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Protection of internal security in India:-challenges and issues

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Abstract

we analysis of recent terrorist attack in Mumbai (26/11, 2008), ten terrorist held the Mumbai to ransom for three long days, killing 166 people and injuring innumerable. After the attack, the state police realized that the situation cannot be controlled by them and requested Center to deploy Para-military forces to tackle the situation. Accordingly, NSG commandos came to their aid ^[1]. This question as to who is responsible to tackle such a situation wherein whole security of nation is under danger has to be resolved. Why there is no solid relation between center and the states regarding security aspects? The loopholes in this area came in handy for anti-social and anti-national factors to initiate and increase their activities. Poor internal security management system in spite of series of terrorist attacks shows the fragile safety measures and inability of the government in protecting the life and property of its citizens. Problem of internal security is not limited to terrorism but many states are surrounded by the problem of Naxalism, North-East problem, outbreak of grave communal riots etc. According to the List II of Schedule VII of the Indian Constitution, protection of law and order is the responsibility of the states, which state government, might not be able to tackle. Unfortunately India is universally branded as a soft state. Since 1947, India confronted with internal security problems rather than National security problems. Internal security problems in India are originated from various sources and influenced by history, geography, colonial legacy.

Keywords: Internal Security, Naxalism, Terrorism

Introduction

Protection of internal security is utmost significant for successfully defending the state from external threats or aggression. Rabindranath Tagore in his writings has said "Where the mind is without fear the head is held high." With due respect to this and to have the nation and its citizens head high, our mission should be to defend the country from external as well as internal aggression. Is India internally secured today? This question is put forth by every individual, men and women together. This only show that the common man is constantly haunted by the concerns about the internal security, he is worried about the lethal effects, terrorism would have on him and his dear ones. Is the present government and administration strong enough to cope up with the challenges, our vulnerable external and internal security has raised?

Let us now take a quick look at the constitutional provisions with respect to the security management. Under our Constitution, "Public order" and "Police" are included in the state list (List II, seventh schedule). As a result, the states have exclusive powers to make laws and to take all necessary executive actions in respect of both the aforesaid subjects for maintaining internal security. Thus in normal circumstances the states are responsible for maintaining internal security within their jurisdiction ^[2].

As regard the Center's responsibility, the Constitution prescribes (Art. 355) ^[3] that it shall be the duty of the Union to protect the states against external aggression and internal disturbances and to ensure that the governance of every state is carried on in accordance with the Constitutional provisions, failing which Presidential rule may be imposed in the defaulting state, till constitutional functioning is restored.

The Constitution also provides (Art.352) for the enforcement of emergency if a situation arises or there is an imminent danger to the security of India as in a War or an armed rebellion. Since long time the system is such that state governments are dealing with matters of internal security. By virtue of Art. 355 of the Indian Constitution, Union Government

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keeps the stock of internal security situation of the whole nation and if required will assist the state governments in case of disturbance in law and order situation.

Union Government is not actively involved in maintaining internal security as matter falls in exclusive jurisdiction of the state government. For intervention, union government requires concurrence from state government. State Government means Police system. The recent terrorist attacks in Mumbai (26/11) have exposed some glaring loopholes in our security apparatus. Requirement of police is not only for the protection of life and property but also to maintain public order. The Mumbai police which once enjoyed the reputation of being the best police force in the country was found ill-trained and ill-equipped to face the terrorist challenge. It is not that Mumbai police was unaware of the attack but they were simply unprepared to face it ^[4]. In post-independence India due to shameful record of handling communal violence, incompetence and resources constraints, the credibility of police as the enforcer of law has greatly suffered. The responsibility of the protection of internal security primarily lies with the police, but it has been so thoroughly politicized that in insurgency-affected states it is hardly a functional force. As per the mandate given under Art.355 and list II (VIIth schedule) there is a separation of power with respect to the Internal and National security, this issue has a vital bearing on the life and security of the people and needs attention. Hence it is necessary to review the roles and responsibilities of the centre and states regarding controlling internal disturbance often spread over several states and it requires delineation through supportive legislations. Central Para-Military Forces are deployed to control "internal disturbance" when requestis made by concerned state governments. Having accepted this system, a serious question arises about our Constitutional structure. "Does federalism by any means weakening India's security management system?"

Object of the Paper

- To analysis various dimensions and aspects pertaining to National Security and internal security in India.
- To study of Centre- State relationship in the area of protection of Internal Security in India

Hypothesis

- Weak internal security endangers National Security.
- There is a need of more elasticity in Centre-State relationship for maintaining Internal Security in India.

Scope of the Research

It is supreme for any Nation specially the one size of India to guarantee security of its territory and people. If this is not in place then other Nations as well as divisive forces like terrorism are encouraged to grow at security foundations of such an insecure state. Today our society is engrossed in terrorism, communalism, separation, unrest and internal conflicts which are hindering in our nation's development. In this research, researcher has made an attempt to study India's overall internal security management system with respects to division of power between Union-State. Researcher discussed following four main problems which area badly affecting India's internal security scenario even though there are many

- Naxalism
- Grave Communal Riots

- Terrorism

Research Methodology

This Research aims to study the importance of protection of Internal Security in India from legal perspective. Choosing an appropriate methodology is essential part of any research study. Doctrinal Method- Secondary data was drawn from various documents such as: Books, Journals, Law Commissions reports, Home Ministry Reports, Books, Articles, literature, Supreme Court Judgment, Law Magazines, Periodicals, research papers etc. To analyze the data researcher adopted content analysis method, descriptive method. To obtain detailed information about the topic researcher has used Historical Approach, Comparative Approach.

Significance of Research

- Analysis of threats to India's internal security.
- Existing arrangements between the Union and States as per the Constitution of India for maintenance of internal security.

Notion of Security: Development

The various kinds of dangers are:

- That which is of external origins and internal abetment;
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 - That which is of internal origins and internal abetment;
- Of these four kinds of dangers, internal dangers should be got rid of first;

For it is the internal troubles, like the fear from a lurking snake, that are more serious than external trouble.

Kautilya, 321-296 BC

Meaning of Security

Security is dynamic concept. In today's date the term has a different meaning and value for scholars, policy makers and analyst from all over the world. In the words of Mahbub- ul- Haq "Human Security is not concern with weapons. It is concern with human dignity" ^[5]. Thus human security is security of the people and also security of an individual.

The security which is available everywhere in homes, at jobs, on streets and environment. Human security develops through humane development. Security of human being and at the same time security of the state is also significant. The state can exceed the limit of legitimacy to indulge in unacceptable level of violence. Thus state became the provider and predator of security ^[6].

Meaning of National Security-

Traditionally national security has been defined as the security of Nation state. This includes protection of its territorial integrity, its sovereignty and its very significant national interests. The more expanded definition includes security for its citizens and advancement of its national interest. The ultimate guarantee of National security is its comprehensive national strength. In National Security mainly the state and its people are protected from external war & threats expected from another Nation or state. Therefore National security casts a duty on a state to protect its territory, borders, and coastal areas from external threatened aggression.

However over the time, the term "National Security" has been broadening. The term "Nation means a group of people

coming from a common stock. A nation represents vast majority of people in a state brought together by an emotional and political forces known as nationalism which is a product of various cultural, religious and sociological factors.” [7] Providing security to all these factors is implicit in National Security.

According to Morton Berkowitz and P.G. Bock, “National security can be most fruitfully defined as the ability of the Nation to protect its internal values from external threats.”

[8] However this definition falls short of a comprehensive approach to national security. The concept of security has to involve the perseverance and perpetuation of the core value i.e. democratic political set up, secular state, socialism, nature of the state, attainment of egalitarian society, maintenance of internal peace and security and economic development and progress.

Hobbes on Security

The Hobbes whole point of political activity is security. “It is for the sake of security-security against each other, and security against outsiders-that we set up a sovereign. It is the drive for security that leads us to give up our natural liberty and submit to the sovereign command. It is the exigencies of security that determine the scale, level, duration and quality of organization that is requisite in political realm.” [9]

Marxian view on Security

“According to Marx, the split between society and the state to spread of secularized security is the guarantee of egoism of civil society. A struggle for power, which necessitates the security of states. According to Marx the power struggle is not permanent condition it is historically and class specific, and once contradiction between a social production of wealth and private exercise of power comes to in dialectical resolution the state would become absolute and with it security dilemma [10].”

“Does Federalism by any means weakening India’s Counter-terrorism measures?”

Role of the Union in maintaining Internal Security with special reference to Art. 355 of the India Constitution-

While drafting the Constitution of India, the frames were conscious about the fact that in Indian Sub continentals there are people with immense multiplicity, socio-economic inequality and innumerable people with divided fidelity, hence the security of the nation and stability should not be taken for granted and should not be comprised. Therefore at initial stage only, they thought of the situation of grave emergency and expected that the Union must have adequate powers to deal quickly and effectively with any threat which poses threat to security of the nation. The drafters expected that Union shall have overriding powers in case of violent disturbance which may paralyze the administration of the state and having direct effect on Unity, Integrity and Security of the Nation. Therefore Drafters of our Constitution have introduced the provisions like Arts.352, Art 356 and also Art. 355 in the Indian Constitution. Art. 352 and Art.356 deals with extra-ordinary situations where total constitutional machinery failed or there is a threat to the unity and integrity of India. Art. 355 was incorporated in the Constitution with a view to assign role to the Union in case of internal disturbance. Art. 356 confers extra ordinary powers on the Union to deal with the Constitutional breakdown in a state whereupon all functions of the state government may be assumed by the Union Government.

Cumulative effect of these provisions is that there is unmarked division of power between Union and State with respect to National Security and Internal Security. Often Union government carries the responsibility of National Security and as the subject of Public Order and Police falls within the state list, state governments are responsible for maintaining internal security. If we go by Constitution, “Public Order” and “Police” are included in the State list (List II, Seventh schedule). Hence for maintaining internal security state governments are responsible. Art. 246 (3) confers power to make laws and to take all necessary executive actions. Thus in normal circumstances state governments are responsible for maintaining internal security. As regards to the Union’s responsibility, Constitution provides Art. 355

Art. 355 of the Indian Constitution It shall be the duty of Union protect every state against external aggression and internal disturbance and to ensure that the government of every state is carried on in accordance with the provisions of this constitution.		
Maintenance of Public Order and policles in state list	Lack of Central agency to deal With internal disturbance	State government is unable to handle Challenges on its own

Recent threats to India’s Security: Problems and issues

This paper highlights the effects of Terrorism, Naxalism and damage caused in various parts of India. These contemporary threats cause human loss, destruction of property and create the atmosphere of lawlessness in the society. This chapter brings forth the fact as to how deep rooted is the problem of terrorism, Naxalism in India.

Presently the problem of terrorism has not swallowed these regions only but it has also hit the other parts of country like Delhi, Mumbai, Bangalore, Hyderabad etc. Till date there is enormous loss and destruction of the property. Many Indian citizens have lost their lives in cross firing, fake encounters, disappearances besides the incidents of rape, molestation and blaze. Due to continuous tension extra ordinary laws in

force also contributed the acts of atrocities and excesses in Jammu and Kashmir.

To deal with the problem of terrorism is not easy job. What is more shocking is that terrorists are more aware about how to attack in places where they can cause more damage and loss of human life. In today's date India is emerging as an economic super power hence, it is targeted to make it weak. Scholars have identified two reasons for terrorist's activities in high tech centres.

1. **Stop investors:** They are sending signal on an international level that India is not safe place for investors.
2. **Lack of Security:** Security is not as tight as it could be.⁸⁴

In last 25 years 5 different types of terrorism emerged in India out of which the most significant is • Cross border insurgency from Pakistan and Bangladesh which took place in 1980,

- LTTE problem in South,
- The problems in North-East disturbed area and
- Maoist activities spread in different parts of countries.
- Communal Violence

Number of civilians who have lost their lives due to terrorism is 62, 221, a figure almost 6 to 7 times more than those who have lost their lives in conventional wars. The security personnel killed in various terrorist action is again over 9000. The total amount of money spent and this does not include the amount spent on our security forces, army and so on, on merely relief and rehabilitation, on special paramilitary forces that we deploy for anti-insurgency the figure now crosses Rs.45.000 cores^[11]

Since early 80's there is 26% increase in budget on agencies fighting with terrorism. Strong and anti-terrorists measures and methods which are adopted as a part of counter-terrorism are not very successful. Here it becomes essential to study reasons behind the growth of these problems. Roots of terrorism are found in the history of India's struggle for Independence^[12].

Observations of finding work are mentioned below-

1. There is lack of strong political will to improve internal security condition in India.
2. Technology and infrastructure wise India is not prepared to deal with problem of terrorism and naxalism.
3. Corruption and due to support of local people, the problem of terrorism & naxalism is aggravating day by day.
4. Union and state should work in co-operation and co-ordination to deal with internal security problems.
5. A political decision influences the decisions of Arm forces.
6. State Government needs more financial assistance from Center to upgrade infrastructure.

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