

**SURGICAL STRIKES: INDIAN AND INTERNATIONAL EXPERIENCE WITH AN
AVENUE STIMULATED WITHIN THE INTERNATIONAL LAWS TO OPPRESS
THE PYROMANIACS**

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Abstract

Neither the Military Intelligence officials nor the commandos operating on the field have ever been in any quandary to opine as to exactly what steps may be taken to curb the menace of terrorism. The hindrances were only in the political set up at the topmost chairs of the hierarchy and the prevailing set of norms at the International podium. However, these were the scenario, what we can call now, existing in the erstwhile epoch. Though several factors still exist the majority of the issues have started collapsing after all the progressive leaderships joined their hands together to triumph over the issue of terrorism. The issue of terrorism can never be any subject of diplomacy, as these groups of pyromaniacs primarily operate on their own and there are several exemplars where they have become hostile even to the established governments of the regions, in which they operate. They may have adopted different titles for their own, they may be known as Al-Qaeda, Boko-Haram, Haqqani-network, Jaish-e-Mohammed, Lashkar-e-Taiba, Taliban, Hizbul, and so on, but their ultimate object is to slacken the freedom and causing genocide to establish their dictatorship, which is ludicrous. This is the reason, the author tried to justify the necessity of taking preventive measures, such as surgical strikes, and tried to evince the ways the international community has adopted to challenge the issue unhesitatingly. This article shows several dialects by which these terror outfits were answered by the established governments though within the established norms.

Introduction

A surgical Strike refers to a planned military action taken by one established Government on the military base of another State. It never can be mixed up with war. In a surgical strike, one of the major objectives is to confining the collateral damages to the minimum. In such a strike the damage generally doesn't exceed the lives of common masses of the target area.

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Such strikes can be carried out especially by the airpower, such as airstrike, airdropping of special operation team and also by the special ground forces.

"Precision bombing" is a kind of airstrike by which airpower attempts to destroy the ground targeted areas precisely with the dual objectives of maximizing damage of the targeted area as well as minimizing collateral damage. This is evident since WW I when both the Allied and Central Powers have taken courtesy for the Precision bombing. But in that era technology was not free from fallacies, so that it didn't work well. However, it may prove to be so calamitous in the present technological advancement.

On the other side, Carpet Bombing/ Saturation Bombing/ Obliteration Bombing are more destructive and here the objective of minimum collateral damage is absent. The target area of this kind of airstrike is especially a large city. By dropping several unguided bombs on the land, the explosion covers the area like a carpet on the floor. This was first experienced during WW II, when the German Air Force applied Carpet Bombing on Netherland (14 May 1940) for supporting its ground force to invade and assault the Dutch cities, causing nearly 900 death and 30,000 homeless. Delightedly this kind of activity has been recognized as a War Crime under the *1977 Protocol of Geneva Convention*.

WHY SURGICAL STRIKES?

From the era when men started making clans and started ruling the masses, several challenges they have started to face from other clans or groups, which they had to manage. From here the policies of external affairs get their roots. Pursuance of military threat is a traditional weapon in the hands of the stronger actor either to seek certain behavior in a certain way or to prevent any undesirable behavior from the other actor. This is an act of deterrence. P. K. Huth in *"Deterrence and International Conflict: Empirical Findings and Theoretical Debate"* has classified the policy of deterrence in two broad categories (i) preventing an armed attack against a state's territory i.e. direct deterrence. In cases of territorial disputes, where the major powers do not intervene, one of the belligerent states pursue the direct deterrence & (ii) preventing an armed attack against another state i.e., extended deterrence². This occurs only when any major power intervenes in the conflict. However, the success of such deterrence whether it is direct or extended doesn't depend

² Paul K. Huth, *"Deterrence and International Conflict: Empirical Findings and Theoretical Debate"*, Annual Review of Political Science 2(1):25-48 (2003).

only upon the strategic victory of any actor. When a state succeeds to deter another State, using its military dynamism, and at the same time compromise its international relationships with other nations that can never be stated as successful deterrence.

In **Game Theory**, mention of "Security Dilemma" can be noted, where there is a tendency of increasing one Nation's security that results in decreasing the security of others. In terms of Lewis Richardson, this is an "Action-Reaction Process". In this process, say, nation A indigenously developed modern combat aircraft with supercruise, super maneuverability, stealth, sensor fusion, and heavy payload capacity. This automatically results in the dilemma of insecurity of another state B. Now, state B will also try to achieve the same capacity. When state B will have the same or better capacity the dilemma will shift back to state A again. This often results in misunderstanding and often leads to confliction as well as other kinds of deterring methods like Surgical Strike.

Terrorism as well as the nations nurturing terrorism is another factor that entices deterring methods like a surgical strike. Mr. Ajit Doval, NSA of India, justified the necessity of surgical strike so lucidly, that, when the violation of Line of Control as well as of ceasefire is being carried on by the military of a nation as well as by militants, acting under the shade of neighboring states, there is a necessity to *"go to the place from where the offenses are coming."* Precisely, according to the Doval Doctrine, there is a necessity of "shifting from 'Passive Defense' to 'Defensive Offence' to counter the terror approaches."

SURGICAL STRIKE VIS-À-VIS PREEMPTIVE STRIKE

Surgical strikes are completely different in form than preemptive strikes. Preemptive self-defense or anticipatory self-defense is not only exercising the rights of the actor in response to an armed attack but also to counter an imminent threat of such. In both (surgical strike & preemptive strike) whatsoever, there is an inherent right of the nations to retaliate in form of preemptive or surgical strike against offensive actions taken by the other belligerent state. In a case where one nation continues to be responsible for the bloodshed of any other nation by utilizing its terrorist outfits, the suffering nation has a right to press it back by wrecking the terror bases by way of preemptive strikes. Here this strike is not 'surgical', because, in surgical strikes, the element of attacking the military base of an established government should involve. Thus, where one nation has taken military action against the 'terror bases' located in the territory of any other nation and not against the 'military bases' of it, the action is known as "non-military preemptive strike". Another difference involved in this is, how far the targeted area is located

from the Line of Control. In surgical strikes, the targeted area is generally located far from the LoC within the other state but in Preemptive strikes, the targeted area isn't far from the borderline but is typically within the territory of another state.

However, in both cases, i.e., preemptive and surgical strike, the scope of pacific means of settlement reduces. Though, this is an inherent right of the actor to defend itself from any external aggression. **Article 51** of the **UN Charter** states that, "*Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary to maintain or restore international peace and security.*"³ By this way the UN Charter has drawn a line between legitimate and illegitimate military action taken by any actor. Thus, for justification of a Strike as 'self-defense' two conditions must be fulfilled; (i) the actor must believe that the threat is real and not merely perceived, & (ii) the force used by the actor must be proportional as to the harm it has threatened.

Some exemplars of legitimate strikes can be as follows:

The CIA-led operation, carried out by US Navy SEALs, "*Operation Neptune Spear*" is a legitimate surgical strike to eliminate al-Qaida chief Osama Bin Laden, who was hiding in the ISI safe house in Abbottabad, Pakistan (May 2011)³.

One of the most commendable surgical strikes is the famous hostage-rescue mission in Uganda's Entebbe airport carried out by Israel Defense Forces (IDF) in June 1976, when some wingmen of the Popular Front for the Liberation of Palestine hijacked an Air France plane and forced it to land at Uganda's Entebbe International Airport. The then Ugandan dictator, Idi Amin, made no attempts to rescue the hostages, the IDF stepped in.

³ United Nations Charter, *available at*: <https://www.un.org/en/about-us/un-charter/chapter-7> (Visited on May 08, 2021)

Thereafter the strike was carried out by 100 Israeli commandos and concluded with all the militants being killed, and all except three passengers had been rescued.⁴

In March 2003, one surgical strike was led by the CIA in Pakistan to capture three terror suspects, including Khalid Sheikh Mohammed, who was believed to be one of the key planners of 9/11.

The strike had taken place in Rawalpindi and Khalid Sheikh Mohammed was taken to the Guantanamo Bay detention facility for "*enhanced interrogation techniques*".⁵

In June 2015, a team of around seventy Indian Army soldiers carried out a surgical strike inside the jungles of Myanmar. The 40 minutes operation had taken out 38 dreaded Naga militants and left seven injured. The plan of action was prepared after the Naga militants killed 18 soldiers in an ambush in the Chandel area of Manipur on June 4, 2015.⁶

INTERNATIONAL ALGORITHM AND SURGICAL STRIKE

The above exemplars of legitimate strikes have pointed out how terrorism remains a bleeding problem to the whole world. Although the world community has come together to slash out the issue from the avenue it remains as a posture of threat because of some countries, who nurture these evils for their conjectures.

The *United Nations Security Council Resolution 1373*⁷ deserves special mention here, which was adopted on Sept. 28, 2001, in the aftermath of the Terrorist Attack in the United States on 9/11, under Chapter VII of the United Nations Charter. The said Resolution is thus binding on all the member states. The Resolution was adopted for thwarting all kinds of terror activities in various ways. Under the Resolution, United Nations urges all its member states to share their intelligence on terror activities in an accomplished manner to ease the combat against International Terrorism.

⁴Rohan Abraham, "Surgical Strikes And 5 Other Military Manoeuvres That Rewrote History", *The Economic Times*, Mar 19, 2019

⁵ India Today Web Desk, "From Myanmar to Iran to Pakistan: 10 surgical strikes that rewrote history", *India Today*, September 29, 2016, available at: <https://www.indiatoday.in/msn-it/story/surgical-strikes-india-pakistan-myanmar-usa-examples-343895-2016-09-29#:~:text=In%20March%202003%2C%20the%20CIA,planner%20of%20the%209%2F11> (Last Updated September 30, 2016 14:58 IST)

⁶ *Ibid.*

⁷ *Ibid.*

Under the *UN Security Council Resolution 1566*⁸, the Security Council spells what it sees as terrorism:

It forwards, "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 a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act."

The 1999 UN Treaty, namely the International Convention for the Suppression of the Financing of Terrorism⁸, seeks to promote police and judicial cooperation to prevent, investigate and punish the financing to the acts of terrorism.

Again, as mentioned earlier, **Article 51** of the UN Charter (Chapter VII) provides for the right to self-defense. The said provision enables a nation to retaliate back against any act which impairs its national integrity and security. However, the aforesaid Article of the UN Charter doesn't mention whether the 'armed attack' is from a regular army or it is initiated by non-state actors.

The International Court of Justice, in the *Republic of Nicaragua v. The United States of America*⁹ by clarifying the doubt held that,

"an armed attack must be understood as including not merely action by regular armed forces across an international border, but also 'the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to' (inter alia) an actual armed attack conducted by regular forces, 'or its substantial involvement therein.'"

Further, the United Nations Security Council has confirmed the right to self-defense against terrorist groups in *Resolution 1368* (September 12, 2001)¹⁰ and *Resolution 1373* (September 28,

⁸Resolution 1566 (2004), United Nations Security Council, available at: <https://www.un.org/ruleoflaw/files/n0454282.pdf> (Visited on May 08, 2021)

⁹International Convention for the Suppression of the Financing of Terrorism (1999), United Nations General Assembly, available at: <https://www.un.org/law/cod/finterr.htm> (Visited on May 08, 2021)

¹⁰ 1986 *I.C.J.* 14

2001)¹¹. Dr. Louise Arimatsu in her *"The Law of State Responsibility in Relation to Border Crossings: An Ignored Legal Paradigm"*¹² has stated that the right to self-defense can be exercised within the borders of the victim State as well as on the territory from where the attack is launched. Dimitrios Dalibasis in *"The Right to National Self-Defense: In Information Warfare Operations"*¹³ has noted that, "if the attack was directed by a state military force against another state, the victim state can respond as it deems necessary, even if that leads to crossing the borders of another state."

Thus, according to the eminent authors as well as various international set up of norms, surgical strikes are legitimate in the interest of protecting one nation's security, integrity, sovereignty, and political independence, provided, they are proportional and follow a reasonable cause of danger. When an act of terrorism is in vogue, it is the responsibility of all international actors to eradicate the predicament as soon as possible with all its force and to enable the opportunity of the Security Council to look after the matter.

1. D
r. Louise Arimatsu, *The Law of State Responsibility in Relation to Border Crossings: An Ignored Legal Paradigm* (International Law Studies, U.S. Naval War College, Vol. 89, 2013)
2. D
imitrios Dalibasis, *The Right to National Self-Defense: In Information Warfare Operations* (Arena Books, Bury St. Edmunds, 2007).

INDIA'S EXPERIENCE WITH SURGICAL STRIKE

Surgical Strike of 1971 in Pakistan:

1971 was the year when Indian armed forces have paid their first ever and the most notable raid, titled the **Chachro raid**¹⁵, in the territory of another Nation. This was one of the sterling raids

¹¹ Resolution 1368 (2001), United Nations Security Council, available at:

<https://digitallibrary.un.org/record/448051?ln=en#record-files-collapse-header> (Visited on May 08, 2021)

¹² Resolution 1373, *supra* note 7.

¹³ Ananth Karthikeyan, "The Desert Raids of the 1971 War", *DNA India*, available at:

<https://www.dnaindia.com/analysis/column-the-desert-raids-of-the-1971-war-2696445> (Last Updated Dec 16, 2018, 07:00 AM IST)

done by Indian forces into the territory of Pakistan. On 5 December 1971, men of the Desert Scorpion (10 Para Commandos) got 80 km into the enemy territory and struck down the enemy bases. This operation was led by Lt. Col. Sawai Bhawani Singh, who was later honored with Maha-Vir Chakra for his valor and courage contributed to the operation. This drastic mission of the Indian Armed Forces ended up with the instrument of surrender by the then Pakistani President Yahya Khan. Another notable factor of this strike of Indian Forces was it entered into the enemy territory to 500 km to accomplish the mission, demolished all the target areas, and returned safely to their land.

Preemptive Strikes of Indian Troops in Myanmar [1995, 2006 & 2015]

Indian force's valiant triumvirate strikes in Myanmar happened in 1995, as Operation Golden Bird, in 2006 and 2015. The relationship between the duos laid on the bedrock of the India-Myanmar Treaty of Friendship signed in 1951. However, the foundation of the relationship was laid down by the visit of the then Prime Minister of India, Shri Rajiv Gandhi in 1987. India and Myanmar have started sharing borders and substantive defense relations since 1990. Since then, the first operation done by Indian forces was Operation Golden Bird, where the Research & Analysis Wing (RAW) has provided information, that, huge arms consignment for North Eastern Insurgents has reached Cox Bazaar (Bangladesh) and was to be shipped at Manipur for the groups in Nagaland as well as for Isaq-Muviah group of Manipur. Conventionally, the Indian troops were airdropped in Mizoram, and on 5 April 1995, the troops paid a hot pursuit of the insurgents and captured Hathi Barvah, who was trained by Pakistan (near Karachi). By way of interrogation, Hathi provided valuable information regarding the insurgency operation to the Indian troops. Finally, by 21 May 1995, the operation was officially called off. However, the most important point regarding the operation was the noninvolvement of Myanmar in the operation. Though they have confirmed the cooperation the entire operation was carried out by the Indian forces alone. Similarly, in January 2006 and June 2015 Indian troops conducted surgical strikes in the region for eliminating militants which were poses a threat to the national security of India.¹⁴

Causes led to the strikes: A Naga Nationalist Insurgent Group, namely, National Socialist Council of Nagaland, operates along with the border areas of India and Myanmar, ambushed the 6 Dogra Regiment convoy in Chandel, Manipur, and killed 18 Indian soldiers on 4 June 2015.

¹⁴ Pavneet Singh, *International Relations D-40* (Mc Graw Hill Education, 2018)

On 10 June Indian Air Force and 21 PARA (SF) conducted a surgical strike by crossing the line and demolished the militant camps located in the territory of Myanmar.

On June 10, 2015, the Hindu reported that "The decision to go in for a hot pursuit was taken just hours after the ambush on June 4 in a meeting that was chaired by Home Minister Rajnath Singh and attended by Defense Minister Manohar Parrikar, National Security Advisor Ajit Doval, Suhag and others. The Prime Minister gave the final clearance and the operation was overseen by Mr. Doval."¹⁵

Myanmar's reaction: All the surgical strikes initiated by India were Counter Insurgency Operations which have always been for the interest of all the countries as well as in the line of International rules and conventions. But according to a report of THE DIPLOMAT posted on 12 June 2015, "*the Myanmar government has denied that the operation even occurred on its side of the border despite India's insistence that it did....*"¹⁶ It has however become a trend now. Some of the countries are happy with poisons in their veins but don't allow a syringe to go into it for ousting the toxic from there. Their dejection mainly remains with the interference of other actors into their sovereignty but not with the termites they are rearing within their abode.

Surgical Strike has done by India in Pakistan Administered Kashmir in 2016:

18 September 2016 is another black day for India, when an Indian town in J&K, Uri has witnessed an acute terror attack undertaken by the Lashkar-e-Toiba (LeT), leading to utmost unrest in the Kashmir valley. In a report of BBC, published on the same day, it has stated that "it is the deadliest attack on security forces in Kashmir in two decades."¹⁷

In retaliation, Indian forces have crossed the line of control and accomplished their surgical strike against the terrorist launch pads on 29 September 2016.

¹⁵PTI, "Myanmar operation: 70 commandos finish task in 40 minutes", *The Hindu*, available at:

<https://www.thehindu.com/news/national/myanmar-operation-70-commandos-finish-task-in-40-minutes/article7302348.ece>
(Last updated Apr 03, 2016, 02:51 IST).

¹⁶ Prashanth Parameswaran, "The Truth About India's Militant Strike in Myanmar", *The Diplomat*, available at:
<https://thediplomat.com/2015/06/the-truth-about-indias-militant-strike-in-myanmar/> (Visited on May 08, 2021)

¹⁷ Militants attack Indian army base in Kashmir 'killing 17", *BBC News*, available at: <https://www.bbc.com/news/world-asia-india-37399969> (Visited on May 08, 2021)

Detail of the strike: Just before the day of the strike 'The Guardian' reported that SAARC Summit was boycotted by South Asian countries.¹⁸ It is ample to quote the report before going into the detail that, Indian patience had run out due to Pakistan's inaction in curbing the activities of nurturing terrorist organizations in its abode. On 29 September 2016 Indian troops have launched the strike which was pre-emptive by nature. 70 to 80 soldiers of the 4th & 9th battalion, PARA Regiment (SF) have carried out the entire operation by dividing into three to four groups.

According to a briefing dated Oct 5, 2016, by the Indian Express¹⁹, the first target of the Indian troops was 'Dudhnial', located just across the LoC near Al-Haawi bridge and Neelam Valley road. This was the staging post of LET which was dismantled by the Indian force. Eyewitnesses stated the bodies of the dead militants were carried out by using trucks towards Chalhana, further down of Neelam valley for secret burials.

A similar raid took place in the 'Leepa Valley' near Khairati Bagh in Pakistan Administered Kashmir and the LET bases were shot down by the Indian troops. Jamat-ud-Dawa was a charitable organization run by which was also struck down. 'Athmuqam', where the Pakistan army Brigade H.Q. located was similarly blown down by the Indian troops probably around 0330 hours.

Pakistan's view on the strike: Usually, Pakistan's non-acceptance of the strike came in the vogue. There was more than one version of extraneous views that came up for the media's consideration. Initially, Pakistan had rejected the occurrence of any strike. According to the reports shared by the 'Dawn', Inter-services Public Relations (ISPR) Spokesman Asim Bajwa stated Surgical Strike as "a fabrication of the truth".²⁰ Pak Chief of Army Staff Raheel Shariff termed Indian claim as "drama."²¹ According to a report published in "The Diplomat" on 30

¹⁸ Jon Boone and Michael Safi, "Pakistan humiliated by south Asian countries' boycott of summit", *The Guardian*, available at: <https://www.theguardian.com/world/2016/sep/28/pakistan-humiliated-by-south-asian-countries-boycott-of-summit> (Visited on May 08, 2021)

¹⁹ Indian Express Online, "Surgical Strikes - Eyewitnesses' Accounts Validate India's Claim of a Lethal Strike", *Indian Express*, available at: <https://www.youtube.com/watch?v=3rEXxb1M-jY> (Visited on May 08, 2021)

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September 2016, Pakistani Army said there had only been "cross border firing."²² According to a report of the 'New York Times, a senior Pakistani security official, who was not authorized to make any public statement, said Pakistan would consider the strike by India an act of war.²³ Again as per one report done by the BBC News on Oct 23, 2016, the Pakistani Army had stated that the exchanges were nothing more than cross-border firing. Pak Army Officials had further revealed in their deliberation that, two soldiers were killed in the attacks (one in Poonch, and one in the Bhimber sector). The defense minister of Pakistan, Khwaja Asif later stated that a total of 9 soldiers were injured in the assault.²⁴ So it is nearly impracticable to draw a line of probability depending upon the ludicrous statements made by the Pak counterpart.

Other nation's stands on the issue: Whatever might be the Pakistani version of the incident, on the other end, four South Asian countries, i.e., Bangladesh, Bhutan, Afghanistan have boycotted the SAARC Summit that was to be held in Islamabad in the same year, along with India.

Afghanistan Ambassador to India, Shaida Abdali supported India's strike as 'Self Defense'.²⁵ The adviser to the Prime Minister of Bangladesh, Iqbal Chowdhury supported India's stance stating it to be a "legal right".²⁶ The Indian Express reported, Vice President of the European Parliament Czarnecki said that it was necessary to maintain pressure on Pakistan for eliminating cross-border terrorism. He had gone further by praising the Indian army and Indian government for their professional approach to the situation.²⁷ 'Hindustan Times' reported, Martin Ney, the

²² Baqir Sajjad Syed, "Escalation or brinkmanship at LoC?", *Dawn*, Sept 30, 2016, Pakistan, available at:

<https://www.dawn.com/news/1287010> (Visited on May 08, 2021)

²³ Ali Akbar, "If Pakistan conducted a surgical strike, it would become part of Indian textbooks: COAS Gen Raheel",

Dawn, Nov 24, 2016, Pakistan, available at: <https://www.dawn.com/news/1298385> (Visited on May 08, 2021)

²⁴ Abhijit Singh, "Why 'Surgical Strikes' Are a Slippery Slope for India", *The Diplomat*, Sept 30, 2016, available at:

<https://thediplomat.com/2016/09/why-surgical-strikes-are-a-slippery-slope-for-india/> (Visited on May 08, 2021)

²⁵ Ellen Barry and Salman Masood, "India Claims 'Surgical Strikes' Across Line of Control in Kashmir", *The New York*

Times, Sept 29, 2016, available at: <https://www.nytimes.com/2016/09/30/world/asia/kashmir-india-pakistan.html> (Visited on May 08, 2021)

²⁶ M Ilyas Khan, "India's 'surgical strikes' in Kashmir: Truth or illusion?", *BBC News*, Pakistani-administered Kashmir, Oct

23 2016, available at: <https://www.bbc.com/news/world-asia-india-37702790> (Visited on May 08, 2021)

²⁷ Target terror: India strikes across LoC", *The Hindu*, New Delhi, Sept 29, 2016, available at:

<https://www.thehindu.com/news/national/Target-terror-India-strikes-across-LoC/article15006525.ece> (Last updated on Nov 01, 2016)

German ambassador to India, expressed Germany's support for the military raids and that it stood beside India in its counter-terrorism efforts.²⁸

Whilst reporting the stance of Russia, the 'Hindustan Times'²⁹ had stated that the Russian Ministry of Foreign Affairs expressed concern over "aggravation" of the situation along the Line of Control, and stated it expected Pakistan to take "effective" steps in stopping the activities of terrorist groups operating from its territory. Russian Ambassador to India Alexander Kadakin has welcomed India's surgical strike by conveying that, "...*The greatest human rights violations take place when terrorists attack military installations and attack peaceful civilians in India. We welcome the surgical strike. Every country has the right to defend itself.*"

Indian Account: Commandoes were airdropped along the LoC before they entered into the terrain nearly 3 to 4 km. They have launched the strike destroying 7 terrorist launch pads. According to a report of 'India Today'³⁰ 38 terrorists, as well as 2 Pakistani soldiers, died from the strike. Indian govt. also released the videos of surgical strikes recorded by the Unmanned Aerial Vehicle and Thermal Imaging Cameras of the Indian Army. Rajya Sabha TV also showcased this video footage.

In "*Securing India the Modi way - Pathankot, Surgical strikes and More*", Nitin A. Gokhale, one of South Asia's leading strategic analysts, had pinpointed the statements made by two Colonels of the Special Forces, who have led the groups of commandos in the strike, which contains as follows:

"...We had been given a job to destroy selected targets to send a message. In light of which we performed to the best of our abilities. We can't give you exact figures. No one can, but what we

²⁸ European Parliament Vice President Backs Indian Surgical Strikes", *The Quint*, Oct 04, 2016, available at: <https://www.thequint.com/news/india/european-parliament-vice-president-backs-indian-surgical-strikes-pakistan-ryszard-czarnecki#read-more> (Last updated Oct 05, 2016)

²⁹ Jayanth Jacob, "Germany supports India on LoC strikes, calls it right to defence against terror", *Hindustan Times*, New Delhi, available at: <https://www.hindustantimes.com/india-news/germany-supports-india-on-loc-strikes-calls-it-right-to-defence-against-terror/story-rtldQTU7jLFJtYJx3g06I.html> (Last updated Oct 05, 2016).

³⁰ Jayanth Jacob, "Russia backs India's surgical strikes, says Uri 'terrorists' from Pakistan", *Hindustan Times*, New Delhi, available at: <https://www.hindustantimes.com/india-news/russia-backs-india-s-surgical-strikes-says-uri-terrorists-came-from-pak/story-d9MHHxIbVNI7eISMkbAfgP.html> (Last updated Oct 03, 2016).

saw with our eyes in those moments, tells us that we would have accounted for at least 70–75 fellows combined."³¹

Non-military preemptive strike of 2019

To "bleed India with a thousand cuts" is the military doctrine followed by Pakistan. This doctrine has been severely proven by simultaneous fidayeen attacks done by the terrorist organizations nurtured by Pakistan.

After Gurdaspur Police Chowki, Pathankot Air Base, Pampore, and Uri, again the fidayeen of Jaish launched a deadly attack on the CRPF convoy on Jammu-Srinagar National Highway at Lethpora, near Awantipora of Pulwama district, J&K on 14 February 2019.

Retaliation: On 26 February 2019 Indian Air Force has crossed the LoC with twelve Mirage 2000 and destroyed the Jaish-e-Mohammed bases in the region of Pakistan Administered Kashmir. According to a report of the Indian Express³², "*while a dozen Mirage-2000 were used, they were escorted by four Sukhoi Su-30 aircraft*" and "*the Israeli Phalcon Airborne Warning and Control System (AWACS) and the indigenous Netra Airborne Early Warning and Control System Aircraft (AEW&C), deployed to monitor the mission...*" The report also says, the Mirage 2000 aircraft were armed with SPICE-2000 and Crystal Maze Mark 2 also known as AGM 142 Popeye missile. Both of these weapons gave the IAF the capacity to hit the target with pinpoint accuracy. However, the Dawn quoted that, Balakot police chief Saghir Hussain Shah has sent a team to investigate the matter but the team has found no casualties on the ground because of dropping any bombs.³³

On the other end, Mr. Vijay Gokhale, the Foreign Secretary of India has confirmed in a press conference that a large number of casualties have taken place in the target area.

³¹ India Today Web Desk, "India hits Pakistan back with surgical strikes across Line of Control, 38 killed", *India Today*, New Delhi, Sept 29, 2016, available at: <https://www.indiatoday.in/india/story/indian-army-crosses-loc-surgical-strikes-pakistani-territory-343870-2016-09-29> (Last updated Oct 12, 2016)

³² Nitin A. Gokhale, "*Securing India the Modi way - Pathankot, Surgical strikes and More*", (Bloomsbury India, New Delhi, 2017).

³³ Sushant Singh, "Mirage, Awacs, Sukhoi, Popeye: How IAF took down Jaish training camp", *Indian Express*, New Delhi, available at: <https://indianexpress.com/article/explained/iaf-air-strike-mirage-awacs-sukhoi-popeye-jaish-training-camp-balakot-5602272/> (Last updated Feb 27, 2019).

Several other claims have also been taken place, which either supporting the action or denying it. Whatever may be the scenario, **Article 2(4)** of the **UN Charter**³⁴ has outlawed any kind of 'force' by an actor against the other. But in this scenario, the act of aggression of the Indian force was neither premeditated nor was for affecting the sovereignty of Pakistan. The strike was done in 'Self-Defense' to exterminate the terror plights and that is licit under the International set of norms.

As a concluding remark, it should have to be mentioned that, every Actor under the International scenario, has a quintessential right to protect its subjects, sovereignty, and integrity from any form of aggression of any foreign element. International Law has also provided a perfect mechanism to deal with the aggressions.

India's strikes whether it is surgical or non-military preemptive don't violate any established principle of International Law. India has repeatedly performed bilateral or strategic talks on counter-terrorism and agreed to act on it, but the iniquitous behavior of some neighbors has eroded the true spirit of working against terrorism concomitantly. On the line of Non-Aligned Summit at Havana (Cuba) in 2006 a Joint Statement came out as an important output from the then Indian Prime Minister Dr. Manmohan Singh and his Pakistani counterpart President Musharraf, which provides for Indo-Pak cooperation to fight terrorism and to solve other existing disputes including Kashmir. But the deviation of Pak part from the issue, since then, is returning to India in the form of deaths of soldiers as well as civilians and bloodshed.

In these circumstances, India's initiative to curb terrorism is truly a failte step, whether it is in Myanmar or Pakistan. It is better to take preventive measures against such iniquitous acts of terror rather than mourning after the bloodshed occurs.

Again, under **Chapter VII** of the **UN Charter**, the Security Council is empowered to take collective action and also empowered to employ armed forces against any act which hampers international peace and security. So that, on curbing terrorism UN Security Council has a major role to play. It has taken such measures in Korea (1951), Congo (1961), also in the Gulf War (1991). In the present context, India's action is required to be more comprehensive. The argument supports legitimate military actions (e.g., Surgical Strike, Preemptive Strike, etc.) and not only military action. The fight against terrorism should be complete within itself. The

³⁴ https://www.dawn.com/news/1466149/india-claims-to-have-struck-biggest-training-camp-of-jem-in-balakot?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+dawn-news+%28Dawn+News%29 (Visited on May 09, 2021)

countries, who nurture terrorists within their abode, are required to be choked financially³⁵. The Financial Action Task Force (FATF) has a cardinal role to play in this context. The FATF had enlisted Pakistan in its "Grey List" for the failure of the latter to curb terror financing. That means Pakistan is to be monitored by the International Cooperation Review Group.³⁶ India opines there is a necessity to enlist Pakistan in the "Black List" of FATF.³⁷

In the era of this advancement, issues like terrorism are a major stumbling block. It is of the interest of no one. If no other preventive measure is viable enough, then the affected countries have to conduct strikes repeatedly to keep the serenity in order and the other nations should also take similar actions concurrently only to deter future misery and bloodshed.

³⁵ United Nations Charter, *Supra* note 2.

³⁶ PTI, "Pakistan placed on FATF's 'grey list'", *The Hindu*, Islamabad, Jun 28, 2018, available at:

<https://www.thehindu.com/news/international/pakistan-placed-on-fatfs-grey-list/article24277229.ece> (Last updated 28 Jun, 2018).

³⁷ Srijan Shukla, "India's trying to get Pakistan on FATF blacklist, but it won't really hurt their economy", *The Print*, New Delhi, Feb 22, 2019, available at: <https://theprint.in/diplomacy/indias-trying-to-get-pakistan-on-fatf-blacklist-but-it-wont-really-hurt-their-economy/196049/> (Visited on May 09, 2021).