

Modi Government's Zero Tolerance Policy on Terrorism



Dr. Syama Prasad Mookerjee
Research Foundation

**Dr. Syama Prasad Mookerjee
Research Foundation**

Editor

Vaibhav Chadha

Research Associate

Dr. Syama Prasad Mookerjee Research Foundation

Authors

Ayush Anand

Research Associate

Dr. Syama Prasad Mookerjee Research Foundation

Shubham Tiwari

Law Student, NALSAR, Hyderabad

Layout

Ajit Kumar Singh



**Dr. Syama Prasad Mookerjee
Research Foundation**

Dr. Syama Prasad Mookerjee

Research Foundation

9, Ashoka Road, New Delhi- 110001

Web :- www.spmrf.org, E-Mail: office@spmrf.org,

Phone:011-23005850

Table of Contents

1.	Introduction	4
2.	Structure of Anti-Terror Laws in India	5
3.	Indian Courts on Terrorism and Anti-terror laws	12
4.	Failure of previous governments in tackling Terrorism	24
5.	Conspiracy of Hindu Terror	27
6.	Modi Government's policy on Terror	27
7.	Tackling challenges in Kashmir and North-East	28
8.	Track-record of Modi Government	28
9.	Conclusion	31

Introduction

In the present world, terrorism is the biggest threat to humanity. The theory to bleed India by thousand cuts was a part of security doctrine of our hostile neighbor. Unfortunately, the response from previous Indian Governments had never been to deter this proxy war which branded India as a state being soft on terror.

In an atmosphere of public outrage and helplessness of state policy against terrorism, Prime Minister Modi assumed power in May, 2014. Known for his zero-tolerance policy towards terrorism, as seen from his track record as Chief Minister of Gujarat, Modi was a ray of hope for Indian masses. Amidst the challenges of internal security and cross-border terrorism what Indian Counter-terrorism policy required was a strong political resolve. With a determined leadership in the PMO, began the execution of Offensive defense from the menace of terrorism. Surgical strikes in Myanmar, strikes in PoJ&K, Operation All Out in Jammu & Kashmir and obliteration of various terror modules within the country consequently resulted in removing the tag of soft state on terror from India. This Paper puts in context the victory of Modi Government in the War against terrorism and how the political resolve changed the dynamics of this brutal proxy war against Indian territory and its citizens.

Terrorism in Jammu & Kashmir, Punjab, North East and several states hit by left-wing extremism i.e. Red Terror has been a cause of concern and a matter of pain and agony for the Government and people of India. As per Global Terror Database, India faces 9.48% of all terror attacks across the globe and accounts in the grey regions of terror threats¹. On 15th July, 2016 Government of India released the official data which revealed that since 2005 terror has claimed lives of 707 Indians, injuring around 3200.² This figure does not include the victims of Red terror and martyrs of our security forces.

Indians can never forgive the dastardly attack of 26/11 which shook the conscience of the entire nation. The recent suicide attack on CRPF personnel in Pulwama establishes that the intention to bleed India by thousand cuts is still in action and the enemies of India are in a state of proxy war by propagating terrorism. The menace of terrorism has been a serious cause of concern in our National discourse as it poses a potential threat to the unity and integrity of India leading to massive loss of life and property.

Vaibhav Chadha
Editor

1. Max Roser, Mohamed Nagdy & Hannah Richie, *Terrorism, Our World in Data*, Available at-<https://ourworldindata.org/terrorism>.

2. Available at- <https://timesofindia.indiatimes.com/india/Since-2005-terror-has-claimed-lives-of-707-Indians/articleshow/53234226.cms>.

Structure of Anti-Terror Laws in India

With the rise in terrorist activities in India, several legislations were enacted. These include legislations such as (i) The Terrorist and Disruptive Activities (Prevention) Act, 1987 (allowed to lapse in 1995), and (ii) The Prevention of Terrorism Act, 2002 (repealed in 2004), (iii) Unlawful Activities (Prevention) Act, 1967 and the National Security Act, 1980. Today UAPA remains the only major anti-terror law in the Country.

1. UAPA

With the repealing of the POTA law in 2004 by the Congress Party, a vacuum was created. After this an amendment was made in the year 2004 itself. Since then UAPA has been amended in 1969, 2004, 2008, 2013 and 2019.

1.1. Relevant Provisions of UAPA

Section 15 of Unlawful Activities Prevention Act, 1967 defines a ‘Terrorist Act’ as “*Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country.*”³ The punishment for Terrorist act is mentioned in Section 16. It says if the act results in death of any person then the person committing the act shall be punishable with death penalty or life imprisonment and also liable for fine (Section 16(1)(a)). While in other cases, the person committing the act shall be imprisoned with a term not less than five years and it may extend to life imprisonment and also makes him liable for fine (Section 16(1)(b)).

Section 3 of the Act empowers the Central Government to declare an association as an unlawful association. However, recently Modi Government introduced amendment in UAPA which empowers the Government to also declare an individual as a terrorist. Chapter III sets out the penalties for being a member of an unlawful association (Section 10), for dealing with funds of an unlawful association (section 11) and for contravening order made in respect of a notified place (Section 12). Section 13 sets out punishment for doing unlawful activities. Section 24 states all references made to “proceeds of terrorism” would include any property that may

3. UAPA section 15

be used for terrorism. While Section 24A further clarifies that the Central government or the State Government can forfeit proceeds of terrorism. Section 36 of the Act allows the Central Government to denotify a terrorist organization.

TADA (ANALYSIS)

The Terrorist and Disruptive Activities (Prevention) Act, 1985 was enacted when there was increased threat perception across various states in the country.

TADA, 1985 created two new offences, namely, “terrorist act” and “disruptive activities”. To try these offences, it established a system of special courts (“Designated Courts”) in Part III. Section 20(8)(b) of the Act placed restrictions on the grant of bail by stipulating that unless the Court recorded the existence of “reasonable grounds for believing” that the accused was “not guilty”, bail should not be given. Part III, Section 15 of the Act allowed certain confessions made to Police officers to be taken into consideration, while section 16 laid down provisions for the protection of witnesses.

Part II, Section 5 made new offence of possession of certain unauthorized arms in notified areas. Under Section 6, penalty was enhanced for certain specified offences. Under section 28 the police officers were given more powers in the matter of seizure of property regarding which it was believed that it had been derived as a result of terrorist acts and also provision for attachment and forfeiture of such property was made. Under Section 20-A, the cognizance of the offence could not be recorded by the Police without “prior approval of the District Superintendent of Police”.

The constitutional validity of TADA, 1987 was challenged before the Supreme Court in **Kartar Singh v State of Punjab**⁴. The Constitutional bench of the Supreme Court upheld the law in the case.

The validity of TADA, 1987 was extended in 1989, 1991 and 1993⁵. However, the Government at that time let the law to lapse in 1995. Subsequently, the Prevention of Terrorism Act, 2002 was enacted by NDA Government.

4. (1994) 3 SCC 569: AIR 1995 SCC 1726

5. Amended by Act 16 of 1989, by Act 35 of 1991, and by Act 43 of 1993.

2. POTA (ANALYSIS)

Excerpts from Law Commission of India 173rd Report on **PREVENTION OF TERRORISM BILL, 2000:**

“The Report brings out that a legislation to fight terrorism is today a necessity in India. It is not as if the enactment of such a legislation would by itself subdue terrorism. It may, however, arm the State to fight terrorism more effectively. Besides recommending for various measures to combat terrorism, the Commission has at the same time provided adequate safeguards designed to advance the human rights aspects and to prevent abuse of power. We have thoroughly revised the Criminal Law Amendment Bill and have suggested a new Bill “Prevention of Terrorism Bill” for it”

- B.P Jeevan Reddy

“The Government of India in the Ministry of Home Affairs requested the Law Commission to undertake a fresh examination of the issue of a suitable legislation for combatting terrorism and other anti-national activities in view of the fact that security environment has changed drastically since 1972 when the Law Commission had sent its report 43rd Report on offences against the National Security. The Government emphasized that the subject was of utmost urgency in view of the fact that while the erstwhile Terrorists and Disruptive Activities (Prevention) Act, 1987 had lapsed, no other law had been enacted to fill the vacuum arising there from. The result is that today there is no law to combat terrorism in India. The Commission was asked to take a holistic view on the need for a comprehensive anti-terrorism law in India after taking into consideration similar legislations enacted in other countries faced with the problem of terrorism.”

- Introductory, Chapter I

“The law and order situation for some years has continued to remain disturbed in several parts of India. Militant and secessionist activities in Jammu and Kashmir and the insurgency-related terrorism in the North-East have been major areas of concern. Bomb blasts in different parts of the country, including those in Tamil Nadu, constituted another disquieting feature. There has been extensive smuggling in of arms and explosives by various terrorists’ groups. The seizures of these items, which represent but a small percentage of the total quantities brought in indicate the kind of sophisticated arms and explosives being brought into the country illegally.”

- Para 1.2, Security Situation in the Country, Chapter II

“A perception has developed among the terrorist groups that the Indian State is inherently incapable of meeting their challenge that it has become soft and indolent. As a matter of fact,

quite a few parties and groups appear to have developed a vested interest in a soft State, a weak government and an ineffective implementation of the laws. Even certain foreign powers are interested in destabilizing our country. Foreign funds are flowing substantially to various organizations and groups which serve, whether wittingly or unwittingly, the long-term objectives of the foreign powers.”

- Para 1.16.1, Security Situation of the Country, Chapter II

“On a consideration of the various viewpoints, the Law Commission is of the opinion that a legislation to fight terrorism is today a necessity in India. It is not as if the enactment of such a legislation would by itself subdue terrorism. It may, however, arm the State to fight terrorism more effectively. There is a good amount of substance in the submission that the Indian Penal Code (IPC) was not designed to fight or to check organized crime of the nature we are faced with now. Here is a case of organized groups or gangs trained, inspired and supported by fundamentalists and anti-Indian elements trying to destabilise the country who make no secret of their intentions. The act of terrorism by its very nature generates terror and a psychosis of fear among the populace. Because of the terror and the fear, people are rendered sullen. They become helpless spectators of the atrocities committed before their eyes. They are afraid of contacting the Police authorities about any information they may have about terrorist activities much less to cooperate with the Police in dealing with terrorists. It is difficult to get any witnesses because people are afraid of their own safety and safety of their families. It is well known that during the worst days in Punjab, even the judges and prosecutors were gripped with such fear and terror that they were not prepared to try or prosecute the cases against the terrorists. That is also stated to be the position today in J&K and this is one reason which is contributing to the enormous delay in going on with the trials against the terrorists. In such a situation, insisting upon independent evidence or applying the normal peace-time standards of criminal prosecution, may be impracticable. It is necessary to have a special law to deal with a special situation. An extraordinary situation calls for an extraordinary law, designed to meet and check such extraordinary situation. It is one thing to say that we must create and provide internal structures and safeguards against possible abuse and misuse of the Act and altogether a different thing to say that because the law is liable to be misused, we should not have such an Act at all. The Supreme Court has repeatedly held that mere possibility of abuse cannot be a ground for denying the vesting of powers or for declaring a statute unconstitutional...”

- Para 6, Whether The Present Legislation Is At All Necessary? , Chapter III.

The Prevention of Terrorism Act (POTA) was passed on 26 March 2002. The bill had been rejected by the upper house of the Indian Parliament. A Joint Session of Parliament was called. POTA became law with 425 votes for the Act and 296 against.

POTA was enacted with various safeguards to prevent misuse. Either party could appeal a bail ruling or verdict from a Special Court to a bench of two judges of the High Court of the same jurisdiction.⁶ On appeal, a court could review both issues of fact and law.⁷ The Central government also held POTA as being safe from abuse because it entrusted only senior law enforcement and judicial functionaries with the most extensive investigative and adjudicative authority.⁸ In a cursory attempt to check this power, legislators provided for a central review committee with some oversight authority.⁹ A formal amendment in December 2003 gave the review committee the ability to review prima facie cases and made its decisions binding on POTA courts.¹⁰

In the **Prevention of Terrorism Act 2002**, **Section 2** deals with Definitions. **Section 3** deals with Punishment for, and measures for dealing with, terrorist activities. This section explains what constitutes a terrorist act. **Section 3(2)** further adds that if a terrorist act causes death of any person, the penalty for such offence would be death penalty or life imprisonment with fine. In other cases, the punishment would be imprisonment of a term not be less than five years, but may extend to life imprisonment and shall also be liable to fine. As per **Section 3(3)**, whoever commits the offence of abetting or facilitating a terrorist act, the penalty for such offence, would be imprisonment for a term which shall not be less than five years and may extend to life imprisonment, also he shall be liable for a fine. As per **Section 3(4)**, if a person harbours or conceals someone, or attempts to harbour or conceal someone, with knowledge of the fact that such person is a terrorist, shall be punished with imprisonment of a term not less than three years but which may extend to life imprisonment and shall also be liable to fine. **Section 3(5)** mentions the punishment for being a member of a terrorist organization and sets imprisonment for a term which may extend for life or with fine which may extend to rupees ten lakh or with both.

Section 18 deals with the Declaration of an organization as a terrorist organization. As per this Section, an organization would be considered as a terrorist organization if it is listed in the Schedule, or it operates under the same name as an organisation listed in that Schedule. Under **Section 18 (4)**, an organization shall be deemed to be involved in terrorism if it commits or

6. *Prevention of Terrorism Act, sec 34.*

7. *Prevention of Terrorism Act, sec 34.*

8. *POTA Propects, Prevention of Terrorism Act, sec 12, 13.*

9. *Prevention of Terrorism Act, sec 19(4)–(7), 46, 60, V. Venkatesan, Reform Without Rationale, Frontline (India), Nov. 8–12, 2002, available at <http://www.frontlineonnet.com/fl2023/stories/20031121005902200.htm>.*

10. *Lok Sabha Passes Bill to Amend Terror Law, 1 Indian Dig. 2, sec 1, 2 (Dec. 2003), http://www.indianembassy.org/i_digest/2003/dec_02/terror_bill.htm.*

participates in acts of terrorism, prepares for terrorism, promotes or encourages terrorism, or is otherwise involved in terrorism. When it comes to denotification of a terrorist organization, **section 19** provides that an organization or a person affected by the inclusion of the name of the organization in the schedule may make an application to the Central government to remove an organization from the schedule. **Section 20** of the Act states that a person commits an offence, if he becomes a member of a terrorist organization. **Section 22** deals with raising funds for a terrorist organization. As per this section, a person found guilty of raising funds for a terrorist organization shall be liable on conviction for imprisonment for a term not exceeding fourteen years or with fine or with both. **Section 23** empowers both the Central and State Governments to constitute one or more Special Courts, by notification.

Section 32 deals with confessions made to police officers. This is a special provision which provides that the confessions made before a police officer, not below the rank of Superintendent of Police, can be admissible in the court for an offence under this act.

Chapter VI deals with the miscellaneous provisions (**Section 49 to 64**). **The schedule** at the end of the Act lists the names of terrorist organizations.

The Court upheld the legislative competence of Parliament to enact POTA in the famous case of PUCL v. Union of India¹¹ and held:

“9. ...Terrorism is definitely a criminal act, but it is much more than mere criminality. Today the Government is charged with the duty of protecting the unity, integrity, secularism and sovereignty of India from terrorists, both from outside and within the borders. To face terrorism we need new approaches, techniques, weapons, expertise and of course new laws. In the abovesaid circumstances Parliament felt that a new anti-terrorism law is necessary for a better future. This parliamentary resolve is epitomised in POTA.

10. The terrorist threat that we are facing is now on an unprecedented global scale. Terrorism has become a global threat with global effects. It has become a challenge to the whole community of civilised nations. Terrorist activities in one country may take on a transnational character, carrying out attacks across one border, receiving funding from private parties or a Government across another and procuring arms from multiple sources. Terrorism in a single country can readily become a threat to regional peace and security owing to its spillover effects. It is, therefore, difficult in the present context to draw sharp distinctions between domestic and international terrorism. Many happenings in the recent past caused the international community to focus

11. 2004 9 SCC 580

on the issue of terrorism with renewed intensity. The Security Council unanimously passed Resolutions Nos. 1368 (2001) and 1373 (2001); the General Assembly adopted Resolution No. 56/1 by consensus, and convened a special session. All these resolutions and declarations inter alia call upon member States to take necessary steps to “prevent and suppress terrorist acts” and also to “prevent and suppress the financing of terrorist acts”. India is a party to all these resolves. Anti-terrorism activities on the global level are mainly carried out through bilateral and multilateral cooperation among nations. It has thus become our international obligation also to pass necessary laws to fight terrorism.

14. From this it could be gathered that Parliament has explored the possibility of employing the existing laws to tackle terrorism and arrived at the conclusion that the existing laws are not capable. It is also clear to Parliament that terrorism is not a usual law and order problem.

21. Considering all the abovesaid aspects, the challenge advanced by the petitioners of want of legislative competence of Parliament to enact POTA is not tenable.

22. Another issue that the petitioners have raised at the threshold is the alleged misuse of TADA and the large number of acquittals of the accused charged under TADA. **Here we would like to point out that this Court cannot go into and examine the “need” of POTA. It is a matter of policy. Once legislation is passed the Government has an obligation to exercise all available options to prevent terrorism within the bounds of the Constitution.** Moreover, we would like to point out that this Court has repeatedly held that mere possibility of abuse cannot be counted as a ground for denying the vesting of powers or for declaring a statute unconstitutional. (See *State of Rajasthan v. Union of India* [(1977) 3 SCC 592 : (1978) 1 SCR 1] , *Collector of Customs v. Nathella Sampathu Chetty* [AIR 1962 SC 316 : (1962) 1 Cri LJ 364] , *Kesavananda Bharati v. State of Kerala* [(1973) 4 SCC 225] and *Mafatlal Industries Ltd. v. Union of India* [(1997) 5 SCC 536] etc.)”

The repeal of POTA was just party politics to gain party’s vote bank. If security forces and investigative forces are not given the legal power, human rights violations will be much worse. Therefore, if one wants, out of concern for human rights, the powers not to be misused, one cannot sustain a situation where no one is giving powers to the police but putting pressure on it to deliver. Hence, that would be considered as a situation of anarchy.¹² The fact that UPA government in its manifesto of 2004 agreed to do away with the POTA law shows how the the vote bank took over the issue of national security.

12. Shivani Raswan, *Anti Terrorist laws and judicial response: An Overview*, Chapter 5, para 5.1.4, https://shodhganga.inflibnet.ac.in/bitstream/10603/10659/12/12_chapter%205.pdf

Indian Courts on Terrorism and Anti-terror laws

Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya, (1990) 4 SCC 76 is another Landmark case wherein Supreme Court made some important observations. The facts of the case are herein:

“9. ...The prosecution case against the five accused persons is that they formed an unlawful assembly, killed Raju and injured Keshav ‘with intent to strike terror in the people or any section of the people’ i.e. the residents of the locality, by the use of lethal weapons such as knives and iron rods and thereby committed offences punishable under Section 3(1) of the (TADA) Act read with the offences under the Penal Code and the Bombay Police Act. When the complaint was lodged by the injured Keshav on July 12, 1989 no offence under Section 3(1) of the Act was registered. The offence under Section 3(1) of the Act was introduced for the first time on July 29, 1989. That means that between July 12, 1989 and July 29, 1989 the Investigating Officer collected evidence which enabled him to register an offence under Section 3(1) of the Act. When the first bail application was disposed of on September 2, 1989, the Designated Court came to the conclusion that prima facie Section 3(1) of the Act had no application. In taking that view the Designated Court examined the statements of witnesses on which reliance was placed to support the prosecution case that Section 3(1) of the Act was attracted. It may be stated that accused Santosh Rathod runs a cycle repair shop. On the day previous to the occurrence the deceased Raju had gone to the cycle shop as his tube was punctured. At that time accused Jitendra and some others were present at the cycle shop and in their presence accused Jitendra is alleged to have stated as under:

“Presently Raju and Keshav are having dominance in the town. We would become dadas of the town upon taking lives out of them. Then there would not be any rival to us in this town. Upon commission of murder of Raju and Keshav on account of terror the people would be scared.”

This is unfolded in the statements of Raju Narain, Sukharam Shinde and Bhau Saheb. Thus according to the prosecution the genesis of the crime was to gain supremacy in the underworld by eliminating the members of the rival gang. Ram Lokhande speaks about the incident in question and states that he had heard the assailants stating that on the elimination of Raju and Keshav they will become the dadas and no one will dare to raise his voice against them. Bhika spoke about the previous incident on the same day at about 11.30 a.m. which shows that there

was rivalry between the two gangs. Mr Masodkar, the learned counsel for the State Government, as well as the appellant of Criminal Appeal No. 703 of 1989, therefore, contended that the acts of violence were perpetrated with intent to strike terror in the people at large and in particular the residents of the locality in which the crime was committed.... The learned Judge presiding over the Designated Court then proceeds to add as under:

“True it is that few people might have been terror-stricken and terror might have been the fall out of naked act, but to strike the terror amongst people was not the object of this naked act. If at all people are getting terror-stricken, it is those few people who live by the crime and not the people — law abiding majority of citizens. Going by these statements there is nothing more to this crime than a strife between two warring factions staking claim to the supremacy of underworld.”

The learned Judge also came to the conclusion that there was nothing on record to show that the government’s law enforcing machinery had failed and it had become necessary to resort to the drastic provisions of the Act with a view to combating the menace of terrorism.”

After taking into consideration the facts of the case, the Hon’ble Supreme Court held:

*“10. We have carefully considered the statements of the witnesses on which the prosecution relies in support of its contention that the accused had committed an offence under Section 3(1) of the Act. We think that the Designated Court was right in coming to the conclusion that the intention of the accused persons was to eliminate Raju and Keshav for gaining supremacy in the underworld. A mere statement to the effect that the show of such violence would create terror or fear in the minds of the people and none would dare to oppose them cannot constitute an offence under Section 3(1) of the Act. That may indeed be the fall out of the violent act but that cannot be said to be the intention of the perpetrators of the crime. It is clear from the statement extracted earlier that the intention of the accused persons was to eliminate the rivals and gain supremacy in the underworld so that they may be known as the bullies of the locality and would be dreaded as such. But it cannot be said that their intention was to strike terror in the people or a section of the people and thereby commit a terrorist act. It is clear that there was rivalry between the party of the accused on the one hand and Raju and Keshav on the other. The former desired to gain supremacy which necessitated the elimination of the latter. With that in view they launched an attack on Raju and Keshav, killed the former and injured the latter. **Their intention was clearly to eliminate them and not to strike terror in the people or a section of the people. It would have been a different matter if to strike terror some innocent persons were killed. In that case the intention would be to strike terror and the killings would be to achieve that objective. In the instant case the intention was to liquidate Raju and Keshav and thereby***

achieve the objective of gaining supremacy in the underworld. The consequence of such violence is bound to cause panic and fear but the intention of committing the crime cannot be said to be to strike terror in the people or any section of the people. We are, therefore, of the view that the Designated Court was fully justified in taking the view that the material placed on record and the documents relied on did not prima facie disclose the commission of the offence punishable under Section 3(1) of the Act.”

In Girdhari Parmanand Wadhva¹³, a boy had been kidnapped for ransom. He was murdered consequent to non-payment of the ransom amount. The gang-leader absconded and there were charged framed against the remaining accused under section 3(1), TADA. There was evidence to suggest the murder was committed to send a message to society that refusal to meet demands of the gang would result in such consequences. Relying on this alleged statement by the absconded gang-leader, the Court upheld the conviction under TADA.¹⁴ The Court observed:

“39. A crime even if perpetrated with extreme brutality may not constitute “terrorist activity” within the meaning of Section 3(1) of TADA. For constituting “terrorist activity” under Section 3(1) of TADA, the activity must be intended to strike terror in people or a section of the people or bring about other consequences referred to in the said Section 3(1). Terrorist activity is not confined to unlawful activity or crime committed against an individual or individuals but it aims at bringing about terror in the minds of people or section of people disturbing public order, public peace and tranquillity, social and communal harmony, disturbing or destabilising public administration and threatening security and integrity of the country. In the instant case, the intention to strike terror in the minds of the people can be reasonably inferred because Birju declared such intention in no uncertain terms by indicating that Vaibhav should be killed in order to send the message to the people in the locality that if the demand of Birju and his associates was not met, extreme consequence of killing of an innocent person would be resorted to. In order to send such message to the society, it was decided that Vaibhav would be killed and Vaibhav was killed for giving effect to the intended threat to the people. If an innocent boy is killed only because the demand for ransom amount was not met by the family members, such killing cannot but send a shockwave and bring about terror in the minds of the people of the locality. In Niranjana Singh case [(1990) 4 SCC 76 : 1991 SCC (Cri) 47] this Court has also indicated that killing of underworld dons who were held to be rivals of the accused for gaining

13. (1996) 11 SCC 179

14. Girdhari Parmanand, para 39: The Court believed ‘such killing cannot but send a shock wave and bring about terror in the minds of the people of the locality

supremacy in the underworld cannot be held to have been intended to strike terror in the minds of the people or a section of the people but it will assume altogether a different dimension if in order to strike terror in people or a section of people some innocent persons are killed because in that case, the intention to strike terror will achieve that objective. It is the impact of the crime and its fallout on the society and the potentiality of such crime in producing fear in the minds of the people or a section of the people which makes a crime, a terrorist activity under Section 3(1) of TADA..”

Supreme Court in *Hitendra Vishnu Thakur v. State of Maharashtra (1994) 4 SCC 602* held:

“7. ‘Terrorism’ is one of the manifestations of increased lawlessness and cult of violence. Violence and crime constitute a threat to an established order and are a revolt against a civilised society. ‘Terrorism’ has not been defined under TADA nor is it possible to give a precise definition of ‘terrorism’ or lay down what constitutes ‘terrorism’. It may be possible to describe it 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 the society as a whole. There may be death, injury, or destruction of property or even deprivation of individual liberty in the process but the extent and reach of the intended terrorist activity travels beyond the effect of an ordinary crime capable of being punished under the ordinary penal law of the land and its main objective is to overawe the Government or disturb harmony of the society or “terrorise” people and the society and not only those directly assaulted, with a view to disturb even tempo, peace and tranquillity of the society and create a sense of fear and insecurity. A ‘terrorist’ activity does not merely arise by causing disturbance of law and order or of public order. The fall out of the intended activity must be such that it travels beyond the capacity of the ordinary law enforcement agencies to tackle it under the ordinary penal law. Experience has shown us that ‘terrorism’ is generally an attempt to acquire or maintain power or control by intimidation and causing fear and helplessness in the minds of the people at large or any section thereof and is a totally abnormal phenomenon. What distinguishes ‘terrorism’ from other forms of violence, therefore, appears to be the deliberate and systematic use of coercive intimidation. More often than not, a hardened criminal today takes advantage of the situation and by wearing the cloak of ‘terrorism’, aims to achieve for himself acceptability and respectability in the society because unfortunately in the States affected by militancy, a ‘terrorist’ is projected as a hero by his group and often even by the misguided youth. It is therefore, essential to treat such a criminal and deal with him differently than an ordinary criminal capable of being tried by the ordinary courts under the penal law of the land. Even though the crime committed by a ‘terrorist’ and an ordinary criminal would be overlapping to an extent but then it is not the intention of the Legislature that every criminal should be tried under TADA, where the fall out of his activity

does not extend beyond the normal frontiers of the ordinary criminal activity. Every 'terrorist' may be a criminal but every criminal cannot be given the label of a 'terrorist' only to set in motion the more stringent provisions of TADA. The criminal activity in order to invoke TADA must be committed with the requisite intention as contemplated by Section 3(1) of the Act by use of such weapons as have been enumerated in Section 3(1) and which cause or are likely to result in the offences as mentioned in the said section.”

A) CHALLENGES TO LEGISLATIVE COMPETENCE

In **Kartar Singh v State of Punjab**¹⁵ it was argued before the Supreme court that TADA was unconstitutional and lacked legislative competence as it encroached within its ambit state laws under Entry 1 of List II on public order. However, the Court held:

“66. Having regard to the limitation placed by Article 245(1) on the legislative power of the Legislature of the State in the matter of enactment of laws having application within the territorial limits of the State only, the ambit of the field of legislation with respect to “public order” under Entry 1 in the State List has to be confined to disorders of lesser gravity having an impact within the boundaries of the State. Activities of a more serious nature which threaten the security and integrity of the country as a whole would not be within the legislative field assigned to the States under Entry 1 of the State List but would fall within the ambit of Entry 1 of the Union List relating to defence of India and in any event under the residuary power conferred on Parliament under Article 248 read with Entry 97 of the Union List. The petitioners can succeed in their challenge to the validity of the Act with regard to the legislative competence of Parliament, only if it can be said that the Act deals with activities relating to public order which are confined to the territories of a particular State.

68. The terrorism, the Act (TADA) contemplates, cannot be classified as mere disturbance of ‘public order’ disturbing the “even tempo of the life of community of any specified locality” — in the words of Hidayatullah, C.J. in *Arun Ghosh v. State of W.B.* [(1970) 1 SCC 98 : 1970 SCC (Cri) 67 : (1970) 3 SCR 288] but it is much more, rather a grave emergent situation created either by external forces particularly at the frontiers of this country or by anti-nationals throwing a challenge to the very existence and sovereignty of the country in its democratic polity. “

This reasoning was applied to POTA as well in *PUCL v Union of India*¹⁶. The Court upheld the legislative competence of Parliament to enact POTA. In doing so, the Court explained

15. (1994) 3 SCC 569.

16. 2005 SCC (Cri.) 1905.

“18. problems that prevailed in India immediately after independence cannot be compared with the menace of terrorism that we are facing in the twenty-first century. As we have already discussed above, the present-day problem of terrorism is affecting the security and sovereignty of the nation. It is not State-specific but transnational. Only Parliament can make a legislation to meet its challenge. Moreover, the entry “Public order” in the State List only empowers the States to enact a legislation relating to public order or security insofar as it affects or relates to a particular State. Howsoever wide a meaning is assigned to the entry “Public order”, the present-day problem of terrorism cannot be brought under the same by any stretch of imagination. Thus, Romesh Thappar [AIR 1950 SC 124 : 1950 SCR 594 : 1950 Cri LJ 1514] , Dr Ram Manohar Lohia [AIR 1966 SC 740 : (1966) 1 SCR 709 : 1966 Cri LJ 608] and Madhu Limaye [(1970) 3 SCC 746] (all cited earlier) cannot be resorted to to read “terrorism” into “public order”. Since the entry “Public order” or any other entries in List II do not cover the situation dealt with in POTA, the legislative competence of Parliament cannot be challenged.”

The Court further relied on Kartar Singh Case and held:

“20. While this is the view of the majority of Judges in Kartar Singh case [(1994) 3 SCC 569 : 1994 SCC (Cri) 899 : (1994) 2 SCR 375] K. Ramaswamy, J. held that Parliament does possess power under Article 248 and Entry 97 of List I of the Seventh Schedule and could also come within the ambit of Entry 1 of List III. Sahai, J. held that the legislation could be upheld under Entry 1 of List III. Thus, all the Judges are of the unanimous opinion that Parliament had legislative competence though for different reasons.

21. Considering all the abovesaid aspects, the challenge advanced by the petitioners of want of legislative competence of Parliament to enact POTA is not tenable.”

The Maharashtra Control of Organised Crime Act, 1999 (MCOCA)

The Maharashtra Control of Organised Crime Act, 1999 (MCOCA) came into force on enforced on 24th April 1999.¹⁷ The main objective of the act was to fight organized crime which were on a rise at that time in the country. The law aimed at preventing and controlling organised crimes and to restrict gangs. Illegal wealth and black money generated from such activities was high in number and it was damaging the Indian economy. There were many such gangs and there was a need to curb them and their acts. The legal system in force was not capable of dealing such rising crimes. This act was brought in because the existing procedural

17. Surat Singh (2006), *Law Relating to Prevention of Terrorism*, New Delhi.

laws were unsuccessful and also there was a need to give strengthen the police so it could control non terror activities. Thus, the government enacted this special law with strict and preventive provisions.¹⁸

In the case of *Zameer Ahmed Latifur Rehman Sheikh v State of Maharashtra*,¹⁹ the constitutional validity of MCOCA was challenged on the ground that the Maharashtra legislature does not have the legislative competency to enact certain provisions. The Court upheld the constitutionality of MCOCA in this case. Court also made some important observations in this case:

“47. We find no merit in the contention that McoCa, in any way, deals with punishing insurgency directly. We are of the considered view that the legislation only deals with “insurgency” indirectly only to bolster the definition of “organised crime”. However, even if it be assumed that “insurgency” has a larger role to play than pointed out by us above in McoCa, we are of the considered view that the term “promoting insurgency” as contemplated under Section 2(1)(e) of McoCa comes within the concept of public order.

*48. From the ratio of the judgments on the point of public order referred to by us earlier, it is clear that anything that affects public peace or tranquillity within the State or the Province would also affect public order and the State Legislature is empowered to enact laws aimed at containing or preventing acts which tend to or actually affect public order. Even if the said part of McoCa incidentally encroaches upon a field under Entry 1 of the Union List, the same cannot be held to be ultra vires in view of the doctrine of pith and substance as in essence the said part relates to maintenance of public order which is essentially a State subject and only incidentally trenches upon a matter falling under the Union List. **Therefore, we are of the considered view that it is within the legislative competence of the State of Maharashtra to enact such a provision under Entries 1 and 2 of List II read with Entries 1, 2 and 12 of List III of the Seventh Schedule of the Constitution.”***

B) CONFLICT BETWEEN CENTRE AND STATE LAWS

Over the issue of overlap between the UAPA and MCOCA, the Supreme Court, in *Zameer Ahmed Latifur Rehman Sheikh v State of Maharashtra*²⁰ clarified:

18. <https://www.latestlaws.com/articles/all-about-maharashtra-control-of-organized-crime-act-1999-mcoCa-by-yuthika-agrawal/>

19. 2007 (6) Bom CR 294(Bombay High Court).

20. (2010) 5 SCC 246

“75. A perusal of the Preamble, the Statement of Objects and Reasons and the interpretation clauses of McoCa and UAPA would show that both the Acts operate in different fields and the ambit and scope of each is distinct from the other. So far as McoCa is concerned, it principally deals with prevention and control of criminal activity by organised crime syndicate or gang within India and its purpose is to curb a wide range of criminal activities indulged in by organised syndicate or gang. The aim of UAPA, on the other hand, is to deal with terrorist and certain unlawful activities, which are committed with the intent to threaten the unity, integrity, security or sovereignty of India or with the intent to strike terror in the people or any section of the people in India or in any foreign country or relate to cessation or secession of the territory of India.”

Bill by the State of Gujarat, the GUJCOC Bill, 2003 could not be brought into force because the President refused to give assent to the Bill.²¹ It was only after BJP Government came to Power in 2014 at the Centre, then only, the Bill, renamed as GCTOC, was passed by the Gujarat Assembly in 2015, and continues to retain provisions that restrict bail and recognize confessions made before the police.²² In 2010, Madhya Pradesh sought to enact its own anti-terrorism law modelled on MCOCA, called the Madhya Pradesh Aatankvadi Evam Uchedak Gatividhiyan Tatha Sangathit Apradh Niyantran Videheyak (Madhya Pradesh Terrorist and Disruptive Activities and Control of Organised Crimes Bill). However, the then Solicitor General advised the President not to give his assent to the Bill. He denied the State’s power to enact such a law and stated that only Parliament could legislate on the issue of terrorism. He further stated that since the law will fall within the Union List, even Presidential assent could not validate it. He differentiated this law from MCOCA, stating that while MCOCA deals with issues of public order and organised crime, the Madhya Pradesh law seeks to deal with terrorism, a matter that does not fall within ‘public order’ under the State List.²³

Many states argued during UPA government at the helm to have separate laws on lines of MCOCA in Gujarat and Madhya Pradesh, but such bills were stalled by withholding the Presidential assent to these bills. It still sounds surprising that if MCOCA can exit in states

21. ‘APCOCA may return soon’ *Times of India* (Hyderabad, 31 January 2006) <<http://timesofindia.indiatimes.com/city/hyderabad/Apcoca-may-return-soon/articleshow/1393535.cms>> accessed 12 April 2014.

22. Rahi Gaikwad, ‘Gujarat anti-terror Bill passed finally’ *The Hindu* (Gandhinagar, 31 March 2015) <<http://www.thehindu.com/news/national/other-states/gujarat-passes-controversial-antiterror-bill/article7053036.ece>> accessed 1 June 2015.

23. Maneesh Chhibber, ‘SG to govt: Only Parliament can make laws to deal with terror’ *The Indian Express* (New Delhi, 2 December 2013) <<http://archive.indianexpress.com/news/sg-to-govt-only-parliament-can-make-laws-to-deal-with-terror/1202025/0>> accessed 16 June 2014.

like Maharashtra and Delhi, then why not in Gujarat and Madhya Pradesh. It shows the intention of the regime at power towards the issue of terrorism. Hence, comparison between both UPA and NDA's dealing with the issue reflects that BJP is more concerned with National Security while Congress remains focused on Party and vote bank politics.

Recent Legislative measures taken by the Modi Government against Terrorism:

NIA AMENDMENT BILL, 2019

OBJECTS AND REASONS OF THE NIA AMENDMENT BILL, 2019

The Bill aims to enable speedy investigation and prosecution of Scheduled Offences. The bill also includes those offences which are committed outside India against Indian citizens or affecting the interest of India.²⁴

SL. NO.	SECTION	PRE AMENDMENT	POST AMENDMENT
1	Section 1 - Short Title, extent and application	Earlier the act was applicable to - i.Citizens of India outside India ii.Persons in service of Government iii.Persons on ships and aircrafts registered in India	Now, the act is applicable to -to persons who commit a Scheduled Offence beyond India against the Indian citizens or affecting the interest of India
2	Section 2(h) – Definition	Earlier there was no designation of hierarchy to Special Courts	Now it has been clarified that a Court of Session is designated as Special Court
3	Section 3 - Constitution of National Investigation Agency	Power of investigation to officers was earlier restricted to India only	Now the scope of investigation has been increased by subjecting officers to any international treaty or domestic law of the concerned country, outside India
4	Section 6 - Investigation of Scheduled Offences	Earlier, the power to investigate was restricted to India	Now, the power to investigate has been expanded to outside India and it allows the officers to register a case and investigate as if the offence was committed in India. It gives the Special Court in New Delhi, the jurisdiction to try the case.

24. http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/129_%202019_LS_eng.pdf

5	SCHEDULE	Before amendment, the act did not include Certain acts and offences	Now, the offences under the following acts triable under the NIA act: i. Explosive Substances Act ii. Cyber Terrorism iii. Trafficking of Person iv. Exploitation of a trafficked person v. Currency Notes and Bank Notes (489A-E) vi. Manufacturing, selling, transferring of prohibited arms or ammunition
---	----------	---------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Excerpts of Home Minister Shri Amit Shah’s speech in Lok Sabha on NIA Amendment Bill 2019:

“Let me make it clear. The Modi government has no such intention. Its only goal is to finish off terrorism but we will also not look at the religion of the accused while taking action.”²⁵

“They were not repealed for misuse. POTA was repealed for vote bank. It was repealed by Congress in 2004. It was a political move. You want to do politics, it’s okay. But don’t use the forum of Parliament for it.”²⁶

“Repealing POTA was not the right move. It’s not just me, even people in the security establishment believe this. Because of repeal of POTA, terrorism increased in the next few years, and we had the 26/11 attacks. The Congress was forced to bring in the NIA Act. Had POTA not been repealed, the Mumbai attacks would probably not have happened.”²⁷

25. <https://www.numbersupport.com/news/nia-bill/>

26. <https://indianexpress.com/article/india/lok-sabha-nod-to-nia-bill-amit-shah-says-wont-misuse-5831226/>

27. <https://indianexpress.com/article/india/lok-sabha-nod-to-nia-bill-amit-shah-says-wont-misuse-5831226/>

UAPA(Amendment) Bill, 2019

Statement of Object and Reasons for the UAPA Bill, 2019²⁸

Earlier, the National Investigation Agency faced many difficulties in the process of investigation and prosecution in terrorism related cases. The Amendment seeks to resolve these legal infirmities and align the Act with international obligations as mandated in Conventions and Security Council Resolutions.

AMENDMENT

SL. No.	Section	Pre- Amendment	Post Amendment
1	Section 25 - Powers of investigating officer and designated authority and appeal against order of Designated Authority.	Earlier Section 25 allowed only officers (DSP for Delhi, ACP) to seize a property with the approval of DGP.	Now, it allows an officer of NIA to seize property with the approval of DG of NIA
2	Section 35 - Amendment of Schedule, etc.	Earlier only an organisation could be considered a terrorist.	Now, an individual can be considered as terrorist, if- i. Added to the 4th Schedule ii. Identified by the UN An individual can be also be removed from the 4th schedule. The reasoning behind branding an individual as a terrorist remains same to that of an organization
3	Section 36 - Denotification of a terrorist organisation	Applied to only organisations	Applies to an individual under 4th Schedule now. The procedure remains the same.
4	Section 43 - Officers competent to investigate offences under Chapters IV and VI	Earlier allowed only DSPs and ACPs to be considered as an officer	Now, includes an officer from the NIA not below the rank of an Inspector

28. http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/130_%202019_LS_Eng.pdf
http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/130_%202019_LS_Eng.pdf

UAPA (Amendment) Bill 2019:-

The object of the proposed amendments was to facilitate speedy investigation and prosecution of terror offences and designating an individual as terrorist in line with the international practices. The reasons behind including the DG of NIA to attach property was because the earlier provisions required NIA to take prior permission from respective state DGP to start investigation in terror cases. This delayed the investigation process.²⁹

Excerpts of Home Minister Shri Amit Shah's Speech on UAPA Amendment Bill, 2019 in Lok Sabha:

- *“Our commitment to uproot terrorism has remained steadfast irrespective of where we were, whether in Government or not. An individual's psychology is the birth place of Terrorism, rather than an institution. If, in the first place, an individual is stopped from attracting other individuals into terrorism by providing ideological and financial support, this menace can be finished.”*³⁰
- *“People who fund terrorists, who write on them should also be declared terrorists”.*³¹
- *“Terrorism is not in the institution but in the mind of a person. That's why to stop terrorism, we need the provision to declare people terrorists.”*³²
- *“There's a need for a provision to declare an individual as a terrorist, UN has a procedure for it, US has it, Pakistan has it, China has it, Israel has it, European Union has it, everyone has done it.”*³³
- *“The bill will not be misused against any individual. Yet, those individuals who engage in terrorist activities against the security and sovereignty of India, including the urban Maoists, would not be spared by the investigating agencies either.”*³⁴
- *“The police are not interested in nabbing social workers, but those who work to foster Urban Naxalism, do not have our sympathies and we will not tolerate it. They need to be stopped, they misguide the poor and let them pick up arms against the state.”*³⁵

29. <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1580136>

30. Press Information Bureau, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=192211>

31. <https://timesofindia.indiatimes.com/india/parliament-session-live-updates-uapa-amendment-bill-2019-passed-in-lok-sabha/liveblog/70355654.cms>

32. <https://timesofindia.indiatimes.com/india/parliament-session-live-updates-uapa-amendment-bill-2019-passed-in-lok-sabha/liveblog/70355654.cms>

33. <https://www.indiatvnews.com/news/india-uapa-unlawful-activities-prevention-bill-amit-shah-essential-to-keep-law-enforcement-agencies-one-step-ahead-of-terrorists-537817>

34. <https://www.ndtv.com/india-news/uapa-centres-plan-to-take-on-urban-maoists-with-changes-to-anti-terror-law-2075191>

35. <https://rightlog.in/2019/07/amit-shah-lok-sabha-uapa-01/>

Failure of previous governments in tackling Terrorism

It was really unfortunate that a country of 1.25 billion people used to find themselves in a helpless situation every time a terrorist attack took place. It was a deplorable sight for every Indian to see its innocent fellow countrymen dying and sovereignty of the nation being challenged. The whole nation was challenged when Mumbai was taken for hostage for 72 hours by ten armed terrorists from Pakistan. The integrity of democratic Republic of India was also threatened by the attack on our Parliament. Unfortunately, the lack of streamlined policy, a proper course of action, political will and the vote bank politics had failed us as a nation in this fight against terrorism before the dawn of Modi Era. When we look back for the reasons of our failure in this fight against terrorism, we get the following-

a) **Soft stand on Terror**

Indian State earlier used to carry the blot of being a soft state on terror. Our patience and intent to avoid violence had been understood as our weakness. It was a common understanding among Anti-India forces that India will never elevate from 'strong condemnation' in terms of responding to terror attacks on its soil. Unfortunately, nobody else is to be blamed for such an image other than those who were decision makers in the government. This is the manner in which previous governments dealt with the menace of terrorism for decades, playing with the security of Indians and the integrity of the nation.

b) **Policy of Appeasement**

Vote Bank politics has always been a barrier in taking decisive steps to combat terrorism. Terming Batla House encounter as fake and the leadership of Congress party standing with the families of the terrorists and granting monetary compensation to them brought down the morale of our security personnel.

The level of appeasement that prevailed in our ruling establishment gets reflected from a lecture delivered by the erstwhile IB chief and present National Security Advisor Ajit Doval's statement where he recalled his days as IB chief when transition of power took place in 2004 in a lecture in Shastra University:³⁷

36. <https://www.youtube.com/watch?v=v4RaCjrT51w&t=4556s>.

“In October-November 2004, new government had come, I was the head of Intelligence Bureau, a proposal came that let us withdraw Prevention of Terrorism Act (POTA). This Act was made by India in compliance with the obligations of UN resolution 1373 which required India to amend its domestic laws on terrorism as per International norms and moreover since more than 1, 20,000 Indians had lost their lives in Punjab, Kashmir etc. it was imperative for us. I went to the then senior most political leadership and said that Sir let’s not make it a political issue, it is a strategic threat to India, this is the only legislation which per se makes terrorism as an offence and POTA is a part of our International obligations, just because a previous government brought it, it should not be repealed.”

So, the response was “I don’t think it is a strategic threat and even if it is, we have promised it in our manifesto”. I said sir manifestos don’t take precedence over country’s long term National interests. Mani Dixit, the then NSA and Anil Bajjal, the then Home Secretary was also told the same thing and finally the only legislation which proscribed terrorism was repealed in December, 2004.

c) Policy Paralysis in dealing with terrorism from across the border

Insurgency in North east and Left-wing extremism in some states are also potent terror threats for India but the most dangerous one is the terrorism being propagated from across the border. This was happening because Pakistan was operating this as a proxy war and as an element of foreign policy in a state of highest deniability and in the name of non-state actors. However, then came PM Modi and NSA Doval with the doctrine of offensive defence. Surgical strikes in Myanmar set a clear tone that India was not going to tolerate the business as usual. The entire dynamics of war on terror changed when Indian Armed forces crossed the LoC in different sectors to avenge the terror attack on Uri brigade headquarter. This sent a clear message from Modi Government to Pakistan that there would be cost and consequences for Pakistan in this proxy war.

This escalation ladder reached its zenith with Indian Airforce crossing the International Airspace to target the biggest training camp of Jaish-e-Mohammed in Balakot in Khyber Pakhtunkhwa province of Pakistan. This made it crystal clear to Pakistan and its deep state that India will not tolerate such acts anymore and they would get a response from India, if such acts are repeated.

The consequence of these strikes shows that we have come out of that era when we were helpless. In today’s time we have acquired global sanction to punish the culprits of terror attacks on India and the credit for bringing us out from situation of policy paralysis in

combating terrorism is solely attributed to the present regime.

d) Weakness of Legal mechanism

Repeal of POTA proved to be a historic blunder committed by the previous government. Lack of substantive penal provisions, high threshold of proving guilt, strict rules of evidence goes on to weaken our collective fight against terrorism. However, the recent amendments made in UAPA and NIA by Modi government shall help investigation agencies in fighting the menace of terrorism adequately.

e) No free hand to security forces and Investigative Agencies

Previous governments were soft in handling separatists in Jammu and Kashmir. It was under Modi regime only that security forces were given the necessary freedom to operate in the National interest. Launch of operation All Out and elimination of terrorists from the valley is one such apparent instance of the change of what Modi government has brought.

Conspiracy of Hindu Terror

The term Hindu terror coined by UPA government and its leaders including Sushil Shinde, P. Chidambaram, Digvijay Singh was the biggest compromise made with the security of the country. The norm of 'terror has no religion' was broken to accuse a five thousand years old civilization and its value to be associated with terror. Hindu saints like Swami Aseemanand, Sadhvi Pragya Thakur and Army officer Col. Srikant Purohit were a few among those who were framed to create a narrative of Hindu terror.

It is astonishing that the then government released the real accused of Samjhauta express blast who were Pakistani terrorist to cook the theory of Hindu terror. Congress lead UPA compromised the issue of National security to buttress their political stakes and point scoring.

Modi Government's policy on Terror

To counter terrorism and other separatist movements, Modi Government seems to be moving on a two-fold path in terms of policy. For the issues requiring amicable political solution, Modi government has always kept its door open for a dialogue.

For instance, the Nagaland Peace Accord signed on 3 August, 2015 with National Socialist Council of Nagaland (NSCN) to end the insurgency was a perfect example of political solutions to armed conflicts. In a way this accord attained in just five years what India lost in five decades in Nagaland in terms of trust deficit. At the same time, Modi government has made it clear that whoever picks up arms against the state, shall be dealt with iron fist. This two-fold pragmatic approach helped the government to recover the lost ground in North-East, Kashmir and other areas of Red corridor which we had lost due to inability of the previous governments.

Terrorism in rest of India other than insurgency affected border areas has also been dealt diligently by the government. Sticking to the promise of zero tolerance policy on terrorism, Modi government never allowed vote bank interests to precede national interests. No matter which organization threatens for consequences, government has never surrendered before such organizations. The message from the top political leadership is loud and clear, security of citizens and the unity and integrity of the country, shall never be compromised.

Tackling challenges in Kashmir and North-East

When Shri Narendra Modi took over the office of Prime Minister, Jammu & Kashmir and North-Eastern states were a major challenge for the government. On one hand, new regime countered the political situation with dialogue and armed action, on the other hand. At the same time government focused on development, which was taken to each and every household. This developed a feeling of affection towards the state in both these regions and people saw new opportunities in their life of which they were deprived for a very long period. Government did not tolerate any violence and any kind of mis-adventure was retaliated with equal proportion.

Track-record of Modi Government

Many Indians felt frustrated post 26/11 when UPA Government did not revenge such acts of terrorism. Now we can see the day when we did it even more vigorously than the United States. India had same military capabilities when 26/11 happened but what lacked was the political will. The necessity of political resolve and determination was the pre-requisite to fight the menace of terrorism.

Following decisions of the Modi government reflect that the government is seriously pursuing track to uproot terrorism from India:

Ban on JKLF & Jamaat-E-Islami

It was after the Pulwama attack that Modi government took this decisive step to stop radicalization of youth in the valley. Despite opposition from political parties of the valley and National parties like Congress and Left, Modi government proscribed these organisations and went on to seal their offices, properties and bank accounts. Arrest of Yasin Malik and bringing him to Tihar Jail, withdrawal of security cover of separatist leaders and hawala investigation against separatist leaders like Bitta karate, Asiya Andrabi, Altaf Fantoos...etc., was a necessary step which this government took without any second thoughts.

Airstrikes in Pakistan & Surgical strikes in PoK

In September 2016 Indian special forces conducted military operations in many sectors across the border to decimate the terrorist launch pads. Though Pakistan went into complete state of deniability but the airstrikes after Pulwama terror attacks in the territory of Pakistan changed the entire dynamics of Indo-Pak relations. Nuclear blackmail was no longer effective and there would be cost and consequences for Pakistan in this proxy war, this message was sent loud and clear to the decision makers in Pakistan.

Dismantling the terror network inside the country

When the agencies in the entire west are finding it difficult to stop the flourishing influence of ISIS, India being the second largest Muslim populated country has not only restricted ISIS influence but also obliterated other terror modules.

Operations in North-East and Naga Accord

In order to bring peace in North-East India, Modi government has ensured that political solutions through dialogue should take precedence over any military action. Naga Accord is one such example which tells us that intricate issues can be peacefully resolved, if there exists a conviction to bring peace.

Counter terror operations and development strategy in Red Corridor

India has witnessed a sharp decline in the land area which constituted the Red corridor. With every passing day, as welfare state is being carried to the doors of common masses, Maoists are losing their influence. As per the latest data released by the Ministry of Home Affairs, 44 districts have been removed from the list of 126 Naxal affected districts. The number of severely affected ones has also come down to 30 from 35.³⁷ This success is attributable to development of infrastructure in affected areas bringing people in the mainstream and the freedom given to security personnel to operate without any political intervention.

Efforts for highlighting terrorism as global concern

Since 2014, Prime Minister Modi has used every International platform to bring the issue of terrorism at the centre of global discourse. In his speeches in G-20 summits, Prime Minister urged to stop differentiating terrorists as good terrorists or bad terrorists and identify those who harbor, train and fund terror and punish them. In his address to the United Nations

37. <https://www.governancenow.com/news/regular-story/red-corridor-is-shrinking>.

General Assembly, PM Modi urged for the need of defining terrorism as early as possible. In the recently concluded G-20 summit in Osaka, Japan, PM Modi proposed for an event for a global discussion on terrorism.

His prudent foreign policy and personal chemistry with global leaders has helped India make the world understand that Pakistan is the global exporter of terror and responsible for terrorism in India. It was PM Modi's effort that the whole world justified India's attack in the Pakistani territory of Balakot as an act of self-defense. If today the entire world stands with India on the issue of terrorism, credit goes to the brilliance of our diplomacy and the resolve of our leadership which raised the issue of terrorism on every International forum.

Conclusion

In 2014, people of India entrusted Narendra Modi with a job to decimate terrorism from the Indian soil with great hopes. Shri Narendra Modi's track record in Gujarat revealed that he had zero tolerance towards terrorism. Last five years have been a continuation of what Modi did in Gujarat on a national level. Though our fight against terrorism is not over, but the battle seems to have been half won. It was PM Modi's determination and clarity, which resulted in such a huge success for the government in the fight against terrorism.



**Dr. Syama Prasad Mookerjee
Research Foundation**

Published By:

Dr. Syama Prasad Mookerjee Research Foundation

9, Ashoka Road New Delhi - 110001

E-mail: office@spmrf.org, Phone: 011-23005850