyan, Dasarathi, *International Terrorism: Challenges of 21 Century* (Delhi: Mohit publications, 2008).

Carpenter, William M. and David G. Wiencek, eds., *Asian Security Handbook: Terrorism and the New Security Environment* (New York: M.E. Sharpe, Inc., 2005).

Chandran, Suba D. and P.R. Chari, *Armed conflicts in South Asia 2008: Growing Violence* (New York: Routledge, 2008).

Chitkara, M G, *Combating Terrorism* (New Delhi: APH, 2003).

Dass, Niranjana, *Globalization of Terror: A Threat to Global Economy* (New Delhi: MD publications Pvt. Ltd., 2008).

-----, *Terrorism and Militancy in South Asia* (New Delhi: M.D. Publications, 2007).

Dixit, J.N., *Indias Foreign Policy Challenge of Terrorism: Fashioning New Interstate Equations* (New Delhi, Gyan Publishing House, 2002).

Dogra, P C, *Changing Perspective on National Security* (New Delhi; Lancer's Books, 2004).

Elyas, Mohammad., *Insurgency and Terrorism in India and Pakistan* (New Delhi: M D Publications Pvt. Ltd., 2008).

English, Richard, *Terrorism: How to Respond* (New York: Oxford university Press, 2009).

Goswami, Arnab, *Combating Terrorism: The Legal Challenge* (New Delhi: Har Anand Publications, 2002).

Griset, Pamala and Mahan, Sue, eds., *Terrorism in Perspectives* (Los Angeles: Sage Publications, 2008).

Gupta, Rakesh, *Terrorism, Communalism and Other challenges to Indian Security* (Delhi: Kalpaz Publication, 2004).

Gupta, K.R., *Anti Terrorism Laws: India, The United States, The United Kingdom and Israel* (:Atlantic Publishers, Gurr, Tedd Robert, *Why Men Rebel* (New Jersey: Princeton University Press, 1970).

Harmon, Christopher, *Terrorism Today* (London: Frank Cass, 2000).

Hegde, H. Parameshwar, *India Under the Shadow of Terrorism* (New Delhi: Kaveri Books, 2005).

Hoffman, Bruce, *Inside Terrorism* (New York: Columbia University Press, 2006).

Howitt, Arnold M. and Pangi, Robyn L., *Counter Terrorism: Dimensions of Preparedness* (England: MIB Press, 2003).

Hussain, M. G., *Terror, Torture and Terrorism: Facets of Human behaviour* (New Delhi: Manak Publications, 2006).

Jr., Frank Bolz, et al., *The Counterterrorism Handbook: Tactics, Procedures and Techniques* (New York: Taylor and Francis, 2005).

Kartha, Tara, *Tools of Terror: Light Weapons and India's Security* (Delhi: Knowledge World Press, 1999).

Lal, A.K., *Neo Terrorism: An Indian Experience* (New Delhi, Gyan Publishing House, 2005).

Laqueur, Walter, *The Age of Terrorism* (United Kingdom: Little Brown and Company, 1987).

Mishra, H.B., *Terrorism: Threat to Peace and Harmony* (Delhi: authors press, 1999).

Mockaitis, Thomas R., *The "New" Terrorism: Myths and Reality* (London: Praeger Security International, 2007).

Nath, Shaileshwar, *Terrorism in India*, (New Delhi: Asia Book Corp of Amer, 1980).

Pachnanda, Ranjit K., *Terrorism and Response to Terrorist Threat* (New Delhi: UBS Publications, 2001).

Pandey, Satish Chandra, *International Terrorism and the Contemporary World* (New Delhi, Sarup and Sons, 2006).

Raman B., *A Terrorist State as a Frontline Ally* (New Delhi: Lancer Publications, 2002).

Raman, B., *Terrorism: Yesterday, Today and Tomorrow* (New Delhi: Lancer Publishers, 2008).

Raza, Maroof, ed., *Confronting Terrorism* (New Delhi: Penguin Books India, 2009).

Reddy, G.B., *Nation in Crisis: Dimensions of National Security and Terrorism* (New Delhi: Authors Press, 2001).

Richardson, Louise, *What Terrorist Wants* (New York: Random House Publishing, Inc., 2006).

Schmid, Jongman *et al.*, *Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories, and Literature* (Amsterdam: Transaction Books, 1988).

Sehgal, B. P. Singh, *Global Terrorism: Socio-Political and Legal Dimensions* (Delhi: Deep & Deep Publications, 1995).

Sen, Gautam, ed., *Impediments to National Security* (University of Pune, 2007).

Singh, Daljit, *Terrorism in South and South East Asia in the Coming Decades* (New Delhi: Macmillan Publishers India Pvt. Ltd., 2009).

Singh, Ujjwal Kumar, *The State, Democracy and Anti-Terror Laws in India* (New Delhi: Sage Publications, 2007).

Sloan, Stephen, *Terrorism: The Present Threat in Context* (Oxford: Berg Publishers, 2006).

Smith, G. Davidson, *Combating Terrorism* (New York: Routledge Publications, 1990).

Smith, Paul J., *The Terrorism Ahead* (England: M.E. Sharpe, 2008).

Srivastav, V. P., *Prevention of Terrorism Act: Myth and Reality* (Indian Publishers, 2005).

Srivastav, V.P., *Prevention of Terrorism Act: Myth and Reality* (Delhi: Indian Publishers' Distributors, 2005).

Steven, Graeme C.S. and Rohan Gunaratna, *Counterterrorism: A Reference Handbook* (California: ABC-CLIO, 2004).

Subramanayam Raju, A., *Terrorism in South Asia: A Viewpoint from India* (New Delhi: India Research Press, 2004).

ARTICLES

Anand, Vinod, "Management of Defence: Towards an Integrated and Joint Vision", *Strategic Analysis*, vol. 24, no. 11, February 2001.

B, Raman, "Indian Intelligence Looking to the Future", *Agni*, vol. 10, no. 4, October-December 2007.

Bhashyam, Kasturi, "For a Perspective on Indian Intelligence, *Indian Defence Review*, vol. 18, no. 3, July-September 2003.

Chandra, Satish, "National Security Set Up", *Agni*, vol. 10, no. 4, October-December 2007.

Chaudhary, Dipankar Roy, "India-Myanmar Counter terrorism Initiatives Poised for a quantum Jump", *World Focus*, vol. 28, no. 6, June 2007.

Chaudhury, Rahul Roy, "India's Response to Terrorism after 13 December 2001", *Conflict, Security & Development*, vol. 3, no. 2, 2003.

Dixit, J N, "Emerging National Challenges for India", *Security and Society*, vol. 1, no. 1, Winter 2004.

Doval, Ajit, "Intelligence in India's Internal Security" Dialogue, vol. 8, no. 2, October-December 2006.

Dubey, Muchkund, "Dealing with Terrorism: Alternative for India", *Mainstream*, vol.47, no. 1, December 2008.

Foster, Stewart, "Maintaining a Co-ordinated Approach to Counter-Terrorism", *The Australian Quarterly*, vol. 58, no. 3, 1996.

Ganguly, Sumit, "India in 2008: Domestic Turmoil and External Hopes", *Asian Survey*, vol. 49, no. 1, January-February 2009.

Gera, Y K, "Naxalism and Internal Security", *Agni*, vol. 11, no. 1, Jan-Mar 2008.

Gilbert, Sebastian, "Getting to the Roots of Global Terror", *Mainstream*, vol. 47, no. 6, 24th January, 2009.

Gordon, Sandy, "Crime Law and Social Changes", *Springer*, vol. 50, no.1-21, September 2008.

Gupta, Dipak K., "Global Spread of Radical Ideologies: Causes, Consequences and Policies", *India Quarterly Journal of International Affairs*, vol. 65, no. 2, April-June, 2009.

Hindwan, Sudhir, "India's Challenge of Modern Terrorism", *Strategic Digest*, vol. 15, no. 2, May 2005.

Jahangir, R.A., "Terrorism and the State", *The Radical Humanist*, vol. 73, no. 4, 2009.

Jamwal, M.S., "Counter Terrorism Strategy", *Strategic Analysis*, vol. 27, no. 1, 2003.

Jenkins, Brian M., "Statements about Terrorism", *International Terrorism*, vol. 463, September 1982.

Madan, Iyengar, "Internal Threat to National Security", *Security and Society*, vol. 3, no. 2, Winter 2007.

Manoharan, N. "Trojan Horses: Terrorism Laws and Security in India", *Economic and Political Weekly*, vol. XLIV, no. 46, 2009.

Mohanty, C, "India's New Approach to Comprehensive Security", *Military Technology*, vol. 30, no. 2, February 2008.

Mohanty, Manoranjan, "Defending Democracy and Peace Process against Terrorism", *Mainstream*, vol. 47, no. 1, December, 2008.

Puri, Balraj, "India and the War Against Terrorism", *Economic and Political Weekly*, Vol. 36, No. 40, October 6-12, 2001.

Puroshotham, P.W., "Addressing Frontier Terrorism", *Indian journal of Political Science*, vol. 70, no. 1, April-June, 2009.

Quillen, Chris, "A Historical Analysis of Mass Casualty Bombers", *Studies in Conflict and Terrorism*, vol. 25, no. 5 September-October 2002.

Rapoport, David, "The Media and Terrorism; Implications of the Unabomber Case", *Terrorism and Political Violence*, vol. 8, no. 1 (Spring) 1996.

Saluja, A.R., "Indian Intelligence Organization Need for a Comprehensive Knowledge Management Strategy and Policy", *Indian Defence Review*, vol. 16. No. 2, April-June 2001.

Schwenkenbecher, Anne, "Terrorism, Supreme Emergency and Killing the Innocents", *Perspectives Review of international Affairs*, vol.17, no. 1, 2009.

Seth, K.M., "Impact of Terrorism on India's Internal Security", *Man and Development*, vol. 26, no. 2, June 2004.

Sharma, Ashok, "Terrorism in India", *World Focus*, vol. 27, no. 11-12, November-December 2006.

Singh, Col. Rajinder, "Combating Red Terror", *Indian Defence Review*, vol. 25.1, January-March 2010.

Singh, J J, "India's Security Perspective", *Indian Defence review*, vol.22, no. 1, January-March 2007.

Sood, Vikram, "Terrorism in India", *CLAWS*, no. 1, Summer 2009.

Tharu, Shamuël, "Insurgency and the State in India: The Naxalite and Khalistan Movement", *South Asian Survey*, vol. 14, no. 1, 2007.

Verma, V K, "Security Threats India Facing", *Indian Defence review*, vol. 23, no. 2, April-June 2008.

Vohra, N N, "National Governance and Internal Security", *Air Power*, vol. 3, no. 1, January-March 2008.

Wardlaw, Grant, "Policy Dilemmas in Responding to International Terrorism", *The Australian Quarterly*, vol. 58, no. 3, 1996.

INTERNET SOURCES

Dhavan, Rajeev, "India's Unlawful Activities Prevention Act (UAPA): The Return of TADA and POTA", *International South Asia Forum*, 2009, available at: <http://www.insafbulletin.net/archives/459> , accessed on 16th February, 2010.

Ganor, Boaz, "The Relationship between International and Localized Terrorism", *The Jerusalem Center for Public Affairs*, vol. 4, no. 26, 28 June 2005, available at: <http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DBID=1&LNGID=1&TMI D=111&FID=379&PID=1859&IID=557> , accessed on 9th May, 2010.

Gordon, Sandy, "Policing terrorism in India" *Springer*, vol. 50, no. 1-2/ September, 2008 available at:
<http://www.springerlink.com/content/4810521n21736460/> , accessed on 2nd July, 2010.

"Intelligence Resource Programme, available at:
<http://www.fas.org/irp/world/india/ib/index.html> , accessed on 5th June 2010.

"ISI-ULFA link exposed- Musharraf met Chetia in Dhaka", 10 January, 2010, available at:
www.zeenews.com/news594150.html , accessed on 8th July, 2010.

John, Wilson and P. V. Raman, "Effective Legislation Critical for Fighting Terror", *Observer Research Foundation*, Article no# 5, 2006, p. 1, available at:
www.observerindia.com/cms/.../py060831_1162551713391.pdf , accessed on 6th March, 2010.

Keen, David, "The Economic Functions of Violence in Civil War", *International Institute of Strategic Studies*, paper no. 320, 1998, available at:
<http://www.iiss.org/publications/adelphi-papers/adelphi-paper-list/> , accessed on 7th July, 2010.

Krishnamurthy, Aditya, "Should India Revamp its Anti-Terrorism Laws After the July 11 Serial Explosions on Trains in Mumbai?" available at:
www.legalserviceindia.com/articles/terror_pota.htm , accessed on 5th July, 2010.

"List of Designated Terrorist Organizations", available at:
http://www.encyclopedia.org/List_of_designated_terrorist_organizations, accessed on 4th December, 2009.

Madhavan, Geeta, "Spotlight on the New Anti-Terror Laws", *South Asia Analysis Group*, paper no. 30, 2008, available at:

<http://www.southasiaanalysis.org/papers30/paper2990.html> , accessed on 14th March, 2010.

“Major Naxalite Outfits”, available at:
www.hindustantimes.com/news/specials/naxalism/majoroutfits.html , accessed on 12th July, 2010.

“Media Enhances terrorism”, available at:
<http://www.ict.org.il/> , accessed on 30th June, 2010.

Mehta, Swati, “Human Rights and Anti-Terror Laws: India sets an example”, 2004, available at:
www.humanrightsinitiative.org/.../nl/.../india/hr_anti_terror_laws.pdf , accessed on 25th April, 2010.

“National Security Guards”, available at:
<http://www.bharatmilitary.com/forums/f17/nsg-commandos-pictures-185/> ,
accessed on 24th April, 2010.

Raman, B., “Accountability of Intelligence Agencies”, *South Asia Analysis Group*, Paper no. 2958, 3 December, 2008, available at:
<http://www.southasiaanalysis.org/%5Cpapers30%5Cpaper2958.html> , accessed on 13th April, 2010.

-----, “Counter-Terrorism: the Indian Experience”, *South Asia Analysis Group*, paper no. 649, available at:
<http://www.southasiaanalysis.org/%5Cpapers7%5Cpaper649.html> , accessed on 3rd June, 2010.

“Repeal of POTA-Justified”, available at:
<http://www.legalservicesindia.com/articles/pota.htm> , accessed on 23rd April, 2010.

“Repeating the Mistakes of Past”, 22 January, 2009, available at: <http://www.hrdc.net/sahrdc/hrfeatures/HRF191.htm> , accessed on 27th February, 2010.

“Research and Analysis Wing [RAW]”, available at: <http://www.globalsecurity.org/intell/world/india/raw.htm> , accessed on 4th December, 2010.

Sahagal, Arun “*Dealing with the Problem of Terrorism in India*”, available at: <http://www.ifa.org.np/document/saarcpapers/aron.pdf> , accessed on 15th February, 2010.

Sail, Agney, “Background Information On Repressive Laws in India”, 2007, available at: http://www.binayaksen.net/wp-content/uploads/indian_repressive_laws.pdf , accessed on 16th January, 2010.

Siddharth, “Anti-terrorism laws in India & need of POTA”, available at: http://www.legalserviceindia.com/articles/anti_pota.htm , accessed on 21st January, 2010.

Swaminathan, R., “Terrorism: Present Challenges and Trends”, *South Asia Analysis Group*, paper no. 7340, 2010, available at: <http://www.southasiaanalysis.org/%5Cpapers38%5Cpaper3740.html> , accessed on 4th June, 2010.

“The National Investigation Agency Act, 2008 a Critical Review”, available at: <http://www.nirmauni.ac.in/law/ejournals/previous/article4-v1i1.pdf> , accessed on 12th March, 2010.

The Prevention of Terrorism Act, 2002”, available at: <http://www.satp.org/satporgtp/countries/india/document/actandordinances/Pota.ht>

m , accessed on 18th May, 2010.

“(The) Terrorist and Disruptive Activities (Prevention) Act, 1987”, available at:
<http://www.satp.org/satporgtp/countries/india/document/actandordinances/Tada.htm>
m , accessed on 11th June, 2010.

“The Unlawful Activities (Prevention) Amendment Bill, 2008”, available at:
<http://www.satp.org/satporgtp/countries/india/document/papers/76-c.htm> , accessed
on 13th March, 2010.

“Unlawful Activities (Prevention) (Amendment) Act, 2008”, available at:
<http://www.indlaw.com/search/acts/Default.aspx> , accessed on 6th July, 2010.

Vivek, “Internal Security”, *Institute for Defence Studies and Analysis*, 2009,
available at:
<http://www.idsa.in/system/files/internalsecurity2009.pdf> , accessed on 5th July,
2010.

NEWSPAPERS AND MAGAZINES

Dave, Hiral, “ATS takes over probe of vessels seized near Alang”, *Indian Express*,
18th May 2010.

Farhan, Reza, “Bombay to Kashmir”, *Himal*, vol. 22, no. 1, January, 2009.

Hafeez, Mateen, “Pakistan again using mafia links for terror strikes”, *The Times of
India*, 17th March, 2010.

Hussain, Zahid, “Indo-Pak tension worst in 20 Yrs”, *The Times of India*, 29th
January, 2010.

Kumar, Raj, "Terrorism and Indian Democracy", *The Hindu*, 30th July, 2008.

McCarthy, Rory, "Dangerous game of state-sponsored terror that threatens nuclear conflict", *The Guardian*, 25th May, 2002.

Sharan, Abhishek and Ashok Das, "26/11 attacks handler arrested", *The Hindustan Times*, 18th January, 2010.

Singh, Jaswant, "Beleaguered State", *Seminar*, no. 345, 1988.

