Counter-Terrorism: Background and Mechanisms

Bhupinder Singh

Introduction

The July 11 bombing of the Mumbai commuter trains, which killed over 180 people and injured more than 700, was the most recent of a long string of high-profile terrorist attacks in India. The US National Counter-Terrorism Centre says India was the site of more than 12 per cent of all terrorist attacks worldwide in 2006, and suffered more terrorism-related fatalities than any other nation except Iraq. India, a nation of a billion people, has been confronted with terrorism since its birth, and currently contends with a variety of regional groups mainly intent on separatism. India is embroiled in a number of low-intensity conflicts throughout its territory. Many terrorist incidents are the result of these clashes.The aim of this paper is to analyse the various dimensions of counter-terrorism in India.

HISTORICAL BACKGROUND

Internal security management has been an important component of India's national security management ever since India became independent in 1947. The Ministry of Home Affairs of the Government of India is the main agency of India's internal security management mechanism. Initially, it focussed mainly on the maintenance of law and order and inter-communal peace, crime control and counter-insurgency.

Counter-insurgency became an important component of internal security management following the launching of an insurgent movement by a group of Communist insurgents in what now constitutes the state of Andhra Pradesh immediately after India became independent and by some of the tribals living

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in India's northeast in the period starting from 1956. While the Communist insurgency, which continues as a Maoist movement in 12 states of India, is now an ideological movement for the spread and implementation of the Maoist ideology, the tribal insurgent movements sought independence for various tribal groups living in the border areas of India's northeast. These insurgencies attracted the support of China and Pakistan. While the Chinese support to the Marxist and tribal insurgencies stopped after 1979, the Pakistani support to the tribal insurgencies continues through Bangladesh.

Counter-terrorism became a new component of India's internal security management in 1981 when some Sikhs living in the state of Punjab in India as well as in the UK, the then West Germany, Canada and the US took to terrorism in emulation of the Palestine Liberation Organisation (PLO) in order to pressurise the Government of India to concede their demand for an independent state for the Sikhs to be called Khalistan. The Khalistani terrorist organisations were largely funded by some members of the Sikh diaspora abroad and by the Inter-Services Intelligence (ISI) of Pakistan. They were trained and armed by the ISI in camps in Pakistani territory.

The Khalistani terrorists had types four *modus operandi* — first, use of hand-held weapons against selected leaders, officials and others perceived as enemies of the Sikh religion; second, hijacking of planes of Indian Airlines —they hijacked five planes between 1981 and 1984; third, blowing up planes of Air India in mid-air — they blew up off the Irish coast a plane that had taken off from Toronto in June 1985, killing over 200 passengers and unsuccessfully tried to blow up another flight originating from Tokyo the same day; and, four, indiscriminate planting of improvised explosive devices (IEDs) in public places, killing a large number of innocent civilians.

In response to their *modus operandi*, the first bricks of India's counter-terrorism architecture came into being in the 1980s. These related to civil aviation security, personal security of very important persons and anti-explosives security. This period saw the coming into being of the National Security Guards (NSGs), who are specially trained to intervene to terminate incidents of hijacking and hostage-taking, the Special Protection Group (SPG), specially trained to protect the serving and past prime ministers of India and their families, and anti-explosive capabilities in the police forces of different states, in the paramilitary forces of the Government of India and in the NSG and the SPG. This period also saw increased importance being given to strengthen the crisis management capabilities of the concerned ministries and departments of the governments at the centre and in the states.

The 1980s also saw the emergence of disaster management as an important component of internal security management following an accidental explosion in a chemicals factory run by the Union Carbide company of the US, in Bhopal in Madhya Pradesh in 1984, which resulted in the deaths of hundreds of people. Even before the 1980s, we had a disaster management capability, but this related essentially to management of famines, floods and earthquakes. The explosion in the chemicals factory and the resulting deaths brought home to the Indian policy-makers the need to develop specialised disaster management capabilities relating to industrial explosions and other disasters of an unconventional nature caused by nature, accident or intentionally by terrorists. The

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concept of disaster management and the drill associated with it have been constantly updated, keeping in view the likelihood of acts of terrorism involving the use of weapons of mass destruction (WMD).

TERRORIST OPERATIONS IN INDIA

Terrorism Affected Regions in India

India is embroiled in a number of low-intensity conflicts throughout its territory. Many terrorist incidents are the products of these clashes. The regions most affected are :

(a) **Jammu and Kashmir (J&K).** Located at the northern tip of India's territory, this state has been the focal point of a territorial dispute dating back to 1947, when British colonial rule ended, involving India, Pakistan, and China. India claims the entire region as its sovereign territory, though it controls only about half of it. A third of the land is controlled by Pakistan, and China controls the remainder. The quarrel between India and Pakistan has touched off a number of military showdowns. Since the late 1980s, the J&K region has been home to a number of militant groups seeking independence. Experts say these insurgent groups have extensive support networks in Pakistan, and some accuse Pakistan of using them to wage a

proxy war in the region. Over the last decade, this conflict has been linked to some two-thirds of all fatalities from terrorist attacks in India.

(b) **Andhra Pradesh.** Andhra Pradesh state along the Bay of Bengal coast has endured a number of attacks linked to a group known as the Naxalites. Named for the town of Naxalbari where their movement began in 1967, the Naxalites are revolutionary Communists. The Human Rights Watch estimates some 10,000 are members of armed militias, who continue to wage a low-intensity insurgency that claims hundreds of Indian lives every year. In areas under Naxalite control, "people's courts" prosecute individuals deemed as "class enemies" or "caste oppressors." The US State Department reports that Naxalite terrorism "is growing in sophistication and lethality and may pose a significant long-term challenge." Indian officials have reportedly organised vigilante groups to help oppose the Naxalite influence, but human rights groups have criticised the government's methods.

(c) **Northeastern States.** Violence has plagued several states in northeast India ever since the country now known as Bangladesh was partitioned off in 1947. Fighting has been particularly bad in the states of Assam and Nagaland, which, over the years, have received a large influx of immigrants. Shifting demographics in an area already prone to tribal friction have helped spark off a number of religious and cultural conflicts. Poverty is endemic in the region, and many groups are demanding independence, citing neglect and discrimination on the part of the Indian government as grounds for separation. Militant groups like the United Liberation Front of Assam have targeted politicians and infrastructure in an attempt to force out government influence.

Terrorist Groups in India

There are scores of insurgent and terrorist groups operating in the country. Those recognised by the US State Department as foreign terrorist organisations (FTO) or other "groups of concern" are :

a) **Lashkar-e-Tayyeba. LeT**, whose name means "Army of the Pure," is a militant Islamist group operating in Pakistan as well as in Jammu and Kashmir (J&K). The group reportedly received funding from Pakistan's intelligence services until 2001, when the United States designated it an FTO and Pakistan froze its assets. LeT, which has ideological, but unconfirmed operational ties to Al Qaeda, aims to win sovereignty for Jammu and Kashmir and spread Islamic rule across India. The group is blamed for some of the most high-profile

terrorist attacks in India, including the July 11, 2006, bombing of the Mumbai commuter trains.

(b) **Jaish-e-Muhammad.** JeM meaning "Army of Muhammed," is another Pakistan-based terrorist group operating in J&K. Founded in 2000 by the former leader of the now-defunct group Harakat-ul-Ansar, Jaish-e-Muhammed seeks to drive India out of J&K and transfer control of the region to Pakistan.

(c) **Harakat ul-Mujahedeen.** HuM or the "Islamic Freedom Fighters' Group," was founded in 1985 as an anti-Soviet group fighting in Afghanistan. When Soviet forces withdrew in 1989, the Pakistan-based HuM shifted its focus to J&K. HuM seeks to battle "anti-Islamic forces" and its members have helped carry out operations in regions as far away as Myanmar, Tajikistan, and Bosnia.

(d) **Harakat ul-Jihad-i-Islami.** HUJI was founded in 1980 to fight the Soviets in Afghanistan but has since concentrated its efforts in J&K. HUJI, which is based in Pakistan and Kashmir, primarily attacks Indian military targets, but it is believed to be linked to the abduction and slaying of five Western tourists in Jammu and Kashmir in 1995.

(e) **Jamiat ul-Mujahideen** is a small group of pro-Pakistan Kashmiri separatists operating in or near Pakistan. It is thought to be responsible for the 2004 grenade attacks against political targets in India.

(f) **The United Liberation Front of Assam**. ULFA has sought to establish an independent socialist state in Assam since its founding in 1979. In the 1990s, ULFA's attacks on political leaders, security forces, and infrastructure provoked a harsh response from the Indian government, causing it to lose some support among the residents of Assam. The US State Department reports a December 2003 attack on an ULFA base by Indian forces that caused the group's numbers to drop from more than 3,000 to several hundred.

Present Nature of Terrorism in India

The period between 1989 and 2001 saw eight new challenges confronting the Indian counter-terrorism managers and policy-makers :

(i) First, the emulation of the Afghan Mujahideen of the 1980s by some organisations in the Indian state of J&K in order to exercise pressure on the Government of India to concede their demands, which related to either independence for the state or its annexation by Pakistan. The cadres of these organisations, which have been active in the state since 1989, are funded, trained, armed and guided by the ISI.

(ii) Second,   the infiltration, initially into J&K and subsequently into other parts of India, of trained and armed members of four Pakistani pan-Islamic organisations, namely, the LeT, HuM, HUJI and JeM. These Pakistani pan-Islamic organisations have two objectives — to help the terrorist organisations of J&K to achieve their objectives and to keep the Indian security forces and counter-terrorism agencies preoccupied with internal security duties in other parts of India by indulging in acts of terrorism. These organisations, which have since joined Osama bin Laden's International Islamic Front (IIF), formed in 1998, were initially recruiting their members from Pakistan, but since 2003, they have also been recruiting from the Indian Muslim diaspora in the Gulf and from the Muslim community in India itself. All these organisations operate from Pakistan. Two of them — LeT and HUJI — also have sanctuaries in Bangladesh.

(iii) Third, the emergence of suicide terrorism as a strategic weapon of great lethality. Suicide terrorism was first used in Indian territory by the Liberation Tigers of Tamil Eelam (LTTE) to assassinate, former Indian Prime Minister Rajiv Gandhi, at Chennai in May 1991. Since the four Pakistani pan-Islamic organisations joined bin Laden's IIF, they have been increasingly resorting to suicide terrorism.

(iv) Fourth, the acquisition of a maritime terrorism capability by the LTTE. This capability consists of a fleet of commercial ships for gun and narcotics running and a naval capability for covert acts of maritime terrorism, including sea-borne suicide terrorism. Even though this capability has been acquired by the LTTE mainly for use against the Government of Sri Lanka, it also poses a threat to the internal security of India in view of the LTTE's past contacts with the Indian Maoists and its undertaking gun-running missions for Pakistani pan-Islamic organisations.

(v) Fifth, the beginning of economic terrorism with the attacks on the tourist infrastructure in J&K and   with the explosions of March 1993 in Mumbai, which were directed against carefully selected economic targets such as the Stock Exchange, a tourist hotel, etc. These explosions were carried out by a group of Indian Muslims trained and equipped by the ISI. Among other targets attracting the attention of different terrorist groups are the Mumbai off-shore oil platform, oil pipelines in the northeast and information technology (IT) companies in Bangalore, India's Silicon Valley. However, the terrorists have not succeeded so far in attacking any of them.

(vi) Sixth, narco-terrorism and the increasing use of narcotics by different terrorist groups as a source of funding for their terrorist operations.

(vii) Seventh, the emergence of links between the Pakistan-based pan-Islamic *jihadi* terrorist organisations and the trans-national mafia group headed by the Karachi-based Dawood Ibrahim, who has since been designated by the US Treasury Department in October 2003 as an international terrorist, following evidence of his contacts with Al Qaeda. He had master-minded the Mumbai explosions of March 1993.

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(viii) Eighth, large-scale illegal immigration into India from Bangladesh, which is threatening to change the demographic composition of sensitive areas in India's northeast and provides sanctuaries for *jihadi* terrorists based in Bangladesh for their operations in Indian territory.

The pan-Islamic and other *jihadi* terrorists have introduced a new kind of *modus operandi*, in addition to their use of hand-held weapons, improvised explosive devices and hijacking of aircraft. These new types of *modus operandi* comprise hostage-taking on the ground directed against Indians as well as foreign nationals in order to secure their demands, deliberate attacks on places of worship in order to provoke inter-communal clashes, mass killing of members of the Hindu community in J&K in order to force them to leave the state, and attacks on soft targets such as shopping areas in order to create panic.

INDIA'S COUNTER-TERRORISM MECHANISM

India's Counter-Terrorism Agencies

The State Police and its Intelligence Set-Up. Under India's federal Constitution, the responsibility for policing and maintenance of law and order is that of the individual states. The central government in New Delhi can only give them advice, financial help, training and other assistance to strengthen their professional capabilities and share with them the intelligence collected by it. The responsibility for follow-up action lies with the state police.

The National Intelligence Community. This consists of the internal intelligence agency (the Ministry of Home Affairs' Intelligence Bureau), the external intelligence agency, the Cabinet Secretariat's Research and Analysis Wing (RAW), the Defence Intelligence Agency (DIA) that was set up a year ago,

and the intelligence directorates general of the armed forces. The Intelligence Bureau (IB) collects terrorism-related intelligence inside the country and RAW does it outside. The DIA and the intelligence directorates general of the armed forces essentially collect tactical intelligence during their counter-terrorism operations in areas such as Jammu and Kashmir, Nagaland, etc, where they are deployed.

Physical Security Agencies. These include the Central Industrial Security Force, responsible for physical security at airports and sensitive establishments; the National Security Guards, a specially trained intervention force to terminate terrorist situations such as hijacking, hostage-taking, etc; and the Special Protection Group, responsible for the security of the prime minister and former prime ministers.

Paramilitary Forces. These include the Central Reserve Police Force and the Border Security Force, which assist the police in counter-terrorism operations when called upon to do so.

The Army. Their assistance is sought as a last resort when the police and paramilitary forces are not able to cope with a terrorist situation. But in view of Pakistan's large-scale infiltration in J&K and the presence and activities of a large number of Pakistani mercenaries, many of them ex-Servicemen, the army has a more active, permanent and leadership role in counter-terrorism operations in J&K.

What India is facing in J&K is not just terrorism, but a proxy war being waged by the Pakistan Army through its *jihadi* surrogates. In recent months, there have been two additions to the counter-terrorism set-up:

(a) A multi-disciplinary centre on counter-terrorism, headed by a senior IB officer, has been set up. This is expected to be patterned on the Central Intelligence Agency's (CIA's) counter-terrorism centre. Officers of various agencies responsible for intelligence collection and counter-terrorism operations will work under a common umbrella and be responsible for joint analysis of the intelligence flowing in from different agencies and coordinated follow-up action.

(b) A counter-terrorism division in the Ministry of External Affairs, expected to be patterned after the counter-terrorism division of the US State Department. It will be responsible for coordinating the diplomatic aspects of counter-terrorism, such as briefing other countries on Pakistan's sponsorship of terrorism against India, processing requests for extradition and mutual legal assistance, servicing the work of various joint working groups on counter-terrorism which India has set up with a number of countries, etc.

Counter-Terrorism Techniques Followed by India

(a) The importance of a good grievances detection, monitoring and redressal machinery so that the build-up of grievances in any community is detected in time and the political leadership alerted and advised to take prompt action to redress them. The intelligence agencies have an important role to play as the eyes and ears of the government in different communities to detect feelings of anger and alienation which need immediate attention.

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(b) The importance of good, preventive human intelligence. This is easier said than done because of the difficulties in penetrating terrorist organisations, particularly of the religious kind. Timely technical intelligence is generally more precise than human intelligence.

The importance of objective and balanced analysis to avoid over-assessing the strength and capabilities of the terrorists, which could lead to over-reaction by counter-terrorism agencies, thereby aggravating the feeling of alienation within the affected community, driving more people into the arms of terrorists. Such analysis is particularly difficult in the case of human intelligence. For every genuine source who gives correct intelligence, there are often two or three spurious sources who, out of greed to make more money or at the instance of the terrorists themselves, give false information. This tends to make security forces over-react or take the wrong action.

(c) The importance of reverse analysis so that one is trained to analyse possible scenarios not only as a good intelligence analyst, but also as an irrational terrorist. Prompt and coordinated follow-up action on well-assessed intelligence from all agencies, without allowing inter-agency jealousies and rivalries to come in the way, is necessary. Similarly vital is the presence of effective physical security measures so that even if intelligence fails, the security agencies are able to prevent acts of terrorism.

An effective crisis management apparatus so that if both intelligence and physical security measures fail, one is able to deal effectively with the resulting crisis or disaster. A good investigative machinery, specially trained to investigate terrorism-related cases has to be put in place. It is necessary to not over-project the personality and capabilities of terrorist leaders, so that they

do not become objects of idolisation in their community. The public must be made to understand that just because some people of a particular community or religion have taken to terrorism, the entire community or religion should not be looked upon with suspicion. Highlighting the positive aspects of the affected community or religion prevents the build-up of a negative image of the community or religion in the eyes of the public. Active interaction with the media ensures that they do not make terrorist leaders appear like heroes or prejudice the minds of the public about the affected community or religion or create problems for effective counter-terrorism operations. Well-designed psychological war operations need to project the terrorists for what they are — irrational killers. Observing human rights during counter-terrorism operations is also important.

(d) The importance of periodic refresher training of all those involved in counter-terrorism operations through special classes, seminars, opportunities for interaction with those who have distinguished themselves in counter-terrorism operations, etc.

Empowerment of Counter-Terrorism Agencies in India

To meet the new challenges, India's counter-terrorism capabilities have been further strengthened in the following ways:

(a) The beginning of the erection of a fence along the Line of Control (LoC) and the international border with Pakistan and along the international border with Bangladesh.

(b) Strengthening the counter-infiltration capabilities of the Border Security Force (BSF) and the Indian Army. A greater role for the army in counter-terrorism in J&K in order to deal with infiltration and cross-border terrorism.

(c) Raising of village defence forces in remote villages. Strengthening physical security for sensitive places of worship. Upgradation of the Central Industrial Security Force (CISF) in order to enable it to protect the economic infrastructure, including the oil infrastructure, ports and airports, nuclear establishments, etc from possible terrorist attacks.

(d) Strengthening the maritime counter-terrorism capability of the coast guard. Raising a pool of officers specially trained in hostage negotiation techniques. Strengthening anti-narcotics control and strengthening measures against money-laundering.

Apart from strengthening close-proximity security and access control, India, like other countries confronted with the problem of suicide terrorism, has not

yet been able to find an effective counter to it. An effective counter to suicide terrorism depends on answers to the following questions:

(a) How to prevent the terrorists from getting hold of explosives?

(b) Can the scientists find a way of detecting the presence of a concealed explosive device on the body of a person without subjecting him or her to the usual physical checks?

(c) Can the scientists find a way of inactivating a device from a distance without alerting the terrorist?

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Till we find answers to these questions, suicide terrorism will continue to confront the police and other counter-terrorism agencies. Psychological or ideological counters to suicide terrorism alone will not suffice. There has to be, in addition, a scientific and technical counter. All the nations in the world should put their heads together to find that counter.

Since 9/11, prevention of WMD and cyber terrorism and emergency response mechanisms to deal with a situation if the terrorists manage to carry out an attack have become important components of the counter-terrorism architecture. An updated anti-hijacking policy adopted by the Government of India in August 2005, provides for the shooting down of a hijacked plane if there is danger of its being used by the hijackers as a missile. The decision-making drill for this has also been laid down.

The Indo-Pakistan military conflict of 1999 led to the appointment by the Government of India in 2000 of a Special Task Force for the Revamping of the Intelligence Apparatus. This Task Force recommended measures not only for strengthening our cabality for the collection, analysis and assessment of human and technical intelligence relating to conventional threats, but also for strengthening our capability for the collection of terrorism-related intelligence. One of its important recommendations led to the creation of a Multi-Disciplinary Centre in the Intelligence Bureau (IB), which is the equivalent of the UK's Security Service (MI-5), to coordinate the intelligence and follow-up action process in all the central agencies having a role in counter-terrorism. Counter-terrorism experts from all the agencies are to work in this centre under a common umbrella under the leadership of the IB, which is the operational nodal agency for counter-terrorism. It is proposed to bring into being a similar coordination mechanism at the level of the states of the federation.

Counter-terrorism has four aspects: preventive, through timely intelligence, physical security to thwart terrorist attacks if intelligence fails, crisis management if physical security too fails, and deterrence through investigation and prosecution. India's preventive, physical security and crisis management capabilities are above average and have produced good results. The weakest link of India's counter-terrorism capability is deterrence through legal action against terrorists and their organisations.

India's investigative and prosecution agencies have to deal with terrorism through the normal laws of the land, which were enacted long before terrorism emerged as a major threat to national security. Certain other powers have been given to the police under the Unlawful Activities (Prevention) Act, but this Act relates to all crime and is not terrorism focussed. The repeated pleas of counter-terrorism professionals that India should emulate the example of other democracies like those of the UK and the US and enact terrorism-focussed legislation have fallen on deaf ears. The Government of India did give special powers to the police under the Prevention of Terrorism Act (POTA), but this Act was abrogated in 2004 in response to criticism from the religious and ethnic minorities. They alleged that the special powers in respect of detention, etc given under this Act were being misused by the police to harass the minorities.

The Indian judicial process against terrorism is very slow. Trials take a long time. The defence lawyers representing the terrorists manage to get frequent adjournments of the trial under some pretext or the other. We do not have adequate legal provisions to prevent intimidation of the witnesses testifying against the terrorists. The judiciary tends to avoid convicting terrorists purely on the basis of circumstantial evidence, however strong and continuous it may be. The result: a very low conviction rate of less than 10 per cent in terrorism-related cases as against 80 per cent plus in Western countries.

In 2002, India passed the Prevention of Terrorism Act, expanding the government's powers in combating terrorism. Some measures, such as the ability to keep terror suspects in custody without bringing them to trial, met with objections, and the law was repealed in 2004 after allegations that officials were abusing their powers. Other counter-terrorism measures have since been slipped into subsequent legislation, though after the recent Mumbai bombings, some Indian politicians are calling for the law to be restored.

Results Achieved by India Through its Counter-Terrorism Policies

There is peace in Nagaland, with a duly elected government promoting the economic development of the state. Only a small group of Nagas from the bordering areas of Manipur has not yet given up arms, but it is observing a ceasefire and negotiating with the government. There has been peace in Mizoram for nearly 20 years now. There has been peace in Punjab since 1995. However, Pakistan has not given up its efforts to rekindle terrorism in Punjab through some terrorist leaders and hijackers given sanctuary in its territory. The Ananda Marg has been dormant since 1995. As the economic and social development of the states affected by Maoist terrorism moves forward, these groups are bound to wither away.In J&K, the opposition has come to power after last September's election and is trying to reduce the alienation of the people and deal effectively with the Pakistani *jihadis*.The Indian Muslim community, despite feeling hurt because of the large-scale anti-Muslim violence in Gujarat recently, has remained fiercely loyal, law-abiding and forward-looking. It has kept its distance from Al Qaeda and the IIF and repulsed the approaches of Pakistani *jihadi* organisations aligned with Al Qaeda.

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THE INTERNATIONAL ASPECT

Intelligence Sharing with Other Countries

Even before 9/11, there were arrangements for intelligence sharing on terrorism amongst the agencies of different countries. 9/11 brought about the realisation that terrorism is an absolute evil, whatever be the cause, and that unless the intelligence agencies of the world network themselves as effectively as the terrorist organisations, they might not be able to eradicate this menace. This has improved intelligence sharing. India's success in bringing Sikh terrorism in Punjab under control before 9/11 might not have been possible but for the valuable intelligence inputs received from the agencies of many countries. Some of the significant successes in different countries against Al Qaeda were apparently possible due to increased intelligence sharing without reservations.

While this is welcome, one has to remember that political considerations

peculiar to each country influence their perceptions of terrorism and this is bound to have an effect on intelligence sharing. Hence, while continuing to benefit from increased intelligence sharing, the important task of strengthening one's own national intelligence collection capability should not be neglected.

Regional Cooperation in South Asia

Regional cooperation in the battle against terrorism has not been as successful in South Asia as it has been in the Southeast Asian region. This is largely because of Pakistan's policy of using terrorism as a weapon to keep the Indian security forces bleeding and preoccupied with internal security duties and Bangladesh's tolerance of the activities of terrorists from its territory. Unless these two countries realise the folly of their policies and actions, which have made their own territories playgrounds for terrorist groups of different hues, there is very little scope for any meaningful cooperation.

India has been facing the problem of Pakistani state-sponsored terrorism for over 40 years and nearly 40,000 civilians and 3,500 members of the various security forces have been killed. This has not prevented India from becoming self-sufficient in agriculture, emerging as a major manufacturing country, developing educational, particularly technological, institutions of excellence the like of which no other Asian country can boast of; becoming the leading information technology software power of the region; and building up a foreign exchange reserve of US $72 billion, which, at this rate, should cross the US $100 billion mark in a couple of years.

India can continue to fight Pakistan-sponsored terrorism for another 40 years and yet move forward on its path of development as a major power in the region. Pakistan, on the other hand, has not had the required funds for educational and social development and for the economic advancement of its people because of its obsessive urge to keep India bleeding through terrorism. In its attempt to lift a big boulder and throw it at India, it is dropping it on its own feet.

Southeast Asian countries have been increasingly affected by pan-Islamic *jihadi* terrorism spawned in *madrassas* and training camps in Pakistan and Afghanistan. Cadres of the Moro Islamic Liberation Front and Abu Sayaaf of the southern Philippines had fought along with Pakistani *jihadi* and Afghan Mujahideen groups against Soviet troops in Afghanistan in the 1980s. The links built then have been sustained. Pakistan's HuM, which is a member of Osama bin Laden's IIF, has been training the Abu Sayaaf group and providing it with arms and ammunition. HuM leaders claim that many of its cadres fought against Filipino security forces along with Abu Sayaaf, achieved 'martyrdom' and are buried there.

In 1998, Abu Sayaaf became a member of bin Laden's IIF. The Jemmah Islamiyah, which has been coordinating pan-Islamic *jihadi* activities in Southeast Asia, is sought to be patterned after the IIF. It is believed to have many cadres of the Afghan *jihad* vintage in its ranks and leadership.Last year, the total number of students from Southeast Asia studying in Pakistan's pan-Islamic *madrassas* was estimated at 400. Some of them had gone to Afghanistan and fought against American troops in order to get *jihadi* experience.The Pakistan branch of the Tablighi Jamaat is very active in Southeast Asia. It ostensibly teaches the Muslims of the region to

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be better Muslims, but actually acts as the front organisation for IIF *jihadi* members for recruiting local volunteers for training and funnelling financial and other assistance. India has a good database on these organisations and their activities and valuable experience in dealing with them. Close interaction between the counter-terrorism agencies of India and the countries of the Southeast Asian region would, therefore, be of mutual benefit.

Counter-Terrorism and the Role of Diplomacy

We make a clear distinction between the counter-terrorism strategy and the counter-terrorist strategy. The counter-terrorism strategy treats terrorism as a phenomenon with political, economic, social, religious and security aspects and tries to find a holistic answer to the problem instead of focussing exclusively on the security approach. We follow this strategy in respect of all domestic terrorist organisations, whose leaders and members are our citizens.

The counter-terrorist strategy treats terrorism exclusively as a threat to national security to be eliminated firmly through the neutralisation of the terrorist organisations and their leaders. This approach is followed against the Pakistani pan-Islamic organisations operating in Indian territory.

In India, the police is the weapon of first resort in counter-terrorism and the army is the weapon of last resort. In J&K and in the bordering areas of the northeast, the army plays a role in assisting or even leading the police because of the problem of trans-border infiltration and cross-border terrorism. In the rest of India, it is the police which is in the frontline of the fight against terrorism.

Even though India records the largest number of terrorist strikes and deaths due to terrorism in the world every year, we have never used our air force or the artillery or other heavy weapons against the terrorists in any part of India. We fight them with weapons which will not lead to a disproportionate use of force and collateral damage. Use of force is resorted to only when unavoidable, and with careful calibration. That is our policy.

India has had a long history of counter-terrorism cooperation with other countries, particularly with the UK, Canada and the US. This cooperation has expanded further after 9/11. A capability has been created in the Ministry of External Affairs (MEA), which is our Foreign Office, to facilitate this co-operation.

Counter-Terrorism, Armed Force and the Laws of War

The standard presumption outlined in treaty law and in the current military policy guidelines is that such people should be accorded the treatment, but not the status, of a prisoner of war (PoW) until a tribunal convened by the captor determines the status to which the individual is entitled. In cases where it is determined that they are not PoWs, there are certain fundamental rules applicable to their treatment, including those outlined in Article 75 of the 1977 Geneva Protocol I. Any prisoner, whether or not classified as a PoW, can be tried for offences, including those against international law, that were committed prior to capture.

There are ample grounds for questioning whether military operations involving action against terrorists constitute either a new, or a wholly distinct, category of war. The coalition operations in Afghanistan, and the larger war against terrorism of which they are a part, are not completely unlike earlier wars. Many forms of military action and issues raised are similar to those in previous military operations, and concern issues addressed by the laws of war. Events in Afghanistan have confirmed that there are particular difficulties in applying the laws of war to anti-terrorist operations. A war that has as a fundamental purpose the pursuit and bringing to justice of people deemed to be criminals involves many awkward issues for which the existing laws of war are not a perfect fit. The use of proxies in an anti-terrorist war risks creating a situation in which major powers are at the mercy of their local agents, whose commitment to the laws of war may be slight.

Despite such problems, treating, or appearing to treat, the law in a cavalier manner risks creating new problems. If a major power is perceived as ignoring certain basic norms, this may have a negative effect in a coalition, or on

enemies. It may also affect the conduct of other states in other conflicts. In that wider sense, the principle of reciprocity in the observance of law retains its value. There has been no serious suggestion that the existing legal framework can or should be abandoned, and no proposals for alternative detailed rules. The existing laws of war, however imperfect, are irreplaceable. Since issues relating to the laws of war arise with great frequency in anti-terrorist military operations, and will no doubt continue to do so in the continuing "war against terrorism", there is a need for greater

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clarity about observance of the basic laws of war, and about the principles to be followed if and when parties consider that specific circumstances justify specific derogations from that body of law.

Conclusion

Government policies on these laws of war issues have evolved in a generally sensible direction. However, neither the government nor its critics have shown a clear understanding of how the laws of war should be applied to military counter-terrorist operations. This is in no small part because the application of those laws is complicated, as a return to the three questions set out at the beginning of this essay shows:

(a) First, according to a strict interpretation of their terms, the main treaties relating to the conduct of international armed conflict are formally and fully applicable to anti-terrorist military operations only when those operations have an inter-state character. Where anti-terrorist operations have the character of civil war, the parties must apply, as a minimum, the rules applicable to civil wars.

(b) Second, in anti-terrorist military operations, certain phases and situations may well be different from what was envisaged in the main treaties on the laws of war. They may differ from the provisions for both international and non-international armed conflict. Recognising that there are difficulties in applying international rules in the special circumstances of the anti-terrorist war, the attempt can and should nevertheless be made to apply the law to the maximum extent possible. This conclusion is reinforced by decisions of commissions of inquiry, a resolution of the UN Security Council, the practice

of some states and considerations of prudence.

(c) Third, the great majority of prisoners taken in war meet the criteria for PoW status laid down in international treaties, and must be so treated if they continue to be held. However, in an anti-terrorist war, as in other wars, there are likely to be certain individuals who do not meet the criteria. Such individuals, for example, members of a terrorist organisation, may present special problems as prisoners, and may pose a continuing threat even after capture, trial, sentencing and release.