

THE RISE AND DECLINE OF TERRORISM IN INDIA

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ABSTRACT

This paper deals with the circumstances and the situations in which the terrorist activities increased in the country. It at first deals with the formation of the Indian Republic and the problems faced by the founding fathers in uniting every part of the country as a nation. It mentions about the insurgency activities undertaken by various political and ethnical groups in order to destabilize the country in its early years of formation. It then later discusses the activities undertaken by various alien countries in order to disrupt the country. It also mentions various government measures in order to curb terrorism that includes bringing strict legislations into force like TADA, POTA, and UAPA etc. It also mentions about government's recent stance on terrorism and its commitment to eradicate it.

Terrorism is a disease which damages the mind and pollutes the soul of a human being who involves himself in it. It has become the means to propagate sinister ideologies among various people ultimately leading to disruption, hatred and discontentment among various sections of society and ultimately leading to the fall of society as an institution. It is, however, a curable disease by letting go such types of activities and help to build the nation into a better one.

Only a progressive and stable nation will lead to a better standard of living among all the people in all the walks of life.

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FOUNDATION OF THE NATION

India attained independence on August 15, 1947. Attaining Independence had its own consequences. At one hand, India was at a liberty to govern herself, frame policy for the wellbeing of its citizens. On the other hand, it also meant that from now on, India would be totally responsible for safeguarding herself, maintaining diplomatic ties with other countries etc. India was formed after a bunch of 540 princely states decided to join the Republic of India and thus it can also be said that India is a conglomeration of princely states who had come together to jointly tackle the issue of national security, defence and economic scenario of the country. India since its independence in 1947, has been facing the problem of insurgency and terrorism in various parts of the country. Terrorism has been taken to mean an armed violent movement directed against the government as well as non-government targets, involving pre-meditated attacks with arms, ammunition, and explosives against civilians, and resorting to intimidation tactics such as hostage-taking and hijacking, and sometimes also seeking territorial control.

Terrorism refers to a strategy of using violence, social threats or coordinated attacks, in order to generate fear, cause disruption and ultimately brings about compliance with specified political, religious or ideological demands. Terrorism aims at destabilizing or destroying the fundamental political, constitutional, economic or social status of a country.

The terrorism may be either domestic or international depending on the origin, base and objectives of the terrorists. The terrorists believe in the “cult of the pistol and the bomb and extraordinary violence”.² Their motives are political, the actions generally carried out in a way that will achieve maximum publicity.³ In recent times, terrorism has taken a new form. The acts of terrorists transcend the boundaries of one state. They make their shelters in different countries and operate there from with the help, open or concealed, of some other states. Their network is widespread and so they become capable of saving themselves from the clutches of the law of a country. They have new targets which include large aircraft, super-tankers, international power grids and pipelines, transportation bombs, commercial and communications centres, motorcades, offshore oil rigs, liquid natural gas facilities, nuclear power plants and computerized information and management systems.

Terrorism in all its manifestations is unacceptable and never justified and India has on several occasions been the victim of it. To understand the impact of terrorism and measures taken by

²Chalmers-Johnson: 'Terror' in A.A.Said (ed), Human Rights and World Order, p. 48

³ Hudson H. V. (ed). The Annual Register: A Record of World Events, 1977, vol. 219, pp- 3-4

the sovereign Government of India to curb it, it is important to have a look at the regulations and laws made before 1980 and after 1980. The year of 1980 holds a great significance with regard to terrorism law as until 1980, there were a lot of insurgency activities being organised within Indian territory. However, after 1980, the terrorist activities occurring in India had started being funded by alien enemies. Today most of the terrorist activities undertaken in India and across the globe is funded by alien enemies and would usually be politically motivated in order to create disorder and fear of insecurity in the host country.

- Government stance on terrorism before 1980
- Government stance on terrorism after 1980

GOVERNMENT STANCE ON TERRORISM BEFORE 1980

During the initial year of Independence, the government of India had various issues at hand which required immediate attention. First among them was convincing the kings of princely states to join the Republic of India instead of being an independent nation. Though the government was successful in convincing almost every princely state to join the Indian Union, there were certain provinces which did not aspire to join and wanted to remain independent. One among such provinces was Kashmir. Though it later joined the Indian Union, however, the problem persists and this has been one of the main reasons of India being the victim of terrorism.

India is a multi-linguistic diverse country. People of various religions, languages, culture reside in this country. Hence in these situations, the common factor that binds all the citizens together is their love and allegiance to the Republic of India. However, these elements were missing during the 1950s when India was a new nation. Hence it can have been said that after the initial years of Independence, the terrorist activities or terrorism-related activities were not usually sponsored by any alien country but was undertaken by the various sections of people who never wished to be part of Indian Union.⁴ Hence it can also be said that there was a threat of insurgency in the territory of India.

One of the prominent reasons for the increase in the insurgency is the rise of ethnonationalism within the people of the country. This was very prominent in the North East Region where most of the states wanted to gain independence from the Republic of India

⁴ In the case of Kashmir, the terrorist activities though undertaken in the Indian Union, however, is funded by alien country (in this case Pakistan).

THREAT FROM NORTH-EAST

The North-East hangs on a narrow stretch of land between Nepal and Bangladesh and is connected to India through Siliguri Corridor.⁵ Between 1874 and 1934 the tribal populations in the region were administered under a succession of extraordinary provisions that segregated them into categories called non-regulated, backward or excluded areas. The Inner Line Regulation of 1873 prohibited access to these areas to all outsiders except those who obtained special permission from the government.

This had two effects:

- 1) The Possibility of the process of integration of the communities and tribes which could have been initiated by a common alien administration was lost.
- 2) Most of the tribal communities in the region remained alien to the national process being isolated from the social and political developments taking place elsewhere in the region.

The region is characterised by widespread conflicts which are related to the geography of the region, the multiethnicity of its population and the political and economic feeding grounds of discontent. The conflict dynamism ranges from insurgency for succession to insurgency for autonomy and from sponsored terrorism to ethnic clashes.

Insurgencies in north-east India have been described as examples of ethnic terrorism. It has been best understood as deliberate violence by subnational ethnic groups to advance their cause. These terror acts are directed against symbolic targets, designed largely to foster identity as well as advance standard political goals.

There are four factors that explain the strength of ethnonationalism in the region:

- (i) Ethnic Distinctiveness shaped by shared history and values and manifested in a common language and culture has proved to be a far more durable and powerful influence on communities than other identities
- (ii) There remains a colossal mismatch between the state system with its legally recognised frontiers and the demographic map of distinctive ethnic groups or national identities.

⁵ Siliguri Corridor is an area of 12,203 sqkm connecting mainland India with the outlying borders of the north east.

- (iii) Availability of militant leaders capable of mobilising a sizeable section of ethnic constituencies by persuading them of the reality and the severity of the threat they face and appealing to the history and historical myths.
- (iv) Availability of weapons and availability of political and military support from ethnical groups or other ethical factors or external factors.

There are two distinct features in the situation in north-east India that are worth noting. First, except for the states of Arunachal Pradesh and Meghalaya, all other states of the region have had major, long-standing violent movements that have sought political independence from India or greater autonomy within the Indian Union and Second, the conflict exists in all the seven states at different levels. Besides conflicts between the states of the region and the central government, there are conflicts between the states of the region themselves, between one tribe and another, between tribal and non-tribal groups and between indigenous groups and “settlers” who have come from Bangladesh, Nepal or other parts of India. As things stand today, Nagaland, Manipur, Assam and Tripura are the most violent states.⁶

In most cases, a feeling of deprivation resulting from the nature of national decision-making process in the centre where the region is only a distant negligible presence, provide the logic for a mass movement.⁷ Land, migration and fears of loss of identity are the basic themes that resonate in the north-east.

Ethnic conflicts in the region have been explained with the help of concepts such as uneven development, differential modernisation, relative regional deprivation, internal colonialism, failures of assimilation and cultural oppression. A careful examination would, however, reveal that these conflicts are social, political and economic conflicts between groups who identify themselves and their opponents in ethnic terms. These conflicts have some major characteristics: they tend to be asymmetrical; they are ambiguous, making it hard to differentiate a friend from a foe; they are fought unconventionally using political and psychological means and methods, and these conflicts often develop into protracted wars of attrition.

Despite all this, the government of India has from time to time effectively curbed all the extremist activities, promoted development and democracy in the region and in today's time,

6 There are over hundred terrorist groups operating in the region, *ibid*, p 5. Also, see South Asia Terrorism Portal; Countries; India; Terrorist Groups, <http://www.satp.org> accessed on March 1, 2005

7 The region does not enjoy significant political clout in the national decision-making process. The representation of north-east India in the 524 members lower house of the Parliament is: Assam-14, Arunachal Pradesh-2, Meghalaya-2, Nagaland-1, Mizoram-1, Manipur- 2 and Tripura- 2

a lot of infrastructural and developmental activities are being taken place in this region. Recently the government of India had inaugurated Dhola Sadiya Bridge which is the longest bridge in India connecting the state of Assam and Arunachal Pradesh which cites the importance of North East to the Government and Republic of India and also states the fact that the year of insurgency in the region is now a history which would soon be forgotten.

THREAT FROM KASHMIR

Another major crisis of instability was persistent in Kashmir. Since independence, the state of Kashmir has been an issue of territorial dispute between India and Pakistan. Both the countries have fought thrice (1947, 1965 and 1999) for gaining the statehood of Kashmir. Besides this, there has also been an increase in insurgency activities in the region. The Insurgent leaders and democratic republic of India dispute over Kashmir's local autonomy based on the principle of self-determination. Slowly, all the non-violent means to resolve a dispute where therefore limited and there was a sudden increase in the support of Insurgency activities in the region.

Insurgents claim to liberate Kashmir from India. They fell that Kashmir is meant to be independent and should not accept the sovereignty of any nation. These insurgents usually take help from the Pakistani Government which provides them financial aid in order to destabilise the existing peace and tranquillity in the region.

India claims its sovereignty over the region for various reasons. It cites the references of Hindu mythology which relates that sage Kashyapa in the mid-12th century had invited Brahmins to settle in the region and valley prospered under as a centre of Hindu culture. Even after the Muslim rule that later prevailed in the region for almost five centuries, Kashmir was considered as an integral part of India. Even during the British rule, Kashmir was considered an important administrative centre and had retained the status of being an integral part of the nation.

In addition to that, when Maharaja Hari Singh had signed the Instrument of Accession and handed over the administrative powers of State of Jammu and Kashmir to Republic of India, the Indian Army had curbed the rebel forces in the western district that was organised by the insurgent groups, which was funded and supported by the Pakistani Government and had secured the city of Srinagar from the hands of rebel groups.

On the other hand, Pakistan has been claiming Kashmir as a part of its territory as a majority of the population in the region is Muslim and hence as Pakistan is an Islamic state, the

accession of Kashmir to Pakistan should be natural and obvious in nature. It has for a long time carried on various terrorist attacks in the territory of Kashmir in order to destabilise the existing government. It had also carried on various religious propaganda with the aim to liberate Kashmir from the Indian Territory.

Both the states have tried to achieve a permanent solution for the political instability in Kashmir, however, this has always turned worthless. Despite various attempts made by both the government, the instability in the Kashmir continues and the rise of terrorist activities in India in the next few decades can be wholly or partially attributed to the situation in Kashmir.

Due to the disputed statehood of the region, it has always been a victim of terrorism. Insurgents with the help of external forces try to create instability in the region and affect the livelihood of the people. This act of aggression usually affects the survival of an ordinary person and has not at all benefitted any section of society.

UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1963

This Act was passed by the government in order to give state limitless powers to choose the group, the section and the political opinion that it felt was promoting unlawful and illegal activities in the territory of India. This Act was essential because it helped in curbing all the anti-national's activities and helped in promoting national integrity and sovereignty of the nation. However, with the passage of time, this Act was used by the ruling government to suppress any sort of opposition to the ruling party. The Act which was framed to safeguard democracy is now used to violate the fundamental rights enshrined in the constitution, since it violates every provision in the criminal justice system meant to safeguard the innocent, and every international covenant and declaration concerning rights of the individual. The impact of the UAPA thus extends to every part of the country. The non-existence of an armed opposition in a state does not prevent its use.

The provision of banning organisations and provisions that criminalise all forms of association with a banned organisation cast the net so wide that every form of political opposition to the government can be prescribed and such persons prosecuted under the Act. Once banned, an organisation is denied the right to engage in legitimate mass organisation activities, leaving it no option but to carry on its struggles through violent and armed means. Activities of organisations such as the People's Committee against Police Atrocities (PCAPA) were limited to the mass protests against police atrocities. Hence taking this all this into

consideration, the government had amended the act in 2008 which is later discussed in the paper.

GOVERNMENT STANCE ON TERRORISM AFTER 1980

The year of 1980 is very important as India was considered as a sort of laboratory where major acts of terror are first tried out before being replicated in democracies in the West. The logic is that if India, the world's largest democracy, can be shaken, so can other democracies. For example, the 1988 Pan Am 103 bombing over Lockerbie, Scotland, replicated the Mid-Air bombing over the Atlantic of an Air India commercial flight from Canada in 1985. Similarly, the 1993 World Trade centre attack was modelled on the bombings weeks earlier that killed hundreds of people inside high-rise buildings in Bombay in a terror campaign designed to disrupt India's financial markets. Parallels may have emerged between the 1999 hijacking to Kandahar of Indian Airlines flight IC- 814 and the September 11, 2001 suicide hijackings, including the similar use of box cutters and the terrorist knowledge of cockpit system.

In order to curtail the emerging threat of insurgency, the Government of India had at first enacted TADA which though was made with the prime object of curtailing these activities. However, this Act failed to achieve its objectives due to several reasons.

TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) ACT, 1987 (TADA)

TADA was antiterrorist legislation that was meant to apply throughout all of India.⁸ Originally adopted in May 1985 and expected to expire within two years, the central government renewed TADA in 1987 for another six years. The government stated that the “continuing menace” of terrorism made it “necessary to [not just] continue the said law, but also strengthen it further.”

The penalty for a crime committed under TADA that did not result in the death of another person was a minimum of five years, extending up to life imprisonment. In addition to the commission of a terrorist attack, TADA criminalized the concealment or harbouring of any terrorist whether known or unknown and made punishable the abetting or advisement of any terrorist act. As the act, admittedly did not result in a reduction of terrorist activity in the periods of 1985-1987, the government amended TADA in 1987 to increase the powers given to law enforcement in the hopes of deterring future attacks.

8 C.I.S Supp. Part 1, and 1(2) (1987), The Terrorist and Disruptive Activities (Prevention) Act of 1987 of the Indian Parliament, New Delhi, 3 Sept. 1987 [hereinafter TADA]

While the increased powers under the amended version of TADA purported to give law enforcement more tools to better deal with increased terrorist activity, the actual result of the new law was widespread abuse as its broad definition of terrorism was used to crack down on political dissidents, regardless of whether the dissent was violent, and was used in some regions exclusively against religious and ethnic minorities. For example, in the state of Rajasthan as of September 1, 1994, 409 of 432 people detained were minorities. Other published statistics of detentions under TADA paint a similarly grim picture showing selective enforcement and widespread abuse.

Despite these statistics and widespread criticism by human rights groups, TADA was further extended an additional two years in 1993. The extension was passed despite anecdotes telling of widespread torture and abuse under TADA.⁹

In 1995, under the weight of tremendous public outcry, the Indian government finally allowed TADA to expire. The National Human Rights Commission of India (NHRC) applauded the decision and noted that TADA was "incompatible with [India's] cultural traditions, legal history and treaty obligation.

However, all of this changed after 2001 Parliament Attack. The 2001 attack on Indian Parliament was conducted by Lashkar-e-taiba terrorist. It had led to the death of 14 people and left 22 people injured. This attack has led to the enactment of Prevention of Terrorist Activities Act, 2001 and also led to the arrest of Afzal Guru who was awarded death sentence and was hanged at Delhi's Tihar Jail in 2013

PREVENTION OF TERRORIST ACTIVITIES ACT, 2001

The event of December 13 attack on Parliament Building and September 11 attack at Twin Tower in the USA had led the government of India to pass POTA in March 2002. The government of India justified the enactment of POTA by pointing the USA's Patriot Act and UK's Prevention of Terrorism Act and laid emphasis on the fact that it needed to move beyond traditional domestic criminal procedures in order to battle terrorism.

POTA retained a number of TADA's most controversial provisions and further added powers not present in the old legislation. The criminalization of "abetting" a terrorist, which had been struck down in TADA by the Indian Supreme Court, is revived under POTA. It criminalizes the membership of an organization labelled "terrorist" by the Central

⁹ Amnesty International, India: Proposed Antiterrorist Legislation Risks Human Rights Violations (2000), At <http://Web.Amnesty.Org/Library/Index/Engasa2000262000?Open&Of=Eng-Ind>.

Government, regardless of criminal intent or activity. POTA also retained the admissibility of confessions, a provision that many had pointed to as one of the sources of the high incidences of torture and brutality during TADA interrogations.

POTA goes beyond TADA in numerous ways. While TADA was reviewed every two years, POTA would first be subject to legislative scrutiny in 2007, five years after its enactment. Mandatory minimum sentences were retained for crimes handled under POTA, reducing judicial freedom to judge cases on their individual merits.

In keeping with the pattern of past antiterrorist legislation, POTA treats terrorist acts as outside the normal criminal procedure which has been established to balance the rights of criminal defendants with the interests of the State. POTA establishes special courts to handle cases of terrorism. These special courts have the discretion to hold trials in non-public places such as prisons and have the power to withhold trial records from the public.¹⁴⁷ These courts may also keep the identity of witnesses used against defendant's secret, and have the discretion of beginning proceedings against a defendant even if they or their legal representation are absent. POTA also significantly departs from traditional Indian Criminal Procedure by allowing the pretrial detention of a suspected terrorist for up to 180 days. This prolonged detention before being brought in front of a court leaves the door open for police brutality and arbitrary detention of political opponents. This Act had done more harm than good and was thus repealed in 2004.

UNLAWFUL ACTIVITIES (PREVENTION) ACT (UAPA)

The UAPA was brought into force in 1967 and then after had undergone several amendments, latest being in the year 2012. The definition of the term terrorism under UAPA has expanded to include offences that threaten economic security, counterfeiting Indian currency and procurement of weapons etc. Under this act, courts are granted with additional powers to forfeiture property equivalent to the counterfeit Indian currency involved in the offence or to the value of the proceeds of terrorism involved in the offence. Presently there is no provision for an individual suspected of having terror links making into the list of banned list of entities under Sec 35 of the UAPA though there is a proposed amendment for the same.

NATIONAL INVESTIGATIVE AGENCY (NIA)

The 26/11 Mumbai Terror Attack was a fatal blow towards all the government's measure to curb terrorism. These attacks highlighted the weakness in India's strategic defence strategy and considered this into consideration; the government of India had passed NIA Act which

led to the establishment of NIA. NIA has concurrent jurisdiction which empowers the central agency to probe terror attacks in any part of the country, covering offences including a challenge to the sovereignty and integrity of the country. It also aims at creating deterrence for existing and potential terrorist groups/individuals. It also aims to develop as a storehouse of all terrorist-related information. Since its inception, the agency was able to stop various terrorist activities and was able to capture various individuals affiliated with various terror groups. The function of this agency has led in curtailing the activities of a various terror organisation.

CONCLUSION

Apart from all this, the government of India has also signed bilateral treaties with various countries like United States, Australia, Saudi Arabia, Philippines, Cyprus, Italy, Indonesia, Cambodia, Russia etc for the corporation in combating terrorism. Along with this, the Republic of India has also been signatory to major International conventions like International Convention for the Suppression of the Financing of Terrorism with a sole motive to eradicate the threat of terrorism from Indian as well as global level.

Terrorism in India has often been alleged to be sponsored by the Pakistan. Many a time, it is often alleged that the Pakistani Intelligence Agency, Inter-Services Intelligences (ISI) often train and provide resources to militant groups in order to conduct terror attacks in India. More recently, there has been a terrorist attack at Uri, which is a village in the province of Jammu and Kashmir. Along with it, there has also been an attack at Pathankot Air Force Station which is a part of the Western Air Command of the Indian Air Force.

However, recently the government of India has claimed to have conducted surgical strikes against military launch pads across the Line of Control. This is the first time that the Indian Government had publicly accepted carrying such kind of operations. This kind of operation makes a huge appeal to all the people that the government of India would not tolerate any sort of foreign aggression in its soil.

With effective measures taken by the government of India, it has become clear that terrorism is on its verge to decline and it won't take too long for its eradication.