

National Security Laws in India and Terrorism in Present Scenario: A Critical Analysis

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ABSTRACT

Terrorism is still a huge problem for the security of the nation, the independence, and democratic institutions not only in one country but all the countries. India is one of the countries which have suffered from terrorism in different ways starting from cross border insurgency to ideological extremism because of its geopolitical position and internal socio political situation. In order to combat the threat, Indian law has introduced several national security laws like Unlawful Activities (Prevention) Act (UAPA), the National Security Act (NSA), and the Armed Forces (Special Powers) Act (AFSPA). These laws have been criticized for their possible interference with civil liberties and human rights Besides the paper also undertakes a constitutional examination of the rights vs. the security of the country. It also identifies through a doctrinal analysis and a review of judicial decisions, existing legal problems and suggests a way forward towards a more balanced and effective counter, terrorism framework.

Keywords: National Security, Terrorism, UAPA, National Security Act, AFSPA, Counter-Terrorism Law, Human Rights, Constitutional Law

1. INTRODUCTION

National security is one of the main duties of any independent government. It is the assurance of a nation's geographical area, the stability of its political order, and the well, being of the people being safeguarded. In the present international scenario, terrorism is recognized as one of the main threats to national security. It causes the weakening of democratic systems, the halting of economic progress, and the spreading of panic everywhere in the society. Being the largest democratic country in the world, India has witnessed different types of terrorism in the last decades such as cross, border terrorism, separatist insurgencies, ideological extremism, and even cyber, enabled radicalization[1-2].

The growing sophistication of terror attacks has driven governments to reinforce their laws so that they can better prevent and fight terrorism. India has, over time, passed several acts specifically targeting terrorist activities and enhancing national security. Chief among these are the Unlawful Activities (Prevention) Act (UAPA), the National Security Act (NSA), and the Armed Forces (Special Powers) Act (AFSPA).

Although the primary goal of these acts is to give the government sufficient powers to tackle security threats, their enforcement has also triggered discussions about the balancing of these powers with the safeguarding of fundamental rights and freedoms under the Indian Constitution[3-5]. The challenge for policymakers and legal scholars is thus to find the right balance between protecting national security and maintaining democratic values. This article aims to thoroughly evaluate the role and effectiveness of India's national security laws in combating terrorism under the current conditions.

1.1 Background of National Security and Terrorism

It is not surprising that terrorism has been intertwined with world politics for years as the world witnessed drastic changes in the character of terrorism and the level of its effects. Earlier in history, terror activities were on a small scale and were limited mostly to political or ideological conflicts within certain regions. However today not only have terrorists become highly involved, masterful in the use of modern means, but they also are able to work even in other countries. Different factors like globalization, online communication, and the swift transfer of resources have paved the way for terrorist groups to expand their networks and extend their influence outside their home countries as well. India, on one hand, has been a target of varied types of terrorism mainly due to its very special geographical location, its very diverse population along with a complex socio, political environment[6-7].

Apart from other problems, major issues to national security were through insurgencies in the northeastern states, Jammu and Kashmir militancy, and extremist movements in some other parts of the country. Besides direct threats, the occurrence of a number of terrorist events, such as the 1993 Bombay bomb blasts, the 2001 Indian Parliament attack, and the 2008 Mumbai attacks, have also led to a growing realization that urban areas and major infrastructures remain vulnerable. Given those threats, the Indian government has been taking several steps, including legal and institutional ones, to strengthen counter, terrorism measures. It conducted several extensive reviews of the legislative framework in

order to improve and ensure effective internal security and counter, terrorism operations. In fact, one can say that national security laws have become a major instrument in India's efforts to maintain internal security and protect its citizens against terrorist activities.

1.2 Concept and Definition of Terrorism

Terrorism is a concept in constant evolution and it is interpreted differently based on various legal and political standpoints. In essence, terrorism refers to the deployment or menace of violence by individuals or groups as a means of creating fear to accomplish political, ideological, or religious objectives. The very nature of terrorism is such that it deliberately harms or threatens innocent people and public facilities as a way to influence government decisions or even disrupt social stability. Despite being a frequently used term in the realm of international relations, the notion of terrorism does not have a universal definition that has been ratified by all countries[8]. Different countries have introduced their own definitions as components of their domestic legislations. The Unlawful Activities (Prevention) Act is the statutory tool in India which sets forth the acts that can be termed as terrorism and outlines the measures for the arrest and judicial proceedings of terrorists. The absence of a universally accepted definition, in many cases, results in difficulties when it comes to international collaboration and legal implementation. Nevertheless, the shared defining elements of terrorism that is, the use of violence, inducing fear, and the political motive continue to be the main focus of the majority of definitions employed by states and international bodies.

1.3 Importance of National Security Laws in Modern Democracies

National security laws keep the democratic states safe by blocking the threat of terrorism and a scenario of public violence. These laws give legal backing to the government personnel who are working on terrorists activities to the extent of detaining suspects, finding out their source of funding and prosecuting them up to the extent of their actions that are a threat to the national stability. Without a strong legal framework, such security challenges leave a government hanging and render their response ineffective. On the other hand, in a democratic society, national security laws must ensure they don't breach constitutional principles or human rights protections. The Indian Constitution protects several fundamental rights including the right to life and personal liberty, freedom of speech and expression, and protection against arbitrary arrest and detention. Whilst these rights are indispensable for upholding democracy, they may be limited to the extent that it is justified for national security and public order[9-11]. That is why national security laws are very important; their role is not limited to only preventing and punishing terrorist activities, but they also ensure that these measures are carried out in a way that is compatible with the constitutional safeguards and international human rights standards.

1.4 Objectives of the Study

- a. To study how terrorism and national security problems have changed over time in India.
- b. To analyze the key anti, terror legislation in the country.
- c. To determine how well these laws have worked in stopping and dealing with terrorist acts.
- d. To consider whether national security measures or civil liberties are given priority.
- e. To recommend changes in laws and policies to enhance India's fight against terrorism.

1.5 Research Methodology and Scope of the Study

This study is essentially doctrinal and bases itself on analyzing legal texts laws court rulings, official government publications, and national security and terrorism, related academic literature. To study the evolution and enforcement of Indian national security laws, besides the use of primary legal sources, secondary materials like books, journal articles, and government policy papers have also been instrumental. Besides, the work presents a critical analysis of significant court rulings and legislative changes to assess the judicial framework's strengths and weaknesses. At certain points, international counter, terrorism laws have also been referred to for showing worldwide perspectives. The study focuses mainly on examining the major national security statutes in India and their function in combating terrorism in the modern world. It touches on military strategy and intelligence operations issues mainly to the extent of understanding their legal aspects.

2. Constitutional Framework for National Security in India

The Constitution of India serves as the basic legal structure that supports national security while at the same time respects fundamental rights and democratic decision, making. Being a sovereign democratic republic, India needs to make a compromise between securing its territorial integrity and internal stability and following the constitutional directive of safeguarding individual freedoms. The Constitution authorizes the State to make laws and take actions needed to confront issues like terrorism, insurgency, and foreign invasion[12]. However, it also lays down measures to stop any misuse of power and support the rule of law. Various concerns about national security in India are dealt with by constitutional provisions, statutory laws, and institutional frameworks. The Constitution entrusts both Central and State governments with legislative powers to address defense, public order, and internal security issues. Furthermore, emergency provisions grant the State the authority to exercise exceptional powers when the sovereignty and integrity of the country are at risk.

2.1 Constitutional Provisions Relating to National Security

Some parts of the Constitution are either directly or indirectly related to national security. The Union List which is part of the Seventh Schedule includes Articles that allow the central government to make laws on issues like defense, armed forces, intelligence agencies, and national security. Besides that, Article 355 obliges the Union to safeguard every State from external aggression and internal disturbance. Such provisions serve as the constitutional support for national security legislations e.g. the Unlawful Activities (Prevention) Act and the National Security Act[13-14].

2.2 Fundamental Rights vs National Security

It's true that the State's first responsibility is to keep the nation safe, but at the same time, the Constitution also provides for fundamental rights of all the people. With the freedom of speech and expression (Article 19), the right to life and personal liberty (Article 21), protection from without any jurisdictionable arrest and detention (Article 22) are the very characteristics of the democratic system. But these rights however do not stand as inviolable laws and may be limited to a certain extent in the interest of the independence, safety of the State, and the harmony of the society. The problem is that how to protect civil liberties without hampering the authorities from taking strong steps against terrorism and threats to national security[15]. Too many restrictions may damage the democratic nature of a country; on the other hand, a few measures may reduce the power of a State to secure itself.

2.3 Emergency Provisions under the Constitution of India

The Constitution has explicit articles that enable the government to grant itself special powers only in extremely exceptional situations. Article 352 deals with national emergency, Article 356 with state emergency, and Article 360 with financial emergency. When a national emergency is declared, the central government is given the power to take strong measures to preserve law and order nationwide. At the same time, some fundamental rights may be limited or even totally removed to meet the challenge of the threat to the country's sovereignty and integrity. These emergency articles are a clear indication of the constitutional acknowledgement that in case of extraordinary threats, it may be necessary to temporarily vest powers in a single authority for the purpose of defending the country[16].

2.4 Role of Judiciary in Protecting Security and Liberty

Ensuring the equilibrium of national security and personal freedoms is a significant function of the judiciary. By means of judicial review, courts confirm that the legislature and executive actions are in line with the constitutional principles and do not infringe on the fundamental rights. According to Supreme Court and High Courts' rulings, national security is the highest priority but should not become a pretext for arbitrary or overreaching restrictions on personal liberty. Major judicial decisions have supported the idea that national security actions need to be reasonable, proportionate, and open to judicial examination. Therefore, the judiciary, by securing the State and individual rights, continues to be the protector of the Constitution.

3. Major National Security Laws in India

India has passed a number of laws to tackle the challenges of terrorism, insurgency, and activities that threaten national sovereignty and public order. These legislations authorize the State to carry out investigation, prevention, and prosecution of persons or groups engaged in acts destabilizing the country's security. This evolving body of law represents India's efforts to put in place robust legal mechanisms to not only handle the traditional forms of terrorism but also the new ones being developed in line with constitutional safeguards.

3.1 Unlawful Activities (Prevention) Act (UAPA)

The Unlawful Activities (Prevention) Act, 1967 (UAPA) is the main anti-terrorism law of India. It was originally passed to address unlawful associations that posed a threat to the sovereignty and integrity of the country. Since then, the law has been amended several times, mainly in the years 2004, 2008, 2012, and 2019, to introduce stronger anti-terrorism provisions. The law gives the government the authority to declare individuals and groups as terrorists. Besides, it permits law enforcement agencies to carry out investigations with fewer restrictions. Using UAPA has helped the authorities in the fight against terrorism. At the same, people also have complained about UAPA because it allows detention for long periods without trial and has harsh conditions for getting bail[17-18].

3.2 National Security Act (NSA)

The National Security Act 1980 makes provisions for preventive detention when the government is convinced that a person is a threat to national security or public order. According to the Act, it is possible for the police to hold a person without laying any formal charges for a fixed time with a view to thwarting any efforts that might compromise the security of the State. Legal instruments for preventive detention, like the National Security Act, are typically regarded as essential even if the need arises rarely nevertheless their usage has been challenged before the courts to make sure that the constitutional guarantees are not being infringed upon.

3.3 Armed Forces (Special Powers) Act (AFSPA)

The Armed Forces (Special Powers) Act, 1958 (AFSPA) is a legislation that gives armed forces personnel special powers in areas declared as disturbed areas. It enables security forces to carry out searches, arrests without warrants,

and the use of force to restore public order and fight insurgency. Initially, AFSPA was used in areas with long, standing insurgencies such as parts of the northeastern states and Jammu and Kashmir. However, the Act has been a source of contention for a long time due to allegations of human rights violations and the demand for more accountability[19].

3.4 Prevention of Money Laundering Act (PMLA) and Terror Financing

The Prevention of Money Laundering Act, 2002 (PMLA) is an important piece of legislation that helps in tackling the financial aspects of terrorism. Terrorist groups usually depend on intricate financial arrangements for their funding, and PMLA gives the power to government agencies to find, probe and seize the properties derived from unlawful activities, including the financing of terrorism. Enhancing the financial control and legal measures, the Act is a great help to the overall counter, terrorism strategy in India.

3.5 Other Relevant Legislations and Amendments

Besides the principal laws referred to above, other legislations like the National Investigation Agency Act 2008 the Explosive Substances Act, 1908, and amendments to the Information Technology Act, 2000 have also played a key role in fortifying India's legal response to terrorism. These legislations confer special powers of investigation and cover new threats such as cyber terrorism[20].

4. Institutional Framework for Counter-Terrorism

Strong legal provisions are only one part of effective counter, terrorism efforts. Without efficient institutional mechanisms for intelligence gathering, investigation, and coordination among the agencies, the efforts may not bear much fruit. India has set up a thorough institutional framework that includes several agencies both at the central and state levels.

4.1 Role of National Investigation Agency (NIA)

After the 2008 Mumbai terror attacks, the National Investigation Agency (NIA) got set up through the National Investigation Agency Act, 2008. It is the central counter, terrorism law enforcement agency tasked with investigating offenses related to terrorism, organized crime, and other activities that affect national security. It has countrywide jurisdiction and is instrumental in coordinating investigations that involve multiple states.

4.2 Intelligence Agencies and Security Forces

India relies extensively on intelligence agencies like the Intelligence Bureau (IB) and the Research and Analysis Wing (RAW) for its counter, terrorism work. These agencies are primarily responsible for gathering and analyzing information related to threats from both inside and outside the country. Besides, security forces with special training such as the National Security Guard (NSG) and different paramilitary units play a supporting role in the operations to counter terrorism[21].

4.3 Coordination between Central and State Governments

As law and order mainly remain a state subject according to the Constitution, central and state governments must work hand in hand if they want to fight terrorism effectively. Multi, agency coordination centers and intelligence, sharing platforms are some of the tools that can be taken advantage of to bettering the communication and collaboration of the various authorities involved in national security.

4.4 International Cooperation in Counter-Terrorism

Terrorism is becoming a much more cross, border phenomenon and that is why international cooperation is a must. India has ties with many international organizations as well as foreign governments through different methods like exchanging intelligence, extradition treaties and even joint counter, terrorism initiatives. These are done to fight global terrorist networks.

5. Challenges in Implementation of National Security Laws

5.1 Issues of Human Rights and Civil Liberties

National security laws' impact on human rights/consciences was probably one of the biggest concerns. The critics argued that some specific features of these laws might lead to more prolonged detention without a trial and give very wide powers to the investigators, which is a way to violate people's rights[22].

5.2 Misuse and Allegations of Arbitrary Detention

There are cases where the national security laws have been criticized for misuse by authorities. Preventive detention and strict bail provisions may sometimes incarcerate a person for a long time without trial, which raises due process issues.

5.3 Procedural and Investigative Challenges

Counter-terrorism investigations often involve complex networks, digital evidence, and cross-border elements, making the investigative process highly challenging. Limited technological resources and coordination gaps may hinder effective enforcement.

5.4 Judicial Delays and Prosecution Issues

Judicial delays and difficulties in securing convictions due to insufficient evidence or procedural lapses also pose significant challenges in prosecuting terrorism-related cases.

6. Comparative Analysis with International Counter-Terrorism Laws

A comparative analysis of counter-terrorism laws across different jurisdictions helps identify best practices that may strengthen India's legal framework.

6.1 Counter-Terrorism Laws in the United States

The United States passed the USA PATRIOT Act (2001) after the September 11 attacks. The law gave law enforcement agencies broader surveillance powers plus tougher anti-terrorist measures in the area of financing and international networks of terrorists[23].

6.2 Counter-Terrorism Laws in the United Kingdom

The UK government has passed a few legislations like the Terrorism Act 2000 and the Counter, Terrorism and Security Act 2015, which are centered around methods such as preventive detention, sharing of intelligence, and surveillance of individuals who are suspected of being extremists.

7. Critical Analysis of the Present Legal Framework

7.1 Effectiveness of Existing National Security Laws

India's national security laws have played a significant role in preventing terrorist activities and dismantling extremist networks. However, their effectiveness depends on proper implementation and institutional capacity[24].

7.2 Balance between National Security and Human Rights

A key challenge for democratic societies is maintaining a balance between strong security measures and the protection of fundamental rights. Ensuring transparency, accountability, and judicial oversight remains essential.

7.3 Emerging Threats: Cyber Terrorism and Radicalization

Modern terrorism increasingly involves digital platforms for recruitment, propaganda, and coordination. Cyber terrorism and online radicalization therefore present new challenges that require updated legal and technological responses[25].

7.4 Policy and Legal Gaps in Counter-Terrorism Strategy

India, despite having developed an extensive legal framework, still faces some loopholes, among which are cyber security laws, intelligence coordination, and international legal cooperation. To enhance the national security strategy of India in the future, it will be necessary to work on these issues.

8. CONCLUSION

Terrorism is still one of the major threats to national security in India, necessitating the use of robust legal and institutional mechanisms for the prevention and fight against such terrorism. In the course of time, India has put together a very well rounded set of laws through pieces of legislation like the Unlawful Activities (Prevention) Act, the National Security Act, and the Armed Forces (Special Powers) Act, to deal with terrorism and other security issues. Such laws empower the State to carry out investigations, prevent, and prosecute such activities that pose a threat to the sovereignty and integrity of the nation. On the other hand, the enforcement of national security laws has to be accomplished alongside the safeguarding of fundamental rights and civil liberties as per the Constitution of India.

The overuse or unwarranted use of security laws can subvert the democratic values and draw attention to human rights issues. So, it is highly necessary that transparency, accountability, and judicial oversight be ensured to maintain the public trust in the legal system. Moreover, the changing form of terrorism such as cyber terrorism, online radicalization, and transnational terror networks call for legal and institutional reforms on an ongoing basis.

Deepening intelligence coordination, upgrading technological capabilities, and strengthening international cooperation are key to effectively confronting these new threats. To summarize, Indian national security legislation has an important function in protecting the country; however, the results depend largely on their proper application, enhanced institutional capacity, and respect for the constitutional norms.

9. REFERENCES

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