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# THE INDIAN POLICE JOURNAL



## Counter-terrorism



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Counter-terror policy world over has come a long way since its being bracketed with 'us vs. them' immediately after 9/11. There seems to have come a consensus regarding terrorism: A terrorist is a terrorist, an act of terrorism is terrorism, nothing else, no justification whatsoever it is. The binary of 'us vs. them', 'freedom fighter vs. terrorist', 'Good vs. bad terrorist' 'root cause vs. politically correct one's' have been reconciled; and an inclusive approach towards counter- terrorism seems to have found favour among the comity of nations.

India has been no exception to this phenomenon, and various stakeholders of internal security and policing have firmed up their responses to terrorism. Despite the policy makers making their intent of 'zero-tolerance' towards terrorism clear, the counter-terror initiative has been unable to prevent sporadic acts and incidents of terror. There is no doubt that we have come a long way out the days of 'knee-jerk reactions' and 'adhocism' that used to characterize our approach towards terrorism. Moreover, terrorism in India has more or less been the cause and effect of some states pursuing terrorism as an instrument of foreign and domestic policy.

Nevertheless, there is more in this respect that is required to be done. That is what Shri Jayanto N. Chaudhary, IPS, seeks to make out in his paper, 'Not by Guns Alone': Soft Issues in CT Strategy'. "Counter-insurgency (terrorism) doctrine must be 'people-centric' and ethical issues need to be resolved, so that security forces have clear rules of engagement. The adequacy of the criminal justice system to deal with terrorism needs review; more research into anti- terrorist efforts is required. So that technology matches local requirements and broader partnership with the corporate world and academia needed to identify appropriate technology."

There is no doubt that counter-terror strategy must include 'soft issues'. However, contrary to widely held view that 'root causes' to terrorism such as socio-economic equality, poverty, hunger, political, social religious issues should get primacy over security to the populace, there has emerged a widely accepted view that these are not sufficient for tackling the terrorism. There must be credible counter-terror initiative based on security parameters and the monopoly of force by the State.

Shri Harpreet Singh Sidhu, IPS, in his well-researched paper, 'State monopoly over Legitimate Forces and Solution to Terrorism' vouches for a stable security environment with complete State monopoly over violence for strong counter-terror policy. "Unfortunately undue emphasis on these 'root causes' sometimes obscures the vital security factor and detracts from the need to provide a security environment. Complete State monopoly over violence is the essential first step and foundation of all counter-terrorism measures, including those based on 'politically correct cause.'

Dr. Bibhuti Kalyan Mahakul, in his paper, 'Politics of Terrorism' traces the 'root causes' of terrorism, which are national oppression, inequalities, national liberation, revolt of national minority communities, identity crisis, religious and racial differences and regional imbalance. Unless these 'root causes' are tackled effectively counter-terror policy could not deter the acts of terrorism.

Shri Dhruva Gupta, IPS, through his paper, "Bastar: An Asymmetric War' points out that balanced approach toward terrorism/insurgency/left wing extremism would be an effective counter-terror policy. "The security personnel therefore must concentrate in the domain of specialization the urban areas and be aggressive. Development as a tool of warfare would bring adequate results useful only when it is supported by the correct security framework."

Shri Shashi Kant, in his paper, "Thematic Perspective on Terrorism: Definition Perplexities and Conceptual Ambiguities" emphasizes the importance of having clear perspective and unambiguous attitude towards terrorism for tackling and containing it effectively. He delineates the need of having convergent views on terrorism without any ambiguity. Only then a credible counter-terror policy could be put into place.

Ms. Rosy Tripathi & Dr. Nidhi Saxena, in their paper, "Need for Reform in Internal security' underlines the need and urgency of introducing reform in internal security setup of the county, to tackle terrorism effectively.

In the paper titled, 'Use of Information Technology in Tackling Terrorism,' Dr. Tappan Chakraborty underscores the importance of information technology in containing terrorism. Use of information technology must be factored in evolving a credible counter-terror policy.

Apart from these, the community policing and state-of-the-art forensic facilities & techniques should be given equal importance in formulating an effective counter-terror policy. That is what Shri Sankar Sen, IPS (Rtd.) and ex- Principal of National Police Academy, Hyderabad and Prof. J.D. Sharma, HOD, Dept. of Criminology and Forensic Science, Dr. H. Gour University, Sagar vouch for in their papers, 'Future of Community Policing,' and 'Narco-Analysis: A Critical Evaluation' respectively.



(Gopal K.N. Chowdhary)  
Editor

# Not by Guns Alone

## 'Soft' Issues in CT Strategy

Jayanto N. Choudhury\*, IPS

### Keywords

Terrorism  
Cost-effective Weapon  
'Hard' Measures  
Asymmetry  
'Soft' Issues  
Hearts and Minds  
Rules of Engagement  
Legitimacy of Militias  
Criminal Justice System  
Broader Partnership with  
Corporate World and Academia  
CT Security Architecture  
Strategic Approach  
AT Capabilities

### Abstract

*The Tandava of terrorist violence has affected every corner of India killing 20,000 civilians in the past decade. Both Maoists and Jehadis find terrorism a cost-effective weapon to discredit the Indian State. The common reaction to any terrorist strike is to take 'hard' measures overlooking 'soft' issues, which increase existing asymmetry against terrorist adversaries without increasing CT capabilities.*

*Counter-insurgency doctrine must be 'people-centric' and ethical issues need to be resolved, so that Security Forces have clear Rules of Engagement. The adequacy of the Criminal Justice System to deal with terrorism needs review. More research into anti-terrorist efforts is required, so that technology matches local requirements and a broader partnership with the corporate world and academia needed to identify appropriate technology.*

*CT security architecture should be formulated after evolving strategy needed against different terrorist threats, and organization and skills developed accordingly. Increasing AT capabilities of the State Police will ensure effective first-response, with the Centre formulating a National CT Strategy and systematically developing CT capabilities. Containing terrorism is necessary for India to achieve its destiny as an economic superpower.*

**T**HE deadly Tandava of terrorist violence has killed 20,000 civilians in India in the past decade alone. All corners of India have been affected; from the idyllic beaches of Goa to the sub-Himalayan heights in the North-East, from dense forests of the Central Indian Plateau to Sriperambudur in deep South. Parliament House is one of the national icons attacked by a suicide squad. The multiple Mumbai attacks launched from Pakistan by a gang of 10 terrorists on 26/11, killed 166, destroyed property worth thousands of crores and shocked the world watching the 60-hour drama unfold on live TV.

The motivation and objectives of these merchants of death vary, ranging from ethnic separatism or religious extremism, to revolutionary political-economic ideology. Maoists operate in classical insurgent

*Author Intro. :*

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style in rural and forest areas targeting Security Forces, using terror tactics against 'class enemies' and seeking to create a political and administrative vacuum while consolidating control over the local people. Jihadis are undiluted terrorists - targeting India's economic, social and political icons, they are indifferent to 'collateral damage' in fact seeking public mayhem not public support, by provocative and spectacular attacks, usually indiscriminate explosions or Fidayeen attacks in India's cities. If at all, Jehadi terrorists have an operational aim, it is to aggravate communal fault-lines and negate the country's global image as an economic powerhouse and a stable, composite society. The ultra-Left claims inspiration from international prophets of class revolution like Lenin and Mao, but have no obvious foreign links for operational guidance, logistics or training though there are similar movements in India's neighbourhood. Jehadi outfits have clear links abroad - earlier foreign terrorists were used and purchased support from the Indian underworld. Today, these foreign Non-State actors seek to cause communal disaffection and shake the image of a resurgent India, inducting educated Indian Muslim youth as a deliberate strategy to ensure deniability of foreign links. The only common factor is that both Maoists and Jihadis find terrorism a cost-effective weapon to discredit and challenge the Indian State.

The response to different terror threats will need to be separate at both strategic and tactical levels. The common reaction to any terrorist strike is to upgrade 'hard' measures: establish new anti-terror forces, acquire more hi-tech gizmos and weaponry, and consolidate supranational platforms or 'unified commands' to improve coordination of intelligence and armed response. Paradoxically, this only increases the existing asymmetry against terrorist adversaries, who operate in loose networks and whether they use modern weaponry and satellite communications or an improvised arsenal and couriers, depend more on mobility, anonymity and surprise, for leverage against the Leviathan state.

This article proposes to focus on 'soft' issues often overlooked in formulating a doctrine that is the first step in strengthening CT capabilities.

### Public Support

Winning 'hearts and minds' is an axiom of classical counter-insurgency doctrine - instead of being

'terrorist-centric', the recommended approach is to be 'people-centric', because support of the population is the centre-of-gravity for both terrorists and the Government. The terrorist's objective is to reduce public confidence in Government, by generating fear and by indoctrination, often manipulating public opinion through Media and civil society, and in today's cyber-age, via the Internet and social networks. Perceived grievances whether neglect and exploitation of tribal communities or injustices against Muslims are used to whip up anger against the State in misguided minds and create an 'us versus them' way of thinking.

Countermeasures need to be devised that maintain public confidence and ensure that the brutality of terrorists and their retrograde violence creates public revulsion. Restrictions, such as a ban on Media coverage and focusing action mainly on 'fellow travellers' or those involuntarily forced to fund and provide shelter to terrorists need to be carefully calibrated to avoid backlash. There are still those who think that punitive action is the only way to deter public support to terrorists. Similarly, there are those who believe that committing resources to development is a waste since without a positive security environment in affected areas this is simply siphoned off by the ultras. On the other hand, global experience has repeatedly shown that indiscriminate harsh actions against affected communities is counter-productive and that when the objective is to cripple governance and create a vacuum of mainstream political activity, withholding development efforts merely serves the guerilla objectives - "development without security is hostage to insurgents; security without development provides little incentive to support the Government".

Therefore, CT strategies to build up public confidence in the Government need to look at not just the armed response, but find ways to ensure governance and provide security to the people when a terrorist group tries to disrupt normal functioning of society. Only then will citizens accept the restraints required on individual liberties and have the confidence to defy the terrorist diktat. Another aspect of public outreach is to enlist the public in the counter-terrorism effort; creating awareness that it is not just security organizations, but the responsibility of every patriotic citizen to combat terrorism, and all talents and resources of

society must be harnessed for this. The ideal is the recent case when the father of Nigerian Umar Farooq Abdulmuttalib (accused of trying to blow up a US passenger jet) had warned authorities of the dangerously radical beliefs of his son.

Large-scale corruption in tribal areas is held to be a major cause for the discontent that is a breeding-ground for Maoists. Again, corrupt officials have enabled purchase of fake IDs and facilitated free movement of Jehadi terrorists and weapons across borders. Counter-terrorist strategy rarely gives any attention to this aspect usually treating the situation as purely a law-order problem to be dealt with by effective use of force. Other Government Departments often feel that it is the job of the police alone to counter terrorists. For example, in Maoist areas, the Forest Department or Block Offices have a wide interface with the people, but shy away from involvement in the effort to counter-militancy even if only by vigorously taking up development schemes in affected areas and winning public support by addressing specific grievances. Similarly, Customs has a wide network in areas straddling international frontiers, but perceive its role only to enforce and facilitate the trade regime. In an age where 'precursor' crimes like drugs trade, smuggling, human-trafficking and FICN are piggybacked by terrorists, this narrow approach denies the CT apparatus of potential punch available if other parts of the Government also throw their weight behind this effort.

If civil society has a role in protecting human rights and exposing corruption, it has an equally important role in preventing radicalization of youths by terrorist talent-spotters and in working to reduce alienation. The community needs to be enlisted in the broader counter-terrorism effort, addressing root causes that enable terrorists to thrive. At the same time, specific anti-terrorism precautions need to be evolved to safeguard local communities and encourage each citizen to stand up even covertly against those, who use terror to achieve their aims.

### Ethics

It is imperative for Governments to retain the 'high moral ground' vis-à-vis terrorists. This is difficult, especially when terrorists commit particularly brutal acts against the ordinary civilian or Security personnel. An issue that often comes up in formulating CT strategy is the ethics of targeting

specific terrorist leaders. The approach of Israeli Security Forces is interesting - many of their CT experts literally follow the Talmudic precept "if he comes to kill you, kill him first". In fact Israeli CT doctrine holds that targeting terrorist leaders is acceptable provided certain conditions are met - arrest is not possible, targets are identified as future threats, civilian casualties are minimized and each such action is approved by responsible levels in Government above the Armed Forces. These conditions form a framework for Rules of Engagement for the special units entrusted with such actions. Targeted killings are intended not as punishment or revenge for past actions, but only to prevent further killings. The acceptable "collateral" damage of civilian casualties in such actions has been estimated by some mathematically-inclined CT experts in Israel as about 3.5 civilians per dead terrorist!

Another ethical issue is support to anti-guerilla militias that are outside the formal Government machine; either surrendered terrorists, or locals, who are anti-militant for personal or ideological reasons. Civil society views these vigilante-type groups as inevitably degenerating into 'death-squads' that commit crimes similar to the terrorists with the implicit patronage of the Government. In fact, representation of affected communities is disproportionately low in SF that spearhead the CT effort, not because of any deliberate policy of discrimination, but because of cultural and historical factors and as an unexpected outcome of raising educational standards for recruitment. These are communities, which are low in formal schooling, but wise in the ways of their own culture and environment. Finding ways to legitimize such militias and embed them with regular SFs would greatly increase local AT capabilities. Amnesty and rewards programmes are also linked to this since critics question encouraging those, who have committed crimes and the morality of offering bounties.

### Rule of Law and Criminal Justice

A major dilemma in counter-terrorism is that normal rules of evidence are difficult to apply in prosecuting arrested terrorists; longer periods in police custody are needed to ensure follow-up of operational leads and the prolonged trial process works counteracts the impact of gaoling terrorists. The usual legal standard of evidence



for prosecution - 'beyond reasonable doubt' is rarely obtainable and 'probable cause' before arrest is often unavailable. How then can Security Forces comply with the Rule of Law and avoid the extrajudicial 'encounters' that have provoked the ire of Judiciary and civil society? Some courts in India have now ruled that any case of an encounter killing must be registered as a case of murder against the Police personnel involved. It is, therefore, vital to frame legally defensible Rules of Engagement that provide the Police and SF with clear guidelines on use of force against terrorists since protection of human rights is as much a global concern today as countering terrorism.

Most liberal democracies faced with a terrorist challenge enact special laws that allow prolonged detention of terrorist suspects and relax standards of evidence required. Separate courts are set up to ensure speedy and secure trials and special detention centres to ensure better security and prevent radicalization of other jail inmates while opening up possibilities of reforming detainees. While some States in India have introduced 'surrender' schemes and 'ceasefire' camps for militants, this aspect needs to be better addressed, since special laws are often perceived to be misused in the absence of adequate oversight mechanisms and trials drag on for years with little cognizance of the different standards of evidence needed. In the absence of a clear corrections policy for terrorist detainees, jails often act as finishing schools for the terror network and recidivism is almost certain after release.

## Technology

The current CT approach in the West encourages the use of sophisticated technology which is usually expensive; the problem for us in India is to choose from the huge array that is marketed, most of which are designed to function in a very different environment. Clarity in methods to evaluate technology is needed, so as to procure the most suitable with given resources. The problem with buying expensive equipment is that once a huge investment is made, there is reluctance to switch or upgrade technology as newer products are developed. Similarly, more resources need to be applied to research into anti-terrorist efforts, so that technology matches local requirements.

The corporate world has developed State-of-the-art technology applications that can be

adapted for security needs, such as in managing huge volumes of data, using simulation software for training or even equipment like BP vests better suited to our conditions. Corporate icons cannot expect an effective security perimeter by merely strengthening physical barriers, increasing security guards and installing complex protection systems for individual units; there has to be a broader partnering with academia and the Governments' security apparatus in identifying needs and appropriate technology, and then encouraging innovation, so as to ensure a multi-layered protective system.

## National CT Strategy & Architecture

Each major terrorist incident results in the creation of yet another force, agency or a supra-coordinating body. In a federal polity like India, we are still grappling with the search for an appropriate organizational model at the highest levels that will enable us to coordinate centrally while acting locally. After 9/11 in the US, the Bush Administration created the mammoth Department for Homeland Security bringing under one umbrella, 22 agencies perceived to have a role in denying terrorists' access to the US or responding to an incident; these range from customs, immigration and border security to TSA (Transportation Security Agency), Coast Guard and the FEMA (Federal Emergency Management Agency). The Jury is still out on whether this has led to better coordination at the Federal, State and local levels, though the absence of any further terrorist strikes is seen as proof of success.

This effort was aimed to reduce the 'stove-pipe' functioning of multiple Federal, State and local agencies. It also formulated an overarching post-9/11 National Strategy for Homeland Security for the US that articulated the national response to a defined terror threat as: preventing terrorist attacks, reducing vulnerabilities, minimizing damage in the event of an attack and ensuring a speedy response. The proposed architecture for Homeland Security was formulated after articulating the security threat and the considered response at both strategic and tactical levels.

In India, CT security architecture will also need to take account of the different terrorist threats. Is centralizing intelligence databases, and creating elite units armed with sophisticated weapons the answer? The Americans found out at great cost

in Vietnam and are rediscovering in Iraq and Afghanistan that there is no substitute to increasing capabilities of local forces and winning the support of local population. Taking account of the two major terrorist threats India confronts, what then is the most appropriate response?

Under the Constitution, the States of the Union are responsible for law and order. This is not just a philosophy of governance, but was adopted by our Founding Fathers for practical reasons. The first-responders will always be the local police and it makes sense to ensure that the AT capabilities of State Police reach required standards. States like Andhra Pradesh have shown what can be achieved given a clear doctrine, selected leadership, suitable organization and well-designed training. The Centre can help with establishing and ensuring standards against which States can benchmark their AT capability. CT Manuals that provide guidelines on the operational and tactical response to the different terrorist threats will help define basic AT competencies expected and common matrices to evaluate levels of preparedness and response capabilities. The Centre can play a key role in identifying suitable equipment and weaponry and providing training resources. In States where it is difficult to ensure continuity of tenure, a modification of the Rashtriya Rifles model can be considered, with entire units of State Police deputed as a formation to the CPFs to be trained and to serve for fixed tenures as an AT strike force. The Andhra experience has shown that tactical intelligence-gathering against Maoists is also best done by dedicated units of the State Police. In the case of Jehadis, central agencies will need to play a key role in trans-border intelligence and interstate coordination. But, an effective first-response capability will still be by the affected city or State Police. Other ways in which Central Agencies can support State counter-terrorist capabilities are to help identify vulnerabilities in defence schemes even pointing out weaknesses in inter-agency coordination, and by systematic security audits using outside experts. Use of 'red team' techniques in which trained teams look for vulnerabilities from the perspective of terrorists and weaknesses in response plans could also help States streamline their efforts. Particularly in Maoist-affected areas, the spread of the extremist's influence is perceived to be because of the inadequacies in governance. Today, the Central Government is funding development and social

schemes worth tens of thousands crores in such areas. Giving CT forces the capabilities to evaluate actual work done and where necessary, skills to implement such schemes for locals would be a force multiplier worth several Battalions of Armed Force. It's no surprise that experts have held that 'the shooting side of the business' is not the most important and that effective CT is more like "armed social work".

### Effective Response

A characteristic of terrorist strikes is their ability to achieve surprise; either by striking at unanticipated targets or using innovative methods. Terrorists are able to choose the time, place and method of attack. They are highly mobile and familiar with the area of attack either by detailed reconnaissance or by enlisting locals. Anonymity is their shield. On the other hand, the security response is usually predictable and often awkward, typically a function of deploying additional force from outside, equipped with advanced technology and sophisticated weaponry, but at the cost of agility. Moreover, the approach is often bureaucratic and routine, reacting to individual intelligence inputs and terrorist actions.

The State in India already has an overwhelming superiority in manpower, weapons and resources over combined resources of all terrorist groups. Central and State Police Forces are estimated to have over 2 million personnel. Therefore, simply increasing these factors is unlikely to achieve greater success. Similarly, pushing up technology levels by itself achieves only a short-term edge. Helicopters can be shot down; MPVs can be reduced to coffins simply by increasing the quantum of explosives used in IEDs.

For better results against the more agile terrorists, it may be necessary to mirror their organizational paradigms and work in smaller highly-trained teams that can operate with stealth and speed, whether in an urban environment or in the jungle. In anti-terrorist operations, simply deploying more manpower often fails to achieve desired outcomes, whether the aim is apprehending specific gangs or terrorist leaders, responding to a terrorist strike or restricting terrorists' manoeuvre and protecting populace. When formulating a counter-terrorism grid appropriate to a given situation, more attention needs to be paid to factors often overlooked; like terrain, potential terrorist targets, routes, ambush

positions, population centres and even minor ones like water-points in jungle areas. 'Actionable' intelligence is crucial, but experienced shikaris know that only by understanding the pattern of movements of the quarry is success achieved. Rather than reacting to every terrorist incident or aiming for generic 'area-domination', the approach needs to be more proactive with tactical objectives focused on specific outcomes like apprehending top leaders or laying of ambushes on those routes and locations that terrorist gangs use more frequently.

### Organization & Skills

It is simple to think of the hard skills required for anti-terrorism forces. The usual 'commando' type training increases physical fitness and aspects, such as marksmanship while imparting field craft to Security Forces. However, it is necessary to look at other aspects to increase capabilities against terrorist groups. At the highest levels, the security architecture of the States can be reviewed as part of the Police Reforms mandated by the Supreme Court, taking account of current problems. But, transformation of higher leadership has to move far beyond these reforms. The security leadership itself has to think in more strategic terms and be aware of the hard lessons learnt in the past, so as to plan CT campaigns comprehensively, rather than as reactive action-plans to specific incidents or threats restricted to only deployment of force. At the same time, there are constraints in the management of Police Departments in many States that cripple CT capabilities. An objective look is needed into organizational changes, so that the police have the internal 'software' to meet these challenges.

At field levels, basic systems like the 'beat' that have fallen into disuse in many cities need to be revived and strengthened to meet today's requirements of public outreach. The functioning and strength of Police Stations needs to be reviewed, so that first-response can become more effective. The present structure and capabilities of specialist armed units in most States needs to be urgently revamped to achieve basic AT competencies. Personal qualities of courage and commitment have been displayed time and again by policemen, who have made the supreme sacrifice against terrorists. What is needed is to work out organizational structures that ensure creative CT tactical planning and skilful execution; that use SOPs as guidelines

not gospel. 'Big battalions' are not necessarily the most suited to this new generation of armed conflict where suitably-trained small units led by bold and tactically competent junior leaders may get better results than saturation deployment and unrestrained firepower. The current emphasis on the 'strategic corporal' reflects the importance of actions of junior-most leaders on the overall situation. At ground level, forces deployed must not only be trained to be tactically innovative, but be aware of the nature and capabilities of both the terrorist adversaries and knowledge of the culture and social structures of affected population.

### Conclusion

Terrorism seeks to create the image that our country is unsafe to live and work in. Unlike other national security challenges that may need the investment of tens of thousands of crores to buy state-of-the-art weapon systems for air, land or sea warfare, qualitative improvement in existing manpower and better organization is more important to an effective response to the terrorist threat. Training has to incorporate, both armed tactical skills and "non-kinetic" aspects of CT. At higher leadership levels, there needs to be an understanding of the limits of force, acceptance that there is no 'silver-bullet' and that an effective response will need to be more holistic, often using more brain than brawn. The CT effort will need to counter the terrorist aim to destroy public confidence and to provoke decision-makers into endorsing harsher measures or conversely, willing to 'buy' short-term peace at any cost.

In terms of a road-map to incorporate 'soft' issues, some suggestions are:

- Establish a CT Strategy Group that spells out the main Terror Threats and Priority Areas that need to be addressed. In a complex polity like India, 'unity of command' is a chimera and even 'unity of effort' is difficult. The objective should be to achieve a common understanding of the 'conflict eco-system' and mechanisms needed to work together within a common strategic framework. Capabilities of armed response, protection of critical infrastructure and intelligence are vital, but there is need for a broader perspective to identify other factors that could work as force-multipliers; weaknesses within terrorist movements that are rarely the monoliths



perceived, initiatives that deny safe-haven in neighbouring countries, reduce the pains of development on traditional societies while ensuring benefits of modernity, review adequacy of the Criminal Justice System, improved border-management or better managed public perceptions. Thereafter, a National CT Strategy can be evolved that articulates objectives in each identified priority area and provides clear guidelines on how these are expected to be achieved.

- Set up a CT Task Force that within the framework defined by the Strategy Group looks at specific weaknesses in CT capabilities, both at strategic and tactical levels in Government of India and affected States and suggests remedies. This should not just be issues relating to force, technology, training, coordination mechanisms and intelligence competencies, but also the 'non-kinetic' issues in terrorist-affected areas, such as specific grievances that need to be addressed to ensure public support or concrete ways to enlist the larger Government machine, including political leaders in the CT effort.
- Create a CT Mission with a non-lapsable corpus fund that provides funds and sources expertise for improving CT capabilities based on the recommendations of the Task

Force. Pilot projects in the States down to administrative block/company (armed unit) level can be supported that encourage creative innovation at the tactical level and, if successful, can be spread as 'best practices' elsewhere. Funding research in areas identified as critical to CT capabilities could also be taken up.

To be effective, these bodies need support from the highest political and administrative levels, but must be cross-disciplinary in composition and ensure appropriate representation or inputs not just from affected States, but from fields like the Media, corporate sector, academia and even NGOs. The Strategy Group will need to complete its work earliest, and the CT Mission could remain for 4-5 years. A non-partisan Parliamentary Committee would be best suited to provide oversight for this effort, while educating a broad spectrum of political leaders to the CT effort.

21st century India is a potential economic superpower. Terrorism and Corruption are the two obstacles to achieving this. If we are to achieve our destiny, both these constraints need to be contained without sacrificing our democratic polity or being crippled by colossal security expenditure. And it can be done; with careful diagnosis, clarity of purpose and systematic organization of effort. ■

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# State Monopoly over Legitimate Force and Solutions to Terrorism

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## Keywords

Monopoly State  
Non-State Actors  
Stealth and Violence  
Supportive State Monopoly  
Failed States  
Authoritarian State  
Instrument of State Policy  
Counter-terror  
Root Cause  
Weak State Monopoly  
Weak Minority  
Strong Majority

## Abstract

*This paper seeks to study the relationship of State Monopoly over Legitimate Force and Solutions to Terrorism. It examines a weak, inefficient and ineffective State monopoly as a necessary cause of terrorism and considers it alongside popular 'root causes', such as poverty, illiteracy and lack of democracy. It further investigates whether the nature of solutions to terrorism is primarily determined by the status of State monopoly. It finds weak State monopoly to be a necessary cause of terrorism and its status the principal determinant of the nature of the solution or 'ending' to terrorism. Resultantly, counter-terrorism policy must be based on an efficient and effective State Monopoly, tempered by safeguards, that provides 'human security' to the population. While the study is based on an international perspective, it shall assist us in recognizing effective and efficient State monopoly as the foundation of a stable solution to terrorism in India.*

*The issue of 'root causes' of terrorism and their removal has greatly influenced the debate on methods used to tackle terrorism. The widely-held view has been to consider the provision of security to the populace as secondary to the removal of 'root causes', such as social inequity; economic deprivation, political, ideological and religious issues. Colloquially, I term these as 'politically correct' causes which, the world over, find favour with most policy-makers and the Media. Tackling these issues is certainly of importance for counter-terrorism policy, however, as this study proposes to examine, these measures may not provide sufficient solutions to terrorism. Unfortunately, undue emphasis on these 'root causes' sometimes obscures the vital security factor and detracts from the need to provide a security environment, wherein the State alone exercises monopoly over legitimate violence in a given territory. This study argues that a stable security environment with complete State monopoly over violence is the essential first step and foundation of all counter-terrorism measures, including those based on 'politically correct' causes. It examines the lack of State monopoly over legitimate force as both a root cause of terrorism and also as the determinant for the nature of solutions to terrorism. The study is based on an international perspective, but is likely to provide valuable inputs for counter-terrorism policy in India.*

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## Definition

Max Weber (1919) observed:

*"....Today, however, we have to say that a State is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory.... Specifically, at the present time, the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the State permits it. The State is considered the sole source of the 'right' to use violence."*

This statement underscores the fundamental nature of the Modern State as possessing monopoly over legitimate physical force in a given territory (hereinafter State Monopoly), which distinguishes it from other human socio-political structures, communities and organizations. From this description of state monopoly springs its distinctive relationship with terrorism.

While there is no unanimity on the definition of terrorism (Ganor, undated) Wilkinson's definition (2007:4) captures the crux of most individual definitions and defines terrorism as violence that is-

*"...premeditated and designed to create a climate of extreme fear;*

*...directed at a wider target than the immediate victims;*

*...inherently involves attacks on random or symbolic targets, including civilians;*

*...considered as 'extra-normal' in the society where it occurs and in the literal sense, it violates the norms regulating disputes, protest and dissent;*

*...used primarily though not exclusively to influence the political behaviour of Governments, communities or specific social groups."*

Wilkinson (2007:6) describes terrorism as a method, an 'activity or a weapon system' that is used by a variety of Non-State groups and Governments. Concisely put, terror is a use

of violence against non-combatants primarily for political aims. Terror groups are usually a weak minority using 'stealth and violence' to dominate a strong majority (Clutterbuck, 1975: 149). Terrorists do not require mass support for conducting operations with most terror groups comprising minute numbers (Wilkinson, 2006:204). Terrorism is 'use of or a threat of action' designed to influence the Government or to intimidate the public for the purpose of advancing a political, religious or ideological cause (UK Terrorism Act, 2000). Donald Black states 'pure terrorism is unilateral self-help by organized civilians, who covertly inflict mass violence on other civilians' (2004:10-11).

This study focuses on terror groups rather than individual terrorists. Earlier research on terror groups (Richardson, 2006, Abrahms, 2006) reveals their remarkable capacity to adapt to counter-terrorism measures and evade them successfully (Kilcullen, 2009, Burke, 2007, Sageman, 2004, 2008, Wilkinson, 2006). Consequently, counter-terrorism policy and measures against terror groups must be constantly updated (Kilcullen, 2005, Riedel, 2008). This study examines insurgencies alongside terror groups since insurgencies employ terror and while planning or executing terror crimes, they function as terror groups. Significantly, Kilcullen (2005:11) observes:

*"....Terror is used by virtually all insurgencies and insurgent objectives (that is, a desire to change the status quo through subversion and violence) lie behind almost all terrorism."*

Effectiveness of State monopoly vis-à-vis terrorism is indicated by three types of State capacity (or incapacity) to provide security in its territory. First, is the efficient and effective State monopoly where the State ably protects its citizens and prevents terrorism. Second, where monopoly does exist, but it lacks the desirable level of efficiency and effectiveness. Thereby, it provides weak and less than optimum security. Third, where the State has lost monopoly and/or it has been usurped by other States or parastatal structures established by Non-State actors, including insurgents and

This paper is a paraphrased, brief excerpt from a dissertation, of the same title, submitted for the degree of M.Phil. Criminology (2009) at the University of Cambridge, UK.

terror groups. Instruments of State monopoly would (illustratively not exhaustively) include the Military, the Police, Intelligence Agencies, Prosecution Agency, Courts, Correctional Agencies and all counter-terrorism organizations of the Government. For the purpose of this study, the efficiency and effectiveness of the instruments of State monopoly is considered to determine the efficiency and effectiveness of the State monopoly.

This study proposes to examine the hypothesis that the absence of State monopoly, its permissive and supportive nature or its ineffectiveness and inefficiency are necessary causes of terrorism. It proposes that where State monopoly is efficient and effective, terrorism may mark its presence, but the group will be contained; legally incapacitated; decimated or forced to amend its objectives. Weak State monopoly is not only an effect of terrorism, but also a cause of it. The hypothesis does not claim that all terror crimes will be prevented or ended, but that the group will be contained and unable to pose a strong threat to the stability of society or State. It is not argued that absence of State monopoly, permissiveness or inefficiency and ineffectiveness imply terrorism, but that wherever terrorism is present so shall be these conditions. Thus, ineffective State monopoly is a necessary cause of terrorism, but not a sufficient cause of it. Further, it is the strength, effectiveness and efficiency of State monopoly that is the principal determinant of the nature of solutions/endings to terrorism.

The first part of the hypothesis is examined by considering whether lack of State monopoly is a necessary cause for terrorism amongst other root causes and analyzing whether a weak, absent, supportive or inefficient State monopoly in the base area or refuge is favourably and positively correlated with terrorism.

The second part of the hypothesis shall be tested by examining solutions to terrorism proposed by experts and scrutinizing specific cases of the endings/solutions to explore whether the status of State monopoly determines these.

### State Monopoly and Root Causes of Terrorism

The causes of terrorism have been widely researched (Bjorgo, 2005:1) as also underlying

and proximate causes (Richardson, 2006:9) and preconditions and facilitators (Bjorgo, 2005:2-5). Chomsky (2002) correctly observed that 'draining the swamp' will end terrorism rather than eliminating individual mosquitoes (terrorists), thus stressing the need for studying the conditions giving birth to terrorism in order to enable their removal. This sentiment is supported by extensive research on 'root causes' and functioning of terror groups.

The trend towards considering terror groups, rational and intentional actors, is strong (Bjorgo, 2005; Crenshaw, 1981) with even suicide terrorism being explained as resulting from a rational choice, wherein group benefits are maximized (Wintrobe, 2003; Gupta, 2005, Harrison, 2006). Research on traditionally proposed causes of terrorism, such as poverty and illiteracy (Hassan, 2006; Krueger and Maleckova, 2003), lack of democracy (Chernoveth, 2006; Gause, 2005) has not supported these as strong causes. Another view feels inequality may be more important than poverty per se (Gurr, 2006). Religious terrorism views violence as 'a divine duty', which responds to a 'theological demand' and justifies large-scale indiscriminate violence against perceived enemies (Hoffman, 2006:88). Religious fervour while possibly not the cause itself (Hafez, 2006) has provided ideological clarity for other dissatisfaction (Jurgensmeyer, 2006:143). Retaining the State as the principal provider of public safety has been supported (Goldsmith, 2002). Further, Lizardo and Bergesen (2003) observe this monopoly to be a pillar of the State, which is challenged and confronted by terrorism and consequently, the State remains viable only if it retains this monopoly. Piazza (2008) observes that weak State monopoly is positively related to increased transnational terrorism.

In probing root causes, this study restricts itself to three factors, namely, poverty and lack of education; lack of democracy and State weakness as exhibited in an ineffective and inefficient State monopoly.

### No Corelation between Poverty & Terrorism

Conventional and popular conceptions (especially strong in India) of terrorism being caused by poverty and lack of education, in fact, have limited empirical support. Krueger

and Maleckova (2003:141) concluded that there was 'little direct connection' between poverty, education and resort to terrorism. Researching militants in Hezbollah as well as Palestinian suicide terrorists, they discovered that compared to the general population, the sampled individuals were 'economically advantaged and have a relatively high level of education'. Their research found that countries, where civil liberties are low, will produce more terrorists, thereby making terrorism 'a political, not economic, phenomenon' (2003:142) and that increasing education or reducing poverty may not be sufficient to reduce terrorism. Hassan (2006:38-39) researched the case of suicide terrorists in Pakistan and found only 20% to be poor with 20% being upper class and the remaining middle or lower-middle class with most of the sample gainfully employed. Sageman (2008, 47-70) finds Al-Qaeda members to be neither poor nor illiterate. These persons are well educated with over 60% having attended university mainly in technical disciplines. Their socio-economic background is middle class and most have been employed in professional or semi-professional capacities. More commonly terrorists use the concept of 'vicarious poverty' (2008:48) to justify their actions by claiming to act on behalf of the poor. Factually, some of the poorest countries do not produce terrorists (Walzer, 2002). Therefore, the available evidence does not establish poverty as a strong root cause of terrorism.

### Stability of State & Terrorism: Inverse Relations

Lack of democracy does not imply terrorism whose most 'significant indicator' is State weakness and the lack of political stability (Chernoveth, 2006a). The stability of a State is inversely proportional to stability of terrorism, a less stable State signifying more stable terrorism. She argues that the inability of a Government to "demonstrate clear control over its population is the most salient feature of terrorism" (2006a:29). Political instability attracts terrorists, because they themselves 'are political actors reacting to some political order'. Opportunities that encourage the growth of terrorism result from the lack of strong security agencies, law enforcement and accountability. Chernoveth (2006b) concludes that transitional democracies are most vulnerable

to terrorism, which cannot be eradicated through democracy alone. The argument is supported by conducting a detailed longitudinal and cross-sectional analysis of 119 countries from 1975 to 1997. The solution proposed by Chernoveth is to disrupt the functioning of these groups through infiltration, accelerating differences, splitting them using intelligence agencies and hastening their self-destruction. Without doubt, these measures can be undertaken only by an effective and efficient State monopoly.

Lack of democracy as a root cause of terror has been criticized by Gause (2005), who finds flawed the argument that democracy in the Arab World would reduce terrorism. He states that roots of terrorism do not lie in poverty, lack of education and Authoritarian States and hence, cannot be overcome through democracy. Comparing India, the largest democracy and China the largest Authoritarian State, using the 'Patterns of Global Terrorism Report' issued by the US Government for 2002-2003, he demonstrates that 203 incidents occurred in India and none in China. He points out that terrorist groups are composed of a small and secretive number of individuals and not mass-based organizations based on democratic principles. It may be added to Gause's observations that while Authoritarian States, such as Saudi Arabia and Egypt have produced terrorists they have acted determinedly against terrorism and prevented terror crime over the last many years, while democracies, such as UK still battle it in Northern Ireland. Thus, lack of democracy is not a strong root cause of terrorism.

### Political Behaviour

Crenshaw (1981:380-381) classifies terrorism as a "form of political behaviour resulting from the deliberate choice of a basically rational actor, the terrorist organization". Terrorism is caused by preconditions and precipitants, with the former setting the stage for terrorism over the long term and precipitants being specific events that cause its final emergence. The inability or unwillingness of the State to prevent terrorism is the most 'salient political factor' that permits the emergence of terrorism. Notably, weak policing and intelligence agencies are mentioned as reasons that permit spread of the conspiracy and thereby



the terror campaign. Terrorism is a 'weapon of the weak' used by groups with an adverse power ratio to the Government. It directly attacks the regime and Government apparatus aiming to weaken, disrupt and discredit the processes of Government (1981:386). Terrorism is cost-effective and promises high rewards and quick returns. Terror results from a 'rational political choice' that considers it a 'politically useful means to oppose the Government' (Crenshaw, 1981:385, 396; Pape, 2003:1).

Lack of State monopoly, as a cause of terrorism, relates closely with the concept of failed States. Rotberg (2004:1-50) finds that the delivery of political goods by a State is the most important indicator for distinguishing failed States from others and the most 'principal good' is the provision of 'human security'. Security encompasses elimination of domestic threats and attacks, preventing crime and dangers to human security and encouraging peaceful settlement of disputes without recourse to arms. Further, political goods are dependent upon a measure of security being assured and include judicial systems, political participation, etc. Failed States are marked by deep and bitter conflicts with most witnessing armed rebellion, insurgencies, civil unrest and disturbances. 'Failed States' are both facilitators and 'root' causes of terrorism (Forrest, 2006:5). Rotberg (2002) finds the defining feature of a failed State is not the presence of violence, but its enduring nature. Police Forces are paralysed and the State role of providing political goods is forfeited to other entities, such as warlords and for the purpose of this study, to terror groups. Ghani and Lockhart (2008:222) confirm Rotberg's conclusions by terming failed and weak States 'dysfunctional' and breeding grounds 'for criminality and terror'. In the case of Al-Qaeda, where a single State is not responsible for its operations, since its members and its targets are transnational, it still operates from regions where there is no State monopoly. It refuges in Afghanistan, Sudan and the Afghanistan-Pakistan border region are examples of how weak and permissive State monopolies are conducive to the presence of Al-Qaeda.

### Ineffective State Monopoly

This raises the issue of terror groups, which function even when State monopoly exists,

e.g., in Japan (Japanese Red Army) or Italy (Red Brigades). This contention is answered by stating that while State monopoly does exist, it is not efficient and effective enough to counter terrorism. The validity of this response is obvious from the fact that in both cases, the groups were defeated by increasing the efficiency of State monopoly. The victim countries did not make political concessions and in fact, took no action to defeat the agenda of these groups except making the State monopoly more efficient and effective. Their defeat was caused purely by the hardline stance that enforced criminal law against them (Wilkinson, 2006:61:197). Poverty, lack of education and democracy may be contributory factors for terrorism, but are not necessary causes since terrorism thrives even without their presence. Thus, countries with greater disparity do not necessarily witness terrorism, while those with greater equality may be its victims. This is evident from the fact that while some West European countries, with lesser disparities amongst their population, were victims of terror groups, while many Asian and African countries with greater socio-politico-economic disparities were not. In the end, whatever the motivation for terrorism it is the denial of opportunity for terror crime that prevents it becoming a 'rational political choice' that prevents these motivations and intentions from culminating into terrorism. This denial of opportunity and choice is founded on an efficient and effective State monopoly.

### State Sponsorship

Not only is the absence of an efficient and effective State monopoly, a necessary cause for terror groups to emerge and operate, but a favourable State monopoly (State sponsorship) in the base area assists in sustaining operations. A favourable State monopoly implies a weak, inefficient and ineffective monopoly of the victim State, but sometimes, also a supportive State monopoly of the sponsor State. State sponsors ordinarily may provide terror groups with safe havens in its territory or assist the terror group directly or through front agencies to provide equipment, training and intelligence even without use of its territory. This support helps the group to persist with a terror campaign, in spite of the targeted State monopoly being opposed to the terror group. To examine this 'other' relationship of terrorism

with State monopoly, a study was conducted with 40 prominent terror groups being sampled. Information was collected regarding the political objectives of the group; location of main base or area of refuge of the group; whether any State had monopoly over the base area; whether the group discharged parastatal functions (such as maintenance of law and order, welfare measures, etc.); whether the terror group was under the protection of the entity having State monopoly in the base area and if the terror group received any support from States or Non-State actors. Detailed information is appended as Table-A and Appendix-A.

These results indicate the following:

- The successful functioning of terror groups is positively correlated with a weak, ineffective, inefficient or permissive State monopoly in the base area.
- A large number of terror groups are permitted by States having monopoly to establish bases and/or may also provide them support. The group may also function as an instrument of State policy or an arm of the permissive and supportive State.
- Almost all groups, whether directly or indirectly, receive some support from a supportive State usually by a foreign power hostile to the State that is the victim of terrorism.
- The results indicate that as regards their relationship with State monopoly, terror groups make rational and intelligent choices by either supplanting State monopoly or making it ineffective.
- In some cases, the lack of State monopoly in an area, which has presence of a terror group, often leads the group to fill the vacuum, by discharging State functions and operating as a parastate.
- Occasionally, terror groups survive even with State monopoly being manifest and hostile to the group. However, this results from an inefficient State monopoly in the victim State since in many cases, subsequent increase in efficiency of law enforcement either defeated the terror group or compelled

a change in its political objectives (in effect defeating its agenda).

It will be beneficial to consider groups, which operated against the will of a reasonably effective State monopoly (15% of the sample: see Table-A). All of these received support from State and Non-State actors. The groups include the Red Army Faction (hereinafter RAF), Red Brigades, IRA, Real (Continuity) Irish Republican Army (hereinafter RIRA), Al-Jehad (Egypt) and Basque Homeland and liberty (hereinafter ETA). Amongst them, the Red Brigades were defeated by improved law enforcement (Wilkinson, 2006:196). Al-Jehad operated within Egypt from 1981-1993 and was decimated by counter-terrorism (Wright, 2006:122). It has not demonstrated operational ability since 1993 (CNS, 2008) and was merged with Al-Qaeda in 2001. IRA revised its political objectives and laid down its weapons after the 'Good Friday' agreement (Northern Ireland Office, 2009). PKK presently has sanctuary in northern Iraq, but its case clearly demonstrates the importance of favourable State monopoly. PKK, though opposed by Turkey, enjoyed sanctuary in Syria till 1998. Following loss of sanctuary in Syria, its leader Ocalan renounced armed struggle advocating peaceful means (BBC, 1998) and subsequent to being arrested by Turkey (1999), he revised PKK's political objective of independence from Turkey by declaring its agenda non-separatist (Howard, in press). RIRA is currently operational, but being recently established, details of the organization and its operations are not sufficient to enable a definitive assessment.

The case of ETA is to the contrary since the group has not yet revised its objectives or been defeated entirely. The possible explanation is that law enforcement machinery is not adequately efficient and effective to deny opportunity, modify rational choice or incapacitate terror group members. ETA sanctuary in France ended in the late 1990s the French and Spanish Police now cooperate closely (Wilkinson, 2002). Common cross-border operations since 2007 (Nash, 2009) have led to arrests of many important leaders ('NZ Herald', 20-4-2009). After a short ceasefire in 2006, ETA continues operations, but it is likely to weaken in the face of increasing efficiency and

cooperation between police at the international level. It may be recalled that the IRA operated for many decades in spite of an adverse State monopoly and yet eventually revised political objectives and abandoned terrorism and that often effectiveness and efficiency increase slowly as do their effects. The tabulated information and research discussion indicate that ETA is likely to succumb to efficient and effective State monopolies in the not too distant future.

All absent or weak State monopolies are necessarily inefficient and ineffective, while permissive/supportive ones permit the benefits of an absent State monopoly to terror groups. In some cases, terror groups exist in spite of an adverse State monopoly. As shown above, these groups are eventually forced to revise objectives or their operational capability is destroyed. Increased efficiency and effectiveness of State monopoly either incapacitate these groups or make them exercise a rational choice to revise objectives. Weak State monopoly is definitely a necessary cause of terrorism though there may be more than one such cause and by definition the removal of even one necessary cause will defeat terror groups. Considering the above evaluation, there is strong support to consider the first part of the hypothesis that an inefficient and ineffective State monopoly is necessary and root cause of terrorism, as proved.

### Solutions to Terrorism

There are no simple and complete solutions to terrorism (Alexander, 2002, or quick ones (Richardson, 2006:10) yet, successful international counter-terrorism policies, while highlighting the need to prevent State repression, are consistently founded on an efficient and effective State monopoly. Previous research on the 'endings' of terrorism (Wilkinson, 2006, 2001, Whittaker, 2007, Chailand and Blin, 2007) can be utilized to explain the relationship of an effective State monopoly in tackling terrorism. Models to resolve root causes focus on unity of effort with a comprehensive and integrated thrust (Sinai, 2005:218-219). US counter-terror strategy (Alexander, 2006:209) focuses on making no concessions to terrorists and striking no deals; bringing terrorists to justice; isolating and applying pressures on State sponsors of terrorism

and forcing them to change their behaviour; bolstering the counter-terrorism capabilities of those countries that work with the US and require assistance. The US Terrorism Research Center Report (1998) mentions six principles of counter-terrorism, including neutralizing a terror organization by weakening it and making targets difficult to attack; building consensus amongst counter-terrorism agencies; discrimination between terror perpetrators and sympathisers; patience and perseverance are crucial; restraint is paramount to guard against premature or unduly harsh action and finally generating specific intelligence.

Some restriction of liberty in the pursuit of security is unavoidable (Dobson and Payne, 1982). However, counter-terrorism methods are open to criticism from the standpoint of efficiency, cost-effectiveness and lacking an evidence-based approach (Lum, Kennedy and Sherley, 2008). A balanced approach in counter-terrorism with judicial oversight and due process to balance security measures is essential (Zedner, 2005). Prevention of forms of control and legislation that 'unjustly vilify law-abiding communities' in the name of fighting terrorism (Mythen and Walklate, 2006) is necessary. State repression is counter-productive and a 'middle course' is more worthwhile routine police work done effectively and supported with strong intelligence can be effective against terrorism without curtailing civil liberties (Clutterbuck, 1975:22:150).

### End of Political Violence

Ross (2003:159) proposes principles to end political violence, which it is proposed, apply equally to counter-terrorism. These include the inclusion of dissenting elites by offering them the privileges of power; responsible policing that uses legal methods; deterrence, both specific and general and effective intelligence mechanisms to keep abreast of developments. Clarke and Newman (2006), based on a situational crime prevention model, argue that protection against terrorism depends on identifying and removing opportunities that terrorists exploit. The 'four pillars' of terrorist opportunity are the opportunities offered by the targets; availability of weapons appropriate for the task to be undertaken; the tools of everyday life that

are required for the task and the facilitating conditions that make the weapons available or weaknesses in systems that aid execution of the task (2006:9). For thwarting terror attacks, they recommend adoption of a 'think terrorist' (2006:19) policy that utilizes the terrorists' perspective to seek out weaknesses and accordingly, increase the costs of the attack and reduce benefits. They propose and develop twenty principles of 'outsmarting terrorists' that aim to provide a philosophy for countering terrorism (2006:11-14). They feel that time should not be wasted on winning 'hearts and minds' or restricted to 'taking out terrorists', but should develop distinct solutions for each form of terrorism by denying opportunity for the crime. Sageman (2008:32) considers thwarting terror operations necessary for preventing groups, such as Al-Qaeda from exploiting the anarchist method of 'propaganda by deed' and gaining recruits through propaganda. Failed operations waste resources, demonstrate ineffectiveness and reduce recruitment (RAND, 2006). Therefore, preventing terror crime is doubly beneficial ensuring both the absence of crime and reducing recruitment. Plainly, all the above strategies and tactics rely on an effective and efficient State monopoly.

To elaborate further, we may consider contemporary views on solutions to terrorism, which are best represented by two notable counter-terrorism experts, namely, Wilkinson (2001, 2006, 2007) and Kilcullen (2005, 2009a, 2009b), both of whose approaches are significant though different.

### **Six 'Pathways'**

Wilkinson (2006:196) discusses six 'pathways' or processes for ending terrorism, which include: the group succeeds in achieving its objectives; realization by the terror group that they will fail leading to abandonment of the struggle; eradication by determined and efficient Military action within the State; a political solution on the terms of the State that makes sufficient concessions to the groups objectives; dealing with terror groups as a problem of law and order and treating terrorist actions as serious crimes and lastly, education of the terror group and its supporters, so that they realize terrorism

is counter-productive and cannot help them realize their objectives. The suitable democratic response recommended by Wilkinson is to deploy counter-terrorism resources, including the Police, Judiciary and Prison Systems effectively through a unified command structure. His approach supports 'taking out terrorists' with coordinated intelligence, both domestic and international, forming the backbone of the recommended response.

### **Rule-of-Law Policy**

Wilkinson's (2006:207) defining principles on action against terror groups include: no surrender to the terrorists and determination to defeat them; no deals and concessions in the face of blackmail or intimidation; intensified effort to prosecute terrorists; strong measures against sponsor States and never to allow terror to derail international diplomatic efforts. He considers the hardline, Rule-of-Law policy, without causing damage to democratic principles, to be successful in democratic environments (2006:65). He recognizes the value of building a political agreement (1974:138) and recommends that the Government follow the 'two wars' strategy against terrorism. The Military and Security threat must be dealt with effectively, while the political response must aim to win the allegiance of the people and settle the genuine grievances of the public.

He states the 'cardinal aim' to be the isolation of terrorists from their host population. Force must be appropriate for deterrence of terrorist aggression, while duly safeguarding the general population on 'whose moral support and cooperation' they depend (1974:132). Wilkinson (1986:301) holds that quick and ready concessions by Governments will embolden terrorists to heighten their demands and must, therefore, be avoided. Terror crimes must be treated as common crimes and the 'glory' taken out of them with no special privileges for terrorists and myths of terrorism being destroyed to expose it as murder. He says, while overreaction should be avoided, underreaction and surrender is itself an attack on human rights and liberties (1986:302). Analysing Wilkinson's recommendations, it is clear that his pathways and principles presuppose an efficient and effective State monopoly.

The views of Kilcullen (2005), distinct from Wilkinson, developed in the context of Al-Qaeda and the global Jihadist network propose a paradigm shift in counter-terrorism. He argues for distinguishing Al-Qaeda and its 'broader militant movement' from the tactic of terrorism and propounds a strategy of 'disaggregation', which delinks or dismantles the global Jihad into smaller elements and building up of a counter-strategy (2005:1-2). He considers global Jihadist terrorism an insurgency and aims to fight it as an insurgency. Conventional counter-insurgency models based on one country are inadequate and a globalized insurgency model must be developed. Counter-terrorism based on a police-centred approach focused on apprehending terrorists and bringing them to trial is termed deficient. He instead recommends the counter-insurgency paradigm that aims to 'win hearts and minds'. Defeating terror groups, such as Al-Qaeda must include elements of the insurgency paradigm to marginalize their underlying strategy rather than only focusing on apprehending terrorists, therefore a combined counter-terrorism and counter-insurgency model would be successful.

### **Integration of Security with Socio-political Measures**

He finds ineffective the (traditional) approach based on eliminating leaders and states the objective to be defeating the insurgent/terror group system. The whole insurgent system is to be tackled rather than only the frontline combatants and aim at defeating insurgents without alienating the population through indiscriminate repression (2005:15,21). He asserts "Military force alone can only contain and disrupt insurgent systems - but this is an essential first step in allowing other non-Military measures to succeed" (2005:27). Kilcullen reiterates his conclusion that counter-terrorism by itself is an inadequate strategy for dealing with the global Jihad and recommends greater integration of security with political, diplomatic, development and intelligence measures (2009a:274-275). He considers the 'military as a delivery system' to ensure security, a means to an end, which allows civilian agencies to provide governance, enact social justice, develop the economy and uphold the Rule of Law (2009b:13). Though implied, Kilcullen does not openly identify the ultimate

state of affairs for which he advocates integration of social, political and military factors and winning of 'hearts and minds'. This most basic question is answered by stating that the ultimate objective of his prescription is the defeat of terrorism through attainment of only one societal condition, namely, the establishment of State monopoly. Bluntly put, political and social measures are aimed at reducing hostility in the population, so that Military and Police domination necessary for achieving the equilibrium of State monopoly is made easier.

Scrutiny of the role of State monopoly as the principal determinant of solutions to terrorism can be undertaken through case studies of 'endings' where terrorism succeeded; a negotiated settlement resulted and where it was defeated. Terrorism was successful in the Algerian Movement for Independence from France (Shughart, 2006). The FLN's armed wing ALN used a combination of a rural guerilla war and a lethal urban terror campaign (Crenshaw, 1995:477). The French Army was brutally efficient, using torture widely (Grandmaison, 2001), which strengthened the FLN by increasing the effectiveness of its propaganda (US Counterinsurgency Manual, 2007:252). Crenshaw's (1995:509) analysis terms the terror campaign 'effective than successful'. Its achievement was convincing the French Government that Military victory would not end the war of attrition and the irreconcilable position would continue. However, ultimately, terrorism could not have succeeded in gaining independence by itself (Crenshaw, 1995:513) for our purpose, because it could not overthrow the State monopoly. Mainly, the unwillingness of France to face a war of attrition ensured Independence.

### **Negotiations and Dialogues**

A remarkable case of negotiated settlement with a terror group is that of the IRA. In 1962, the IRA had been exhausted by the Security Forces and almost given up the struggle (Wilkinson, 2006:197). However, between the years 1967-1997, terrorism sustained a war of attrition against the UK with the aim of making retention of State monopoly economically and militarily unviable. Failing in this, the IRA resultantly declared a ceasefire in 1997 (BBC, 1997) signing

the 'Good Friday' (Belfast) Agreement in 1998. Under this agreement, the IRA disarmed under the neutral supervision of the 'Independent Commission', joined the mainstream political process and formally gave up armed activity in 2005 ('Guardian', 28-7-2005). It is not difficult to discern that, since other political conditions remained unchanged, its inability to defeat State monopoly forced the IRA to negotiate and amend its political objectives.

The RAF in West Germany is a case where a terrorist group failed to attain the objectives of its terror campaign between 1970s to 1990s. The Government response was a clear strengthening of the law enforcement apparatus by improving the internal security system and fortifying State monopoly. Strong centralized structures of counter-terrorism were developed with specialized units being established. The Government did not bend in most situations, such as hijackings, terrorists were arrested, convicted and imprisoned with four of the leaders committing suicide in jail. The last terror action of the group was in 1993 and in 1998, the group (purportedly) disbanded (Rath, 2006). No political concessions were made by the Government to the terror group. This shows that increased effectiveness and efficiency of State monopoly is the main variable to which this success can be attributed.

### Split and Increase Policy

The splitting of opponents and resultant increase in effectiveness of State monopoly is exemplified by the 'Sunni awakening' where over 100,000 insurgents switched sides in favour of the Iraqi Government (Simon, 2008). It may be observed that State monopoly is strengthened not only by increasing its own effectiveness and efficiency, but by reducing that of the terror group, improving overall governance, causing dissensions within opponents ranks to split them, breaking supportive links with other terror groups, reducing recruitment and winning 'hearts and minds'.

The case studies and above discussion demonstrate the status of State monopoly as the determinant of solutions to terrorism. In an efficient and effective State monopoly, terrorism is defeated; in a surrendered/weak State monopoly, terrorism is victorious; and in a stalemate, a negotiated settlement results. Ending supportive

State monopolies, re-establishing absent State monopolies and increasing their efficiency is the foundation of any lasting solution. Other factors may influence the endings of terrorism, but the status of State monopoly remains the most principal factor. Taking together the case studies and expert views, there is strong support for the second part of the hypothesis being proved correct.

### Conclusion

The study shows that unless the terror group defeats State monopoly either directly or causes withdrawal of public support forcing Government concessions, the group cannot achieve any objectives that the State wishes to deny it. Absence, inefficiency, ineffectiveness and permissiveness of State monopoly are necessary causes for terrorism to flourish. Analysis of the views of experts, recent examples in terrorism and case studies indicates that whether terror groups emerge victorious; are defeated or enter into a negotiated settlement is primarily determined by the efficiency and effectiveness of State monopoly.

This study holds valuable lessons for counter-terrorism in India, which must improve the efficiency and effectiveness of its State monopoly in absence of which any type of investment in political, social and economic measures will be defeated by terrorism. However convenient, desirable and 'politically correct' it may be to lay the blame for terrorism at the door of poverty, lack of education and imperfect democracy factually far more responsible is a weak, inefficient and ineffective State monopoly. It is essential to develop strong instruments of State monopoly over legitimate force with, as cautioned above, sufficient safeguards to prevent degeneration into State repression. An efficient and effective State monopoly may not extinguish all sparks of terrorism, but shall restrain, contain and render powerless the threat of terror groups. The primary focus of Indian counter-terrorism policy on developing an efficient and effective State monopoly is essential as nowhere in the world has a solution to terror (excluding surrender) been achieved without it. The dominant objective should be to provide 'human security' and integration of social-economic-political

initiatives with this paramount objective rather than the other way around. The establishment of an efficient and effective State monopoly, which provides 'human security', should be the target

of all national counter-terrorism policy as it is the most effective weapon and the strongest bulwark against terrorism. ■

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TABLE-A

Sl. No.	Status of Monopoly	Terror Groups	Number	Percentage
1.	(A) State lacks monopoly or the group itself controls monopoly and discharges state/parastatal functions.	(A) FARC, SPLA, Hamas, LTTE, Taliban.	5	12.5%
	(B) State monopoly is weak and unable to enforce its writ.	(B) Abu Sayyaf Group, Al-Qaeda, Armed Islamic Group, Al-Qaeda in Iraq, Islamic Group (IG), Free Aceh, Hezbollah (Lebanese), Hizb-l-Islami Gulbuddin, Lords Resistance Army, ELN, Peoples Liberation Army Communist Party of Nepal (Maoist), PFLP-SC, GSPC, Shining Path.	14	35%
2.	(A) State monopoly exists, but permits the group to operate.	(A) Lashkar-e-Tayyiba, JKLF, Jaish-e-Mohammed, Mujahidin-e-Khalq Organization, The HuJI Harakat-ul-Mujahidin, Abu Nidal Organization, Al-Asqa Martyrs Brigade, PFLP, PFLP-GC, PKK, ZANLA, ZAPRA.	13	32.5%
	(B) Group functions as an arm of the state monopoly.	(B) Interahamwe, United Self-Defense Forces of Columbia	2	5%
3.	State monopoly exists and does not support the group efficiency and effectiveness likely to be less than necessary.	Al-Jehad, ETA, IRA, RIRA, RAF, Red Brigades.	6	15%
<b>Total Number of Groups</b>			<b>40</b>	



## REFERENCES - ABBREVIATIONS

Sl. No.	Abbreviation	Name
1.	ANO	Abu Nidal Organization
2.	ASG	Abu Sayyaf Group
3.	AQI	Al-Qaeda in Iraq ( <i>Tanzim Qa'Idat Al-Jihad Fi Bilad Al-Rafidayn</i> )
4.	ELN	National Liberation Army (Algeria)
5.	ETA	Basque Fatherland and Liberty ( <i>Euzkadi Ta Askatasuna</i> )
6.	FARC	Revolutionary Armed Forces of Colombia
7.	FLN	<i>Front de Liberation Nationale</i> (Algeria)
8.	GIA	Armed Islamic Group
9.	GSPC	<i>Groupe Salafiste pour la Predication et le Combat</i> (Salafist Group for Preaching and Combat)
10.	HUM	Harakat-ul-Mujahidin
11.	HuJI	Harkat-ul-Jihad-al-Islami (HuJI)
12.	HIG	Hizb-I Islami Gulbuddin
13.	IRA	Irish Republican Army
14.	JeM	Jaish-e-Mohammed
15.	JKLF	Jammu and Kashmir
16.	LRA	Lord's Resistance Army
17.	LeT	Lashkar-e-Tayyiba
18.	LTTE	Liberation Tigers of Tamil Eelam
19.	MEK or MKO	Mujahadin-e-Khalq Organization
20.	PFLP	Popular Front for the Liberation of Palestine
21.	PFLP-SC	Popular Front for the Liberation of Palestine-Special Command
22.	PFLP-GC	Popular Front for the Liberation of Palestine-General Command
23.	PKK	Kurdistan Workers Party
24.	RAF	Red Army Faction
25.	RIRA	Real IRA
26.	SPLA	Sudan Peoples Liberation Army
27.	ZANLA	Zimbabwe African Nationalist Union
28.	ZAPRA	Zimbabwean African People's Union

## APPENDIX-A

Sl. No.	Name of Group	Objective	Main base / area of refuge	Whether State Monopoly exists in main base/area of refuge	Whether group discharges parastatal functions in base area	Whether the group is under protection of State having monopoly in the base area	State/Non-State actors that support the group
1.	Abu Nidal Organization	Destroy Israel	Jordan, Iraq, Syria	Yes (permissive monopoly)	No	Yes, Jordan, Iraq, Syria at different times	Jordan, Syria and Iraq
2.	Abu Sayyaf Group	Establish Islamic State in Philippines	Basilan, Sulu Archipelago Province, Philippines Astiride maritime boundary between Indonesia, Malaysia and the Philippines	Weak to non-existent State monopoly	Not clear	No	Financial aid is provided by Indonesia and Middle Eastern Islamic extremists like Islamiya (II).
3.	Al-Qaeda (includes earlier period when not known as Al-Qaeda)	Expel the United States from Persian Gulf	Presently Pakistan	Weak to non-existent, permissive monopoly of Pakistan in Federally Administered Tribal Areas (FATA)	No	Yes, 1989-1991 based in Afghanistan-Pakistan border, aided by Pakistan. 1991-1996 under protection of Sudan, 1996 to 2001, under protection of Afghanistan (Taliban Government) Post-2001 support unclear	Funds from Islamic Charitable Organizations, Donors and international investments.
4.	Armed Islamic Group	Establish Islamic State in Algeria	Algeria (1989)	Weak to non-existent monopoly of Algeria in many areas during insurgency	No	No	Iran and Sudan
5.	Al-Asqa Martyrs Brigade	To establish a Palestinian State by expelling Israeli soldiers and settlers from the West Bank and Gaza	Is said to be based at Nablus and Ramallah	Yes (Palestinian territory, Permissive monopoly)	No	Yes, Palestinian authority (West Bank)	Iran through Hezbollah facilitators.
6.	Al-Qa'ida in Iraq (Tanzim Qa'Idat Al-Jihad Fi Bilad Al-Rafidayn)	To targeting Coalition Forces, Iraqi Government groups, anti-AQI Summi tribal and security elements	Iraq	Weak to non-existent monopoly of Iraq till 2008	No	No	Middle East and Europe, local sympathizers in Iraq, from a variety of businesses and criminal activities, and other international extremists throughout the world.
7.	Al-Gama's Al-Islamiyya (Islamic Group, IG)	To overthrow the secular Egyptian Government and replace it with an Islamic State	Based in southern Egypt	West to non-existent monopoly of Egypt in many areas during insurgency phase	Yes in the area of liberated zones	No	Iran, Al-Qaeda, various Islamic non-governmental organizations and Afghan Militants.



Sl. No.	Name of Group	Objective	Main base / area of refuge	Whether State Monopoly exists in main base/area of refuge	Whether group discharges parastatal functions in base area	Whether the group is under protection of State having monopoly in the base area	State/Non-State actors that support the group
8.	Al-Jihad	To establish Islamic State in Egypt and attack American and Israeli interests in Egypt	Egypt. Has merged with Al-Qaeda since 2001	Yes (Egypt had inefficient monopoly during operational phase)	No	No	Iran and Sudan and network outside Egypt in places, such as Yemen, Afghanistan, Pakistan, Lebanon and the UK.
9.	Basque Fatherland and Liberty; Euzkadi Ta Askatasima, ETA	To establish a Basque homeland in the ethnically Basque areas in northern Spain and south-western France	Northern Spain and south-western France	Yes, Spain has monopoly	No	No	Received training at various times in the past in Libya, Lebanon and Nicaragua.
10.	Revolutionary Armed Forces of Colombia (FARC)	To overthrow Government and establish a Marxist State in Colombia	Jungles and Mountains of Colombia	No (Colombia lacks monopoly)	Not clear	Yes, Venezuela	Cuba-medical care, Venezuela- logistic support. FARC uses Narcotics business for finance.
11.	Free Aceh	To establish an independent Islamic State in Aceh	Western most part of Sumatra and the part of Indonesia	Weak to non-existent monopoly of Indonesia Government	Not clear	No	Libya
12.	Hamas	Destroy Israel	Gaza	Yes, Hamas itself has monopoly in area of refuge	Yes	Yes, Controls State	Hezbollah. Suspected aid from Iran, Syria.
13.	Harkat-ul-Mujahidin	Liberate Kashmir from Indian control and merge with Pakistan	Pakistan-(Occupied/ Azad Kashmir)	Yes (Pakistan, Permissive monopoly)	No	Yes, Pakistan	Financial support from Government of Pakistan and Non-State actors in Saudi Arabia, Middle East.
14.	Hezbollah (Lebanese)	Destroy Israel	Lebanon, particularly southern Lebanon	Weak to non-existent monopoly of Lebanon	Yes	Not clear	Iran & Syria
15.	The Harkat-ul-Jihad-al-Islami (HuJI)	It aims to establish Islamic rule by waging war	Pakistan	Yes (Pakistan)	No	Yes (Pakistan)	Pakistan Inter-Service Intelligence, Taliban and Al Qaeda.
16.	Hizb-I-Islami Gulbuddin	To force international withdrawal from Afghanistan, overthrow Government, and establish an Islamic Fundamentalist State	Eastern Afghanistan and Pakistan	Weak to non-existent monopoly of Afghanistan and Pakistan	Not clear	Yes, supported by Pakistan in its territory.	Pakistan and Non-State Islamic actors.

Sl. No.	Name of Group	Objective	Main base / area of refuge	Whether State Monopoly exists in main base/area of refuge	Whether group discharges parasitatal functions in base area	Whether the group is under protection of State having monopoly in the base area	State/Non-State actors that support the group
17.	Irish Republican Army (IRA)	Independence for Northern Ireland from UK and to unify Ireland (Till 'Good Friday' agreement came into force in 1999)	Northern Ireland, Irish Republic	Yes, U.K. monopoly in its territory. (possibly inefficient at times)	No	No	Funds and arms support by Diaspora (particularly in US) Arms and training Libya and the PLO. Finance from own business also. Activists allegedly enjoyed refuge in the Republic of Ireland.
18.	Interahamwe	To establish Tutsi-free Rwanda	Mountains which straddle the borders of Uganda, Rwanda and the Democratic Republic of Congo	Yes, Rwanda Govt. support during genocide phase. Presently weak to non-existent monopoly	Not clear	Yes, earlier Rwanda Government Presently (Congo)	During its genocidal phase was supported by the then Government of Rwanda. After Fall of the Rwandan Government in 1994 it is now supported by Congo.
19.	Jaish-e-Mohammed (JeM)	Expel India from Kashmir and merge it with Pakistan	Pakistan and Azad/ Occupied Kashmir (Pakistan)	Yes (Pakistan, Permissive monopoly)	No	Yes (Pakistan)	Pakistan financial support, arms, training and strategic guidance.
20.	Jammu & Kashmir (JKLF)	Self-determination in Kashmir	Azad/Occupied Kashmir and main cities of Pakistan	Yes (Pakistan, Permissive monopoly)	No	Yes (Pakistan)	Pakistan and formerly had branches in Europe, US and Middle East.
21.	Kurdistan Workers Party (PKK)	Establish an independent Kurdish State in south-eastern Turkey. Recently, for seeking greater political and cultural rights for Kurds within Turkey	In the early 1980s, Beka's Valley, Lebanon, later located its bases in Iran, Iraq and Libya	Yes, Turkey (inefficient and ineffective monopoly)	No	In the early 1980s, the group was under the protection of Syria and later safe-heaven was provided by Iraq, Iran. (Since 1999, Syria and Iran have cooperated in a limited fashion with Turkey against the PKK. In 2008, Turkey and Iraq began cooperation to fight the PKK)	Syria, Iraq, Iran, Greece, Palestine Liberation Organization (PLO).
22.	Lords Resistance Army	To overflow Ugandan Government and replace it with a Christian regime	Southern Sudan and the Bunia area in eastern Congo	Weak to non-existent monopoly in remote location near the Sudan-Congo border	Not clear	Yes, Sudan (though recently Sudan is cooperating with Uganda to eliminate LRA sanctuaries)	Sudan
23.	Lashkar-e-Tayyiba (LeT)	Secession of Jammu & Kashmir from India	Muridke and Muzaffarabad (Pakistan)	Yes (Pakistan, permissive monopoly)	No	Yes (Pakistan)	Pakistan. Islamic donors in the Middle East and the United Kingdom and Islamic NGOs.



Sl. No.	Name of Group	Objective	Main base / area of refuge	Whether State Monopoly exists in main base/area of refuge	Whether group discharges parasitatal functions in base area	Whether the group is under protection of State having monopoly in the base area	State/Non-State actors that support the group
24.	Liberation Tigers of Tamil Eelam (LTTE)	Creation of a separate Tamil State in Sri Lanka	Northern Sri Lanka	No, Area of base is under the control of LTTE	No	No	Tamil Diaspora in North America, Europe, and Asia. LTTE has been militarily defeated on 17-5-2009 after 26-years of insurgency. Allegedly aided by India in 1980s.
25.	Mujahadin-e-Khalq Organization		Based in Iraq	Yes. Iraq has monopoly	No	Yes. Iraq	Before 2003, the MEK received all of its military assistance and most of its financial support from Saddam Hussain. The fall of Saddam's regime rely on front organizations to solicit contributions from expatriate Iranian communities.
26.	National Liberation Army (ELN)	To overthrow the Government of Colombia and replace it with a revolutionary Marxist system	Rural and mountainous areas of north, northeast, and southwest Colombia and in border areas of Venezuela	Weak to non-existent monopoly of Colombia	Not clear	Yes from Venezuela	Cuba provides some medical care and political consultation. Venezuela continues to provide a hospitable environment.
27.	Peoples Liberation Army Communist part of Nepal (Maoist)	To overthrow the Nepalese Government and the establishment of a Maoist State	Nepal	Weak to non-existent monopoly of Nepal with Maoist liberated areas during the period of insurgency		No	Press reports indicate some Maoist leaders resided in India during the insurgency phase.
28.	Popular Front for the Liberation of Palestine (PFLP)	To destroy Israel, establish a Socialist Palestinian State. End American influence in the region	Maintains headquarters in Damascus	Yes (Syria, permissive monopoly)	No	Yes (Syria)	Iran and Syria
29.	Popular Front for the Liberation of Palestine-General Command (PFLP-GC)	To establish a Palestinian State and destroy Israel	Headquarters at Damascus and also has bases in Lebanon	Yes (Syria, Permissive monopoly), Weak to non-existent monopoly of Lebanon	Not clear	Yes (Syria)	Syria



Sl. No.	Name of Group	Objective	Main base / area of refuge	Whether State Monopoly exists in main base/area of refuge	Whether group discharges parastatal functions in base area	Whether the group is under protection of State having monopoly in the base area	State/Non-State actors that support the group
30.	Popular Front for the Liberation of Palestine Special Command (PFLP-SC)	To establish a Palestinian State and destroy Israel	Southern Lebanon	Weak to non-existent monopoly of Lebanon	Not clear	Not clear	Receives financial and military support from Syria, Libya, and formerly Iraq.
31.	Real IRA (RIRA)	Expulsion of UK from Northern Ireland, unification with Ireland. Does not accept 'Good Friday' agreement.	Northern Ireland, Great Britain, and Irish Republic (suspected)	Yes (UK)	No	No	Finance from Diaspora in US, reported to have purchase sophisticated weapons from the Balkans. Detailed information about the group not available at present.
32.	Red Army Faction (RAF)	Left-wing, anti-capitalist armed struggle to establish a Revolutionary State	West Germany	Yes (West Germany)	No	No	Supported by East Germany through secret police (Stasi) Formed a regional alliance with other European groups. Supported by Palestinian organizations.
33.	Red Brigades (Brigate Rosse)	To establish Marxist-Leninist Revolutionary State through armed struggle	Italy	Yes (Italy)	No	No	Supported by Czechoslovakian secret police SIB and PLO. Regional European alliance.
34.	Salafist group for call and combat (GSPC)	To overthrow the Algerian Government and instal an Islamic regime	Main base in Algeria have been in the mountainous regions east of Algiers	Weak to non-existent monopoly of Algeria in areas of refuge at the time of insurgency	No	No	Iran and Sudan. Algerian expatriates and GSPC members in Western Europe, provide financial support.
35.	Shining Path, Sendero luminoso (Peru)	To overthrow the Government through armed struggle and replace it with 'new democracy'	Mountainous regions and remote regions	Weak and ineffective Government monopoly in certain areas during the active phase of the group.	Yes. In territory controlled by it.	No	Not funded or supported by any foreign State. Financed by protection money from cocaine business and coca farmers.



Sl. No.	Name of Group	Objective	Main base / area of refuge	Whether State Monopoly exists in main base/area of refuge	Whether group discharges parastatal functions in base area	Whether the group is under protection of State having monopoly in the base area	State/Non-State actors that support the group
36.	Sudan Peoples Liberation Army (SPLA)	To overthrow the Arab Islamic Government of Khartoum and build a Secular and Democratic Sudan	Southern Sudan	No. The group holds monopoly in the area	Since 1997, controls a large region where it has set up a de facto state "New Sudan"	No	Not clear
37.	Taliban	To set up a pure Islamic State in Afghanistan	1994-1996 Southern Afghanistan, 1997-2001 Afghanistan, 2001 onwards North-east Pakistan	Yes own monopoly till 2001. Thereafter, weak to non-existent/ Permissive monopoly of Pakistan	Yes. 1997-2001 had control of Afghanistan	Yes. Between 1997-2001, controlled State of Afghanistan. Pakistan till 1997 and indirectly post-2001.	Alleged support from Saudi Arabia and Pakistan, Islamic groups and donors.
38.	United Forces of Colombia	To eliminate left-wing insurgents	Colombia	Yes	Not clear	Yes. Supported by and operating within Colombia.	Functioning as Para-militaries in support of the Government. Now are being disbanded and prosecuted for crime.
39.	Zimbabwe African Nationalist Union (ZANU) Military Wing (ZANLA)	To overthrow the erstwhile Rhodesian Government	Zambia	Yes (Zambia)	No	Yes under protection of Zambia	Training also in Ghana and Tanzania with assistance of China and USSR.
40.	Zimbabwe an African People's Union (ZAPU) Military wing (ZAPRA)	To overthrow the erstwhile Rhodesian Government	Zambia	Yes (Zambia)	No	Yes under protection of Zambia	Training also in USSR, the People's Republic of China and North Korea.

# Politics of Terrorism

Dr. Bibhuti Kalyan Mahakul\*

## Keywords

Politics  
Premeditated  
Sub-National Groups  
Identity Crisis  
National Oppression  
Revolt  
National Liberation  
Racial Differences  
Regional Imbalances  
Inequalities  
Effective Policing  
Political Frustration  
Cryptography

## Abstract

*Throughout the past few decades, there has been a steady and continued rise in terrorism in many parts of the globe. The words like terrorism, insurgency, Civil War, revolution, intimidation and extremism are most interchangeably used. What is common on all is 'Violence'. Terrorism is an organized system of intimidation. Terrorism means: Use of Violence and Threat of Violence, especially for political purposes. It also refers to threats, violence, intimidation and physical manipulation of the behaviour of others by using violent methods. The targets of terrorist acts can be anyone, including civilians, Government officials, Military personnel or people serving the interests of Government. Terrorism as an instrument of goal attainment, emerged for the first time, in the context of national movement for achieving independence from foreign rule and domination. Its chief objective was to be relieved from any kind of domination, exploitation or any other oppressive system of individual or groups of individuals. It spread rapidly after 1945, particularly in Japan, Germany, France, Iraq, Syria and Saudi Arabia. Subsequently, it has been designed and undo the under their interference of Western countries in the socio-political and economic life of the underdeveloped countries.*

## Introduction

**T**ERRORISM is a term used to describe the method or the theory behind the methods, whereby an organized group or party seeks to achieve its avowed aims chiefly through the systematic use of violence (Hardman, 2006: 575). It is a phenomenon in which serious acts of violence, such as murder, bomb attack, blowing up of buildings, etc. are committed by an individual or a group professing to do such acts in order to promote any political cause. Terrorism may be domestic or international. According to Oxford Advanced Learner's Dictionary, Terrorism means, "use of violence and threat of violence, especially for political purposes".

Although, there is no universally accepted definition yet, in 1990, the US Department of Defense defined terrorism as 'Unlawful use (or threatened use) of premeditated force or violence against individuals

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or property (Government or civilian by a group to coerce or intimidate Governments or societies (civilian/groups) or individuals, to achieve political or religious or ideological (Social) objectives without the express chartered permission of a specific Government" (Rao and Rao, 2004:5). Yonan Alexander defines 'Terrorism' as, "the use of violence against random civilian targets in order to intimidate or to create general pervasive fear for the purpose or achieving political goals" (Alexander, 1976). According to Harold Lasswell, 'Terrorists are participants on the political process, who strive for political results by arousing acute anxieties (Lasswell, 1978: 255). Martha Crenshaw defines 'Terrorism' as "the systematic use of unorthodox political violence by small conspiratorial groups, with the purpose of manipulating political attitudes rather than physically defeating an enemy" (Crenshaw, 1988:2). It may be emphasized that terrorism is an organized instrument to achieve political objectives and could be defined as an act or threat of an act of tactical violence by a group of trained individuals, having international linkages to achieve political objectives (Prabha, 2000:134).

Throughout the past few decades, there has been a steady and continued rise in terrorism in many parts of the globe. In recent times, it has generated a flood of literature in Academic, Military and Journalistic areas. Terrorism usually refers to threats, violence, intimidation and physical manipulation of the behaviour of others by using violent methods (Wieviorka, 1995:597-98). It is also defined as the purposeful act or threat of act of violence to create fear and climate of panic, or collapse, to destroy public confidence in Government and Security Agencies or to coerce communities and others into obeying the 'terrorist' leadership (Stohl, 1988:3). According to Mark Jurgensmeyer, the term 'Terrorism' have come from the Latin word 'terrere', meaning 'to cause to tremble' which, later on, came into common usage, in the political sense, as an assault on civil order during the Reign of Terror in the French Revolution in the late 18th century. He stated terrorist act, is public acts of destruction without a clear Military objective, which arouses a widespread sense of fear or insecurity. It is an anxiety inspiring method or repeated violent action, employed by individuals, groups or State actors for

idiosyncratic, criminal or political reasons and the immediate victims of terrorism are generally chosen randomly or selectively from target population (Jurgensmeyer, 2000:4-5).

### Definition

In general, terrorism may be defined as a form of politically motivated action combining psychological and physical components carried out by individuals or small groups with the aim of inducing or compelling the State or the authorities to meet their demands. It is organized violence against the State or some authority with a certain political objectives. Terrorism involves the element of intense fear caused for the purpose of subduing or coercing. It may be described as the use or threat of violence designed to instil fear and induce submission. It is not mere violence, but coercion by terror. Compelling the people to do, that which they would not otherwise do by threat of death, injury or pain, either for themselves or for others (Hodson, 1977:3-4).

According to experts, there are four key elements of terrorism:

- It is premeditated - planned in advance, rather than an impulsive act of rage.
- It is political not criminal, like the violence that a criminal, such as the robber uses to get money. It is designed to change the existing political order.
- It aims at civilians - not at Military targets or combat - ready troops.
- It is carried out by sub-national groups, not by Army of a country.

Terrorism is the use or threatened use of violence for the purpose of creating fear in order to achieve a political, economic, religious or ideological goal. The targets of terrorist acts can be anyone, including civilians, Government officials, Military personnel, or people serving the interests of Government. At an early stage, it was used as a method, whereby an organized group or party sought to achieve its avowed aims chiefly through the systematic use of violence having a strategic plan.

### Causes of Terrorism

The root causes of terrorism are:

- National Oppression.

- Social Inequalities.
- Economic Deprivation.
- Political Frustration.
- Regional Disparities.
- Revolt of National Minority Communities.
- Identity Crisis.
- Religious and Racial Differences.

## Evolution and Growth of Terrorism

The first stage of terrorism was a means of achieving national emancipation. Its chief objective was to be relieved from any kind of domination, exploitation or any other oppressive system of individual or group of individuals. The so-called Anglo-Irish War fought between 1919 and 1921 had its objective to eradicate English Control in Ireland and to establish Irish Unity. In this time, terrorism was largely related to the right of the Irish people to national self-determination and the terrorist practices appeared as retaliatory action against the British reign of terror in Ireland. With the change of time, terrorism was replaced by, mass movement, industrial strike, rise of working class and changing international milieu.

Terrorism spread rapidly after 1945, particularly in Japan, Germany, France, Greece, Iraq, Syria and Saudi Arabia. It gained a worldwide network adamant to help each other with arms and explosive materials. In this period, the concept of State-sponsored terrorism was introduced by the Western countries. They trained their armies in terrorist activities and sent them to a destined place. By that time, it had also attained an additional dimension of drug trafficking, which added fuel to the fire and provided funds for terrorist activities all over the world.

Another important stage was the interference of Western countries. The West has given science, technology, concept of Democracy and Human Rights. But, they have also imposed civilization upon India, China and Muslim world. Many Muslim countries were occupied even after Independence. Their Governments were either toppled or turned into puppet Governments. Oil rich country's revenues were diverted to the West. Neighbouring countries are encouraged and armed to fight each other. These have contributed to develop a feeling of anger towards the West.

Cultivation of opium in Afghanistan provided a fertile land there to flourish drug trafficking in the region. Afghan Mujahideens, with the active cooperation of drug smugglers of Islamabad, Pakistan Government and its Army began to spread the drug trafficking in the area. The innocent citizens of State had been the softest target of terrorists as well as of the State repression, leaving many among them, particularly the youth to underground and join the insurgents either for protection or for revenge.

The Soviet intervention in Afghanistan took place on 27th December, 1979. It posed a serious threat to security of entire South Asian Region. The United States of America took the intervention seriously and went with the single-minded purpose of teaching Russia the lesson of its life. For the years beginning from 1979, Pakistan became the most important ally of USA in this part of the world and the weapons for Afghan Mujahideens were passed on through Pakistan. It also enabled Pakistan to receive substantive Military aid as well as acceptance of its indulgence in nuclear technology extended by China.

Next to the Soviet intervention in Afghanistan, was the illegal occupation of Kuwait by Iraq, which cast a deep shadow on the growth of terrorism. On 17th January, 1991, Multinational armies attacked Iraq to get the Kuwait vacated. It was in that kind of situation that the President Saddam Hussain called upon the Muslim World to do terrorist activities at large against the countries involved in bombardment on Iraq.

## Features of Terrorism

The following are some of the important features of contemporary terrorism:

Terrorists operate at international level, no longer concentrating on a particular region or country. The terrorist groups receive or derive vast economic, Military and other forms of support from overseas ranging from sanctuary, finance, weapon and training from other Governments, NGOs and individuals (Rajeshwari, 2000: 1094)

Another trend is the shift from well-organized, localized groups supported by State sponsors to loosely organized international network of terrorists. Terrorism has evolved over the last three decades into an organized international

network. The terrorist groups not getting major financial support from States/Governments have turned to new forms of making money like drug trafficking, private sponsorship, crime and illegal trade. Though, some formally organized terrorist groups do have legal source of funding, yet, a large sum comes from illicit channels mainly from international drug trafficking (Prabha, 2002: 115).

An important phenomenon of 1990s was the private sponsorship of terrorist groups by rich individuals like Bin Laden and private organizations in order to achieve their own agenda and some of the States using such organization to help terrorist activities in other States, without getting directly involved. Kashmiri militants obtain financial support from dozens of Islamic charities and radical Islamic Organisation that channel funds to terrorist groups. A common feature of all terrorist organization is hatred for Western democracy and capitalism. The hatred is especially acute for the United States (Radu, 2002: 278) as is evident from their reaction to the September 11 attacks.

Most of the terrorism is neither left nor right triggered by ethnic or religious contradicting terrorist activities are not motivated by ideology, but are an expression of anger over perceived injustices to the minority religious and ethnic communities by the majority community. Of all the religion-based terrorist groups, Muslim terrorist groups have not only been the most violent and destructive, but also the most organized, well armed, thoroughly trained, technologically most sophisticated and deeply committed to their cause (Mohapatra, 2002: 93-112)

Rise in Sectarian terrorism is another significant development, which implies the determination of the majority sect to force the minority sect to accept their interpretation of the religious teachings and practices. Denominational terrorism within the same religious groups was previously confined to Christianity (Catholics v. The Protestants) in Northern Ireland. It began to afflict Islam too mainly in Pakistan and Afghanistan in 1980s and 1990s. The sectarian divide between the Sunnis and Shias in Pakistan has widened since the 1980s. The rising tide of sectarian violence during Musharraf's rule suggests that the two sects have drifted further apart (Behuria, 2004:157-176).

It has been widely reported that the new breed of highly-motivated religious terrorist groups are desperately seeking weapons of mass destruction. It includes nuclear devices, germ dispensers, poisonous gas weapon and even computer viruses (Carter, Dewitch and Zelikow, 1998:81) to intimidate States, Government and societies. Modern means of communication, such as mobile telephones, fax instruments, satellite telephones, the Internet and Cyber Cafes, and the commercialization of cryptography have provided terrorists with operational flexibility. The terrorists have taken advantage of the phenomenal growth of computer technologies in their nefarious activities in two ways, as a tool and as a target of attack (Mishra, 2003:439-462).

Another feature of contemporary terrorism is that as the new world order is increasingly determined along commercial lines, the world key financial institutions are becoming prominent target, like attacks on World Trade Centre in 1993 and 2001 (Shukla, 2006:168)

### Implications

Terrorism has not only become endemic and vicious, but it is a serious challenge to the global human community. No society has so ever powerful of united it may be, is free from its menace. As Creveld (1996: 58) has stated that, in today's world, the main threat to many States, including specifically the US, no longer comes from other States. Instead, it comes from small groups and organizations engaged in terrorist violence. In this context, the term 'Terrorism' is more frequently associated with violence committed by a large number of groups owing allegiance to different ideologies and objects for the achievement of desired results. On the other hand, it is not a fixed phenomenon as its perpetrators adopt it to suit their times and situations.

Terrorism is an age-old phenomenon, but has acquired new dimensions in view of technological and social changes. The nature, targets and rhetoric of international terrorism have changed dramatically since the end of the Cold War and the emergence of globalization (Radu, 2002: 275-277). It is no longer a domestic phenomenon, but global in scale and reach.

Terrorism, today, has changed from being vehicle of intra-state violence to a transnational phenomenon, where loosely organized international network of terrorists use mercenaries, organized crime cartel, sophisticated weaponry and modern communication to operate from, through and into various countries. International criminal and terrorist organizations have become intrinsically linked; thanks to globalization and have learned to use technologies driving globalization (Radu, 2002: 278). Consequently there has been a "globalization of terror" (ibid.) as well.

### Remedial Measures

Unless terrorism is successfully tackled, mankind will never rest in peace, and the future

of the people of this world would be bleak. Terrorism is a serious problem. The following remedial measures may be thought to check terrorism:

- Effective Police/Military measures.
- Steps for eradicating regional imbalance.
- Steps for education and socialization of the people.
- Steps for eradication of poverty, unemployment, inequality.
- Steps for sound Economic Programme.
- Steps for honesty in administration.
- Steps for Global Cooperation.
- Steps for involvement of Mass Media. ■

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# Bastar

## An Asymmetric War

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### Keywords

Asymmetric War  
Game  
Private Enterprises  
Overtly Powerful Start Shifted  
Strategy  
Profit Development Issue  
Tactical  
Concrete Ways

### Abstract

*It is not the amounts of resources, but how efficiently are they used that matter in an asymmetric war. In in-boundary asymmetric wars, development is also a strategy of warfare, since it quells the voices of inequality. The Security personnel, therefore, must concentrate in the domain of specialization - the urban areas and be aggressive. Development as a tool of warfare would bring adequate results useful only when it is supported by the correct security framework.*

### I An Asymmetric War

**A**N Asymmetric War is one where the strengths of one warring party are not the weaknesses of other. Consequently, the overtly powerful seems to lose control over the adversary in a warring situation. If the war strategy is not reformulated, then the only way to survive would be mutual agreement for a peace. Where peace is intricately related to political, social and economic stability, such agreements could compromise with the interests of the nation in the long term. Therefore, the stakes have increased in a war for all warring parties. Mythically, a similar situation arose between David and Goliath and Goliath lost the battle, because neither did he reformulate the strategy nor did he realize the strength in asymmetry.

In a war, as indicated above, utilizing asymmetric strengths provides opportunities for victories far more than any symmetric or a conventional war would. The strategies of asymmetric war may be utilized by either of the parties, strong or weak. Historically, the strong has been averse to using the asymmetric warring tactics even in the wake of their usage by the weaker adversary and more than 50% of the wars have been won by the weaker party in wars that have taken place since 1950 contrary to the wars that occurred 200 years prior to it. This implies that wars could be won at a fraction of resources that the conventional war would consume.

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The conclusions of the above paragraph naturally raise the following question: why does the stronger party eventually lose the war?

War is about defeat and defeat is about the end of resources. When either the resources of the loser are wasted or they are detached, the adversary concedes defeat. If a stronger party lost the war, then it could happen if its resources are inefficiently used since the weaker party must also be using its resources. This can happen when either the adversary has not been targeted properly or when it is beyond the current capabilities to approach it and yet there is an attempt. In reality, the warring parties try to mix up the information on the two. Consequently, the warring parties end up wasting huge resources. Consequently, such large-scale loss of resources forces the stronger party to adopt conciliatory positions.

Then, how does the weaker party win the war?

Simple: by using their resources efficiently and creating haze, managing surprise and attack such that the adversary spends much more resources in protecting against them and firing in the dark. One example of this strategy is the use of anti-landmine vehicle by the Security Forces. One such vehicle costs 80 lakh and during its lifetime, another 20 lakh may be spent before it is condemned. One such vehicle saves not more than 20 landmine attacks and the total weight of all the landmines would not be more than 200 kgs., costing no more than 1 lakh. In effect, the Government is spending approximately 100 times more than the Naxalites for each encounter on the anti-landmine vehicle. Many arguments can be tendered against it like it protects the Security Forces against the landmine blasts. However, this paper seeks to build upon the incongruity of this idea.

The short-sighted rational adversary, which seeks to read into the patterns of the attack, ends up playing their game and wasting up more resources in the haze created by them.

In both the eventualities mentioned above, occurred a failure on the front of the intelligence collection and analysis departments of the stronger party. Secondly, the larger party was more predictable and decision-making is affected since the weaker party opened the war on many fronts, which include litigations, propaganda and

pressure tactics and consequently, the worse and the larger party tires out. This also answers the second conclusion derived in the last sentence of the second paragraph.

A similar war has broken out in the Bastar Region of Chhattisgarh. Here, a certain like-minded people, prominently under the banner of the Communist Party of India (Maoist) or CPI (Maoist), popularly called as Naxalites and referred as adversary here, have openly declared their animosity towards the current Constitution of India and its democratic traditions. Their war is aimed towards commanding ownership of the resources of the region and the representation of the people. The Government of India seeks a solution at the minimum cost possible.

As the situation stands today, it is losing its patience and this paper originates seeking an inquiry into the alternatives that the Indian Government can exercise.

### All-out War

Currently, the Government of India is poised for an all-out war against the Naxalites. It plans to mobilize about 60,000 troops (picked from a newspaper report) in that region in the next few months and start a dual programme of winning peace and subsequent development of the region starting from Kanker and Rajnandgaon. These districts largely border the Gadchiroli District of Maharashtra. Through this strategy, the Government seeks to first dominate a controllable piece of land and create infrastructure. Once this occurs, then they will gradually shift to other areas. The time-frame of the completion of the strategy is not given, not even part-wise. It is indicated that the extra forces would be employed for next two years. It may be appropriate at this stage to state that the State Government of Chhattisgarh is paying more than INR one crore for hiring the Central Paramilitary Forces per month apart from the cost of providing the logistical supports like buildings and the travelling and POL expenses. These expenses are above what the State is paying for its own State Police Forces.

This war is based on all kinds of asymmetry. The resources and manpower of the State is better than the adversary has. It also has better weapons

and training facilities than the adversary. The adversary benefits from the predictability of the forces and the better usage of the force multipliers of terrain under the guise of the Media, litigation and concealment amongst the civil society.

### Trained Troops in Jungle Warfare

The other strategy, since 2004, has been to train troops in jungle warfare and send them into the strong footholds of the adversary, who shall kill at every encounter. The results have not been encouraging as of now. The numbers of adversary killed have not been even 25% of what had been projected at the time of beginning the training strategy though the casualty ratio in an encounter has reduced drastically. The cost of training and retraining a Security personnel is about INR 20,000 per person per year. This is apart from the 50% extra pay provided to the Security Forces (Special Task Force) that go on such special missions into the forests and the opportunity cost of not being able to deploy such forces for general duties. As of now, the State is using the above two strategies in tandem since the international norms of 15 Security personnel per insurgent is largely under met. Today, we have one Security personnel for 6 to 8 adversaries. This means that we have an adverse ratio of 1 : 90 to 120. Though this ratio will come down drastically in near future since some new battalions of the Paramilitary Forces are going to be inducted near future.

### Third Strategy

The third strategy, which the author suggests, is to understand the peculiarities of this war mentioned below. This is an internal war. Therefore, the resources of the adversary depend critically upon the civil society. The adversary being on the move further requires all the material resources in the finished form, which also means that the goods would be costlier to the adversary compared to a member of the civil society. These limitations are not nonchalant because it requires them to be intricately involved in the civil society. It also means that they cannot function without having a huge number of sympathizers, who contribute liberally and arrange the material and its transport. The geography of State of Chhattisgarh is uniquely poised to check this transport, since there are

six large towns in the vicinity of the Bastar Region: Raipur, Jagdalpur, Dhamtari, Bhilai, Nagpur and Hyderabad. Most of the traffic is routed through the three National Highways: NH 6, NH 43 and NH 221. The closest Railway Stations are at Raipur, Bhilai and Jagdalpur. These are also the cities that have medical facilities and hotels and lodges for the adversary to mingle with the local population. Even if we are not able to check all the routes, a surprise check of the different services mentioned above will increase the variability of the supply of their requirements. This is no mean requirement because it would require the adversary to pay more to the civilian courier to stave off the risks. *Secondly*, it would require them to stock more goods. *Thirdly*, they would have to pay more to the Lawyers for fighting the cases. *Fourthly*, they will seek alternative routes and thereby make more mistakes and *lastly*, they would have to justify greater levies on the businessmen; in failure of which more information shall flow. Therefore, it has a cumulative effect on their resources, which defines the essence of this war!

The importance of this fact also stems from the realization that the adversary works through an organization and like all organizations its top order commands and the lower orders follow. Therefore, the top orders also have to be abreast with the current knowledge and impulses to outmanoeuvre the civil society. They also require to constantly interact with the people in the Media, Lawyers and Financiers. This requires the top leaders to be in the cities for substantial periods of time. It can be argued that the interactive part can be carried out on the part of the couriers since physical presence could be risky. However, the risks would require of them to constantly change their locations since, at no time, the State capacities could be properly estimated and neither could the secrecy of their locations. In both the cases, they would be in cities for some period of time.

If these constraints are reasonably true, then we can limit our search for the cheapest solution to the problem of plugging the supply routes and nabbing the top leaders. This would create chaos in the organization and lead to factions and self-destructions.

## Urban Strategy

A programme for this strategy that I would call urban and would of use later:

- Prepare a checklist of the hotels, hospitals, lodges, transport providers, taxis and the supply routes of the different cargos and their periodic bank statements, VAT credits, permits, licences.
- Checklist of all the tenants, godowns, dumps of industrial products.
- Verify all the Government documents like ration cards, BPL cards, licences, passports, election I-cards, bank accounts.
- Proper procedures on arrest/seizure of the material/personnel.
- Development of modern forensic facilities and analysis for computer hardware, doubtful documents; cryptography to break the online and offline codes and mobile tracking systems for tracking the location of the adversary.
- Publicity of the seized/arrested fellows when required.
- Develop public sentiment against the adversary.
- Create conditions for the speedy and incorrigible governance by speedy and fair trial of the accused.
- A programme for creating agglomerations and cities in the Bastar Region for better targeting the public services and consequent increase in the standard of living.
- Diligence of the Superintendent of Police in the selection of Special Police Officers since they can only identify the adversary. Once they are exposed, policy for their rehabilitation is also required.

For this programme, *firstly*, interdepartmental sharing of all governmental data is required. *Secondly*, private sector agencies with

incorrigible reputation may be involved in verification. *Thirdly*, channels where all the ground-level workers are encouraged to collect and share the information is necessary. *Fourthly*, officers, who are involved here, must be employed for longer durations since intelligence needs minimum credibility to be built to start working on the real-time basis. Nevertheless, not more than 1000 personnel may be required for this purpose. In this respect, in the Special Intelligence Branch (SIB) of Chhattisgarh that looks into Naxal Intelligence, a highly-dedicated Sub-Inspector with his two confident Special Police Officers chosen from Dantewada were relocated to Dhamtari from Raipur, experimentally. Their job was to sit and spot the adversary. In this process, one Area Committee member, who had come there for some medical help, one aide District Committee member (who was released on the local political influence), were apprehended. It gradually led to the arrest of another 15 adversaries, of whom some were working in Surat (Gujarat). The gains were lost in the tussle with the District Police over the claim to the arrests.

Contrastingly, in no operation in Chhattisgarh did we ever apprehend the adversary anywhere close to this number. The force involved 10 personnel from the local district police and 3 from the SIB and at a cost not more than 5000 INR expended on food and travel to Surat. This has not been just the single case. One was apprehended from the Railway Station in Raipur Nirmallaka and Jaiswal Reddy again by one Sub-Inspector and two SPOs (DKSZC). These catches have been disproportionately cheaper than the cost expended for the operations to the jungles.

Let us now analyze the situation from the point of view of the adversary. If ever they want to neutralize any of the popular leaders, they shall have to venture into the cities since this is where they will find them the most often. Having this option in view, adversary would like to carry on certain attacks in the cities to keep the Security Forces from concentrating from other regions.

## II

## The War Strategy based on Asymmetry

This Asymmetric War throws up a game strategy matrix of the following sort in terms of the resource-achievement constraints. (The returns-resource constraints matrix would get better with greater collection and better collation of data.)

The matrix shown has two players - the Adversary and the Security Forces. The Adversary has a column-wise strategy display, while the Security Forces have a row-wise strategy display. The game matrix is created as playing either a rural or an urban strategy. The numbers in the matrix show the percentage of returns-resource expenditure to SF and the adversary if they both play the same strategy. In the North-West quadrant, for example, the adversary gains 25% and the SF gain 75% (i.e. 100% - adversary's pay-off) since the adversary plays first. The returns to resources ratio (hereafter, R-RE) to the adversary is given in *italics*, while the returns to the SF is given in the normal font.

The pay-offs are generated on the basis of the following assumptions:

- The Security Forces (hereafter, SF) have more resources than the adversary. The SF have greater R-RE in the cities than the rural areas because their concentration is higher in the cities. Though, R-RE for the adversary is unclear due to small size.
- Cities are important for the adversary because the resources used against the SF are generated and transformed into weapons here. Cities are also an important weapon of the asymmetric war in garnering public support and legal response.
- The adversary plays first while the SF play second, generally in response to the adversarial act.
- The impact of an adversary's act is magnified many times in the cities vis-à-vis the rural areas due to the Media attention and the residence of the social elites. The SF seek to minimize disorder in the society and their first role is to contain the chain reaction of any act committed by the adversary. In the

rural areas, magnification is less though the casualties are high.

- Any change in strategy by either the SF or the adversary requires resource-expenditures. This also explains the reason for aversion to change in strategy. Further, once a department is created, officers attach a personality with it and seek to keep themselves there, even if it means adopting a bad strategy.

### ADVERSARY

Security Forces	Urban	Rural
Urban	75,25	20,80
Rural	25,75	35,65

### Returns-resource Expenditure Ratio of the Security Forces vis-à-vis the Adversary

Though the pay-offs are created on the instances of previous experiences and certain known constraints, the strategies are governed by adversary's desire for longest sustenance and SF desire for the cheapest and fastest solution to the problem. In this light, the pay-offs for each of the four solutions are discussed below.

If both the parties play an urban strategy, then the adversary gets a return of 25% and the SF get a return of 75%. This is based on the belief that the Security Forces would be able to earn a better return on their resources deployed in the urban centres as the access points are limited and their sources of information are more and accurate.

If the adversary plays a rural strategy while the SF play an urban approach, then the R-RE reverses. Both the forces have their areas of operations limited, but the strategy 3 of intelligence-based operations would ensure that the adversary ends up losing more resources in future due to disorganization and the urban dependence of the adversary. Therefore, the adversary will have the highest loss in this strategy.

If both the parties play a rural strategy, then the Security Forces will face an insurmountable task of working on the brute force since in order to

dominate the area, the Security Forces will have to be present in large numbers. Here, the SF will have a R-RE of 35%, while the adversary will have a R-RE of 65%. Since the expanse is large, success might be limited for the SF in the short run. However, if the adversary seeks to limit itself to the forest, the Security Forces would build rural strength and the adversary would eventually lose as the supply routes would be cut off in the long term.

However, if the adversary plays an urban strategy, while the SF play a rural strategy, then the game would be highly challenging for the SF since they will have R-RE of only 20%, while the adversary earn a return of 80%. India being a democratic country will be left with a little patience against them. Winning this war would nothing be short of a Winner's curse or a pyrrhic victory. SF reaction to such a strategy of the adversary may lead to much collateral damage. Further, the expanse of the land is so much that effective coordination against a largely unidentified enemy might be very difficult. Therefore, the SF would face the most difficult situation here. It may be clarified that the strategy is different from the North-Eastern Strategy (NES) since in this strategy, the SF are not prepared while in the NES, the SF are prepared with the infrastructure, but the adversary is concentrating on the rural strategy.

This game shows that the urban-urban strategy would be the best for the SF, while the rural-rural strategy would be best for the adversary. Since, the adversary plays first; a rural-rural strategy is adopted. **Therefore, by playing the rural strategy where the losses are minimum for the adversary and reaps an assured return with minimum gains of 65%, the adversary limits the SF to a rural strategy to a gain of 35%.** This is a sequential equilibrium for the matrix game since the adversary plays first always. However, this strategy might not provide the longest life to the adversary, because the Security Forces could build up their capacity in the long run and thereby changing the matrix to their advantage. Therefore, the best solution for the adversary is to send mixed signals to the SF by attacking the urban centres as well. This would delay building up capacity either in the rural or the urban areas.

Just by using the urban strategy 20% of the times the adversary gains 2% directly and the SF lose 5% on R-RE. This is shown as follows on the assumption that the adversary plays the rural strategy and forced the SF to play the rural strategy and then, the SF are playing the urban strategy 20% of the time:

$(75)20/100 + (65)80/100 = 15\% + 52\% = 67\% - 65\% = 2\% \text{ gain by mixing urban with rural strategy.}$  Since the SF react, they would use a nearly equal proportion of resources on both the fronts and they have a pay-off of  $50/100(25) + 50/100(35) = 12.5\% + 17.5\% = 30\% - 35\% = -5\%$  than they would get in the rural strategy. In effect, just by readjusting their strategy for 20% concentration on the urban areas, the adversary has been able to waste 5% of the R-RE of the SF and gain 2% on its own R-RE. If we assume that if the adversary had to spend 30% of its resources for carrying out its activities in the urban areas, then the returns of  $(5\% + 2\%)/30\%$  would mean approx. 28.5% returns! The best strategy for the adversary is that the adversary could, of course, play is to use all the resources in the urban areas and reap 75% returns. However, this strategy would not be helpful in the long run since the SF would catch up with the adversary soon.

This R-RE would definitely cause alarm to everybody. Even if the returns are scaled down to 15%, the impact would be huge. As our experience goes, the adversary would further delay the reaction process due to the asymmetric war strategies of litigation and stimulating the human rights activists into action and currying international pressure.

### The way out?

Incidentally, being larger in numbers, the SF have a larger size and more predictable movement. On the other hand, the adversary is highly dependent upon the civil society through the urban network. Therefore, the SF could start playing on the urban strategy. This way, they make 25% returns when the adversary plays a rural strategy. On the other hand, the adversary playing first would play the most beneficial rural strategy, and this being an

asymmetric war and SF having moral obligations of protecting the people have to play a rural strategy as well and SF can gain only 35% returns at the maximum. This is incidentally our current strategy. The biggest dilemma is that shifting to a 25% return strategy from 35% return strategy would not be very persuading to many people.

However, if we play a modest mixed strategy, i.e. a reallocation of resources of 25% urban and 75% rural, we will get at least  $25 \times 25/100 + 75 \times 35/100 = 32.5/100$  or 32.5% returns. This means that the immediate loss is just 2.5%, but whenever the adversary plays an urban strategy we would be ready. It also means that in the subsequent periods, SF would be playing the urban strategy and the gains would fluctuate between the 75% and 25% to them. In fact, with the same 20% reallocation of resources, the adversary would now gain  $(25)20/100 + (75)80/100 = 65\%$ . In other words, the adversary would not gain any advantage by relocating 20% of their resources to urban areas. This would have a greater impact upon them since they would have to ascertain

greater percentage of resources in the urban areas where the Security Forces are stronger, or limit themselves to the jungles. In both the situations, their range of options are limited since the return on resource expenditure is higher on fewer strategies than that played by a only rural strategy the S.

In effect, 25% of resources-expenditure of the SF on the rural strategy has wasted 20% of the adversary's resources. It means a straight  $(20\%/25\%) \times 100 = 80\%$  increase in the usefulness of resources compared to have played second! It is important to understand that the returns here are different for the SF, because they get the crucial time for placing the infrastructure for the action in place. Therefore, the SF is bound to increase returns from expanding expenditure on the intelligence-based strategy 3 of the war game.

Once the resources are expended on the above-mentioned intelligence form of the game start showing results, then the matrix will start tilting further in favour of the SF.

### III

## The Development Issue

The issue of development is clearer than the asymmetric war strategy, because the people want a higher standard of living. On the other hand, people generally disfavour conflict. Here, it must also be borne that the loyal people are the strength of either of the Government - whether the adversary or the civilian. Therefore, no Government could afford to overlook the material requirements of its people.

The loyalty of the people depends upon the force of the Government in dealing with the rebels, but this can be short-lived if the level of material satisfaction is less and people hold the Government responsible for this. This is the general condition in India where the Government is still treated as 'Mai-Baap' (mother-father) with the connotation of not being an elector of the Government, but a receiver of the benefits only.

Therefore, if the Government has to reduce the level of the conflict, it has to engage in activities that increases the material satisfaction of the people. Here, the situation is slightly modified, because historically, the Government sanctioned

assets negligibly reached the people due to different reasons, including corruption and the adversary has filled in the legitimacy gap.

As things stand today, the Government is keen to provide material support to the people and much expenditure is made thereupon. This policy stands draws disfavour from the rebels since it challenges their legitimacy.

This creates a game of the following kinds:

The assumptions on which the following analysis would be based are as follows:

- The local population of the affected area is loyal to the Government that provides the maximum material benefits.
- The Civil Government seeks to create conditions for local population to develop a stake in the civil administration against the adversarial administration.
- The Government plays first since its activities will create conditions or competitive

development under right conditions that its capacity to deliver is not limited by the adversarial reactions.

- The adversary is the aggressor and captures the space left vacant by the Civil Government. Therefore, it is incumbent upon the Civilian Government to start competitive development.

Here, the local population seems to be at a bargaining strength, but actually more infrastructure means greater accessibility to the SF and this reduces the risk to life in these areas and the more risk averse can raise the voice against the rebels. With this consideration, the actual game is a zero sum between the Government and the adversary, since the legitimacy the Government earns is at the cost of the adversary and vice versa. However, this creates a situation where coordination is cheaper than conflict. Further, since it is an asymmetric war, a Government can enforce cooperation upon the adversary. Therefore, it is a cooperation game of the following sort:

The pay-offs to different strategies can be enumerated as follows. These numbers do not signify anything more than the order of their importance. The more important the strategy, the higher the value of pay-off attached to it. The importance is measured in terms of the number of people a policy is able to attract. Attraction creates loyalty and legitimacy for the Government.

G	=	1
P	=	2
SF	=	-1
G,SF	=	2
G,P	=	3
SF,P	=	6
G,P,SF	=	7
A	=	5

Here, the first three strategies are redundant because they are strictly dominated by the next three strategies. However, they warrant an explanation. Individual strategies were used till the last decade. It failed because the adversary could find legitimacy in that time.

The possibility of a combination of the next three strategies is not possible, since the components would overlap and it would make no logical sense. In the event of these pay-offs, it is found that the adversary (A) can easily block all the gains ascribing from different strategies but for the last two strategies mentioned above because now the adversary holds dominance in that area. The Government, therefore, remains with only two choices. Amongst them, the dominant strategy for the Government is to adopt the G,P,S, with a pay-off of 7, since it has the chance to play first.

It must also be realized that the strategy profile creates situations where it is not very suitable for the Government to directly involve in the production of goods and services since direct presence of the Government reduces the legitimacy of the adversary. In retaliation, the adversary may cause damages to the Government buildings that a private enterprise may be able to save through bribes. Therefore, the strategy, P,SF has a pay-off greater than G,SF.

However, the private sector may not be interested in the sectors, which have higher sunk costs like roads and bridges, since the costs of bribes and occasional destruction of Government property by the adversary increases the costs involved. Therefore, in such areas, the Government would have to step in. This would attract more private investment. Therefore, the combination of the G,P,SF has the highest pay-off. This combination cannot also be blocked by the adversary. This means that in the long term, the adversary would drastically reduce in size so much, so that it would become insignificant.

Therefore, surprisingly, the adversary would contribute to the development process by finding a niche while trying to maintain a niche of its loyal. This experience has occurred previously elsewhere and may be repeated here. ■



# Thematic Perspective on Terrorism

## Definitional Perplexities and Conceptual Ambiguities

Shashi Kant\*

### Keywords

Terrorism  
National Liberation  
Left-Wing Terrorism  
Violence  
Instrumental Approach  
Organizational Process  
Approach

### Abstract

*This paper deals with the divergent thematic perspectives on terrorism and argues distinctions of different schools of thoughts, regarding the conceptual ambiguities of terrorism. Simultaneously, it deals with the different definitions given by the different organizations.*

**“Kill one and frighten ten thousand.”<sup>1</sup>**

### Introduction

EVERY country through the ages had its enemies. But, some enemies long last; terrorism is one of them. As the 19<sup>th</sup> century ended, terrorism made a heinous space in the hearts and the minds of the people. In 1894, an Italian anarchist<sup>2</sup> assassinated French President Sadi Carnot. In 1897, anarchists deadly stabbed Empress Elizabeth of Australia and killed Antonio Canovas, the Spanish Prime Minister. In 1900, Umberto I, the Italian King, was the another victim of anarchist attack.<sup>3</sup> In 1901, an American anarchist killed William McKinley, President of the United States. During the First World War, fascists were considered the villains. What, however, new today, is the phenomenon of “terrorism” that has acquired an international dimension.<sup>4</sup> As experts have commented that terrorism remains a complex phenomenon of mix factors and motivations, it has come to symbolize the scourge of the modern civilization.<sup>5</sup> Scholars around the world have not always

<sup>1</sup> Sun Tzu was the first and most prominent among the ancient Chinese strategists of the Warring States period (482-221 B.C.). His great work *The Art of War* is recognized the masterpiece in this field.

<sup>2</sup> Anarchist is a person who advocates the abolition of Government and a social system based on voluntary cooperation. URL: <http://www.thefreedictionary.com/anarchist>

<sup>3</sup> Walter Laqueur, “Post-Modern Terrorism”, *Foreign Affairs*, Vol. 75, No. 5, September-October 1996, pp. 24-35.

<sup>4</sup> George, P. Flether, “Many Faces of Terror”, *The Economic Times* (New Delhi), 28<sup>th</sup> October, 2003.

<sup>5</sup> G.M.C. Balyogi, “Terrorism is a Scourge of Modern Civilization” in V. Grover (Ed.), *Encyclopedia of International Terrorism*, Vol. 1 (New Delhi: Deep and Deep Publications, New Delhi, 2002), pp. 3-5.

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been able to answer this fundamental question. It has been commonly accepted that the definitions regarding the terrorism, as vague, confusing and ambiguous. No scholar or country are agreed upon any single recognized universal definition. Affirming the above statement, noted scholar Hoffman opines that scholars are divided in terms of defining terrorism due to its characteristics of being politically and emotionally charged.<sup>6</sup> Cross-section of scholars, for example, Anthony Oberschall, are of the opinion that violence has been justified against tyrannical, oppressive corrupt rulers; for national self-determination; against exploitation and for instituting social justice and in the name of humanitarian intervention to save people from genocide.<sup>7</sup> If we do talk about the ambiguity in terms of the understanding of terrorism, it comes similar to those words, i.e. democracy, power, class and so which have the same fate. Democracy for China is not what for US or UK have.<sup>8</sup>

The article has been divided into four parts. It begins with the definitions of terrorism given by the scholars and various establishments, followed by the discussion on the common findings and interpretations as an analytical tool to understand the 'phenomenon' closely. This discussion continued up to the third part of the article, which positively argues different schools of thoughts, which see terrorism from their own perspectives and prisms. The last part of the article briefly discusses about Martha Crenshaw's Instrumental and Organizational process approach, which eventually will be helpful for better understanding of menace.

### Conceptual Ambiguity

To start in a conventional way, my discussion goes on what precisely defines terrorism? Is terrorism the same thing as guerrilla warfare? Can the term be applied to a State's methodical

repression of its own citizens or as in the cold-blooded purges of the Stalinist era? Does it include kidnapping and assassinations of political leaders? Does terrorism characterize only in case of transnational versions, where it originates in one country while targets another as Andrew Pierre describes international terrorism as "an act of violence outside national boundaries, or with clear international repercussions".<sup>9</sup> Is there anything that make distinction between revolutionary or insurgent, a 'freedom fighter' a 'martyr' or an 'ordinary criminal'?<sup>10</sup> Laqueur in his book *Terrorism* held that 'a comprehensive definition of terrorism does not exist not will it be found. To argue that terrorism cannot be studied without such a definition is manifested absurd.<sup>11</sup> Broadly speaking, the contemporary breed of terrorism implies organized use of violence for political ends and it is directed primarily at non-combatants.

There are few definitions, which will help to understand the basic themes and elements of terrorism:

- Oxford English Dictionary gives two definitions for terrorism:
  - "Government by the intimidation as directed and carried out by the party in France during the Revolution of 1789-1994."
  - "Policy intended to strike with terror those against whom it is adopted."<sup>12</sup>
- "Terrorism is the sub-state application of violence or threatened violence intended to sow panic in a society, to weaken or even overthrow the incumbents, and to bring about the political change."  
— Walter Laqueur (1996: 24)

<sup>6</sup> Bruce Hoffman, "Change and Continuity in Terrorism", *Studies in Conflict and Terrorism*, Vol. XXIV, 2001, pp. 417-428.

<sup>7</sup> Anthony Oberschall, "Explaining Terrorism: A Contribution of Collective Action Theory", *Sociological Theory*, Vol. 22, No. 1, March 2004, pp. 26-27.

<sup>8</sup> Jeff Goodwin, "A Theory of Categorical Terrorism", *Social Forces*, Vol. 84, No. 4, 2006, pp. 2027-2046.

<sup>9</sup> Quoted in Muhammad Zubair Iqbal, "The Media and Terrorism: Relationship and Response", *Regional Studies*, Vol. XXII, No. 1, Winter 2008-2009, pp. 81-94.

<sup>10</sup> William F. Shughart, "An Analytical History of Terrorism 1945-2000", *Public Choice*, Vol. 128, No. 1/2, July 2006, pp. 9-112.

<sup>11</sup> Walter Laqueur, *Terrorism*, London: Wiedenfeld and Nicolson, 1977, p. 5.

<sup>12</sup> Walter Laqueur, "Post-Modern Terrorism", *Foreign Affairs*, Vol. 75, No. 5, September-October, 1996, p. 24. Walter Laqueur defines terrorism as the sub-state application of violence or threatened violence intended to sow panic in the society, to weaken or even overthrow the incumbents and to bring about the political change.

- "Terrorism is a premeditated, politically-motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience."

[Title 22 of the United States Code, 2656 f (d)]

- "Terrorism is a deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change."

— Bruce Hoffman<sup>13</sup>

- "Terrorism is a form of political behaviour resulting from the deliberate choice of a rational actor, the terrorist organization."

— Martha Crenshaw<sup>14</sup>

- "Terrorism is organized political violence, lethal or non-lethal, designed to deter opposition by maximizing fear, specifically by random targeting of people or sites."

— Austin T. Turk<sup>15</sup>

- "Terrorism is an anxiety-inspiring method of repeated violent action, employed by (semi) clandestine individuals, groups or state actors, for idiosyncratic, criminal or political reasons, whereby - in contrast to - assassination - the direct target of violence are not the main targets. The immediate human victims of the violence are generally chosen randomly or secretly from a target population and serves as message generators. Threat and violence-based communication process between terror victims and main targets are used to manipulate the main target [audience(s)] turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion or propaganda is primarily sought."

— A.P. Schmid<sup>16</sup>

- "Terrorism is the strategic use of violence and threats of oppositional or non-state political group against civilians or non-combatants and is usually intended to influence several audiences."

— Jeff Goodwin<sup>17</sup>

Terrorist activity means any activity which is unlawful under the laws of the place where it is committed and which involves any of the following:

- The hijacking or sabotage of any conveyance (including an aircraft, vessel or vehicle).
- The seizing or detaining and threatening to kill, injure or continue to detain another individual in order to compel a third person (including a Governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.
- A violent attack upon an internationally-protected person (as defined in 1116(b)(4) of the title 18, United States Code) or upon the liberty of such a person.
- An assassination.

The use of any —

- biological agent, chemical agent or nuclear weapon or device, or
- explosive or firearms (other than for mere personal monetary gain), with intent to endanger, directly or indirectly the safety of one or more individuals or to cause substantial damage to property.

(US State Department)<sup>18</sup>

United Nations Security Council concedes Terrorism as:

- "Criminal acts, including against civilians, committed with the intent to cause death or

<sup>13</sup> Bruce Hoffman, "Inside Terrorism", Columbia University Press: New York, 1998, p. 43.

<sup>14</sup> Martha Crenshaw, "The Causes of Terrorism", *Comparative Politics*, Vol. 13, No. 4, July 1981, p. 380.

<sup>15</sup> Austin T. Turk, "Social Dynamics of Terrorism", *American Political and Social Science*, Vol. 463, pp. 119-128.

<sup>16</sup> Alex P. Schmid, "Political Terrorism", Amsterdam: North Holland Publication, 1988, pp. 58-59.

<sup>17</sup> Jeff Goodwin, "A Theory of Categorical Terrorism", *Social Forces*, Vol. 84, No. 4, 2006, p. 2028

<sup>18</sup> US State Department on Terrorism.

URL: <http://www.state.gov/s/ct/lr/lscrtl2000/2419.html>

serious bodily injury, or taking of hostages, with the purpose of to provoke a state of terror in the general public or in a group of persons or particular persons intimidate a population or compel a Government or international organization to do or to abstain from doing any act.”<sup>19</sup>

United Nations General Assembly attempts to define terrorism as:

- “Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whether the considerations of a political, philosophical, racial, ethnic, religious or any other nature that may be invoked to justify them.”<sup>20</sup>

- European Union defines terrorism in Article 1 of the Framework Decision on Combating Terrorism—2002:

“Certain criminal offences, that given their nature or context, may seriously damage a country or an international organization where committed with aim of: seriously intimidating a population; or unduly compelling a Government or international organization to perform or abstain from performing any act; or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structure of a country or an international organization.”<sup>21</sup>

- “Whosoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other substances (whether

biological or otherwise) of a hazardous nature, in such a manner as to cause or likely to cause death of or injuries to any person or persons or loss of or damage to or destruction of the property or disruption of any supplies or services essential to the life of the community in India or causes damage or destruction of any property or equipment used or intended to be used for the defence of India, any State Government or any of their agencies or detains any person or threatens to kill or injure such person in order to compel the Government of India or any other person to do so or abstain from doing any act, commits a terrorist act.”

*Section XVI of the Unlawful Activities (Prevention) Amendment Ordinance, 2004.*<sup>22</sup>

The word ‘terror’ itself comes from West’s political vocabulary as name for French revolutionary’s action against their domestic enemies in 1793 and 1794. It is, here, meant by Government repression in the form of executions. Since French Revolution, Charles Tilly, precedes that the word ‘terror’ has expanded in the larger scope. Scholars on terror, continue to use it for Governmental intimidation of citizens, as in Joseph Stalin’s use of executions to eliminate dissent. Similarly, they use the term frequently to designate clandestine attacks on Governmental targets by domestic opponent, such as Basque separatists, the Irish Republican Army and Sri Lanka’s LTTE.<sup>23</sup> As the literature on the terrorism has evolved, the definition of the term progressively has come into existence. Wide range of scholarship attributes at least four distinctive characteristics of terrorism. *First*, terrorism is violence for political end as Hoffman suggests (Hoffman, 1998: 38). *Second*, terrorism is a planned and calculated act. *Third*, there is no definite set of warfare for the said purpose. *Fourth*, it has far-reaching consequences.

<sup>19</sup> UN Security Council No. 1566.  
URL: <http://daccess-ods.un.org/TMP/47825.html>

<sup>20</sup> UN General Assembly Resolution 49/60.  
URL: <http://un.org/gopher-data/ga/recs/49/60>

<sup>21</sup> European Union defines Terrorism.  
URL: <http://www.statewatch.org/news/2002/jul/Olterdec.html>

<sup>22</sup> Unlawful Activities (Prevention) Amendment Ordinance, 2004.  
URL: [http://www.satp.org/satporgtp/countries/india/document/actandordinances/the\\_unlawful\\_activities\\_amendord2004.html](http://www.satp.org/satporgtp/countries/india/document/actandordinances/the_unlawful_activities_amendord2004.html)

<sup>23</sup> Charles Tilly, “Terror, Terrorism, Terrorists”, *Sociological Theory*, Vol. 22, No. 1, March 2004, pp. 5-7.

## Freedom Fighter vs. Terrorist

If the variable 'unlawful use of violence' taken into consideration in terms of defining terrorism, it would essentially head towards into a wrong conclusion. Applying the similar meaning, would term Americans and Indians, who fought against the Britishers in their colonial phase, as terrorists. Achin Vanaik defining the political terrorism as the calculated or premeditated use or threat of use of violence against an individual, group or larger collectivity in such a manner that the target is rendered physically defenceless against that attack or against the effect of that violence attributed the following characteristics of terrorism as:

- (i) It is organized intimidation;
- (ii) Violence against civilians or non-combatants;
- (iii) Indiscriminate use of violence; and
- (iv) Fourth and the last, illegal use of violence.

At the same time, he suggests to get out of the relative trap of temptation by giving the example of Bhagat Singh, who fought against the British colonizers, to whom Indian masses use to see as a heroic revolutionary and martyr.<sup>24</sup> Rajesh Harshe, on the other hand, concludes that State itself resorts to the terrorist tactics to fight non-state insurgent outfits. It becomes paradoxical situation when the activities of the groups that resort to terrorist violence are dubbed as anti-national or secessionist, while the people who believe in the cause, glorify them as freedom fighters and perceive secessionism as struggle for self-determination.<sup>25</sup>

William F. Shughart traces the history of modern terrorism from the end of the Second World War, dividing the history of terrorism into three waves: *first, terrorism in the service of national liberation and ethnic separatism, second, left-wing terrorism and third, Islamist terrorism.*<sup>26</sup> While analyzing the basic factors responsible for the emergence of terrorism, he adopts the Constitutional political

economy approach and proceeds on arguing that terrorism is rooted in the artificial creation of Nation-States during the inter-war period. He further goes on illustrating by giving the argument that the shrinking of the French and British empires, resulting in the emboldening of the self-determination language of the Atlantic Charter, was the main cause behind the origin of the *first* wave of terrorism. *Second wave* of terrorism begins from, according to him, in the incident of hijacking of an El Al flight from Rome to Tel Aviv, which was an act of revenge taken by the Palestinian terrorists for the defeat of Egypt in the 1967 Six-Day war. *Second wave* of terrorism was fuelled by the opposition of the Vietnam War, Anti-Americanism in general, carried on by the notorious groups, such as Red Brigades, the Red Army aided and abetted by PLO. *Last wave* which is still going on, Muslim in origin, was set in motion by the Iranian Revolution in 1979.<sup>27</sup>

## Theoretical Perceptions on Terrorism

The theories of terrorism have tried genuinely, to explain the reasons and cause of terrorism. They concentrate mainly on the causes and remedies of terrorism. There are three major schools of thoughts: Liberals, Conservatives and Realists. Marxist too have their own perception on the same. These theories need to be discussed, so as to analyze the manner in which nations perceive and react to situations, where they are directly or indirectly inflicted by terrorism. In main, these views have some convergence and some conflicts. A main study by an eminent scholar has detailed these approaches. The following section is drawn from this study and assumes that these classifications are the accurate explanation of the phenomenon of terrorism.

### Liberals' View on Terrorism

According to this view, that terrorism is a response to economic, social and political deprivation as well as to bad Government. People, who harbour a sense of grievance, will turn to violence to dramatize their misery or to change the conditions

<sup>24</sup> Achin Vanaik, "Terrorism: Definition and Ethics", *Economic and Political Weekly*, Vol. 37, No. 4, 5<sup>th</sup> October, 2002, pp. 4164-4168.

<sup>25</sup> Rajesh Harshe, "Cross-Border Terrorism", *Economic and Political Weekly*, 30<sup>th</sup> August, 2003, pp. 3621-3623.

<sup>26</sup> William F. Shughart, "An Analytical History of Terrorism, 1945-2000", *Public Choice*, Vol. 128, No. 1/2, pp. 7-39.

<sup>27</sup> *Ibid.*

that are responsible for it. Governments may fail to provide basic amenities, and entitlements and opportunities. They may refuse, or may be unable to correct social injustice. Terrorism may not be a result of resistance directed at Governments. It may also arise out of quarrels with other communities or groups. The Government may or may not support these groups. If it does, then Government becomes an accessory to injustice and target of terrorism.<sup>28</sup> Following the Lockian tradition, which admits in the goodness of the people, Dinesh D'Suza writes:

"Liberals believe that people, who fail or do bad things, are not acting out of laziness or wickedness; rather, society put them in this unfortunate position. Since people are innately good, Liberals hold, the great conflicts in the world are not the result of *good v. evil*; rather, they arrive out of terrible misunderstanding that can be corrected through ongoing conversation and through the mediation of such groups as United Nations."<sup>29</sup>

#### Conservatives' View on Terrorism

According to the Conservative school of thought, terrorism arises from the process of nation-building through which all nations once have gone. As countries go through the process of unification under a common system of rules and institutions, they encounter resistance from within. New system of laws and institutions backed by a newly-constituted Government will inevitably frighten the authorities. In doing so, it may create resistance that may turn violent; the State will be considered to restore law and order and will have to use violence in turn do so. As a result, a cycle of violence and counter-violence will then start.

#### Realists' View on Terrorism

School of Realists thought observes terrorism as rising of competition between States, in a world of Nation-State, in which there is no overarching authority. In other words, there would be no Government that can enforce peace and justice. The only way of settling disputes and differences

is through the threat or actual use of violence. In this view, power plays an important role. The more powerful you are, the more capable of options available to States in their competition for power. So, terrorism is considered a weapon in the hands of a rival State.

Liberals, conservatives and realists also differ in how States and societies should respond to terrorism. For Liberals, the answer to terrorist violence is to the lives of the people, including those who might be moved to secede. In the Liberal view, the Government's use of violence to curb terrorism should be a subsidiary element of its policy.

"Conservatives are of the view that improving the levels of citizens and giving them better Government, should be the aim of our authorities. The proper business of Government should be to govern well and wisely, at the same time, it is also the duty of Government to use violence to crush disorder."<sup>30</sup> While Liberal wants Governments to be cautious in using violence against terrorists, Conservatives argue that the responsible State must use violence to end violence. The Realist school is comparatively close to the Conservatives. They believe that no amount of economic development and good Government will prevent a rival State from instigating and sustaining violence; only the actual use of greater violence will do so. Since terrorism is another instrument in the hands of rival States, Governments are justified in using violence to put down insurgents and stop the terrorism from intervening in their domestic affairs. The Liberals, Conservatives and Realists all agree that Government must be prepared to use the violence to curb terrorism. However, Liberals would use it as the last resort, while Conservatives and Realists would use it without any delay.

Since the Realists believe that international political system exists in a State of Anarchy, in which distrust is a natural component, there is very little use of cooperative agreements, designed to deter terrorist warfare. The Liberal perspective recognizes the threat to national security imposed by terrorists through warfare. For Liberals, the international political system is not as anarchic

<sup>28</sup> Kanti P. Bajpai, *Roots of Terrorism* (New Delhi: Penguin Books, 2002), pp. 23-24.

<sup>29</sup> Dinesh D'Suza, *Letters to a Young Conservative*, Basic Books: US, 2002.

<sup>30</sup> *Ibid.*, pp. 25-30.

as it is for the Realists and it is possible to achieve consensus through cooperative politics. The Liberals pursue the following initiatives to achieve this end:

- Increased level of interdependence, recognizing interdependence as the greatest deterrent to information warfare, and
- Creating global institutions and international agreements.

### Marxists' View on Terrorism

Marxists recognize that in certain circumstances, such as war of national liberation and mass revolutionary struggles, violence may be unavoidable, but terrorism, as in planting bombs on Government or civilian targets, or hijacking planes, or assassinations by the small groups acting independently of class struggle, has always been deemed unacceptable. This is because terrorism runs counter to the most basic principles of Marxism.<sup>31</sup> Marx showed that the root cause of exploitation, oppression, tyranny and war not bad individual rulers or bad Governments, but the division of society into classes, and the ownership and control of production by a minority class that live off the labour of the majority. The overthrow of the ruling class and the economic system on which it rests cannot be achieved by killing or frightening even large numbers of individuals, but only by the struggle of a new class, which is bearer of new economic system. In the words of Marx, "The emancipation of the working class must be conquered by the working class itself." This emphasis on the self-emancipation of the working class is crucial not only for the overthrow of capitalism, but also for the achievement of the aim, establishment of socialism.

Revolutions from the above, even by forces claiming to act on behalf of the working class, result only in replacement of one set of exploiters and oppressors by another (however good the intentions of revolutionaries). The method of

struggle used by socialists from issuing leaflets, collecting petitions, organizing trade unions and parties through the mass demonstrations, election campaigns and mass strikes - are all steps towards raising the consciousness, confidence and organization of workers to act on their own behalf. Terrorist methods contradict this whole perspective. Frequently, they are aimed at completely the wrong target, striking not at rulers or oppressors, but an ordinary working people. "Under the guise of 'fighting terrorism', civil liberties will come under increased pressure at home, there will be a campaign for more cops and increased police powers and previously growing movement against the death penalty will operate in a much less favourable environment."<sup>32</sup>

*Martha Crenshaw*, an analyst on terrorism has discussed two approaches, one, an 'Instrumental Approach' and another, 'Organizational Process Approach'. However, both views are necessary to understand terrorism, its consequences and the manner in which nations have worked, both in regional and international sphere to check the menace of terrorism.

### Instrumental Approach on Terrorism

"The Instrumental Approach is based on the assumption that the act of terrorism is a deliberate choice by a political actor and violence is seen as intentional. Terrorism is a means to political end."<sup>33</sup> The organizations act to achieve collective values, which involve radical changes in political conditions. The classic work on the strategy of conflict, such as those by Thomas P. Schelling suggests, "Terrorism is one of violent coercion, a bargaining process based on power to hurt and intimidate as a substitute for the use of overt military force. Terrorism is par excellence a strategy of surprise, necessary for a small group, who must thereby compensate for weakness in numbers and destructive capability."<sup>34</sup> Surprise may simply be aggressive, aimed at winning quickly and cheaply. The actions of attacker

<sup>31</sup> David Holmes, "*Terrorism: A Marxist Perspective*", Resistance Books: Chippendale, Australia: 2003). URL: [www.resistancebooks.com](http://www.resistancebooks.com). Online Publication.

<sup>32</sup> *Ibid.*

<sup>33</sup> Martha Crenshaw, "Theories of Terrorism: Instrumental or Organizational Approaches" in David C. Rapoport (Ed.), *Inside Terrorist Organizations* (Portland: Frank Class Publishers, 2001). pp. 13-15.

<sup>34</sup> Thomas P. Schelling, "*Arms and Influence*" (New Heaven, Yale University Press, 1966), pp. 1-34.

are determined by perceptions of incentive and opportunity. Terrorism, frequently referred to as 'a new mode of warfare', is in itself such an innovation. Since the beginning of modern wave of terrorism around 1968, terrorists have developed new and elaborate methods of hostage taking, including aircraft hijacking, seizure of embassies or consulates, and kidnapping of diplomats and business executives. If terrorists are instrumental and calculating, it means they are logically related to their ends. The targets of terrorism are symbolically related to their organization's belief. Therefore, terrorists' ideology must be taken seriously as guide to intention.

### Organizational Process Approach on Terrorism

"Organizational Process Approach focuses on the internal politics of the organization. In suggesting that terrorism can become self-sustaining, regardless of its political consequences, this approach assumes that the fundamental purpose of any political organization is to maintain itself."<sup>35</sup> According to this approach, terrorism is explained as a result of an organization's struggle for survival, usually in competitive environment. Terrorist's behaviour represents the outcome of the internal dynamics of the organization rather than strategic actions. The minimal goal of any organization is survival, but the goal of people occupying in the organization is not merely survival. Its leaders ensure organizational maintenance by offering varied incentives to the followers. They seek to prevent, both defection and dissent by developing intense loyalties among group members. The organization responds to pressure from outside by changing the incentives offered to the members.

### Concluding Remarks

The paper traces and investigates the divergent Thematic Perspectives on Terrorism. Evidently, it is seemed that still lots of ambiguity remained unnoticed by the wide range of scholarship. Different individuals, institutions and establishments conceive the definition of terrorism, which suits them closely. Simultaneously, the nature of the terrorism itself has got multidimensional shape, which is aptly needed to understand to reach out a common universal and workable definition. In the absence of such understanding and definition, the menace will prove dangerous to the human being as a whole. Walter Laqueur finds terrorism as a sub-state application of the violence, directed against the incumbents. But, simultaneously, he is also not reluctant to accept the fact that the State too, could sponsor and harbour terrorism. With the going through various definitions, it gets clear that there are some basic tenets, which almost cover every definition or the understanding on terrorism, i.e. terrorism is violence, *second*, it has political effect, *third*, it has far-reaching psychological repercussions.

For the victims of terrorism, and for the larger audience intimidated by terror, it is hard to understand how, after so many years of trying to define terrorism, the international community still has not managed to reach a minimal consensus. As long as "one man's terrorist is the other man's freedom fighter", such a consensus will be elusive. Yet, only if the terrorist act is narrowly defined, is there a chance to reach international consensus? ■

<sup>35</sup> Martha Crenshaw, "An Organizational Approach to the Analysis of Political Terrorism", *ORBIS*, Vol. 29, No. 3, Fall 1985, pp. 465-489.

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# Need for Reform in the Internal Security of India

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## Keywords

Terrorism  
Anti-terrorist Legislation  
Internal Security Parameters  
Naxalism  
Indian Army  
Human Rights  
Public Participation

## Abstract

*“Internal Security” represents the inner strength and health potential of the Nation-State to preserve its international personality. Today’s security problem has become a concern for the civilians as their Fundamental Rights are being violated. The need of the hour is to bring in newfangled changes in techniques and technology, so that even terrorists are dealt with on unpredictable lines.*

*The first part of the paper presents the overview of the security problems in India. The second part discusses the Constitutional background of internal security. Then, the paper deals with the laws that the Legislature has made for the regulation of the internal security operations. The fourth part of the paper elucidates how internal security can be maintained and elevated taking into account the cooperation of the general populace. The paper also highlights the internal security operations and their impact on Human Rights. The paper then examines the manner in which community policing helps in combating insurgency. Finally, the author concludes by showing the weakness of the existing system on internal security and giving concrete recommendations.*

INDIA is one of the most rapidly-developing economies of the world. If the political, economic and military strength of India is accompanied with a fragile internal security, it will be susceptible to an unstable State in the arena international relations.

## An Overview

In recent times, there have been many terrorist attacks in our country. For a heavily-populated country like India, internal peace and stability is very significant in order that the common people live peacefully and perform their duties without any trepidation. The rising incidents of terrorism in the country, particularly in Jammu & Kashmir, remains still unchanged. In the north-eastern region, no

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major breakthrough is visible in the insurgencies in Assam, Manipur, and Nagaland and they equally pose a serious threat to the internal security of the nation. There has also been an influence of the underworld in our economy and politics. The increasing death toll of the Police officials everyday being killed by the Maoists is an indication towards the fact that our Police Department is also not secure.

“National security” implies the ability of the nation to use its national power for preservation, protection of its integrity and furtherance of its core values, national aims and objectives. “Internal security” being a part of national security represents the inner strength and health potential of the Nation-State to preserve its international personality by its capacity to secure its sovereign power, Government, defined territory, and permanent population from all internal threats. Currently, the whole of South Asia - India, Nepal, Bangladesh, Sri Lanka, Maldives, and Pakistan - is going through internal unrest and upheavals due to insurgency movements, ethnic conflicts and religious fundamentalism. Such unrest has a history of crossing national boundaries and leading to interstate tensions. Hence, India’s security is influenced by events in South Asia due to historical, geographical and demographic imperatives. The ethnic, religious and linguistic overlap has not only affected internal political developments in each State, but also the interstate relationships. Therefore, there is a likelihood of witnessing a trans-border impact.

Our security is vulnerable to threats, tensions and conflicts originating both from indigenous and exogenous sources. The domestic dynamics of India’s internal security are reflected in its socio-political milieu, the main feature of which is its diversity. Therefore, our internal security scenario will continue to be complex and varied. While problems will intrinsically rest on domestic roots, external factors will play a major role in aggravating the same. The external forces in conjunction with internal security will thus be one of the principal challenges facing the country.

The administration of the internal security in India calls for a major reform process. Usually, during grave circumstances, the Central Police and Armed Forces are sent to help the States, however, they act under the directions of the local police and as such, do not have an independent existence except in notified ‘Disturbed areas’.

## Constitutional Background of Internal Security

The reason why the State and not the Centre come to manage the internal security is that we unoriginally copied ingredients of the Government of India Act, 1935 while formulating distribution of subjects between the Centre and State. The 1935 Act had divided the subjects into Federal, Provincial and Concurrent. Thus, in our Constitution, ‘Public Order’ and ‘Police’ came under the State List in the Seventh Schedule. The word ‘security’ was never used while enumerating the subjects in the Union or State Lists. Instead, ‘defence of India and every part thereof’ was used in the Union List. The management of ‘Naval, Military and Air Forces’, as well as the Central Bureau of Intelligence and Investigation were enlisted under the Union List. Article 355 (Emergency Provisions) of the Constitution entrusted upon the Union Government the responsibility to protect every State against internal disturbances and to ensure that the Government of every State is carried in accordance with the provisions of the Constitution. Thus, the concept of ‘Internal security’ as we understand today was not clearly mentioned while drafting of the Constitution. It was synonymous with ‘Public Order’. For them, it meant mere internal disturbances or war.

Since Independence, Armed Forces and not the State Police have handled grave internal disturbances. Subsequently, the Armed Forces Special Powers Act was passed in 1958 for the north-east. These were not treated as ‘Public Order’ issues and were usually tackled by the State Police with occasional assistance by the extra central forces. However, this arrangement could not sustain for a long period of time and large-scale disturbances started to scale across the nation. Immediate need was felt to treat acts of terrorism not merely as State subjects and there was a need for interference from the Centre as well. The Centre waited too long to intervene, although it was aware that the situation was worsening.

## National Legislation on Internal Security and its Efficiency

### ● Terrorism and Internal Security

Terrorism as the term itself denotes is used for an act which spreads terror. It is not very easy to define the term ‘terrorism’, but the

general notions about terrorism connotes a kind of violent act intended to create massive sense of fear or terror through planned attack. Terrorism is not committed like any other criminal act mostly in isolation, so that no evidence can be gathered, but it requires the propaganda among the audience, so that their motive is fulfilled. The terrorists do not have rancour or enmity with the guiltless people who are killed, but the only intention is to disturb the peace and tranquillity of the State and develop a sense of insecurity amongst the general populace.

- **Enactment of POTA and the political turmoil**

To overcome the problem of terrorism, it is necessary to understand its political nature as well as its basic criminality and psychology. The National Democratic Alliance (NDA) had promulgated a national legislation - Prevention of Terrorist Activities Act (POTA) to curb this deadly uncivilized Act. Human rights and civil liberty groups vehemently fought against the law and the law was highly criticized. The use of the Act became one of the foremost issues during the 2004 election. This law allowed the detention of a suspect for up to 180 days without the filing of charges in court. It also allowed Law Enforcement Agencies to withhold the identities of witnesses and treat a confession made to the police as an admission of guilt. Under regular Indian law, a person can deny such confessions in court, but not under POTA. The United Progressive Alliance (UPA) Government in May 2004 then abolished POTA by the very fact that India already had a number of stringent laws like the National Security Act and the Unlawful Activities (Prevention) Act to check terrorism. The repeal of POTA is justified on grounds of being misused and ineffective, but acquittals, even in a case like Parliament attack, is these result of inefficiency on the part of prosecution rather because of POTA.

- **MISA and its Abusive powers**

The Maintenance of Internal Security Act was the law passed by the Indian Parliament in

1971 to regulate the internal security within India. This Act gave the then administration of Prime Minister of India Mrs. Indira Gandhi and Indian Law Enforcement Agencies superpowers, i.e. indefinite "preventive" detention of individuals, search and seizure of property without warrants, and wire-tapping - in the quelling of civil and political disorder in India, as well as countering foreign-inspired sabotage, terrorism, subterfuge and threats to national security. Due to this law being in force, during the period of national emergency (1975-1977), thousands of innocent people were arbitrarily arrested, tortured and in some cases, forcibly sterilized.

MISA was placed under the Ninth Schedule via the 39<sup>th</sup> Amendment to the Constitution of India which, at that time, was completely immune from judicial review; even on the grounds that it contravened Fundamental Rights, which are guaranteed by the Constitution, or violated the basic structure. However, the law was repealed in 1977 and under the 42<sup>nd</sup> Amendment Act of 1978, MISA was finally distanced from the Ninth Schedule.

- **TADA and its drawbacks**

The Legislature has indeed made many laws for maintaining the security within the country. There are laws like **Terrorist and Disruptive Activities (Prevention) Act (TADA)**. But, these laws were criticized for authorizing excessive powers for the aim of fighting internal and cross-border terrorism and political violence, without safeguards for civil freedom. TADA on its attack on democratic rights undermines almost every safeguard provided by the Indian Constitution and violates all principles of liberal jurisprudence and natural justice. The definition of Terrorist and Disruptive Activities is wide enough to cover anything and everything that the authority may choose to find embarrassing, inconvenient, and undesirable. Under the Terrorist Affected Areas (Special Court) Act, 1984 and the Terrorist and Disruptive Activities (Prevention) Act, 1987, "any person can be arrested on suspicion and is denied bail. Statements made by persons to a Police Officer and the confession of a co-accused

have been made admissible even the burden of proof in certain cases is reversed and placed on the accused”.

- **A critique on the Anti-terrorist legislations**

Anti-terrorist legislations have given immense power to the Police and the Paramilitary Forces, which can, at times, be misused and can convert a Democratic State to a “total” State. The Total State is not totalitarian. It is according to popular description democratic with a cynical authoritarian ambiance. Indian is always in danger of succumbing to such a disguised and arrogant use of power. The vested interest that have grown around on hard option on counter-terrorism, involving the Police and Paramilitary Forces, bureaucracy, politicians, and sundry and other dubious elements, only facilitates State terrorism. State terrorism as a political option has fared no better elsewhere in the country, it has produced only tragedies for the people. There are police encounter deaths that are rampant and are not properly investigated. Naxalism and terrorism are the words that have become blanket permits to rob the citizens of their basic Fundamental Right: right to life. India is facing diverse challenges to curb the threats of its internal security. The increase of cross-border terrorist activities and insurgent groups in different States of India are at roar. It is important to note that the existing legal and judicial system is already equipped to deal with offences referred to in the Act. There is a problem in the implementation and not the law *per se*.

## Internal Security Parameters

- **Causes of internal threats**

Indian has a huge diversity — one billion spread over approximately 3.1 million square kilometres of territory. When a socio-political and socio-economic equilibrium is maintained, there is unity in diversity. But, if there is a slight imbalance, it leads to more diversity and less unity. Over the past decade and a half, ‘internal security’ requirements have grown phenomenally. There are unrests of various shades and hues in different States

of our country, borne out of equally diverse causative factors. India faces many internal challenges, as it attempts to progress and seeks to gain a rightful place in regional and world affairs. There are basically four root causes of internal threats:

- Sub-regional aspirations;
- Weak governance;
- Systematic corruptions; and
- Social and a financial divide.

They lead to disruptive conditions or internal threats like armed violence, militancy, insurgency, terrorism, ethnic dissonance, disruption of governance and law and order and so on.

Internal conflicts usually emanate from socio-political, ethnic and economic causes and hence, their resolution also lies in the political domain.

- **Sources of internal conflict in India**

There are three main sources of internal conflict in India.

- (i) **First**, there are long-running separatist movements in several north-eastern States (Assam, Manipur, Nagaland, Tripura). The insurgency in Assam began in 1979, with the formation of the United Liberation Front of Assam (ULFA) aimed at establishing a “sovereign, socialist Assam”. ULFA’s targets include businessmen, Government Security Forces, and infrastructure facilities, such as oil pipelines, freight trains and Government buildings. Since 2005, ULFA has been in a process of indirect negotiations with the Government via a People’s Consultative Group; however, they continued their campaign of violence, and did not respond to a unilateral ceasefire announced by the Government in 2006. The Government was more successful in dealing with another insurgency in Assam, which began in the late 1980s with the goal of autonomy and greater recognition for the Bodo tribe.

(ii) **The second source** of internal violence in India comes from incidents perpetrated by left-wing extremist groups ("Naxalite" movements) in many States of India. Hon'ble Prime Minister Dr. Manmohan Singh has identified Naxalism as "the single biggest security challenge to India". Left-wing extremist movements are often called "Naxalite" movements and the people involved in them are "Naxalites". The Government responded with a heavy use of force, and the movement splintered into many different extremist groups in the 1970s. Left-wing groups were especially active in the lagging States of Bihar, Chhattisgarh, Jharkhand, Orissa and West Bengal, and the leading States of Andhra Pradesh and Maharashtra. The leading extremist group is the Communist Party of India — Maoist (CPI-Maoist), formed by the merger of the People's War Group with the Maoist Communist Centre (MCC) in 2004. This group has an explicitly Maoist ideology, committed to a "democratic revolution" to be achieved by a "protracted people's war with an armed seizure of power remaining as its central and principal task".

(iii) **The third source** of increasing violence in India stems from incidents of terrorism in various cities of India. Such incidents, typically the use of bombs in crowded locations, have been on the rise. In recent years, there have been several instances of multiple coordinated bomb blasts in cities like Mumbai, Hyderabad, Jaipur, Bangalore and Ahmedabad. Many of these attacks are suspected to be orchestrated by fundamentalist Islamic groups, such as the Lashkar-e-Tayyiba (LeT), Jaish-e-Mohammad (JeM) and the Students Islamic Movement of India (SIMI). The urban focus of these groups stands in contrast to the separatist movements and left-wing extremism described earlier, which are concentrated in rural areas.

#### ● **Internal Conflicts and the role of Indian Army**

The instruments available to tackle internal conflicts of the quasi-military category, besides political and administrative, are State and Central Police Forces, and the Paramilitary Forces. The Army too should be deployed as a last resort only in exceptional cases. Our country has invariably been inflicted with internal conflicts of many types. The Army has perpetually found itself involved in most of these, as the Police Forces of the State and the Central Government are unable to control them.

The role of the Army is quite clear. Its primary role is to fight external aggression. The Army has some secondary roles too. These are providing assistance to the civil authorities in the maintenance of law and order, when it is beyond the capability of the civil administration, including the Police Forces; assistance in the maintenance of essential services; and assistance during natural and other calamities. The caveat here is that the secondary role must never dilute the ability of the Army to perform its primary role.

Internal conflicts need to be managed by available forces in a tiered manner, so that appropriate force is used, depending on the gravity of the situation. They are:

- *First Tier:* Local police for low-level of law and order situations.
- *Second Tier:* State Armed Police for upgraded internal security situations, which are beyond the capability of the local police.
- *Third Tier:* Central Police Forces for high-level internal security situations and low-level insurgency
- *Fourth Tier:* The Internal Security Forces (ISF) of the Army of counter-insurgency, terrorism and proxy-war situations.

There is also the Intelligence, which is perhaps the single-most factor in conducting successful

operations against insurgents. Good intelligence can allow the Government to learn of terrorism plans, disrupt their plots, and gain advance warning about impending attacks. Enhancements in intelligence-gathering practices, procedures and technologies have been the subject of controversy and confusion amidst the police.

### Internal Security Operations and their Impact on Human Rights

Internal security threats in India mainly consist of insurgency, secessionism, terrorism, sectarian violence, large-scale smuggling, drug-trafficking and accompanying gangster violence, an undue centralization of authority and the consequent inability to exercise power constructively and effectively, decay of political institutions and so on. The nexus between drug-traffickers and terrorists must be conked out if terrorist activities in India are to be checked and contained. Any attempt to create discord or disturb the harmony amongst people on grounds of race, religion, or region has to be viewed as threat to the internal security of the country.

The Human Rights Movement has become worldwide in the 21<sup>st</sup> century. All terrorists, insurgents and other criminal offenders are violating human rights of ordinary citizens. The Constitution of India itself safeguards human rights. The Universal Declaration on Human Rights forms the most widely-accepted document on Human Rights. Indian Constitution has incorporated most of these Human Rights as Fundamental Rights. The Criminal Procedure Code, 1973 also contains various provisions to safeguard various human rights.

Various laws have been passed to maintain internal security of the country. But, human right groups and civil liberty groups fought against these laws and were subsequently repealed. These laws granted excessive powers to the Police and Paramilitary Forces and many a time, it has resulted in the lawlessness of the State, including extrajudicial kidnappings, and killings known as 'encounters', along with 'custodial deaths'. Modern scientific methods of interrogation like lie detectors are not available at the grass-root levels in police and there is a constant pressure from higher police authorities and politicians to deliver speedy results. Inadequate police training,

insufficient supervision by senior officers and rampant corruption within the police are some of the main causes of violation of human rights. Lack of adequate recognition of human rights by the police and the subculture of violence also contribute to the violation of human rights. The police violations of human rights in India have increased over a period of time because of an ineffective Criminal Justice System.

Promulgating and passing laws cannot be sufficient unless there is effective implementation, which safeguards human rights of individuals. Human rights and human survival are inalienably linked. Accomplishment of human rights has come to be acknowledged nationally and internationally as a major concern of all human rights organizations. The existence of human rights would become meaningful only when deprived, illiterate and vulnerable people are provided with free legal service as an inalienable right for fair and just trial. The Supreme Court of India has emphasized the role of people, voluntary organizations, and social action groups making legal aid meaningful, effective, and purpose-oriented.

### Public Participation in Internal Security

No country can deal with its crime problem through its Criminal Justice System alone. There must be public participation as a whole. In order to maintain internal security in an effective manner, voluntary cooperation of the society is indispensably essential. Public participation is an important political process, which can take the shape of involvement in terms of planning, decision-making, implementation of the decision, and evaluation of any activity, system or programme. Participation by people can be in the form of consultation, cooperation or association. Internal security can be achieved and maintained only by securing the cooperation of the public. So, the relation between the police and public is of primary importance. Public participation in a democratic system depends on the awareness of the people about their Constitutional rights and duties.

### Conclusion and Recommendations

Even an economic issue can become a security threat. There is a need to acknowledge the economic needs of the people. The problem of

Naxalism is ever increasing and it is bound to worsen if the Government treats this problem callously. Our response to internal security has been purely that of crisis management, over-centralization and States abdicating their responsibilities. Even after so many years of Independence, there is widespread unrest, discontent and conflicts among a large section of the population. People lose faith in the ability of Law Enforcement Agencies to maintain order and enforce the Rule of Law and the ability of judicial system to provide justice. The State's response has been to seek more Security Forces and greater militarization of the environment. Since focus of internal security is society, human aspects of civil society get interlinked, which makes its understanding difficult and management complex. The key to dealing with internal security is to keep the focus on people and society as these clearly set out the parameters, both for policy framework and management.

Unity of effort and close coordination are the two objects that are essential to manage and resolve the internal conflicts and thereby prevent internal disturbances. Unity of effort implies coordinated Government effort and unified planning by all instruments of the State. However, handling of these internal threats cannot be left alone to the State machineries. Such issues call for a coordinated effort from all State agencies, political and religious entities, civil society groups and social workers. In addition, centralized control is essential. There must also be clear-cut responsibility and accountability. There is also a need for intimate cooperation between the civil officials and the uniformed forces. Terrorist organizations are becoming more powerful. The nature of terrorist activities is also changing and becoming more suave. The scope and scale of activities are increasing, better equipment is being provided, often superior to that fielded by anti-terrorist State-units. More funding is also available. Therefore, there is a need for reformation in the current internal security administration and the author makes an attempt to resolve this through the following recommendations:

(a) **Overpopulation** — Overpopulation has itself created problems to internal security and, therefore, further rise in population has to be considered as a threat to the internal security in India. So, there has to be population control. Security is not a luxury

or a mere function of the State; it should be a way of life.

- (b) **Good governance** — Good governance, better routine administration, and equitability-applied Rule of Law and control of migration into our country will certainly ease the problem. The Government has time and again conceded that the problem of Naxalism cannot be tackled militarily; rather there is a need for a concrete action plan, which does not fail at any cost.
- (c) **Economic development** — Economic development will also ease the support given to terrorists in our country, but economic progress of the entire region is probably the most important measure to curb terrorism in India. Since Naxal problem is essentially an agrarian problem, exploitation of people by the landed class must be stopped. The Naxal-affected areas must be well equipped with Government officials.
- (d) **Good intelligence** — The advances in technology have to be harnessed to produce new and novel means to deal with the internal security problem. Use of non-lethal weapon should be explored. The intelligence group must be given greater impetus and more funding. Good intelligence will always be the bedrock of a viable counter-terrorist strategy.
- (e) **Community Policing** — Community policing is one of the best methods to prevent commission of any crime. There is a need for better police-public relation in prevention and detection of crime and in the maintenance of law and order.
- (f) **Cooperation** — Police and Central Police Organizations cannot control organized violence and internal security problem without the active goodwill and cooperation of the people. In India, an immeasurable communication gap exists between the internal security agencies and the masses. In order to maintain the internal security in an effective manner, voluntary cooperation of the society is most essential.
- (g) **Public support and Public education**— Public support for the anti-terrorist operations can go a long way in fighting terrorism and insurgency. The public can provide useful

information and intelligence to the Security Forces about the movement and the location of militant groups and can act as guides to the Security Forces in reaching the hideouts of the terrorist and the insurgents. The need of the hour is to educate the public about the misguided nature of the terrorists thinking. Education will also help in restoring people's faith in the just order of the State and the efficiency of its various organs.

- (h) **Police Training Centres** — Only eight States out of 28 have set up Police Commissions. This impacts the reform process. Bihar is one-tenth of India, and yet it is the only State, which has the dubious distinction of not having a single Officers' Police Training Academy. The earlier Bihar training centre is now in Jharkhand and the State did not think it necessary to build one. In fact, our Police Forces are trained only once in their lifetime, while the Maoists train everyday. The Central Government has a Constitutional mandate for training and must do something about this.
- (i) **Research & Development Centres** — Like the UK, India should have a Research &

Development Cell in every State to address the local issues.

- (j) **Synergy between the Private Security Agencies and the Government** — Regrettably, there is no synergy between the Private Security Agencies and the Government. There is no place to give training to private security guards, who are not allowed to carry arms.

We need to have short, medium and long-term plans to deal with Naxalism. While all of this is very important, our police must not lose sight of daily crime. What we need is single-minded commitment towards security. We need to treat the issue holistically. The problem of Naxalism cannot be denied. It is important to analyze the nature of threat and then approach the problem. The problem of internal security is such that it requires an intellectual brainstorming and a national effort towards addressing the same. Better training and arming of the Police Forces is always the solution to this problem, but it is also necessary to strategize various responses to this problem. ■

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# Use of Information Technology in tackling Terrorism

Dr. Tapan Chakraborty\*

## Keywords

IT  
Intelligence Gathering  
Human Intelligence  
Signals Intelligence  
Imagery Intelligence  
CNE  
Community Policing  
Diffusion  
GIS  
Remote Sensing  
Dirty Bomb  
Crime-Mapping

## Abstract

*This paper explains how to utilize the services of Community Policing by providing the Commercially available Off-the-Shelf Technologies (COST) to get information inputs in time to tackle the communal riots, insurgency, terrorist and CBRN (Chemical, Biological, Radiological and Nuclear) attacks. The emphasis is adoption of COST technologies provided to community for policing and also attempted to visualize as one of the solutions to get timely inputs to convert them as actionable intelligence inputs for decision-makers. Involvement of existing third generation land/mobile communication equipments and networks, Wide Area Networks (WAN), Local Area Networks (LAN), including NIC network, utilization of existing digital databases (viz., existing crime records, driving licensing, voter identity card database, income-tax database, banking sector database, employ provident fund database, etc.) also play major role in this plan. Development of some software tools and the applications of Geographical Information System (GIS) are also discussed in this paper.*

**T**ERRORISM is undeniably horrific and harmful to the mankind. It kills, maims and destroys political purposes. This practice has been persisting for literally thousands of years. Terrorism, in some way or other, is more horrifying than other awful forms of violence, including war, criminal brutality, and psychopathic mayhem. Soldiers in war at least expect violence; victims of crime at least comprehend violence inflicted for material gain. Those who suffer at the hands of the psychopathy may, at least, attribute loss to fate, but victims and witness of terrorist acts, on the other hand, seldom expect the events, cannot easily understand why violence strikes when and where it does. Contemporary possibilities of terrorism are especially frightening due to new technologies. Gathering of concrete information from different sources is the primary responsibility of any intelligence organization. Although different tools and technical devices are in operation in collecting information, these seem to be insufficient, and as a result, we are not in a position to pre-empt the impending danger of terrorist attacks.

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Main issues causing hurdles in identifying the ensuing possibility of any danger lies in (i) effective sources of information; (ii) coordination; (iii) timely actionable information/intelligence; (iv) talented commanders/quick decision-makers; and (v) manpower, etc. Moreover, the ratio between the crime and the Police Force has been galloping increasingly. Hence, the Police Force is overburdened and overstrained. Therefore, we have to architect a plan to address these problems. The only way visible is adoption of Hi-Technologies, involving community policing. This would definitely act as **force multipliers**; improve **decision-making** not only in Police Organizations, but also in other Government agencies.

With the fast paced changes taking society by sweep, the emphasis on community policing as a solution to the problems of urban policing, both from the within police service and from the public, has grown at an extraordinary rate. It is so because, community policing directs our attention to the service aspect of police work and, in particular, the preservation of Public Peace and Good Order.

### Means of Intelligence-gathering (Technical)

One of the primary means for preventing terrorism is intelligence. Good intelligence can allow the Government to learn terrorist's plans, disrupt their plots, and gain advance warning about impending attacks. Enhancements in intelligence-gathering practices, procedures and technologies have been the subject of controversy and confusion among Police Intelligence Agencies.

There is panoply of intelligence collection technique, which do not exactly correspond to interdepartmental organizational boundaries. The main sources of intelligence-gathering are:

- Signals Intelligence, i.e. the product of interception, generally abbreviated to **SIGINT**;
- Information from human sources, such as classical espionage agents, which is conveniently described, by extension from the previous category, as Human Intelligence (**HUMINT**);

- Photography or more generally Imagery Intelligence (**IMINT**); and
- Geographic Information System (**GIS**) are important source of data collection: Signals Intelligence (**SIGINT**), Open Source Intelligence (**OSINT**), Computer Network Exploitation (**CNE**).

The above components of intelligence collection are, in a nutshell, described below:

#### OSINT (Open Source Intelligence)

These are Radio and Television news sources; Printed materials, viz., Studies, books, magazines, periodicals, journals, grey literature - printed and electronic; openly available reports, Diplomatic and Attaché reporting, forecast from businessmen, travellers, universities think-tanks, etc.

#### HUMINT (Human Intelligence)

Using different organs of community policing, Reports from agents and spies; Reports from residents of intelligence services; Debriefings of defectors, turncoats, walk-ins; interrogation of prisoners and criminals; information gleaned from local/foreign residents, discussions with personnel in local/foreign nations; Reports from counter-intelligence operations; Messages from friendly third party resources.

#### SIGINT (Signals Intelligence)

Data and information collection through intercepts of radio, radar or other electronic emissions, including laser, visible light and electro-optics. There are five subsets of SIGINT collection disciplines:

- COINT** — Communication Traffic Monitoring
- ELINT** — Electromagnetic Signals Monitoring
- CRYPINT** — Decryption of Ciphered Message
- FISINT** — Foreign Instrument Signals Intelligence
- TELINT** — Telemetry, Beacons, Videolinks, etc.

### **MASINT (Measurements and Signatures Intelligence)**

Exploitation of physical properties, i.e. nuclear, biological, chemical and materials compositions, multi- and hyper-spectral imaginary data derived from analysis of emitted and reflected energy across the spectrum of light, radio frequencies, infrared, UV, lasers, electronic properties, vibration and motion.

### **IMINT (Imagery Intelligence)**

Imagery is also referred to as PHOTINT. Imagery has two facets: (1) Air and space imagery: Satellite signals and data streams received and reconstructed as images from reflections of several bands across the spectrum of light – some visible, some invisible like frons IR or UV spectral analysis, photography, film, video and high-definition TV and other image-capturing technologies from aircraft and UAV, use of surveillance, monitoring, weather forecast to

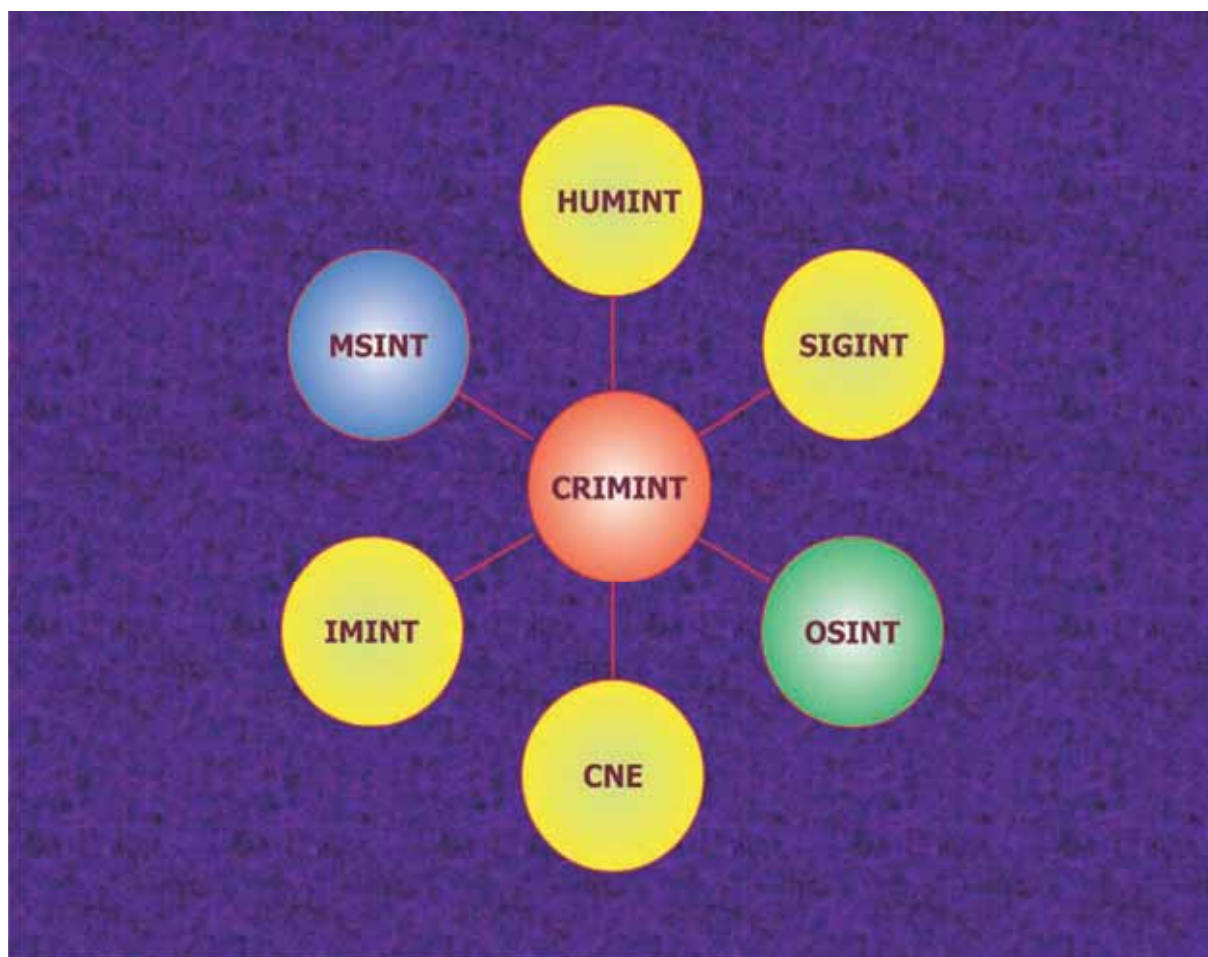
earth mapping and (2) Terrestrial and video imagery.

### **CNE (Computer Network Exploitation)**

This includes: Network analysis and monitoring, Message interception traffic analysis, computer intrusion, penetration, exploitation of data-banks.

Collection of intelligence utilizing the above components is the basic function of a specially-trained Police Force. Police Organization with the help of sophisticated special force and other intelligence and security agencies would be responsible for network analysis and taking final decision for execution of the product.

Coordinating all components by able coordinator, Criminal Intelligence (CRIMINT) will be adopted for execution and will be helping Government in tackling terrorism. The diagram below depicts the situation.



## Application of Community Policing in Technology

While examining this problem, the only possible solution is by **diffusion of Advanced Information Technologies** in Policing and Police Departments through integration, coordination and networking along with implementing innovative methods in community policing. This can be achieved by involving the **trained and responsible community** as an information provider or as a first responder/defender at the time of crises and in tandem by development of suitable software solutions.

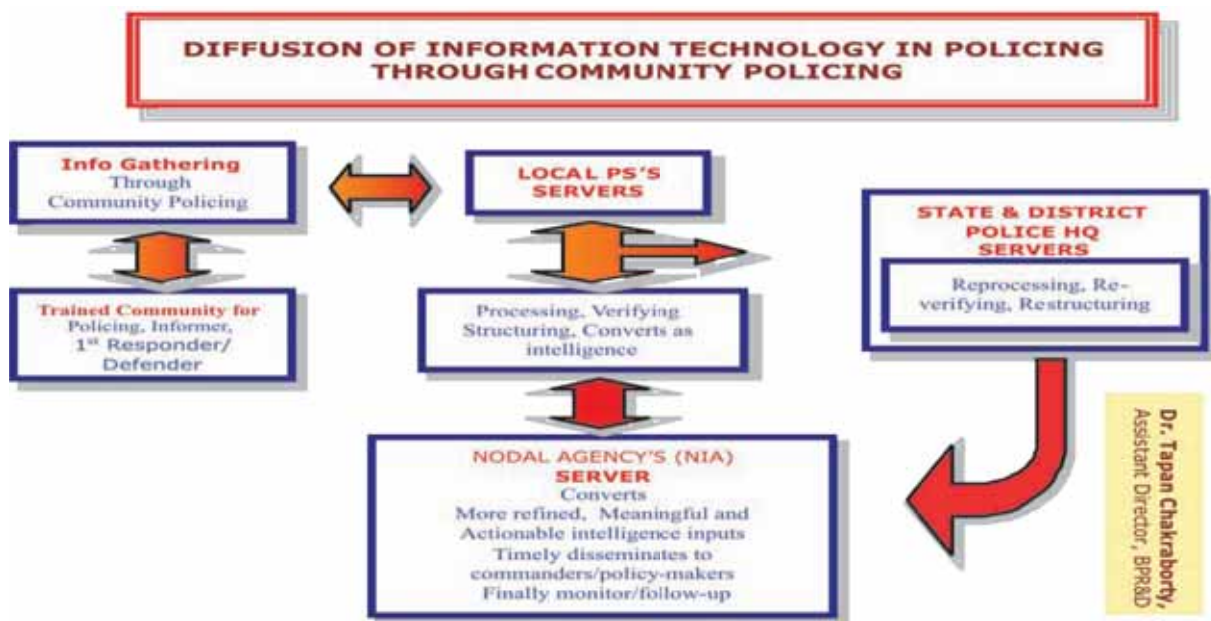
Adoption of an innovative diffusion of Information Technology in Police Departments arose if, the centralized databases are open to Police Departments and other agencies, which includes criminal justice. It is necessary to open access to these databases because "crime has no borders", for, potential offenders can move easily throughout the country. These databases are potentially a useful investigative tool. Through it, the agencies have access to the criminal history of past arrestees, outstanding warrants, the arrest status of juveniles, mugshots, digitized fingerprints, vehicle thefts, traffic violation convictions, and firearms data, of course we are practicing, but not in coordinated fashion. The basic inputs gathered by involving the local community will give spectacular results. 'The Times of India' reported on March 29, 2009 regarding the British Government has launched a new anti-terrorist strategy by involving the local

community as an additional layer of security. The article says as follows:

**Dirty bomb threat looms over G20 meet** ('The Times of India', March 29, 2009 p. 14):

*Britons have become used to the daily threat of terrorism and just days before world leaders gather for the Group of 20 meeting in London - a warning was given this week that a so-called dirty bomb on a British city is more likely than ever. Hence, the Government alert accompanied the launch of a major new anti-terrorist strategy that encourages ordinary citizens to offer Britain an additional layer of security. This new approach aims to train some 60,000 retail, hotel, and service industry staff to recognize terrorist threats. In addition, more resources will go into blocking access to information posted online on how to stage terror attacks. The 167-page document asserts that there is a need to challenge those who reject the right, to which we are committed, scorn the institutions and values of our parliamentary democracy, dismiss the Rule of Law, and promote intolerance.*

What it says ultimate the community policing is the viable solution to these problems. Hence, we have to involve the community in policing or as First Responder/Defender or Information provider as a additional layer of security, to achieve this, the author has some visualization on this topic, which is projected/reflected in this Flowchart.



Flow (of Information) Chart

Some of the main areas of application with the involvement of community policing are as follows:

- Local Information Gathering (LIG) on crime – Gathers information and feeds into the Local Policy Servers (LPS)/databases by using 3G mobile systems.
- Similarly, the Trained First Responders (TFRs) for CBRN (Chemical, Biological, Radiation and Nuclear) attacks feed the information into the LPS by using similar systems.
- Based on this data, the GIS (Geographical Information System) based Automated Real Time Crime Mapping (ARTCM) systems will create Situation Analysis Maps (SAMs) which, in turn, works as the basic tool for commanders or policy-makers. These maps could give a broad picture of the incident, which is going to be happening or happened.
- Similarly, generation of Situation Analysis Reports (SAR) - the basic tool to generate inputs for a fighter at the time of post- and pre-attacks.

Information-gathering and feeding into servers is a continuous process. After the incident the collection of information is utilized for case studies, which can help in understanding the complexity of the situation. A collection of case studies on some of the terrorist acts that have taken place during the past few years can help in understanding the complexity of that subject. It will help to identify the following:

- The type of people involved in terrorist attacks;
- The types of weapons used in these attacks;
- Possible motives behind such attacks;
- Whether any information was available before such attacks and what action, if any, was taken. What measures have been taken to prevent such attacks in future; and
- Where the resources should be spent to maximize the benefit.

## Geographic Information System (GIS) and application of Community Policing

A Geographic Information System (GIS) is a combination of computer technologies that integrate massive databases of spatial data, and provides a display and query interface for building and analyzing spatial relationships. GIS uses geography and computer-generated maps as an interface for integrating and assessing massive amounts of location-based information.

Effective management of any incident requires accurate mapping and the ability to query and analyze real-time information as it becomes available. In stressful situations, emergency management staff need to have access to the information most suitable to the scale at which they are working. GIS provides the ability to spatially filter information, so that the controllers are not overwhelmed with information.

GIS tools provide powerful data integration and visualization and can allow controllers to quickly assess the situation and rapidly assimilate large quantities of information visually.

### Mobile GIS

The policing of antisocial behaviour benefits from mobile and Internet GIS solutions. The key to reassuring people that communities are safe requires rapid reaction policing to combat antisocial behaviour. Fast resolution of such activities as fly-tipping or graffiti requires rapid clean-ups. Leaving the results of antisocial behaviour can lower the morale of a community.

GIS tool provides mobile mapping solution to enable wardens working out on the streets to rapidly collect details about antisocial behaviour and report back the exact geographic location to a server. These locations can then be accessed rapidly and resolutions can be instigated.

### Crime Analysis

Geography plays an important role in policing and crime analysis. Response capabilities often rely on a variety of data from multiple agencies and multiple sources. The ability to access and process information quickly, while displaying it in a spatial

and visual medium, allows authorities to allocate resources quickly and more effectively. In the “mission-critical” nature of policing, information about the location of a crime, incident, suspect, or victim is often crucial to determine the manner and size of the response.

GIS takes the traditional statistical information used in crime analysis and places it on a map, showing specific crime pattern and relationships. And, like crime mapping, associating non-emergency service calls and non-criminal incidents on a map, assists managers and supervisors in placing manpower in areas where they are most needed and at the ideal time.

GIS enables agencies to carry out predictive modelling of forecasting to manage field assignments and investigative efforts. GIS analysis of traffic data assists in the identification of selective enforcement locations; for instance, spatial analysis helps examine locations of citation issuance against accident locations, types of citations issued, accidents involving impaired drivers, and a multitude of other issues.

### Law Enforcement – Crime Mapping

GIS and remote-sensed data mapping applications for crime-fighting and prevention has become a necessary tool in Law Enforcement Agencies worldwide, probably one of the most valuable tools available. Crime mapping is a key component of crime analysis.

Satellite imagery and aerial photography display important information about criminal activities happening around the nation and around the world. The added functionality of satellite imagery and GIS in computer mapping has increased the capabilities of crime-fighting due to the efficiency and speed of the analysis.

Mapping crime, using GIS and remote-sensed data allows analysts to identify hot spots, along with other trends and patterns. GIS also allows analysts to overlay other datasets, such as census demographics, locations of stores, banks and schools, etc. to better understand the underlying causes of crime and help law enforcement administrators to devise strategies to deal with the problem. GIS is also useful for law enforcement operations, such as allocating Police Officers and dispatching to emergencies.

Police Departments employ GIS and remote-sensing technology in various applications, including criminal intelligence and crime analysis, crime prevention, public information and community policing. Typical GIS applications involve taking a geo-referenced crime database, filtering the data as needed, and mapping it over a street database to put the crime data in its spatial context. Other data layers may be used, such as census tracts, ZIP/PIN Codes or council districts, but the most frequent underlying context is city streets.

Potential applications of satellite imagery and aerial photography are numerous. Any geo-coded information can be superimposed on the photos, including census data, liquor licence locations, drug-market data, injury locations, probationer addresses, housing and zoning code violations, and other data that may be relevant to the needs of community policing.

### Geographic Information Systems and Remote-Sensing Technology

On the ESRI Arc User site [www.esri.com](http://www.esri.com) applications of GIS have been developed for public safety, disease tracking and emergency response that allow public safety personnel to effectively plan for emergency response, determine mitigation priorities, analyze historical events and predict future events. GIS can also be used to get critical information to emergency responders upon dispatch or while on route to an incident to assist in tactical planning. Spatial-temporal analysis can improve organizational integration of data and information allowing better decisions based on time and spatial relationships as well the visualization of data. GIS can manage and portray spatial data gathered from community policing.

In emergency response situations quick and accurate information is the key. Also, flexible systems are needed to respond to new, unexpected threats. Integrated comprehensive databases and communication networks are essential. Breakdowns in uniform response and coordination between separate responder units and organizations are the first casualty of information and decision support systems that are not properly designed.

An important challenge in devising any counter-terrorist strategy is to anticipate probable events. It helps to identify who are likely terrorists. This is an intelligence task. Most good estimates depend as much or more upon open sources of information available to the public as they do upon advanced intelligence technologies. It also helps to anticipate likely targets and likely techniques

of terrorism. This is also in part an intelligence task. Success depends in part upon adequate specification of intelligence requirements in advance. Unguided, even the best intelligence sources and the most sophisticated intelligence methods presently available, including signals intelligence, are unlikely to provide timely warning of all impending terrorist attacks.

### EQUIPMENT REQUIRED TO BE PROVIDED TO THE COMMUNITY



Digital Camera

3G Mobile System

Mobile GPS

CCTV

### EQUIPMENT REQUIRED TO BE PROVIDED TO THE POLICE



Jammer

Surveillance Robot

CCTVs

Navigation System

GPS System



Jammer



Surveillance Robot

PROTECTIVE SUITES FOR POLICE



**Integrated Approach of Intelligence-gathering Tools**

The Information Technology revolution has transformed our economy by giving tools, infrastructure and commercial capabilities to make domestic defence easier, less expensive and more effective. Had we utilized all advanced IT tools with '**Integrated Approach**' for tackling insurgency and terrorism, it would almost be certain that some of the terrorists would have been detained and possibly some of the plots would have been foiled, such as recent serial blasts at Guwahati and 26/11 at Mumbai.

Police being one of the important instruments to control internal security and law and order

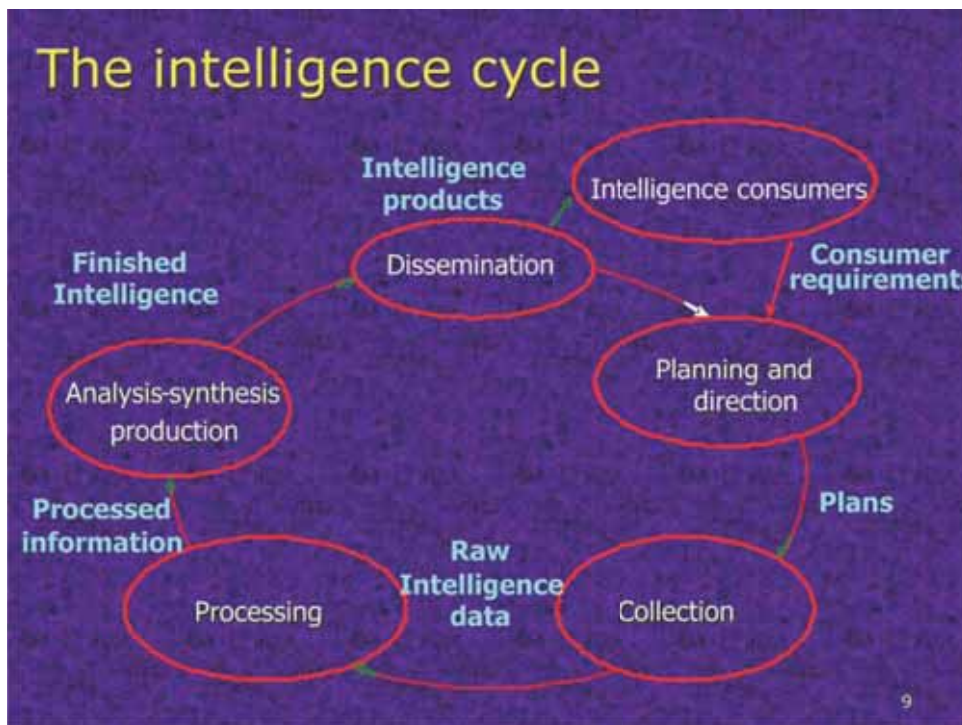
of the society, are to take a lead role to control the terrorism or insurgency problem. Information Technology (IT) has been growing rapidly and involving in every sectors of the society. Policing involving community-oriented policing and modern high-technology in the intelligence-gathering can find out a solution to terrorist problem.

The role of community in intelligence-gathering is vital and crucial as we have already seen in the above discussion. The whole process of the Intelligence Cycle depends on the efficient and effective collection of raw data. For this, community participation or involvement of selective community in gathering intelligence



either through Neighbourhood Watch Scheme or through other means as mentioned above is the best option to adopt. So, the selective procedure of community is the primary duty of the system. Information acquired against the wishes and (generally) without the

knowledge of its originators or possessors is processed by improved data collection method, validation, analysis and assessment and finally disseminated as 'intelligence'. This intelligence cycle is as shown below in the diagram:



Police Force mainly depends on 'Domestic Intelligence' service, which produces intelligence relevant to internal security for the protection of the State, its Constitutional order, the society, integrity of its territory, which leads to terrorism and insurgencies. For the success story of the cycle process, initial steps to be taken is the proper planning and direction towards the functioning of whole system.

**Planning and Direction**

It involves management of entire intelligence effort from identification of the need for data, which is derived from threat assessment or the priority listing of yet unsolved strategy and policy issues deciding which nation or group abroad and at home warrant intelligence surveillance, to the final delivery of intelligence product to the customer. The whole process initiated by request or requirements for intelligence based on the ultimate needs of the customer – the President, Prime Minister, National Security Council,

Minister or other Government agencies. The data to be collected requires an established plan of collection, for which details of elements of data needed and the targets – people, places, things, etc. and from which data may be obtained.

**Collection**

Much has been talked about the collection of information from different sources. However, for collection of data, primary function is to establish collection plan, which depends on the tasking of human and technical sources of collection to collect required data and information and all collection disciplines should be engaged in the same target. The sources and methods are among the most fragile and most highly-protected elements of the process.

**Processing and Validation**

After collection of intelligence data from different sources, the most important act is integration

of collected information. This will give a clear picture of **integrated intelligence data** to the Commander/Manager. Moreover, GIS will help in identifying broad picture for policy-makers and Commander.

Conversion of vast amount of data collected to a more suitable form for production, i.e. through machine and foreign language translation, decryption, rendering texts or pictures readable, etc. Indexing and sorting of data by subject-matter and data reduction – interpretation of information stored on film and tape through highly-refined photographic and electronic processes and organizing of data in an information base, making it available for rapid computer retrieval are next important task to be looked into for efficient processing of data. Thus, the progress on meeting the requirements of the collection plan is monitored and tasking may be refined on the basis of received data.

Intelligence, though it may not differ in type or often reliability from other forms of information used by Government, usually operates in a field of difficulty. Before the actual content of an intelligence report can be considered, the validity of the process, which has led to its production, must be confirmed. For imagery and signals intelligence this is not usually an issue, although even here the danger of deception must be considered. But for human intelligence, the validation process is vital. Human intelligence reports are usually available only at second-hand (for example, when the original informant talks to an officer who interprets often literally - his work to construct an intelligence report), and may be third or fourth hand.

The validation of a reporting chain requires, both care and time, and can generally only be conducted by the agency responsible for collection. The process is informed by the operational side of the agency, but must include a separate auditing element, which can consider cases objectively and quite apart from their apparent intelligence value. Has the informant been properly quoted, all the way along chain? Does he have credible access to the facts he claims to know? Does he have the right knowledge to understand what he claims to be reporting? Could he be under opposition control, or be being fed information? Is he fabricating? Can the bonafide

activities, movements or location attributed to those involved in acquiring or transmitting a report be checked? Do we understand the motivation of those involved private agenda and hence, the way in which their reports may be influenced by a desire to please or impress? Is there at any stage a deliberate intention to deceive? Generally speaking, the extent and depth of validation required will depend upon the counter-intelligence sophistication of the target, although the complexity of the operational situation will affect the possibility of confusion, misrepresentation or deception.

### Analysis and Synthesis

The intelligence means knowledge of the hidden plus fore knowledge of the unpredictable, which is prelude to decision and action by national decision-makers, policy-makers and Military leadership. When knowledge helps consumers and clients to consider alternative options and outcomes, the analysis and synthesis is the process of collection of facts, their analysis quick and clear evaluations, production of assessments and warnings and timely dissemination to consumers. Of course, the analytical process must be rigorous, timely and relevant to policy needs and concerns. Thus, the process of collection, analysis and evaluation of all available raw and all source information and its transformation into intelligence is vital to make judgement and intentions, capabilities and actions of opponents.

The validation process will often have involved consideration of the coherence and consistency of intelligence being provided by the informant, as one of the way in which that sources reliability can be tested. But at the next stage, i.e. analysis, the factual material inside the intelligence report is examined in its own right. Analysis assembles individuals intelligence reports into meaningful strands whether weapons programmes, Military operations or diplomatic policies. The Commander, after completion of analytical process, pursue the task of direction and planning, which involves management of entire intelligence effort from identification of the need for data that is derived from threat assessment.

### Dissemination

Finished intelligence is disseminated to consumers in variety of forms: (a) reports to oral

briefing and formats, (b) from dynamic operating pictures to formal reports to policy-makers. There are three categories of disseminated intelligence product, which focuses the status of past, present and future:

- *Current intelligence*: News-like report describing events or Indications & warnings.
- *Basic intelligence*: Complete description of

a specific situation (Order-of Battle, political situation, etc.).

- *Intelligence estimates*: Predicting feasible future outcomes as result or current situation, constraints and possible influences.

All these require a good commander and well-equipped controlling centre to disseminate the final product of intelligence through different means of sources.

#### COMMAND AND CONTROL CENTRE



### Police Management Applications

#### *Automated Incident Reporting Application*

The “front end” of the incident reporting system is a module known as AIRA (Automated Incident Reporting Application). AIRA enables Patrol Division Officers (PDOs) and community policing volunteers – the backbone of the organization – to complete incident reports via Portable Data Terminals (PDTs) in their Patrolling vehicles or at LAN-based workstations in any Police Stations or web enable mobile phones.

AIRA is a very ambitious project. The Police Department’s goals for automated case reporting

should be well defined. AIRA should be developed to simplify the reporting process; improve reporting accuracy, quality and completeness; free supervisory personnel from reviewing report minutiae; provide follow-up Investigators with complete and timely information to improve case solvability; reduce the number of hours tied to report processing; and ensure compliance with Central/Nodal Agency’s (NIA like) data standards.

AIRA will interface with the Department’s other key information applications and systems. Because AIRA is the front-line information collection system – it must successfully/seamlessly

receive information from the city's automated dispatch system (PCAD) and, in turn, feed data into subsequent stages of the Department's crime investigation process. These include:

- A digital mugshot system,
- An arrest database, and
- Investigative follow-up modules used principally by the detective division.

All of this data is held in central data servers. Because AIRA must interface many different modules, various types of interfaces and middleware needed to be developed, and complex adaptations must be made to accommodate the city's automated dispatch system. Time-consuming equipment modifications were also required, and new procedures related to automated incident reporting had to be formalized in written orders. While all of these steps were complicated and time-consuming, modifications to the dispatch system proved so lengthy that development of the automated incident reporting application, originally conceived as a single application used for mobile and onsite incident reporting, became two distinct projects – LAN-based and mobile AIRA.

The whole process now depends on the intelligence and expertise of the Commander, who will direct the Commando or Special Task Force specially prepared for the destruction of terrorists' area and terrorist setting in a particular place. For this, following desirous attempts are essential to keep in mind:

- A Special Task Force/human resources trained with high technological systems is to be set up.
- A Commander is to be trained in such a way that whole process of tackling terrorist activity can be handled efficiently.
- The coordination between all secret agencies and intelligence agencies, including Military services is to be a predominant approach. Hence, a United Intelligence Service is necessary for our better intelligence services.
- Intelligence is one of the only areas of Government activity where risk taking and innovative thinking should be encouraged.

- Intelligence is highly dependent upon the cooperation of other agencies like Foreign Government and individuals. It is also to be maintained.
- Executive control and supervision should be maintained effectively. The higher echelon of executive must exercise effective control and supervision. The greater the seriousness with which it executes its tasks, the lesser the likelihood of problems accruing to the Government from judicial supervision and legislative concept.
- Proper control and auditing of intelligence services is foremost important and thus, creating the necessary base for transparency and parliamentary oversight.
- Legislative aspect is to be recognized properly. It is to be determined whether legislation is effective or not and having the desired results, and also ensure that the laws give Government and civil society sufficient powers to supervise intelligence.

### Limitations

It is to keep in mind that during the whole process, the feedback and consumption of the system is not overlooked. How, and in which form, policy-makers consume intelligence and the degree to which intelligence is used are important for the issues to be looked into. Relationship with decision-makers should be an active and not a passive one, i.e. dialogue between consumer and producer. However, objectivity demands a certain distance and a willingness to consider all variables- not just the over the analyst or his customers should give producers some sense of how well their requirements are being met and discuss any adjustments that need to be made to any parts of the process.

Thus, Core mission of intelligence products are:

- Support of security policy and foreign policy;
- Detection of activities that threaten security and national interest;
- Ascertain superiority in information warfare;

- Support to defence and homeland defence planning;
- Support for Military operations
- Provide intelligence on economic matters that could affect national interests and trade negotiations;
- Support to monitoring of treaties. Other agreement, embargoes, etc.

In short, five basic principles for intelligence services are always to be kept in mind. These are:

- Provide effective intelligence essential to the security on the nation through various community policing steps and other agencies.
- Have an adequate legal framework.
- Have an effective management system.
- Be effectively accountable.
- Be open to internal and external review and to parliamentary oversight.

So, police intelligence may lead to a pivotal instrument to curb the root of terrorism and can maintain Internal Security benefiting the growth of economy of the country with the help of community approach at par with other instrument of collection of intelligence. But, first and foremost thing to keep in mind is that an **integrated approach towards accumulation of information** and able Commander/Manager and above all, a specialized High-tech Police Task Force will help in achieving the goal.

## Conclusion

Terrorist organizations are increasingly utilizing cutting-edge technologies in order to protect

their communications against interception and HUMINT. All the major reports of our counter-terrorism and homeland defence echo the view that in order to improve predictive capabilities, intelligence efforts must incorporate the latest technologies in data collection, storage, dissemination and analysis. Different countries currently collect mass of raw data through electronic surveillance systems and satellites, but the sheer volume of information creates the possibility of information overloaded if proper filters are not done. In fact, it is quite possible that clues to the terrorist attack of Jaipur (May 13), Bangalore (July 25), Ahmedabad (July 26), Delhi (September 13), Guwahati (October 30) and others were intercepted, but not processed and disseminated in a timely way, causing a heavy destruction to the society and mankind. Therefore, it becomes of pivotal importance to apply technologies that support rapid data analysis and dissemination.

Leading to the conclusion, Information Technology with the modern community policing approach will play an important part in our anti-terrorism and anti-insurgency efforts. It has now become foregone conclusion that we cannot win the war against terrorism at home without high-tech systems and devices in the prevailing situation of our society. With a renewed focus on domestic defence at all levels of Government, IT can be deployed not only to stop terrorists, but to modernize many of our Government systems, from law enforcement to emergency response to public health.

Note: Commercially available Off-the-Shelf Technology (COST) is an adjective that describes software or hardware products that are ready-made and readily available for sale to the general public. Cost products are designed to be implemented easily into existing systems without the need for customization. ■

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# Future of Community Policing

Sankar Sen\*, IPS

## Keywords

Community Implementation  
Partnership  
Reprisals  
Supervision  
Equity  
Training  
Challenges  
Prevention  
Order  
Maintenance

## Abstract

*Community Policing has now become a buzzword in law enforcement across the world, the term has often been used very imprecisely. There is lack of conceptual clarity even among the Senior Police Officers. Many hold the erroneous view that any form of contact between police and the community comes into the domain of Community Policing. Some of the key concepts of Community Policing are thus lost sight of. Community Policing involves a paradigm shift in the basic concept of policing. The shift involves recognition by the police that the community is its best resource and the greatest ally in the battle against crime and disorder and community partnership helps not only in combating crime, but also reducing fear of crime, which is also of equally great concern to the community. Giving voice to the community in deciding police programmes and priorities provides useful insights to the police and help them in their work.*

**T**HE emergence of Community Policing as an important means of law enforcement has raised pertinent questions about its scope, efficacy and proper implementation. There are also questions about its future. Though Community Policing has now become a buzzword in law enforcement across the world, the term has often been used very imprecisely. There is lack of conceptual clarity even among the Senior Police Officers. Many hold the erroneous view that any form of contact between police and the community comes into the domain of Community Policing. Some of the key concepts of Community Policing are thus lost sight of.

## A Paradigm Shift

Community Policing involves a paradigm shift in the basic concept of policing. The shift involves recognition by the police that the community is its best resource and the greatest ally in the battle against crime and disorder, and community partnership helps not only in combating crime, but also reducing fear of crime, which is also of equally great concern to the community. Giving voice to the

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community in deciding police programmes and priorities provides useful insights to the police and help them in their work.

Community Policing in various forms is now being practiced in different countries of the world. In late 1970s and 1980s, police services in England, USA, Japan, Germany and Canada were experimenting with alternatives to professional bureaucratic models of policing that was widening the gulf between the citizens and Police officials. In USA, frustrations with professional bureaucratic models of policing and the spectre of rising crimes led to a reappraisal of existing forms of policing and demand for building and establishing closer linkages between police and the community. It was embraced by many of the Police Chiefs in 1980s. It gained wide popularity and acceptance when President Clinton made it the centrepiece of his anti-crime campaign. Substantial federal funding for the growth of criminal justice education resulted in the police.<sup>1</sup> Wesley Skogan's studies of Community Policing in Chicago show that the programmes brought about a positive change in the residents' perception of the police and their activities.<sup>2</sup> However, the researchers also found that the programmes did not have any effect on a Hispanic population, who did not notice any improvement in police work. But, research studies have also revealed that proactive problem-solving approaches in concert with the community members and the relevant city agencies can bring about reduction in the incidence of specific crimes.

### Community vs. Public Relations

In Community Policing programmes, there is a mistaken assumption by the police leaders that public want partnership with the police. Very often, this is not the case. There is always community's skepticism that they have all heard before. There is also public fear that co-operation with the police might invite reprisals from the criminals. Without display of genuine commitment and sincerity, the police will not be able to make Community Policing a success. It has to be borne in mind that public relations and community relations, though often used interchangeably, are not identical. The US President Commission (1966) in the report, "*The Challenge of Crime in the Free Society*"

makes this distinction. A community relations programme is not a public relations programme to sell the police image to the community. It is not a set of expedients whose purpose is to tranquillize for a time an angry neighbourhood by, for example, suddenly promoting a few Negro Officers in the wake of a racial disturbance. It is a long-range full-scale effort to acquaint the police and the community with each other's problems and to stimulate action aimed at solving those problems.<sup>3</sup>

In order to be successful, Community Policing unlike other police initiatives, should not be a top-down arrangement. What makes Community Policing unique is that it relies on inputs from not just community leaders and blue-ribbon panels. It solicits inputs from all stakeholders, encouraging those, who are apathetic, to become involved. The police not only work out with local public what has to be done, but also ask them to help in appropriate ways. Today, around the world, there are hundreds of ways in which local public assist the police in crime prevention work.

### Supervision

Proper supervision is essential for the success of Community Policing. But, the old notion that, the Police Officers have to be constantly guided and directed, is to be discarded while implementing Community Policing programmes. Supervisors must function as mentors and facilitators, who can help the Patrol Officers to properly respond to varieties of service demands.

### Equity

The paramount requirement for the success of Community Policing is respect for all citizens and sensitivity to their needs. Favouritism to one group is definitely going to have very adverse consequences in the working of Community Policing endeavours. Powerful vocal groups cannot be allowed to exploit Community Policing to subserve their own needs. There always remains the danger of unequal application of police resources. Local Police Officers may feel that it is more important to protect "*loud voices than the quiet ones*". One community must not

<sup>1</sup> Tulio Kahn (2002). "Civilian Oversight of Police", in [http://www.altus.org/altus/research\\_tools/bibliography\\_hot\\_topics](http://www.altus.org/altus/research_tools/bibliography_hot_topics).

<sup>2</sup> Wesley Skogan, *Community Policing: The Chicago Styles*, New York and Oxford, Oxford University Press, 1997.

<sup>3</sup> US President's Commission on Law Enforcement and Administration of Justice. *The Challenge of a Crime in a Free Society*, p.100.



be given preference over another. Equity does not mean equal distribution of police resources and services. Areas where crime rates are high, will always require more police interventions and larger deployment of police resources. But, there should be no unfair discrimination.

## Training

Training remains key to effective implementation of Community Policing. In India, some of the Community Policing programmes have floundered because of inadequately-trained clueless Police personnel. Some Police Officers, who are performing duties at Police Stations, are being asked to perform the duties of Community Policing Officers. No wonder, they became square pegs in round holes and make a rash of the job assigned to them. Training in Community Policing should supplement the law enforcement techniques with communication and leadership skills that will encourage participation from the community. There should be training on topics that policemen do not learn from academies, such as housing problems, roles and responsibilities of other departmental agencies, etc.

For continued advancement of Community Policing, there is a need for solid evidence base. There should be strong evidence base to support the wisdom of Community Policing rather than the hyperbole that currently surrounds it. Besides, guiding what is implemented; the research will guide the Police Organizations to justify the identified priorities and commitments when meeting the demand for public accountability. Police Organizations in order to function successfully must develop the institutional capacity to understand the impact of their own strategies and use their knowledge to provide higher measure of safety and reassurance to, the public.<sup>4</sup>

## Challenges

Organizational control and implementation of Community Policing encounter some of the following challenges:

- There can be erosion of support for Community Policing, if the community expectations are not fulfilled. Criticisms are levelled that Community Policing may detract

the core function of the police and make it soft in crime control. Many, including some Senior Police Officers, denigrate Community Policing Officers (CPOs) as "lollipop cops". The fact, however, is overlooked that real Community Policing does not neglect or ignore the law enforcement role of the police. These socialization duties are performed in addition to the law enforcement functions and not as substitutes for them. Indeed, successful Community Policing will go to improve and enhance the quality of police operations by increasing cooperation with the community.

- Critics have voiced the fear that Community Policing may undermine police professionalism. This criticism will be valid if the Community Policing tends to turn the Police Officers into social workers. Community Policing is first and foremost a crime prevention effort. Investigative policing has to continue side by side with Community Policing. Indeed, Community Policing should improve and refine police operations by forging closer links with the community.
- There is also the danger of the political empowerment of the community-based officers. An officer may become so involved in the community that he/she becomes a political advocate instead of a community resource. This impairs his capacity for genuine Community Policing work.
- There are dangers of internal strains and tensions within the police when the emphasis shifts from traditional activities to the new police initiatives. But, the Community Policing is not, and should not be, an independent entity within the organization. Community Policing is not meant to substitute for other forms of policing, but a complement to other efforts. Community Policing works best when it is found not to operate in isolation.
- Lack of honest evaluation hampers advancement of Community Policing

<sup>4</sup> Bayley. D. (1999). "Capacity-Building in Law Enforcement Trends and Issues in Crime & Criminal Justice", July 1999, No. 123, Canberra: Australian Institute of Criminology.



practices. As a result, lessons are not drawn from the omissions of the past. In India, many of the Community Policing projects have not achieved necessary degree of success, because they have seldom been properly and objectively evaluated. In consequence, changes and modifications of the programmes in the light of the evaluations have not taken place.

- It has also been noticed that Community Policing is more successful in well-organized and the cohesive communities, which need Community Policing the least. Mobilization of support in disorganized communities separated by caste, creed and religious divisions is far more difficult.

## Conclusion

Police leaders should not allow the political leaders and the public to develop unrealistic expectations for Community Policing in respect of crime prevention and order maintenance. Community Policing is not a quick fix. It calls for long-term commitment. Success can be achieved only through a series of gradual improvements. Taking into account the positive, negative and uncertain forces affecting the institutionalization of Community Policing in India, it seems that in the coming decades, there will be further expansion of community-based policing activities. The progress will be somewhat slow and incremental because neither the political nor the police leaders are in favour of empowering the citizens and making the police accountable to the community. ■



# Narco-Analysis

## A Critical Evaluation

Prof. J.D. Sharma\*

### Keywords

Narco  
Narco-Analysis  
Truth Analysis  
Truth Serum

### Abstract

*The Narco-Analysis has become an increasingly, perhaps alarmingly, common term in India. This technique has garnered support from certain State Governments as well as the Judiciary in India. There has been a debate for quite a long time whether this can be considered as a scientific and reliable method. An attempt has been made here to critically discuss this technique and to evaluate its admissibility as evidence in the courts.*

### Introduction

THE search for effective aids to interrogation is probably as old as man's need to obtain information from an uncooperative accused (or subject) and as persistent as his impatience to short cut any tortuous path. In the annals of police investigation, physical coercion has, at times, been substituted for painstaking and time-consuming inquiry in the belief that direct methods produce quick results. But, hardened and manipulative perpetrators often fail the interrogation thus, information and admissible evidences are hard to come by.

With the advancement of our knowledge or the reapplication of existing knowledge in a newer specific area has resulted in the emergence of techniques, such as Polygraphy, Brain-mapping and Narco-analysis.

The term 'Narco-analysis' is derived from the Greek word 'Narkē' (meaning "anesthesia or torpor", and is used to describe a diagnostic and psychotherapeutic technique that uses psychoactive drugs, particularly barbiturates, to induce a state of stupor in which mental elements with strong associated effects come to surface, where they can be exploited by the therapist (or investigating agency). The term 'Narco-analysis' was coined by Horseley, but the Narco-analysis first reached the mainstream in 1922, when Robert House, a Texas Obstetrician used the drug scopolamine on two prisoners. But, the therapeutic use was first documented by Dr. William Blackwenn

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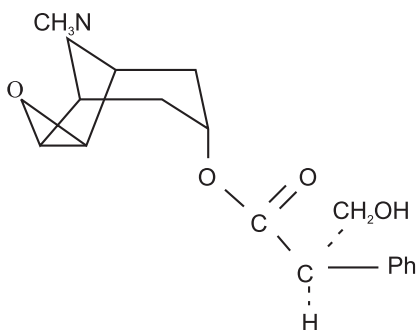
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(1930).<sup>1</sup> Others<sup>2,3,4</sup> demonstrated the usefulness of such drug in procuring diagnostically or therapeutically vital information, and to provide patients with a functional respite from catatonia or mania.

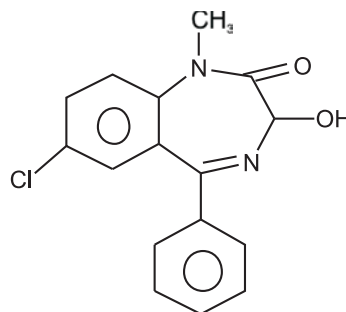
### Active Chemical Substances

Sedative and hypnotics that alter higher cognitive function by depressing the Central nervous system

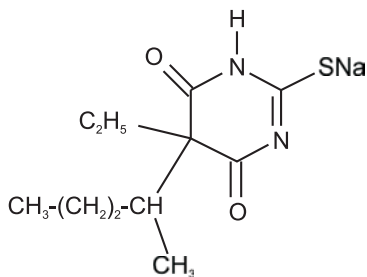
include ethanol, scopolamine, 3 quinuclidinyl benzilate, temazepam and various barbiturates, such as sodium thiopental (commonly known as sodium pentothal), Sodium amytal (amobarbital), seconal are particularly worth mentioning. Scopolamine (an alkaloid of atropine group and is scopine tropate) was the first chemical substance, but nowadays, the barbiturates, particularly the sodium pentothal, is the drug of choice for the Narco-analysis.



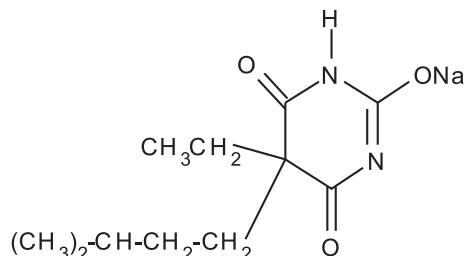
Scopolamine  
(6β, 7β-Epoxyhyoscyamine)



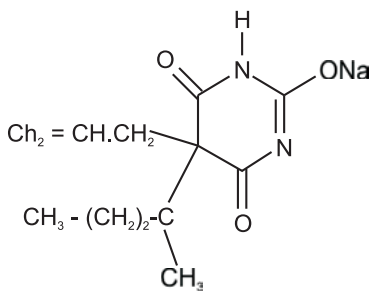
Temazepam  
(2H-1,4-Benzodiazepin-2-one, 7chloro-1,3-dihydro-3-hydroxy-1-methyl-5-phenyl)



Sodium Pentothal  
(Sodium 5-ethyl-5-(1-methylbutyl)-2-thiobarbiturate)



Sodium amytal  
(Sodium 5-ethyl-5-isopentyl barbiturate)



Sodium Seconal  
(Sodium 5-allyl-5-(1-methylbutyl) barbiturate)

## The Procedure

The Narco-analysis is conducted by the administration of a hypnotic-sedative, such as sodium pentothal, intravenously into the subject. The dose is calculated as per kg. of the body weight of the subject and the drug is pushed by an Anesthetist (a medical doctor) at the rate of 4ml/min (100mg/min) of a 2.5% solution of sodium pentothal.<sup>5</sup> The injection may be preceded by the administration of an anticholinergic agent and a test dose of the said drug. The dose is dependent on the person's sex, age, health, physical condition, tolerance and idiosyncrasy.

The rate of administration is controlled to drive the subject (accused) slowly into a hypnotic trance resulting in a lack of inhibition. The subject is then interrogated by the Psychiatrist/Forensic Psychologist in conjunction with investigating agency. The anesthesia doctor monitors and maintains the hypnotic trance condition of the subject. The revelation made during this stage are recorded, both in video and audio cassettes. The Forensic Psychologist prepares the report about the revelations, which will be accompanied by the audio-video recordings. The strength of the revelations, if necessary, is further verified by subjecting the person to psychological/criminal profiling, polygraphy and/or the Brain-mapping tests.

The Narco-analysis is normally conducted in Government Hospitals or in Forensic Lab where such facilities are created. However, personal consent of the subject and a court order are required for the conduct of the test.

In Narco-analysis test, the person's inhibitions are lowered by the depressing action of the drug at the CNS. In such sleep-like state (or hypnotic trance), it becomes difficult, though not impossible, for him to lie or manipulate the answers. Revelations made by the person under such condition are usually further corroborated by the investigating agencies, and reconstruction of the crime is done.

## Discussion

Narco-analysis has become an increasingly, perhaps alarmingly, common term in India. This

practice has also garnered support from certain State Governments as well as the Judiciary. While expert studies and court opinions available internationally have granted that there may be some use in Narco-analysis, but the overwhelming evidence is that it is by no means a reliable science.

There are two main *issues* in the acceptance of Narco-analysis test in the Criminal Justice Administration:

- Whether Narco-analysis is a reliable scientific test? and
- What should be its legal status?

A scientific test is one which is based on a solid scientific principle and always give results, which are precise & accurate, reproducible and cross-verifiable. Narco-analysis basically is a test in the domain of psychology to provide functional respite from some psychological disorders. There is no direct proven relationship between the administration of so-called truth drugs and revelation of truth. The CIA has admitted that the actual content of what comes out during the Narco-analytic interrogation can be psychotic manifestation...hallucinations, illusion, delusions or disorientation. Psychiatrists hold that some 50% of all individuals are *suggestible* even while fully conscious, meaning they can be made to believe events that never actually happened. Thus, under the effect of drug, the patient may say things that he wished were true and not that were necessarily true. Further, the effect of the drug should remain same on all subjects, but it varies with the age, sex, health and general conditions of the person thus may give different outcome.

In the US, where science often interfaces uncomfortably with the law, the Supreme Court offered four criteria, part of the *Daubert standards* (1993), by which to judge the credibility of a scientific principle held by a minority of practitioners: hypothesis testing; peer review and publication; knowledge of error rates; and acceptability in the general scientific community. In India, the Narco-analysis is being mainly done at Forensic Labs at Bangalore and Gandhinagar. As per one conservative estimate,

both laboratories collectively had carried out the Narco-analysis of around 600 persons by now, but the results of these tests and their parameters were never peer reviewed and the data never published in international research journals for the scientific scrutiny. Further, no controlled studies of sufficiently large relevant samples of criminals are available; no authentic data and no statistical probability data are available. In the absence of above, how Narco-analysis can be regarded as a *scientific and reliable* technique? American Journal of Psychiatry prohibited the use of Narco-analysis for the purpose of police investigation (111,283-88).

### Legal Status

Regarding the *legal status* of Narco-analysis, one needs to interpret carefully the Article 20(3) of the Indian Constitution and Section 161(2) of the Criminal Procedure Code, 1973.

The application of Narco-analysis test involves the fundamental question pertaining to the judicial matters and also Human Rights. The legal position of applying this technique as an investigative technique raises genuine issues like encroachment of an individual's rights, liberties and freedom. Subjecting the accused to undergo the test as has been done by the investigative agencies in India, is considered by many as a blatant violation of Article 20(3) of the Constitution. It also goes against the "Maxim Nemo Tenetur Se Ipsum Accusare", i.e. "No person accused of any offence shall be compelled to be a witness against himself." Thus, Article 20(3) gives privilege to the accused or any person against self-incrimination which, in fact, is a fundamental basis of Common Law of Criminal Jurisprudence. Thus, the involuntary confession or other vital information obtained from the accused of the crime by pushing him into a state of hypnotic trance amounts to self-incrimination, thus violates the Article 20(3) of the Constitution. Such evidence thus cannot be made admissible in the courts until some amendments to the said provision occur.

The right against forced self-incrimination also widely known as the *right-to-silence* in enshrined in the Section 161(2) of the Criminal Procedure Code, 1973, which state that "such person shall

be bound to answer truly all questions put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture". Thus, the administration of test, like Narco-analysis amounts to forcible intrusion into one's mind, thereby nullifying the validity and legitimacy of the *right-to-silence*.

Thus, in the light of above facts, the Narco-analysis test neither can be considered as a scientific and reliable test nor it satisfies the existing golden principles of Indian Laws and Criminal Jurisprudence.

As of today, the Narco-analysis has been banned in most of the advanced democratic countries. In 1989, the New Jersey Supreme Court (*State v. Pitts*) prohibited the use of sodium amytal Narco-analysis as the results of the interview were not considered scientifically reliable. The court opined that subjects are susceptible to filling in gaps in stories with fabricated detail (hyperamnesia) or believing in false events (Memory hardening) and hypnotic recall, where thoughts of non-existent events become embedded in the memory. The UNO Declaration (1982) for the Doctors also prohibit the use of such methods on arrested person that adversely affect his physical and mental status.

### Conclusion

Though nobody wants that terrorists and hardened criminals escape from the clutches of law, but it would be equally unjustified, if knowingly, we resort to such a test, which is not true to science and law. In India, Narco-analysis is gaining some judicial acceptance (for inadvertent reasons) and supports from some enthusiastic Law Enforcement Officers despite being an unreliable and doubtful method. We have to seriously debate about its Legal and Constitutional validity from human perspective. Narco-analysis may yield useful information at times, but such informations can also be obtained by enhancing investigative capabilities, better policing and training of the personnel. It is the time for Law Enforcement personnel to have a sincere introspection. It is an invasive technique, which amounts to a sophisticated version of the deplorable third-degree method. ■



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# Position to Attempt to commit a Crime under the Indian Penal Code (IPC)

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## Keywords

Attempt  
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Actus reus  
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Crimes  
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## Abstract

The aim of this paper is to provide an in-depth discussion into the concept of 'attempt' under the Indian Penal Code (IPC). It begins by understanding its jurisprudential definition and the common law sense of 'attempt'. This is supported by various case laws. In addition, to understand its quintessence, the researcher has attempted to look at the definition of 'attempt' from other countries' Penal Laws, including Scandinavian, Roman, Islamic and English Law. In addition, the paper tries to understand this concept in terms of its mental element and the various tests used to determine it, including the Proximity Test, Locus Paenitentiae Test and other such tests. Further, the paper looks at the position of attempt under the Indian Penal Code (IPC). It concludes by looking at the existing lacunae in the IPC in dealing with 'attempt', including the Law Commission's proposals in rectifying the situation.

## Introduction

THE law regarding attempts to commit crime has been described as "more intricate and difficult of comprehension than any other branch of the criminal law".<sup>1</sup> Offences are committed either after premeditation or at the spur of the moment. Such crimes are so irrational, so unpredictable, so explosive, that it is difficult to analyze them in terms of clean-cut stages. In cases of such crimes, the stages of preparation and attempt overlap each other as they are of unduly short duration. On the opposite side of the spectrum of crime, are the carefully planned acts of the criminal. In such types of crimes, law has recognized four stages in the commission of crime:

- Intention;
- Preparation;
- Attempt; and
- Commission of Crime.

<sup>1</sup> *Hick v. Commonwealth* (1889) 86 Va.223, 9 SE 1024.

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Attempt is the direct movement towards the commission after the preparation is made. An attempt is an intentional preparatory action, which fails in object or which so fails through circumstance independent of the person who seeks its accomplishment. When a man does an intentional act with a view to attain a certain end and fails in his object through some circumstances independent of his own will, then that man has attempted to effect the object at which he aimed.<sup>2</sup>

### Meaning of Attempt in Criminological Jurisprudence

According to Webster's Seventh New Collegiate Dictionary: "Attempt means an unsuccessful effort". While Chamber's Twentieth Century Dictionary defines 'Attempt' as any act that can fairly be described as one of a series which, if uninterrupted and unsuccessful, would constitute a crime.

As stated in the *Jowitt's Dictionary of English Law*, 'Attempt' means an endeavour to commit a crime or unlawful act; the doing of some overt act for the purpose of committing some offence; an act done with intent to commit a crime, and forming a part of a series of acts, which would constitute its actual commission if it were not interrupted. The mere intent to commit a criminal offence is not a crime, nor is an act merely preparatory to the commission of an offence. It is not invariably necessary that it should be possible for the accused to commit the commission of an offence. It is not invariably necessary that it should be possible for the accused to commit the offence in question. Thus, a man may be convicted of attempt to steal when, with intent to steal, he puts his hand into an empty pocket; but, on the other hand, a boy of fourteen, being incapable in law of committing rape cannot be convicted of an attempt to commit that offence.<sup>3</sup>

*Bouvier's Law Dictionary* (Eighth Edition) defines 'Attempt' as an endeavour to accomplish a crime carried beyond mere preparation, but falling short of execution of the ultimate design in any part of it. An attempt, in general, is an overt act done

in pursuance of intent, to do a specific thing, tending to the end, but falling short of complete accomplishment of it.

Whereas the *Encyclopaedia Britannica* defines it as being "an effort to do or accomplish a crime that fails of consummation, but goes beyond acts of preparation to a point dangerously close to the completion of the intended harm". The *Encyclopaedia Americana International* defines it as an act that is done with intent to commit a crime and that, if not prevented, would result in the commission of the crime. Three elements are present in an attempt to commit it:

- Intent to commit it;
- Performance of some act towards its commission; and
- Failure to carry it out.

For example, an assailant, who fires a gun with intent to murder but misses, commits attempted murder.

Allahabad High Court opined that though it is not possible to give a precise or exhaustive definition of attempt, it may be broadly stated that an intentional act, which a person does towards the commission of an offence, but which fails in its object through circumstances independent of the volition of that person is attempt. This was decided in the case of *State of U.P. v. Ram Charan*.<sup>4</sup>

### Attempt: An "Inchoate Crime"

An attempt is an "inchoate crime". An inchoate crime is one that is "committed by doing an act with the purpose of affecting some other offence".<sup>5</sup> There are three main inchoate offences at common law - attempt, conspiracy, and incitement and the nature of the requisite steps that need to be taken varies with each. With attempt, the offender must have got relatively close to achieving this objective.

The inchoate offence of attempt penalizes conduct, which is sufficiently proximate to the commission of an indictable offence, when done

<sup>2</sup> *Yusuf Abdulla v. R.N. Shukla* (1969) 72 Bom LR 575.

<sup>3</sup> S.S. Huda, "Principles of Criminal Law in British India", Eastern Book Company, Lucknow, 1993.

<sup>4</sup> AIR 1962 All. 359.

<sup>5</sup> Glanville Williams (1983), "Textbook of Criminal Law".

with intent to commit the offence. At common law, attempt was a complex, vacillating body of law.

The most obvious justification for having a general law of attempts is to allow the timely prevention of a future criminal harm. A concern with harms yet to be realized can be seen even in the early development of the common law. For instance, burglary, from its emergence in the 12<sup>th</sup> century, penalized individuals, who entered walled cities or inhabited premises at night with a felonious intent. The threat to security from such entry called for intervention; it was not necessary to demonstrate that the felony had in mind ultimately was committed or not. Likewise, the offence of assault was devised to proscribe threats of immediate violence, supplementing the earlier offence of battery, which penalized the actual use of force.<sup>6</sup>

### Attempt vs. Preparation

Moreover, a distinction can be drawn between an attempt and a preparation. The relative proximity between the act done and the evil consequence contemplated largely determines the distinction. Whereas an attempt is punishable, a preparation is not. This distinction is based on sound reason. In the first place, preparation, apart from its motive, would generally be a harmless act. It would be impossible in most cases to show that the preparation was directed to a wrongful end or was done with an evil motive or intent, and it is not the policy of law to create offences that in most cases, it would be impossible to bring home to the culprit or which may lead to harassment of innocent persons.<sup>7</sup>

Besides, a mere preparation would not ordinarily affect the sense of security of the individual intended to be wronged, nor would society be disturbed and its sense of vengeance roused by what to all outward appearances would be an innocent act. Actual attempt to commit an offence involves greater degree of determination than the preparation.<sup>8</sup>

## Criminal Attempt in other Countries' Penal Laws

It would be useful to study the historical antecedent of position of attempt to commit a crime under the IPC. One could actually trace back its history to early Roman, Scandinavian, Islamic and English Common Law traditions. A brief discussion on these would allow us to understand the jurisprudence and foundation on which the theory of attempt to commit a crime has been adopted under the IPC.

### Criminal Attempt under Roman Law

Under Roman Law, attempt at a crime was punished by some special method of procedure or under the head of some other crime rather than by nature of a general statutory provision or in pursuance of some definitely expressed principle.

The Romans punished attempts to commit ordinary crimes only occasionally and by a smaller penalty. As regards "atrocious" crime, they stressed on the intent rather than the actual harm, yet it is uncertain whether they punished the attempt equally with the intended crime.<sup>9</sup>

Under Roman Law, a distinction is made between remote and proximate acts: in the former there was greater room for repentance; hence a less severe penalty was imposed. These fragmentary notes of ancient law indicate that the problems involved in analysis of criminal attempts are perennial ones. The nature of these problems account for their appeal to the speculative temperament of medieval legal scholars, although it seems that they were thoroughly explored only in Italy. In any event, when one comes to the beginning of the modern era, one finds that in the sixteenth century, provisions regarding criminal attempts are already included in the most important codes: the *Carolina* in 1532 and the *Ordinance de Blois* in 1579 are noticeable instances.<sup>10</sup>

<sup>6</sup> L.B. Curzon, "Criminal Law", Sixth Edition, M&E Handbooks Series, London, 1991.

<sup>7</sup> Monica Chawla, "Criminal Attempt and Punishment", First Edition, Deep and Deep Publications, Delhi, 2006.

<sup>8</sup> Cross and Jones and Card : "Introduction to Criminal Law". Eleventh Edition, Butterworths, London, 1988.

<sup>9</sup> Monica Chawla, "Criminal Attempt and Punishment", First Edition, Deep and Deep Publications, Delhi, 2006.

<sup>10</sup> L.B. Curzon, "Criminal Law", Sixth Edition, M&E Handbooks Series, London, 1991.

Roman Criminal Law has exercised greater or lesser influence on the corresponding part of the law of every nation of Europe, though in all, it was far more deeply and widely modified by legislation than any other part of Roman jurisprudence. Roman Law did make a considerable contribution to Greek Law; the Greeks did punish an attempted homicide severely.

Some Roman passages indicated that the basis that the accused's failure did not affect his wickedness. Thus, an accused person who did not kill his victim, but wounded him with the intention of killing him, was convicted of homicide.<sup>11</sup>

As Seneca, a great medieval scholar remarked, "A man is no less a brigand, because his sword becomes entangled in his victim's clothes and misses its mark."

Present German theory is based on attempts that are 'directly dangerous'. The objectivist, argument is that only those acts should constitute attempts that are directly dangerous to the interest provided under the law. It is true that this test might lead to a lower threshold of liability for, say killing by poison than for crimes of fraud.

It is also advanced by some theorists that the line between preparation and attempt should be drawn with a view to the "nearness of the danger, the greatness of the harm, and the degree of the apprehension felt".

### Criminal Attempt under Scandinavian Law

The ancient Scandinavian Law had no general provision of attempt. It considered the actual damage to a victim to be worthy of a reparatory criminal sanction. If there was no harm, there was felt no need to have a punishment.

### Criminal Attempt under Islamic Law

Under Mohammedan Law, the accused is not punished at the preparation stage. *Shariat* differentiated in respect of an attempted offence between *hadd* and *tazir*.

In Islamic jurisprudence, attempt is constituted when the first step is taken towards the commission

of the offence. Thus, any act showing progress towards the actual commission of offence, constitutes attempt and all that goes before it is known as intention to commit, the resolution to do it and preparation. In *shariat*, the modern concept of preparation lies with the 'intent and resolution' on the other side and the starting point of the commission of the offence on the other.

If a person makes a key to open a lock of a house to commit theft or procures an aim with the intention to commit theft or killing, he is punishable for his wrongful acts under *tazir* according to Malik and Ahmad. The situation in other schools of thought is different and the above acts are not punishable as such. In the above example, if the person with the gun was arrested while sitting in a bush on the way in which the victim was expected to come, both of them may be punished for 'attempt' under *tazir* under Islamic law.<sup>12</sup>

The learned Chief Justice of Pakistan compared the position under Islamic Law with that under the ordinary law. He said:

According to the ordinary law, preparation to commit a crime is not culpable or punishable as an attempted offence if it had not reached a stage where it be termed as an act leading to the offence. For example, if a person made some instruments, which are used in the commission of theft, he will not be considered as a murderer. According to Abu Hanifa, preparation to commit a crime is not punishable or culpable except when this preparation itself is a crime; they argue that the commission of the crime is still dependent on his volition and it is quite possible that the planner may change his mind before committing the wrongful act. The distinction between the ordinary law and Islamic Law enters the field at this stage.<sup>13</sup>

### Criminal Attempt under English Law

Under the modern English Law, there is only one test to determine whether the act is a mere preparation or attempt. The test is that whether the act of the accused is 'more than merely preparatory to the commission of the offence.

<sup>11</sup> Peter Seago, "Criminal Law", Third Edition, Sweet and Maxwell, London, 1989.

<sup>12</sup> Monica Chawla, "Criminal Attempt and Punishment", First Edition, Deep and Deep Publications, Delhi, 2006.

<sup>13</sup> *Javed Iqbal v. The State* PLD 1985 FSC 141.

The Criminal Attempts Act, 1981 came into force on 27<sup>th</sup> August, 1981 after Section 6(1) abolished the Common Law on this point. This section states as under:

“The offence of attempt at common law and any offence at common law of procuring materials from crime are hereby abolished for all purposes not relating to acts done before the commencement of this Act.”

Section 5 (1) of the Criminal Attempts Act of 1981 contains the *actus reus* of attempt. It states:

“If, with intent to commit an offence to which this section applies, a person does an act, which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.”<sup>14</sup>

It is for the Jury to decide whether the act of the accused is sufficient for an attempt and that there is enough evidence in the law to support the finding.

Under the common law, the test expressing the *actus reus* of attempt was never definitely articulated. But, under the new statute, it is a clear signal to the Judges of England that they should not be constrained by old notions of preparation. In addition, the long title of the statute states that the Act is to amend the Law of Attempts.<sup>15</sup>

According to the new Act, it is evident that the *actus reus* of the new offence requires that the accused does an act ‘which is more than merely preparatory’. No guidelines are laid down in the Act to assist the finding that from where the criminality arises.

Under the Act, one is faced with the problem that the Act does not provide any illustration that when the Law Enforcement Agencies should intervene and arrest a suspected criminal. This is because no illustrations have been provided under the Act making it difficult for the law enforcers to intervene and arrest a suspected criminal.<sup>16</sup>

The main difficulty, which arises from the test, is the distinction between the conduct before the act and that which is merely preparatory after

the act. So, we can suggest that the common law could still be used as a guide in a negative sense, to help decide when conduct does not satisfy the test under Section 1(1) of the Criminal Attempts Act of 1981.

Although, not setting upon a single test to describe the conduct amount to an attempt under the common law, all conduct not amounting to a criminal attempt was described as merely preparatory after the Act.<sup>17</sup>

## Analysis

Overall, it can be seen that there are a number of similarities and differences between the English and the Indian systems. For instance, English Criminal Attempts Act of 1981 says that: “If, with intent to commit an offence to which this section applies, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.” This is also used in the IPC as a guide to differentiate as to what amounts to attempt. In fact, the flaws suffered by the common law system unfortunately are passed on to the Indian system - for example, there is still no single test to describe the conduct amounting to an attempt under the common law as well as the IPC and also the conduct not amounting to a criminal attempt.

## Mental Element in Criminal Attempt

The general trend in modern criminal law is towards expansion of *mens rea*, so as to indicate intention and recklessness, but the traditional view is that the mental element required for an attempt is that if direct intention to bring about the *actus reus* of the crime intended.

It has been well established that the intention necessary for finding guilt in attempt is a precise one. It is not sufficient that it be shown that the culprit intended to achieve something, which might have resulted in the crime with the attempt to which he is charged. Whereas in murder, it is sufficient to prove an intent to cause grievous harm, in an attempt to murder, it is necessary to

<sup>14</sup> Criminal Attempts Act of 1981, UK.

<sup>15</sup> Jonathan Herring, “Criminal Law”, Fifth Edition, Palgrave Macmillan Law Masters, UK, 2007.

<sup>16</sup> L.B. Curzon, “Criminal Law”, Sixth Edition, M&E Handbooks Series, London, 1991.

<sup>17</sup> *Ibid.*

satisfy the Jury that the acts done with a specific intent to kill although this result was not achieved. Whether or not such an intention exists, is a matter of fact to be determined by the Jury.<sup>18</sup>

*Mens rea* in an attempt generally presents no special difficulty, because it is purely a matter of fact. Every attempt is based upon a 'specific intent', that is, an intent to commit some particular crime.

In *R. v. Button*<sup>19</sup>, it was held to have been a question for the Jury whether a man convicted for obtaining prize money by false pretences in an entrance form for a handicaps race misrepresented his past prowess as a joke, or with intent to defraud, but it is not always sufficient to have *mens rea*, which would have rendered him guilty of the main crime if it had been completed.

In *R. v. Mohan*<sup>20</sup>, the court had defined the true meaning of specific intent. It can be defined as a decision to bring about a certain consequence or as the 'aim'.

### **Actus reus in Criminal Attempt**

*Actus reus* of the attempt must be a step towards the commission of the crime, which the accused is charged with having attempted. Here, one is faced with great difficulty, including the sufficiency of the *actus reus* or overt act as it is called. An attempt is an intentional act, which a person does towards the commission of an offence, but which failed in its object through circumstances independent of the violation of that person. Attempt is a direct movement towards the commission of the offence after the preparations are made.<sup>21</sup>

### **Criminal Attempt and Preparation Distinguished**

The most intricate problem in the Law of Attempts to commit crime is to draw a line demarcating between the stage of preparation and attempt. The question whether a certain act is merely one of preparation or one committed in course

of an attempt is a question of fact. The dividing line between a mere preparation and an attempt is sometimes thin and has to be decided on the facts of each case. It is impossible to lay down any mechanical or hard and fast rule for drawing of line between preparation and indictable attempts. Various tests have been suggested by Judges and Jurists for determining whether a particular act amounts to an attempt to commit a crime in question or a mere preparation to commit it. Although, some of these tests produce unsatisfactory results, still they illustrate that there is a very narrow line between preparation and attempt.<sup>22</sup>

The various important tests to draw a line between attempt and preparation are discussed below:

### **The Proximity Test**

This test lays down that an act or series of acts constitute an attempt if the offender has completed all the more important steps necessary to constitute the offence, but the consequence, which is the essential ingredient of the offence, has not taken place. According to Glanville Williams, "it seems that the act of the accused is necessarily proximate if, though, it is not the last act that he intended to do, is the last that it is legally necessary for him to do if the result desired by him is afterwards brought about without further conduct on his part".<sup>23</sup>

He further says that the proximate rule is a combination of principles laid down in a number of decided cases. For example, an act of attempt must be sufficiently proximate to the crime intended, it should not be remotely leading towards the commission of an offence, it must contribute to antepenultimate act and that the act done should place the accused into relation with his intended victim.

The origin of the theory may be found in the remark by Baron Parke J., in *Regina v. Eagleton*<sup>24</sup>, which is that the criminal attempt begins when the offender loses all control over the matter by doing

<sup>18</sup> S.S. Huda, "Principles of Criminal Law in British India", Eastern Book Company, Lucknow. 1993.

<sup>19</sup> 1900 2 QB 595.

<sup>20</sup> 1976 QB 1.

<sup>21</sup> Simester & Sullivan, "Criminal Law : Theory and Doctrine", Third Edition, Hart Publishing, Oregon, USA, 2007.

<sup>22</sup> Mike Molan, "Cases and Materials on Criminal Law", Third Edition, Cavendish Publishing, UK, 2005.

<sup>23</sup> Glanville Williams (1983). "Textbook of Criminal Law".

<sup>24</sup> 1855 Dears CC 515.

the last proximate act "some act is required... acts remotely leading commission of the offence are not considered as attempts to commit it; but acts immediately connected with it are."

Some courts propose to be guided by principles, which state, in general terms, that the overt act required for an attempt must be proximate to the completed crime, or that the act must amount to the commencement of the consummation. Such opinion often admits that each case must be decided on its own facts and examined in detail the acts remoteness from the completed crime, emphasizing time, distance, and the number of necessary acts are yet undone. A stronger view of the physical proximity test holds that the actor's conduct does not proceed beyond preparation until the actor has the power - or at least the apparent power - to complete the crime forthwith.

As regards the proximity rule, the non-production of the consequence may be due solely to the want of skill on the part of the offender or other causes. But, in cases where the act done is not capable of bringing about the crime intended, create complications which are difficult to solve.<sup>25</sup>

### **Dangerous Proximity Doctrine or Social Danger Test**

In the dangerous proximity test, the offender has not yet completed all the steps necessary to constitute the offence, that is to say, is yet in the preparatory stage, but has proceeded far enough to necessitate punishment for the protection of the society.

To determine whether a given act constitutes an attempt, the following factors are to be considered: the gravity of the offence intended, the nearness of the act to completion of the crime, and the probability that the conduct will result in the offence intended. The greatest the gravity and probability and near the act to the crime, the stronger is the case for calling the act an attempt. The test is based on the assumption

that the purpose of punishing attempts is to deter undesirable behaviour and that until the actor's conduct becomes sufficiently dangerous, there are not adequate reasons for deterring it.

In other words, one can say that the seriousness of the crime attempted has been one of the criteria in deciding the liability in cases of attempt. If the facts and circumstances of a case lead to the interference that the resultant consequences would have been grave, the crime of attempting is complete. In fact, it is the apprehension of social danger, which is the particular crime is calculated to excite, that determines the liability of attempt.<sup>26</sup>

In case of serious criminal attempts, if the situation amounts merely to a preparatory stage, the prosecution must fail. The 'social danger' test is not often referred to openly, but clearly the consideration of it lies behind the application of the other tests. Here, the seriousness of intended crime and the social danger apprehended from it are factors that cause Judges to consider certain act as attempt, which otherwise might have been treated as mere preparation. Again, as is so often the case in law, this is so-called is more often than not, simply a means of rationalizing the Judge's opinion of the harmfulness of danger of such act. In fact, no criteria can be laid down to ascertain social danger, there is no hard and fast rule to reckon the social impact of any act. For example, in *R. v. Brown*<sup>27</sup>, Darling J., thought that the social danger of quack physician supplying or of pregnant women administering themselves medicine turned out to be innocuous, was sufficiently serious to warrant conviction of such persons for attempt to procure an abortion.

It is not, therefore, the more proximity to the completion of the intended offence in point of time or space, which may negative any reasonable expectation of a change of intention that determines the line of consideration arising from the act up to a particular stage begin *per se* innocent.<sup>28</sup>

<sup>25</sup> Monica Chawla, "Criminal Attempt and Punishment", First Edition, Deep and Deep Publications, Delhi, 2006.

<sup>26</sup> *Commonwealth v. Kennedy* 1897 170 Mass 18.

<sup>27</sup> 1889 24 QBD 347.

<sup>28</sup> L.B. Curzon, "Criminal Law", Sixth Edition, M&E Handbooks Series, London, 1991.

### Equivocality Test or *Res Ipsa Loquitur* Test

There is another test known as the test of unequivocal evidence. If the object of the criminal law is to prevent not only consummated crimes, but also the completion of a proposed crime, then there is no justification for punishing a person when the evidence leaves no reasonable doubt that his intention was to commit the crime. But, unless the accused has come very close to accomplishing his object, the probative value of his conduct will be too slight to support conviction for an attempt.

Under the equivocality test, a defendant only commits the *actus reus* of attempt when he has taken sufficient steps towards the commission of the crime and that his action clearly indicates that his purpose was to commit the crime. The *res ipsa loquitur* test was seen in the case of *King v. Barke*<sup>29</sup>, where it was observed that to constitute a criminal attempt, and the first step along the way of criminal intent is not necessarily sufficient and the final step is not necessarily required.

The equivocality test takes an entirely different approach to the preparation - attempt problem, which holds that an attempt is committed when the actor's conduct manifests intent to commit a crime. The conduct would be considered in relation to all the surrounding circumstances exclusive of representations made by the actor about his intentions, but presumably representations of the actor, which negative a criminal intent, would be admissible to disprove the intention imputed. The object if the approach is to subject to attempt liability conduct, which unequivocally demonstrates that the actor is being guided by a criminal purpose.<sup>30</sup>

The equivocality test could not be applied to situations where the accused intended to accomplish his object by degrees, such as slow poisoning, etc. So, it was universally rejected.

### *Locus Paenitentiae* Test

The test of *locus paenitentiae* means that law provides every offender an opportunity or time for repentance before being himself within the grip of law. The law allows *locus paenitentiae* to every person before he brings himself within the grip of

criminal law. The doctrine means that a person will not be punished so long as it may reasonably be expected that he will, on his own motion, desist from proceeding any further in pursuance of his criminal design. It is only when the criminal takes a decisive step and thereby definitely commits himself towards the execution of the criminal purpose will the machinery of criminal justice intervene. In other words, when the prospective criminal of his own free will retrace his steps and desists from the contemplated attempt would have effectively availed himself of the benefits of the rule of *locus paenitentiae* for, in such a case, he would still have remained at its worst at the stage of preparation, which is not punished as a general rule.<sup>31</sup>

One such case was of Padala Venkatswami<sup>32</sup>, where the accused intending to procure the preparation of forged document, had a copy prepared, procured stamp paper on which the document was to be written, and asked a witness to supply the dates, presumably for insertion in a document he intended to get written. It was held that the accused could not be convicted of an attempt to commit forgery. The court remarked "the law allows a *locus paenitentiae* and will not hold that a person has attempted a crime until he has passed beyond the stage of preparation".

### Defence of abandonment

Abandonment is a defence to the *locus paenitentiae* test as it reveals that the actor's criminal will was insufficient to carry through his plans to commit an offence. It is held that there is liability for attempted crime only if the effort is interrupted or fails to produce the intended effect as a result of circumstances independent of the actor's will. The defence of abandonment is valid when the attempt fails to come off for reasons attributable solely to the actor's will.

The main purpose to recognize the defence of abandonment derives from a sense that attempts are different from other offences. The abandonment of the offence by the actor indicates that the actor is not dangerous and, therefore, he is not the type of person who should be punished. The only point on which the defence of abandonment can be accepted is that to wait and see that how determined the accused is to carry out his plans.<sup>33</sup>

<sup>29</sup> 1924 NZLR 865.

<sup>30</sup> Supra at n. 18.

<sup>31</sup> Simester & Sullivan, "Criminal Law: Theory and Doctrine", Third Edition, Hart Publishing, Oregon, USA, 2007.

<sup>32</sup> 1881 3 Mad 4.

<sup>33</sup> Supra at n. 18.

A general defence based in voluntary abandonment of the criminal enterprise would exonerate an accused person who desists, because encounters more resistance than he expected or through he was being discovered, lacks conviction. Once it is accepted that "that condition is such that the accused knows that he would have achieved his goal by continuing, desistance, induced by external factors is included from the ambit of enumeration". One can say that abandonment is a defence if the attempt to commit a crime is freely and voluntarily abandoned before the act is put to process of final execution.<sup>34</sup>

### Position in the Indian Penal Code (IPC)

Provision concerning criminal attempt under the Indian Penal Code and other Criminal Acts can be grouped into the following five categories:

- The cases where the commission of an offence as well as the attempt to commit it are dealt with in the same section and the extent of punishment prescribed in the same for both. In this case, both the actual commission of the offence and the attempt to commit are made punishable equally.
- The cases where for attempts specific punishments are provided in separate sections.
- As far as Indian Penal Code is concerned, the offences of attempt, which are not covered under above two clauses, are governed by the general provisions contained in Section 511.
- The cases where attempt to commit an offence is deemed to be commission of the offence itself.
- The cases where separate provisions relating to attempt under the Act have been given, but punishment provided for an attempt of an offence under the Act is same as far as the commission of the offence itself.<sup>35</sup>

### Specific Punishments in Separate Sections

**Section 307** of IPC states:

"Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be prescribed with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine, and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is mentioned."<sup>36</sup>

A special provision has been provided to deal with the life convict who attempts to commit murder while undergoing imprisonment. They are dealt with more severely than other offender as the only punishment prescribed for them is death. Attempt to murder by a person undergoing Life Imprisonment is to be punished with death only, where if he is unsuccessful, his case is to be decided under Section 302 and he may even get Life Imprisonment.<sup>37</sup>

To convict a person of an attempt to murder under Section 307, it must be shown that he has done some act with such intention that if by that act he caused death he would be guilty of murder, that is, the act must have been capable of causing death and if it had not fallen short of its object, it would have constituted the offence of murder. But, under **Section 511**, it is only necessary to prove an act done in an attempt towards commission of the offence.

### Conclusion

When a crime is attempted, there is harm, namely, a threat to security. In our society, we all have rights to bodily and proprietary security; an attempt to commit a crime represents a danger to these rights. This infringement of our right constitutes, in itself, a harm that the criminal law seeks to punish.

Gross<sup>38</sup> expresses the point very well by saying that: "When there is only attempt liability, the

<sup>34</sup> Monica Chawla, "Criminal Attempt and Punishment", First Edition, Deep and Deep Publications, Delhi, 2006

<sup>35</sup> Monica Chawla, "Criminal Attempt and Punishment", First Edition, Deep and Deep Publications, Delhi, 2006

<sup>36</sup> *Om Prakash v. State of Punjab* AIR 1961 SC 1782, *Vasudeo Balwant Gogte v. State* AIR 1932 Bom 279.

<sup>37</sup> *Mithu v. State of Punjab* 1983 AIR SC 273.

<sup>38</sup> Gross, 125 (1979), "A Theory of Criminal Justice".



conduct itself may usefully be regarded as a second order harm; and that, by itself, is a violation of an interest that concerns the law. The interest is one in security from harm and merely presenting a threat of harm violates that security interest.”

In utilitarian terms, criminal liability for attempts may be justified in the absence of any harm. A person who attempts to commit a crime is dangerous, he needs restraining. Such a person is also in need of rehabilitation and punishment for the individual deterrence; otherwise he might try to commit the crime again, being more careful next time. It is, however, doubtful whether punishment for general deterrence purposes will suffice here, people who attempt crimes, by definition, aim at success, if punishment for the complete crime is an ineffective deterrent, nothing is gained by punishment for an attempt to commit the crime. There is also a final important utilitarian justification here; the police should be given every encouragement to prevent crime, not simply to detect it. On this basis, the police should be empowered to arrest and prosecute, for attempts to commit crimes.<sup>39</sup>

According to the latter view, punishment is only dissevered where there is a combination of blame and harm. However, this is not a cast-iron rule. With crimes of strict liability, the law is prepared to dispense with the element of blame in imposing liability. It could be that with crime of attempt, the utilitarian arguments for punishment are so strong that we are prepared to dispense with the element of harm, and assert that punishment is justified or deserved on the basis of the blame element alone.<sup>40</sup>

Thus, under either of these explanations, it is possible to justify the existence of a Law of Attempts. The contours of such a law will vary however, depending on which of the two views is accepted. This is because the first view focuses on attempts that threaten people's interest.

Likewise, the Law Commission has proposed certain changes in the IPC. The definition

proposed by the Law Commission is as under.<sup>41</sup>

- He, with the intention or knowledge requisite for committing it, does any act towards its commission;
- The act so done is closely connected with, and proximate to, the commission of the offence;
- The act fails in its object because of facts not known to him or because of circumstances beyond his control.

Clause (c) of the proposed definition of attempt by Law Commission makes it evident that if the offender at the stage of the attempt withdraws voluntarily from the commission of crime, he is not to be deemed guilty of attempt, because according to this clause, the offender will be guilty only if he fails in his object since the facts are not known to him due to circumstances beyond his control. This suggestion of the Law Commission should be welcomed as it is in consonance with the basic object of Criminal Law to prevent crime.

However, the test suggested by the Law Commission in clause (b) of the proposed definition of attempt is that the act done is closely connected and proximate to the commission of the offence. It may not be possible to determine that how closely the act should be connected with the offence. Therefore, it is submitted that instead of having the test of closely connected act, it should incorporate the test that act is 'more than merely preparatory' to the commission of the offence since once the person is beyond the preparatory stage, it would not be feasible and prudent to dissect the situation further that how closely it was connected with the commission of the offence. The definition suggested by the Law Commission should be modified in the light of the above suggestion and put into the Indian Penal Code in the following form:

<sup>39</sup> Peter Seago, "Criminal Law", Third Edition, Sweet and Maxwell, London, 1989.

<sup>40</sup> K.D. Gaur, "Indian Penal Code", Third Edition, Universal Publishing Company, Delhi.

<sup>41</sup> Law Commission Report, 1971.



- He, with the intention or knowledge requisite for committing it, does any act towards its commission;
- The act is more than merely preparatory to the commission of the offence;
- The act fails in its object because of facts not known to him or because of circumstances beyond his control.<sup>42</sup> ■

<sup>42</sup> Monica Chawla, "*Criminal Attempt and Punishment*", First Edition, Deep and Deep Publications, Delhi, 2006.

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# Edgeoscopy

## A Reliable Tool for Personal Identification

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### Keywords

Friction Ridge  
Edgeoscopy  
Personal Identification  
Latent Prints  
Third-Level Details

### Abstract

*Persistence and uniqueness is an inherent quality of the papillary ridges and it applies to the ridges as a whole and its parts. In 1880, Sir Francis Galton had proved science of personal identification using ridge characteristics is based on these two primary factors. Later, Dr. Harris Hawthorne Wilder studying morphology of plantar and palmer surfaces, along with Bert Wentworth re-authenticated that friction ridges are formed on the hands of foetus, from the fourth month of intrauterine life. Identification specialists continually encounter friction ridge impressions of varying degrees of clarity and difficulty, and when there are insufficient numbers of minutiae in relative position to prove positive identity, fingerprint examiners find great difficulty in extending their opinion in the Courts of Law. In such situations, third level details like edgeoscopy could prove a crucial tool of support.*

### Introduction

#### Authenticity of Fingerprint Evidence

**P**APILLARY ridges can help in identification even when the epidermis gets eroded or damaged due to burns or long-term submergence in water. A partially submerged body was discovered in March 2004 in Prince Rupert, British Columbia (BC) Canada. The cadaver was identified by impressions of dermal ridges by BC AFIS Department.<sup>1</sup> Identification in such complicated cases certainly compliments the established science of fingerprint identification, which not only reassures the world about Sir Francis Galton's theory based on twin factors, uniqueness and permanence. Traditionally, latent print examiners have presented identification testimony in courts with an explanation of identification or with a charted enlargement of matching and latent prints.<sup>2</sup>

Most often, the subjective nature of the opinion of individualization comes under attack by Lawyer in the Courts of Law. Fingerprint examiners do not possess uniform objective standards to guide them in their comparisons. To the contrary, there is complete

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disagreement amongst the fingerprint examiners as how many points of comparisons are necessary to make an identification, and many examiners now take the position that there should be no objective standards at all.<sup>3</sup> Perhaps, scientists have started suggesting for the incorporation of more than one aspect in fingerprint evidence, i.e. poroscopy, edgeoscopy, etc. Prior to 1973, different States (regions) of India had no uniformity on minimum number of identical points for giving opinion on fingerprints, it ranged from 5-17. In the year 1973, the first All India FP Conference held at Srinagar (Jammu & Kashmir) adopted the following resolution:

“The minimum number of points for establishing the identity beyond doubt in case of fingerprint examination has been fixed at eight. However, where there are six or more points of identity, a qualified opinion can be offered by the expert on his responsibility.”

In 1970, the International Association of Identification had formed a Standardization Committee for the purpose of determining the minimum number of ridge characteristics for establishing positive identification.<sup>4</sup> The resolution stated that no valid basis exists at this time for requiring that a predetermined minimum number of friction ridge characteristics must be present in two impressions in order to establish positive identity. The Ne'urim Declaration (Israel) in 1995 had stated that no specific basis exist for requiring that a predetermined number of friction ridge features must be present in two impressions in order to establish positive identification.<sup>5</sup>

### Edgeoscopy & other Friction Ridge Evidence

The scientific foundation of friction ridge identification originates with various doctors, scientists and progressive thinkers, many playing a distinctive role in formulating the foundation of the science without ever recognizing its potential. Both Nehemiah Grew, M.D. in his report (1684) for the Royal Society of London, and the Anatomist Govard Bidloo from Holland in his book on human anatomy in 1685, discussed and illustrated their recognition of the friction ridges and pores within these ridges. Over 200 years ago, JCA Mayer in 1788 stated that the “arrangements of skin ridges is never duplicated in two persons”.<sup>6</sup>

Mr. S.K. Chatterjee was influenced by the research of Harris H. Wilde published in 1918, in his book entitled 'Personal Identification', which was co-authored with Bert Wentworth, he promulgated that the friction ridges are formed by the fusion of rows of units, which fuse across with the adjacent unit on one side and form a fork. He further described that ridges are subjected to differential growth and, as a result, all areas of friction ridge are unique.

Dr. David R. Ashbaugh in his book Quantitative-Qualitative Friction Ridge Analysis states that to ignore sweat pores and edge shapes when they are present is to ignore part of the valid information in the total image. This is by no means to suggest that an expert should ignore the minutiae points and concentrate on the pores and edge shapes. It is simply to say that one must consider all of the information present in both the latent print (or mark) and the inked print. Traditional minutiae points are still the backbone of most comparisons.

## Discussion

### Edgeoscopy as Third-Level Details

Third-level details are small shapes on the ridges, the relative location of pores, and small details contained in accidental damage to friction ridges. The small intrinsic details of friction ridges have tremendous individualizing power. The relevancy of friction ridge clarity, third-level detail, and quantitative-qualitative analysis were not understood by the friction ridge identification discipline.<sup>7</sup>

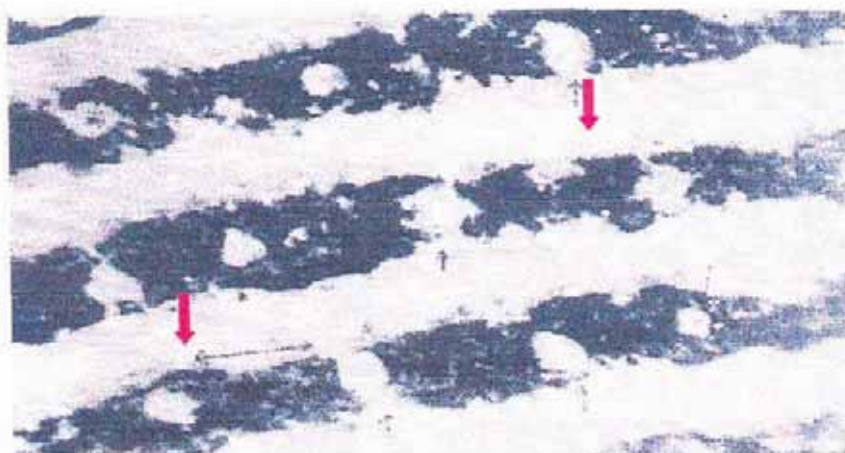
### Practical Difficulties in accepting Edgeoscopy for Individualization

Lack of sufficient and systematic data about various aspects of edge details like as shape, position, and frequency, etc.

### Remedial Measure for Practical Problems

Some suggestions have been made by pioneers like David R. Ashbaugh of RCMP Manitoba, Canada for studying third-level details:

- Powder fill: Careful cleaning of the developed fingerprint, and use of good quality powder with no moisture contaminates.



Shapes of Edges of the Ridges

- Use of pre-inked fingerprint strips increases the clarity of inked impressions; proper training and practice in inking the slab would improve results. Practice on correct pressure when fingerprinting will also be an asset.
- Knowledge of Edgescopy will allow us to add strength to low ridge count identifications, assist in evaluating ridge characteristics and, on occasion, make identifications on prints we previously considered unidentifiable. Therefore, that piece of fingerprint that is considered unidentifiable, due to lack of sufficient ridge characteristics, but displays ample pore structure, may be worth collecting anyway.
- Learning the basics of edgescopy is not at all time-consuming as the material required is minimal. Identification experts would not find it to learn edgescopy difficult at all. ■

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# Enhancement of Fingerprint using Digital Image Processing

Ranjeet Kumar Nigam\* & Priyanka Mishra\*\*

## Keywords

Fingerprint  
Digital Image Processing  
Ridges  
Histogram Equalization  
Hue  
Saturation  
Sharpen Filter  
Unsharp Mask (USM) Gray  
Scale

## Abstract

*Fingerprints found at the scene of crime had itself a valuable part of evidence, mostly all types of developed fingerprints are preserved digitally for the purpose of classification and identification in automated fingerprint identification systems, while preserving the fingerprint it is essential to enhance the quality of the fingerprint images for better results. A wide range of forensic digital imaging tools are available for the enhancement of fingerprints without altering its perceptual value. In this paper, a few approaches are used for enhancing the fingerprint, with the help of commercially available image processing software Adobe Photoshop 7.0. It is carried out by using the tool like histogram equalization, colour adjustments and sharpen filters for improving the fingerprint images.*

## Introduction

FINGERPRINTS are today the most widely used biometric features for personal identification. An Automatic Fingerprint Identification System (AFIS) is based on a comparison of minute details of ridge/valley structures of fingerprints. A total of eighteen different types of local ridge/valley descriptions have been identified. Most automatic systems for fingerprint comparison are based on minutiae matching. Minutiae characteristics are local discontinuities in the fingerprint pattern, which represent terminations and bifurcations. A ridge termination is defined as the point where a ridge ends abruptly. A ridge bifurcation is defined as the point where a ridge forks or diverges into branch ridges. Reliable automatic extracting of minutiae is a critical step in fingerprint classification. The fine structures in fingerprint images are not always well defined and, therefore, an enhancement algorithm, which can improve the clarity of the ridge structures, is necessary.

Each ridge is separated by two parallel narrow valleys; each valley is separated by two parallel narrow ridges; and minutiae are defined as the ridge endings and ridge bifurcations. However, in practice, such well-defined ridge/valley structures are not always

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visible in the scanned fingerprint images. Usually, a fingerprint image is corrupted by various kinds of noise, such as creases, smudges, writing over fingerprint, etc. Therefore, the goal of a reasonable enhancement algorithm is to improve the clarity of ridge/valley structures of fingerprint images in recoverable regions and to mask out the unrecoverable regions. Another very important aspect concerning a fingerprint enhancement algorithm is that it should not result in any spurious ridge/valley structures.

## Materials and Methods

The following experiment is carried out with the help of commercially available image processing software Adobe Photoshop 7.0. and the fingerprint images taken for the purpose of enhancement are scanned. The minimum system requirement is computer with at least a 386 microprocessor, eight MB of RAM, Windows 3.1 or later. Digitized image saved in TIF format.

## Histogram Equalization

A histogram illustrates how pixels in an image are distributed by graphing the number of pixels at each colour intensity level. The histogram also gives a quick picture of the tonal range of the image, or the image key type. A low-key image has detail concentrated in the shadows; a high-key image has detail concentrated in the highlights; and an

average-key image has detail concentrated in the mid tones. An image with full tonal range has a high number of pixels in all areas. Identifying the tonal range helps determine appropriate tonal corrections. Statistical information about the intensity values of the pixels appears below the histogram:

**Mean** : Represents the average intensity value.

**Standard deviation** : Represents how widely intensity values vary.

**Median** : Shows the middle value in the range of intensity values.

**Pixels** : Represents the total number of pixels used to calculate the histogram.

**Level** : Displays the intensity level of the area underneath the pointer.

**Count** : Shows the total number of pixels corresponding to the intensity level underneath the pointer.

**Percentile**: Displays the cumulative number of pixels at or below the level underneath the pointer. This value is expressed as a percentage of all the pixels in the image, from 0% at the far left to 100% at the far right.

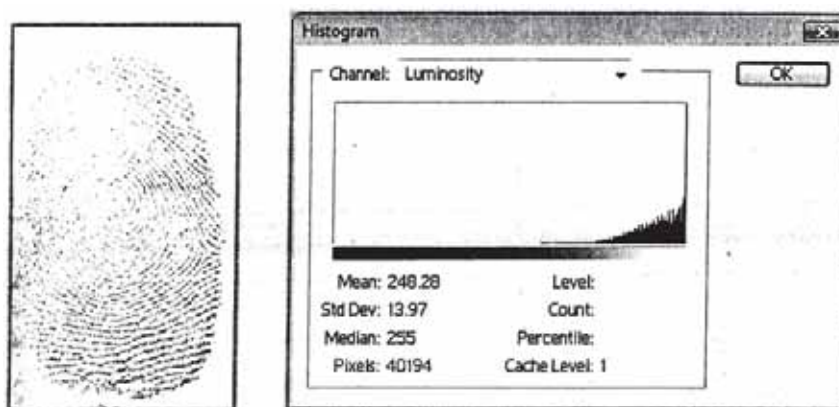


Figure 1.1: Original fingerprint image with Histogram

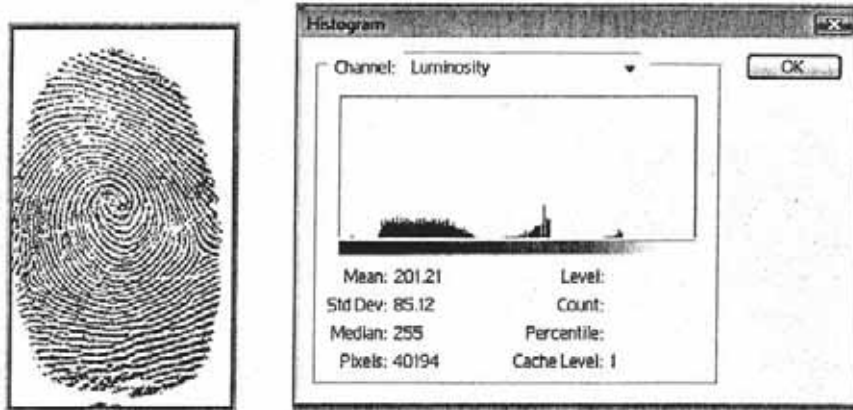


Figure 1.2: Enhanced fingerprint image after equalization with Histogram

### Gray scale Mode

This mode uses up to 256 shades of gray. Every pixel of a gray scale image has a brightness value ranging from 0 (black) to 255 (white). Gray scale values can also be measured as percentages of black ink coverage (0% is equal to white, 100% to black). Images produced using black-and-white or gray scale

scanners typically are displayed in gray scale mode.

Although, gray scale is a standard colour model, the exact range of grays represented can vary, depending on the printing conditions. In Photoshop, gray scale mode uses the range defined by the working space setting that you have specified in the Colour Settings dialog box.



Figure 1.3: Original obliterated fingerprint image



Figure 1.4: Fingerprint image in gray scale after equalization and colour adjustment

### Using the Hue/Saturation

The Hue/Saturation command lets you adjust the hue, saturation, and lightness of the entire image or of individual colour components in an image. Adjusting the hue, or colour, represents a move around the colour wheel. Adjusting the

saturation, or purity of the colour, represents a move across its radius.

It can also use the Colourize option to add colour to a gray scale image converted to RGB, or to an RGB image for example, to make it look like a duotone by reducing its colour values to one hue.



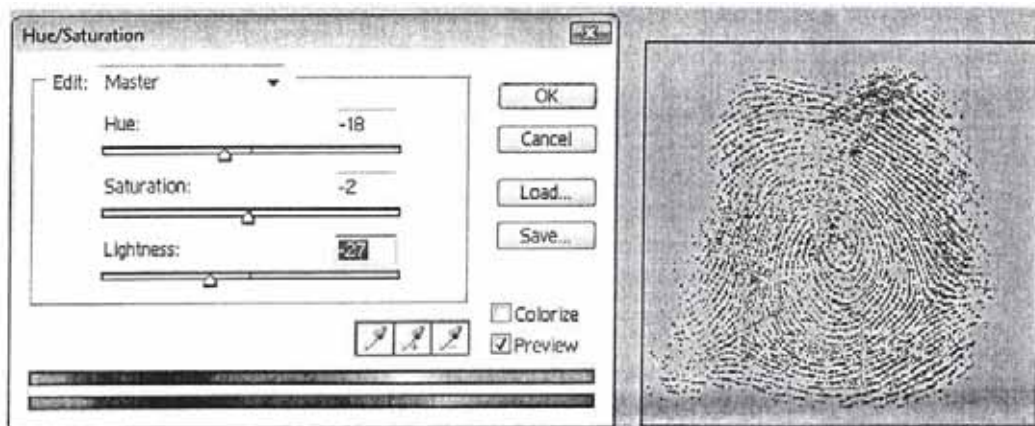


Figure 1.5: Hue/saturation and light adjustment of fingerprint image of Figure 1.3

### Using the Curves

Like the Levels dialog box, the Curves dialog box lets you adjust the entire tonal range of an image. But, instead of making adjustments using only three variables (highlights, shadows, mid tones), with Curves, you can adjust any point along a 0-255 scale while keeping up to 15 other values constant. You can also use Curves, to make precise adjustments to individual colour channels in an image.

### Sharpen Filters

The Sharpen filters focus blurry images by increasing the contrast of adjacent pixels. Focus a selection and improve its clarity. The Sharpen More filter applies a stronger sharpening effect than does the Sharpen filter.

### Unsharp Mask

Find the areas in the image where significant colour changes occur and sharpen them. The Sharpen Edges filter sharpens only edges while preserving the overall smoothness of the image. Use this filter to sharpen edges without specifying an amount. For professional colour-correction, use the Unsharp Mask filter to adjust the contrast of edge detail and produce a lighter and darker line on each side of the edge. This process will emphasize the edge and create the illusion of a sharper image.

### Sharpening Images

Unsharp masking, or USM, is a traditional film compositing technique used to sharpen edges in an image. The Unsharp Mask filter corrects blurring

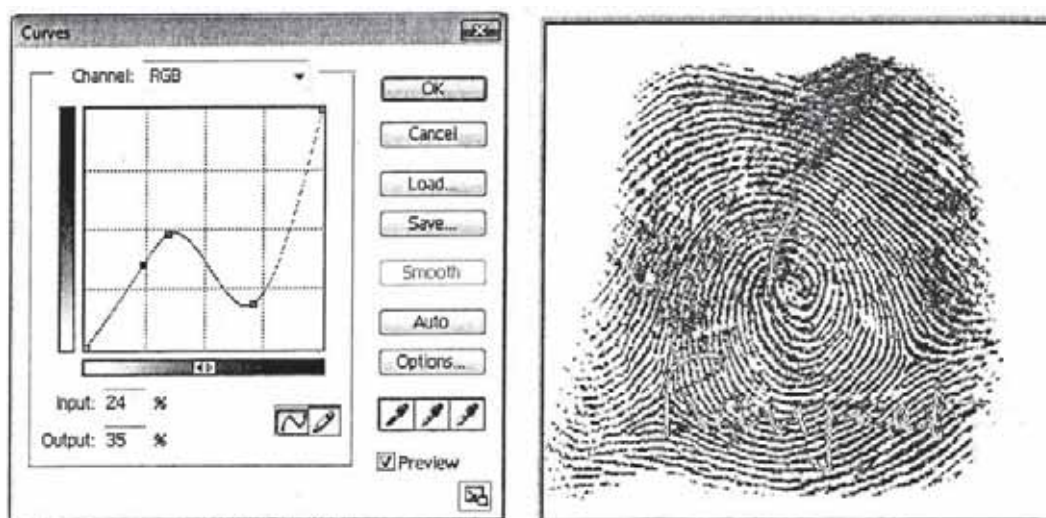


Figure 1.6: Colour channel adjustment by curves of fingerprint images of Figure 1.3



Figure 1.7: Fingerprint image after using sharpen and unsharp mask filter of fingerprint image of Figure 1.3

introduced during photographing, scanning, re-sampling, or printing. It is useful for images intended for both print and online viewing.

Unsharp Mask locates pixels that differ from surrounding pixels by the threshold you specify and increases the pixels' contrast by the amount you specify. In addition, you specify the radius of the region to which each pixel is compared. The effects of the Unsharp Mask filter are far more pronounced on-screen than in high-resolution output.

## Result and Discussion

The purpose of fingerprint enhancement algorithm is to improve the clarity of ridge/valley structures in recoverable regions and make them suitable for minutia extraction algorithms. It also identifies all

the corrupted regions in which it does not have the capability of recovering the true ridge/valley structures and labels them as unrecoverable regions in which ridges and valleys are clearly visible for a minutia extraction algorithm to operate reliably.

## Conclusion

The techniques applied for enhancing the fingerprint images by Adobe Photoshop is a state-of-the-art tool, its application like local histogram equalization, colour adjustment and filters shows an appreciable level of clarity in fingerprint images. By using the tool like local histogram equalization for contrast expansion and sharpen filtering for noise reduction, the fingerprint images become well defined for the purpose of classification identification and preservation. ■

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# Juvenile Justice in India

## Implementation Barriers

Dr. K.P. Singh\*

### Keywords

Juvenile in Conflict with Law  
Juvenile in Need of Care  
Fundamental Principles  
Misconduct Report  
Apprehension  
Juvenile Justice Board  
Juvenility  
Observation Home  
Special Home  
Place of Safety  
Dispositional Order  
Community Service  
Probation  
Children Home  
Shelter Home  
Appeal

### Abstract

*Children are the most vulnerable group in any population and need the greatest social care. The Juvenile Justice Act, 2000 and Juvenile Justice Rules, 2007 spell out the scheme of protection and care for 'Juveniles in conflict with law' and 'Juvenile in need of care'. The Fundamental Principles of juvenile jurisprudence, given in the Beijing Rules and Riyadh Guidelines, have been incorporated in the Act and the Rules. However, because of lack of knowledge of law and awareness on the part of Police, Prosecution Agency, Advocates and Magistrates, the law and the rules are not being implemented. The Government machinery has failed in providing infrastructure and support system required for proper implementation of the Act. Because of negligence and apathy on the part of the Law Enforcement Agency, juveniles are suffering gross injustice. The article brings out some of the important aspects relating to the issue, which need immediate attention of the actors in Criminal Justice System in order to protect human rights of the juveniles.*

### Introduction

**C**HILDREN are national assets. They are the most vulnerable group in any population. They can be exploited, ill-treated and directed into undesirable channels by antisocial elements in the community. In *Legal Aid Committee v. UoJ*<sup>1</sup>, the Supreme Court observed, "children require the protective umbrella of society for better growth and development as they are not in a position to claim their entitlements". State is the foster-father for all those children, who are deprived of parental care because it is on their physical and mental well-being that the future of nation depends. Ideally speaking, every home should be a 'Child Care Home', but the ground realities are different. Materialism has adversely affected familial relationships. Consumerism has taken its toll on social bonding. Homes are breaking and indifference has settled in community behaviour. We are evolving as individuals, but degenerating as social beings.<sup>2</sup>

<sup>1</sup> AIR 1989 SC 1278.

<sup>2</sup> "Juvenile Justice: A saga of negligence and apathy"- an article published on oped page, 'The Tribune', an English daily dated 15<sup>th</sup> November, 2009, Chandigarh.

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In the prevailing cultural and social milieu, children have been led to the doorsteps of the criminal world. As per statistics published by the National Crime Records Bureau<sup>3</sup>, more than 32 thousand juveniles are arrested by police every year in India on charges of murder, rape, dacoity, robbery, burglary, theft, hurt and other crimes. Approximately, 6% of them are girls. Incidence of juvenile delinquency has increased by 1.1 per lac of population in 1995 to 1.7 per lac of population in 2007. Poverty and illiteracy were the two main causative factors behind juvenile delinquency. 30% of the arrested juveniles were illiterate, 35% under Primary, 70% from the BPL families, 6.5% from the middle-income group and 0.3% from the high-income group.

The Beijing Rules<sup>4</sup> and Riyadh Guidelines<sup>5</sup> have declared the fundamental rules, which should be applied in order to deal with juvenile delinquency. India, being a signatory to all the conventions on the Rights of Child, is under legal and moral obligation to enact laws conforming to the international standards. Moreover, Articles 15(3), 21, 21(A), 22(1), 22(2), 23, 23A, 37(e), 37(f), 45, 47 and 51A(k) of the Indian Constitution impose a primary responsibility on the State to ensure that all the needs of children are met and their basic human rights are fully protected. The Juvenile Justice (Care and Protection) Act, 2000<sup>6</sup> and the Juvenile Justice Rules, 2007<sup>7</sup> are the laws to deal with juvenile delinquents. The rules have come into force w.e.f. 26-10-2007. Rule 96 prescribes that until new rules are framed by the State Government concerned under Section 68 of the Juvenile Justice Act, 2000, these rules shall apply *mutatis mutandis* in these States. Most States have not framed their rules and these central rules apply in those States. It is declared in Section 1(4) of the Juvenile Justice Act, 2000, that the provisions of the Act shall have overriding effect over any law for the time being in force relating to all cases involving detention, prosecution, penalty or sentence of imprisonment of juveniles in conflict with law. It is in this background that the implementation barriers to Juvenile Justice in India are identified in this article.

## Fundamental Principles

The fundamental principles for Administration of Juvenile Justice, as elaborated in Juvenile Justice Rules, 2007<sup>8</sup> include Presumption of Innocence, Right to be heard, Positive measures, Principles of no harm, No maltreatment and Principle of best interest. A juvenile is presumed to be innocent of any *malafide* or criminal intent up to the age of 18 years. The juvenile's right to dignity and worth has to be respected and protected throughout the entire process of dealing with him. Every child's right to express his views freely in all matters affecting his interests should be fully respected. Children's right to be heard should not be ignored. In all decisions taken within the context of Administration of Juvenile Justice, the principle of best interest of the juvenile shall be the primary consideration. It has been accepted that primary responsibility of bringing up children and providing care and support shall be with the biological parents.

No juvenile in conflict with law shall be subjected to any harm, abuse, neglect, maltreatment, corporal punishment or solitary confinement. Use of accusatory words, such as arrest, remand, accused, trial, prosecution, summons and conviction, etc. is prohibited in proceedings against juveniles. Juveniles' right to privacy and confidentiality shall be protected by all means. Institutionalization of a juvenile shall be the step of last resort after reasonable inquiry. Every child has a right to be reunited with his family. Principle of fresh start shall be applied by erasing past record, so that the juvenile is able to make a new beginning. The State has been asked to promote measures for dealing with children without resorting to judicial proceedings as far as possible. These fundamental principles have been well established under the Juvenile Justice Rules, 2007. Unfortunately, the negligence and apathy of the Law Enforcement Agencies and the law adjudication authorities have rendered these principles as non-existent. Time has come to critically evaluate the working of the Criminal Justice System *qua* the juveniles in conflict with

<sup>3</sup> Crime in India, 2005.

<sup>4</sup> The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985.

<sup>5</sup> The United Nations Guidelines for the Prevention of Juvenile Delinquency.

<sup>6</sup> Act No. 56 of 2000.

<sup>7</sup> G.S.R. 679(E) dated 26-10-2007.

<sup>8</sup> Rule 3 of Juvenile Justice Rules, 2007.

law and collect evidence of negligence and apathy on the part of the system.

### Claim of Juvenility

Age of the child is very crucial for the application of the Juvenile Justice Act. It is difficult to determine age in the absence of birth record. As per Section 7A<sup>9</sup> of the Juvenile Justice Act, 2000, date of commission of the offence is the benchmark for determination of juvenility. Claim of juvenility can be raised before any court and it shall be recognized at any stage, even after the final disposal of the case. Question of juvenility in cases where the juvenile ceased to be so on or before the date of commencement of the Act shall also be decided as per the provisions of Juvenile Justice Act, 2000. Juvenility shall be determined as per the procedure laid down under the Juvenile Justice Rules, 2007<sup>10</sup> by passing a formal order. The Board shall determine the age of juvenile in question within 30 days. Age shall be determined by seeking evidence, such as birth certificate, date of birth as per record of school first attended, Matriculation certificate and in absence of above, opinion of the Medical Board. No order of the Board shall be deemed invalid merely by any subsequent proof that the person is not a juvenile and the age recorded by the Board shall be deemed to be true age of that person for the purpose of the Act.

### Misconduct Report (FIR)

Juveniles have been described either as 'Juveniles in Conflict with Law'<sup>11</sup> or 'Juveniles in Need of Care'<sup>12</sup>. A child, who is alleged to have committed an offence, and has not completed 18 years of age on the date of commission of an offence, is defined as 'Juvenile in Conflict with Law'. As per Rule 11(11)<sup>13</sup> of Juvenile Justice Rules, 2007, police should not register First Information Report (FIR) or file a charge-sheet against juvenile offenders in non-serious crime, entailing punishment up to 7 years' imprisonment unless it is in the interest of the juvenile. Instead, it should record information

regarding the alleged offence committed by the juvenile in the General Daily Diary of the Police Station. In serious offences, however, police can register FIR. Despite this unambiguous provision of law, more than 19 thousand FIRs are being registered in non-serious cases against juveniles throughout the country every year. Lack of knowledge of law and sensitization on the part of police appear to be the reason behind this criminal negligence.

### Arrest (Apprehension)

In Rule 11(9), the arrest of juvenile involved in non-serious offences, entailing a punishment less than 7 years' imprisonment, is prohibited unless it is necessary in the interest of the juvenile. The police is empowered to exercise the power of apprehending the juvenile only in cases of his alleged involvement in serious offences.<sup>14</sup> Still, more than 31 thousand juveniles, who do not qualify for arrest, are arrested every year by police in various non-serious matters. Soon after arrest, the juvenile is required to be placed under the charge of the Juvenile Child Welfare Officer posted in the Police Station, who shall produce the juvenile before the Juvenile Justice Board within 24 hours as per Section 10(1) of the Act. It has been prescribed in Rule 11(12) that State Government shall recognize voluntary organizations to assist the police in handling the juveniles and taking charge of them until produced before the court. A juvenile shall be produced before the Juvenile Justice Board without any loss of time. In no case, a juvenile in conflict with law shall be placed in police lock-up or lodged in jail.<sup>15</sup> No policeman in uniform is allowed to come in contact with the juvenile.<sup>16</sup>

It is a fact that Juvenile Child Welfare Officers are not posted in the Police Stations in most States. In no case, a juvenile in conflict with law can be handcuffed<sup>17</sup>, neither can he be obtained on police remand for questioning. Police is required to gather all possible information about the social background of the juvenile and the circumstances

<sup>9</sup> Inserted by Juvenile Justice (Care and Protection of Children) Amendment Act No. 33 of 2006.

<sup>10</sup> Rule 12 of Juvenile Justice Rules, 2007.

<sup>11</sup> Section 2(l) of Juvenile Justice Act, 2000.

<sup>12</sup> Section 2(d) of Juvenile Justice Act, 2000.

<sup>13</sup> *Ibid*.

<sup>14</sup> Rule 11(7) of Juvenile Justice Rules, 2007.

<sup>15</sup> Section 10 of the Juvenile Justice Act, 2000 read with Rule 11(13) of Juvenile Justice Rules, 2007.

<sup>16</sup> Rule 75 of Juvenile Justice Rules, 2007.

<sup>17</sup> Rule 76 of Juvenile Justice Rules, 2007.

leading to his law violations and apprehension. This information in the form of Case Diary is required to be forwarded to the Juvenile Justice Board. The traditional investigation proceedings as are drawn in case of adult offenders are not to be undertaken in case of juvenile in conflict with law. These provisions of the Juvenile Justice Rules are being violated by the police regularly. It is surprising that the Supervisory Officers have not noticed this injustice towards juvenile.

### Juvenile Justice Board

In order to provide a child-friendly environment, the cases of 'Juveniles in Conflict with Law' are to be adjudicated upon by the Juvenile Justice Board, required to be constituted by the respective State Government before 22<sup>nd</sup> August, 2007 in every district.<sup>18</sup> The Juvenile Justice Board shall consist of a Principal Magistrate and two social workers, one of whom has to be a woman. JMJC or Metropolitan Magistrate may be appointed as a Principal Magistrate. The Principal Magistrate shall be the Head of the Board. The two social workers shall be appointed by the Government through a Selection Committee headed by a retired High Court Judge.<sup>19</sup> The cases of petty offences may be disposed of through summary proceedings. In heinous offences, due process of inquiry may follow.<sup>20</sup> The Board is required to follow the procedure of trial as in summons cases.<sup>21</sup> Even a single member of the Board can undertake proceedings on behalf of the Board, but such proceedings need to be confirmed by the Board in the next meeting. The final decision on the case shall be taken by a majority in which presence of the Principal Magistrate is mandatory.<sup>22</sup>

In case of conflicting opinion of the Board members, the opinion of the Principal Magistrate shall prevail. It is prescribed under Rule 5(3) that the Principal Magistrate should have special knowledge or training in child psychology or child welfare. A duty has been imposed under the State Governments to arrange for short-term training for the Juvenile Justice Board members and the Principal Magistrate in child psychology

and child welfare.<sup>23</sup> In no circumstances, can the Juvenile Justice Board operate from regular court premises. Today, almost all the Juvenile Justice Boards are functioning from the regular court premises, contrary to law. The Board is required to meet on all working days of a week. Every member of the Board is supposed to attend office for a minimum of 5 hours per sitting.<sup>24</sup> It is a statement of fact that Juvenile Justice Board meetings are not held every day. This is the reason behind large pendency of cases against juveniles. The meeting room of the Board should be child-friendly and should not look like a courtroom. There should be no raised platform or witness box inside the meeting room. The sitting arrangement should be uniform.<sup>25</sup> Unfortunately, these provisions are being violated while conducting proceedings against juveniles.

### Termination of Proceedings

Childhood is the age for playing and personality development and not for facing prolonged trials in the court. The Rule 13(6)(d), therefore, rightly prescribes that cases of juveniles should be disposed of by the Board within a period of 4 months. This period can be extended by two more months in exceptional cases of serious nature involving transnational criminality, large number of witnesses and inordinate delay in production of witnesses. Except in serious crimes, delay in trial beyond four to six months should automatically lead to termination of the proceedings against juvenile. Despite the clear mandate of law, thousands of cases against juveniles are pending in courts beyond six months. Continuation of these delayed proceedings is an illegality and gross injustice to the juveniles involved in them. All the cases pending in the Juvenile Justice Board beyond the prescribed time-limit can be closed by the Principal Magistrate without further proceedings by passing a single-line order.

### Bail

Bail is the right of the juvenile in every case.<sup>26</sup> Bail can be granted in every case even by the

<sup>18</sup> Section 4 of Juvenile Justice Act, 2000.

<sup>19</sup> Rule 9(1) of Juvenile Justice Rules, 2007.

<sup>20</sup> Rule 13(2)(d) of Juvenile Justice Rules, 2007.

<sup>21</sup> Rule 13(2)(e) of Juvenile Justice Rules, 2007.

<sup>22</sup> Section 5 of Juvenile Justice Act, 2000.

<sup>23</sup> Rule 5(5) of Juvenile Justice Rules, 2007.

<sup>24</sup> Rule 9(3) & 9(5) of Juvenile Justice Rules, 2007.

<sup>25</sup> Rule 9(2) of Juvenile Justice Rules, 2007.

<sup>26</sup> Section 12 of the Juvenile Justice Act, 2000.

Officer-in-Charge of the Police Station. Bail can be denied to the juvenile by the Board only for the following three reasons:

- That the release would bring him in association with known criminals;
- That the child may be exposed to moral, physical or psychological damage, if released; or
- His release would defeat the end of justice.

The provisions regarding bail conform to the well-established principle that institutionalization should be the last resort.

### Dispositional Order (Conviction Order)

The Juvenile Justice Board after due enquiry, can pass Dispositional order.<sup>27</sup> The followings are the Dispositional alternatives:

- Admonition;
- Group counselling;
- Community services;
- Fine, if age is more than 14 years;
- Probation in case of fit institution; and
- Detention in Special Home up to 3 years.

The Dispositional order<sup>28</sup> shall be in five parts, namely;

- Dispositional alternative;
- Individual Care Plan for the juvenile prepared by Probation Officer/Registered Voluntary Organizations;
- Direction to the District/State Child Protection Unit or State authorities to arrange counselling, group counselling or community service, as the case may be;
- Bond from parent/guardian/fit person, if the juvenile is released in their custody or probation, for good behaviour and well-being of child for up to 3 years; and

- Order for the Probation Officer for supervision of the juvenile released on probation.

Unfortunately, the Dispositional orders being passed by the Juvenile Justice Board are not as per the rules.

### Juvenile Homes

In order to house the juveniles in conflict with law, following three types of Juvenile Homes are envisaged under the Act:

- *Observation Home*<sup>29</sup> — To house juveniles during the pendency of police enquiry;
- *Special Home*<sup>30</sup> — To house juveniles whose misconduct is proved and who are to be detained as per the Dispositional order; and
- *Place of Safety*<sup>31</sup> — To house juveniles of more than 16 years of age serving detention order.

The facilities to be provided and procedures relating to the working of these Juvenile Homes are given in detail in the Juvenile Justice Rules, 2007.

### Miscellaneous Provisions

There are some important miscellaneous provisions in the Juvenile Justice Act, 2000 and Juvenile Justice Rules, 2007 which require mention. They are:

- No preventive action can be taken against juvenile under Chapter VIII of the Cr.P.C.;<sup>32</sup>
- No disqualification is to be attached to conviction under the Juvenile Justice Act, 2000;<sup>33</sup>
- Publication of name, address, name of school or any other detail, which may reveal identity of the juvenile, is prohibited;<sup>34</sup>
- All the record pertaining to enquiry of the juvenile by Police and the Board shall be destroyed after 7 years;<sup>35</sup>

<sup>27</sup> Section 15 of Juvenile Justice Act, 2000.

<sup>28</sup> Rule 15 of Juvenile Justice Rules, 2007.

<sup>29</sup> Section 8 of Juvenile Justice Act, 2000.

<sup>30</sup> Section 9 of Juvenile Justice Act, 2000.

<sup>31</sup> Rule 15(1) of Juvenile Justice Rules, 2007.

<sup>32</sup> Section 17 of Juvenile Justice Act, 2000.

<sup>33</sup> Section 19 of Juvenile Justice Act, 2000.

<sup>34</sup> Section 21 of Juvenile Justice Act, 2000.

<sup>35</sup> Section 19(2) of Juvenile Justice Act, 2000 read with Rule 29 of Juvenile Justice Rules, 2007.

- No proceedings shall be instituted against the juvenile who escape from custody;<sup>36</sup>
- All pending cases, which have not received finality, shall be dealt with and disposed of in accordance with the provision of the Juvenile Justice Act, 2000 and Juvenile Justice Rules, 2007;<sup>37</sup>
- Benefit of the Act and the Rules shall not be denied to any juvenile, not even to those who ceased to be juvenile during the pendency of any enquiry;<sup>38</sup> and
- No appeal shall lie from any order of acquittal by the Board in respect of juvenile.<sup>39</sup>

These provisions are little known to those, who matter in the proceedings against the juveniles and are often ignored by them.

### Crime against Juveniles and Children

The unique feature of the Juvenile Justice Act, 2000 is the definition of crime against juveniles and prescribing punishment. The following crime against juveniles have been defined under the Act:

- Section 23 — Cruelty to juvenile or child;
- Section 24 — Employment of juvenile or child;
- Section 25 — Giving intoxicant to juvenile or child;
- Section 26 — Exploitation of juvenile or child employee.

All the offences against juveniles are cognizable and the police can register FIR and investigate. The Board shall take cognizance of violations under Section 21<sup>40</sup> either *suo moto* or on a complaint from any quarter. Cognizance of violations under Sections 23 to 26 of Juvenile Justice Act, 2000 shall be taken by the Board on police report or on private complaint.<sup>41</sup> The 'Crime Against Children' are defined under the Act to protect human rights of the children. It is sad that the police is generally ignorant and hardly any cognizance is being taken under these provisions despite the fact that children are suffering atrocities of various kinds in full public view.

### Child in Need of Care

The State machinery is equally negligent in providing infrastructure and facilities for the 'Juveniles in Need of Care'. The 'Child Welfare Committees' to be constituted as per the provisions of Juvenile Justice Act, 2000 and Juvenile Justice Rules, 2007 are not in place in all the States. The 'Children Home' and 'Shelter Home' with prescribed facilities are non-existent. The Selection Committee for social workers to be associated with the Juvenile Justice Boards and Child Welfare Committees under the chairmanship of a retired High Court Judge has not been constituted in most of the States. The State is required to put the apparatus in place to ensure proper adoption, foster care, sponsorship and rehabilitation of juveniles. The objective is to ensure social reintegration of every juvenile as a normal citizen. A juvenile is the responsibility of the State till he or she attains the age of eighteen years. The Aftercare Organizations are designed to prepare the juveniles, who have attained adulthood, to rise on their feet. Unfortunately, the Aftercare Organizations and Social Reintegration Mechanism as envisaged in the Juvenile Justice Act have not been provided adequately in any of the States.

### Conclusions

Any law is as good or bad as its enforcement. The Juvenile Justice Act, 2000 is the best law and a complete code for the care and protection of juveniles. It is deplorable that these laws and rules are not implemented in their complete letter and spirit. Somebody has to remind the Law Enforcement Agencies that acting in violation of the law is unpardonable. They can be held liable for their wilful negligence. The only saving grace for them till now is that victims of their criminal negligence are poor children, who have no spokesperson to raise the voice for them at the appropriate forum. Rights of children need to be protected if the civilization has to progress in the right direction. Sensitization of those, who are given the responsibility of protecting interests of children, is urgently required. ■

<sup>36</sup> Section 22 of Juvenile Justice Act, 2000.

<sup>37</sup> Rule 27(2) of Juvenile Justice Rules, 2007.

<sup>38</sup> Rule 27(3) of Juvenile Justice Rules, 2007.

<sup>39</sup> Rule 52(2) of Juvenile Justice Rules, 2007.

<sup>40</sup> Revealing identity of juvenile.

<sup>41</sup> Rule 10(b) of Juvenile Justice Rules, 2007.



# The Murder at Diamond Street

E. Wild\*

## Keywords

Scientific Evidence  
Solid Centres Scillerg  
Ringed Paltron  
Local CID  
Shock  
Multiple Injuries

## Abstract

*The importance of searching the scene of a crime for every available piece of evidence and the need for co-operation between Police Forces and the various Departments giving scientific aid were never more evident than in a case of murder which occurred in York, during the night of the 9th/10th March, 1953.*

**T**HE importance of searching the scene of a crime for every available piece of evidence and the need for cooperation between Police Forces and the various Departments giving scientific aid were never more evident than in a case of murder which occurred in York, during the night of the 9<sup>th</sup>/10<sup>th</sup> March, 1953.

The victim, a well-respected spinster of 76 years, lived alone at 30 Diamond Street, York. The house, a terrace type, comprised four rooms and a scullery. On the ground floor was a sitting-room at the front, and living-room and scullery at the back. Upstairs on the only other floor was a front bedroom and a back bedroom. At the rear of the house was a narrow concrete yard some 24 feet in length, with a flower-border running alongside the wall dividing No. 30 from No. 32. The dividing wall was some 5 ft. 4 ins. in height. At the end of the yard was a 6 ft. 8 ins. high wall in which was a door giving access to the rear lane separating Diamond Street and another street running parallel thereto.

Miss Flora Jane Gilligan, the deceased, was last seen alive at 5-45 p.m. on Monday, 9<sup>th</sup> March, 1953, when she was seen taking washing from a clothes-line in the backyard, by her immediate neighbour at No. 32. Nothing suspicious or unusual was heard during the night, but the following morning the neighbour at No. 32 noticed that a 'blackout' board which had been placed over the rear kitchen window of No. 32, had been moved and that the rear bedroom window of No. 30 was wide open at the bottom. Nothing was thought of this at the time, as it was known that Miss Gilligan had recently had the room decorated and the window may have been left open for ventilation purposes.

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At 3-15 p.m. on the 10<sup>th</sup> March, 1953, on returning from work, the same neighbour noticed that the curtains at No. 30 were still drawn, and on looking through the keyhole in the rear yard door saw what appeared to be a naked human body lying in the yard immediately under the back bedroom window.

The police were informed, and an Inspector and two Detective Officers went immediately to the scene. The officers found the naked body of a woman lying under the living-room window with the head resting close up to the wall of the house near a pool of congealed blood. She was obviously dead. The lower sash of the living-room window was raised some 12 inches, and the upper sash of the same window was lowered some 18 inches. The lower sash of the back bedroom window was wide open and it appeared as if the woman had fallen from the upstairs window. The back door of the house was closed and the key was on the outside. The backyard door was locked on the arrival of the police.\*

There were two footprints in the flower-border in the backyard, and these pointed towards the house. They were of the 'ringed-pattern' with solid centres, commonly known as the "Uskhide" type. The body was not disturbed and the officers entered the house through the rear door, which gave access to the scullery. It was seen that the gas oven door was wide open and that the shelves had been removed and left lying on the scullery floor.

On a chair in the living-room was a clothes-basket full of recently washed clothing and bedding (no doubt that which the neighbour had seen being taken into the house on the previous day). The basket was tilted at an angle, and clearly to be seen on the uppermost article (a sheet) was a footprint comprising five circular rings with solid centres, similar in design to those seen in the flower-border. On the floor of the room close

to the table left was found the lower denture of the deceased, and on the hearthrug in the same room were marks of burning. A quantity of burnt material was found on the hearthrug, and a long wooden-handled 'posser' or clothes-dolly—a household implement used for kneading clothes—was found on the hearthrug with marks of burning upon the middle of the shaft. There was also a loosely rolled piece of cloth on the floor, and a nightdress had been thrown on to a settee.

The staircase walls, leading direct from the living-room, were stripped of paper, prior to re-decorating, and a dust sheet was on the floor covering the small landing at the top of the stairs and immediately outside the door leading to the back bedroom. In the back bedroom, the electric light was on, and the bedclothes were turned down and the bed appeared to have been slept in. The deceased's day clothes were lying in orderly fashion over a chair at the side of the bed, but her combinations were thrown over the pillow on the bed. As stated, the lower half of the window was open and part of the wooden window-sill was seen to be broken away and in a rotten condition. Faint marks could be seen on the stone window-sill, indicating that some object has passed over it.

The front door of the house was closed but not locked.

Nothing was touched by the officers concerned, and after satisfying themselves, there were no intruders in the house, they returned to the backyard, faced with the problem was it accident, suicide or murder? They suspected the latter, and immediately sent a message to Headquarters from the wireless car, which had conveyed them to the scene, and asked for the assistance of Senior Officers, the Police Surgeon, Police Photographer and Coroner's Officer. The Chief Constable and other senior detective officers quickly arrived on

\* The back door of the house was not locked, but the key was on the outside, and it can only be presumed that either the deceased or the assailant left it there.

The officers arriving on scene suspected murder because of the imprint found on the top article in the clothes-basket being identical with the footprints found in the soil of the back garden. As stated above, the clothes-basket was found in a tilted position on a chair in the living-room and it had obviously been moved, as from the angle and position in which it was found it would have been practically impossible for anyone to have stepped on to the contents of the basket. It was assumed that the basket had been on an easy chair immediately under the living-room window when the assailant climbed over the upper sash of the window, and that he had stepped into the basket, whilst it was on the easy chair. He had then moved the basket into the position in which it was found by the police.



Figure 1: The Kitchen, showing the clothes basket with the footprint in the corner of the basket nearest to the table



Figure 2: The Kitchen, showing burnt debris and the clothes posser

the scene, and photographs were taken, showing the relative position of the body and the exterior of the premises.

Death was certified by the Police Surgeon who stated that in his opinion death had taken place where the body was found. The deceased had suffered multiple injuries indicative of having fallen from the upstairs back bedroom window - a distance of 12 ft. 2 ins. The body was later removed to the mortuary to await a post-mortem examination by a Home Office Pathologist.

Precautions were taken to preserve all footprints, etc., and officers were posted to prevent unauthorized persons entering the house. House-to-house enquiries were commenced by members of the local C.I.D., and all persons known to have lawful access, or who may have had occasion to visit the house (e.g., the painter and decorator) were seen and their footwear checked.

The assistance of the Scientists at the Forensic Science Laboratory at Wakefield, and the Fingerprint Experts at the West Riding Constabulary Headquarters at Wakefield, was sought and readily forthcoming. The experts from the Laboratory arrived the same evening, but owing to the fact that darkness had fallen, they were able to make only a cursory examination.

The following morning officers from the Fingerprint Department made a thorough search of the house and in all found 17 identifiable marks, 14 of which

were identical with the finger impressions of the deceased. The remaining 3 marks were found on the edge of the room door (2) and on a brandy bottle, which had been found in the sink of the scullery. Marks were also found on the top sash of the living-room window on the inside. These marks, although lacking ridged capillary details indicated that they had been made by the fore and middle fingers of the right hand and by the middle, ring and little fingers of the left hand. The dust on the top edge of the sash had been disturbed in positions corresponding to the above-mentioned marks. These marks were pointing in a downward direction and could only have been made when the sash was lowered; they had apparently been made from the outside. All the marks referred to were photographed and enlargements of the fingerprints on the door and bottle were made.

The officers from the Forensic Science Laboratory took possession of numerous articles, including the washing posser and the sheet from the landing, upon which could be seen faint foot impressions bearing the same circular rings with solid centres as found in that clothes-basket and the flower-border. Numerous control samples of dirt, hair, and the rotted wood of the bedroom window-sill were taken. Plaster casts were taken of the footprints found in the backyard flower-border, and of similar marks found in the backyard of No. 32 Diamond Street.

In the meantime, members of the local C.I.D. concentrated their efforts to trace any person



Figure 3: Photograph of footprint in the garden (Redfern Tufhide sole and Goodyear Wingfoot heel)

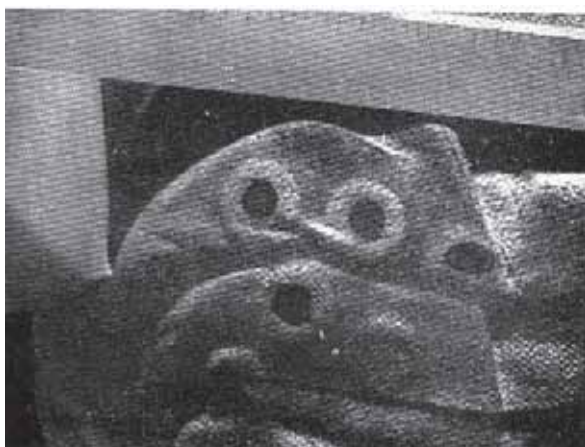


Figure 4: Photograph of footprint in clothes basket.

who might have had shoes repaired with the type of sole and heel which had left the impressions at the scene. These marks had been identified as being made by a Redfern Tufhide sole and a Goodyear Wingfoot heel. All cobblers and boot and shoe operatives within a twenty-mile radius of the city were seen and questioned, without result. Fingerprints were also taken of all persons having legitimate access to the house. Enquiries were also made at all local laundries, and dyers and cleaners, to check the possibility of any bloodstained clothing having been handed in for cleaning.

When the result of the post-mortem examination was known, it was found that the injuries could be placed in three groups. Death was due to shock and haemorrhage, following multiple injuries. The deceased, apart from senile changes, was a healthy Woman. The injuries could be grouped as follows:

*Group 1*— Those caused, in the opinion of the Pathologist, by the fall from the window onto the concrete below,

involving grave fractures of the skull, the spine, the ribs, and the thigh bone. There were also a number of small abrasions on the prominences of the arms and hands. All these injuries were consistent with a fall from a height head first, and were in themselves sufficient to cause death.

*Group 2*— These consisted of bruising and dropsy of the lids of the left eye, consistent with force having been applied to the eye. Small bruises, abrasions and lacerations of the inside or tooth surface of the lips consistent with pressure having been applied to the mouth. Vague bruising of the skin of the right side of the neck, together with fractures of the horns of the voice-box. These injuries were consistent with fairly severe pressure having been applied to the neck. The injuries in the second group were not, in the opinion of the Pathologist, caused by the fall, but were suggestive of violence being applied by pressure or blows.

*Group 3*— These consisted of bruising, abrading and splitting of the back wall of the vagina in two places. These were consistent with the insertion of a blunt object with some violence and were in excess of what could be expected from a male organ. Part of the head hair was singed.

At the conclusion of the postmortem, the genitalia were taken for examination by the Scientists from the Forensic Laboratory and it was found that the old lady had been raped, as male spermatozoa were found in the vaginal passage. Scrapings were then taken from the handle or shaft of the washing posser found on the hearthrug, and male spermatozoa were found on the shaft up to a point six inches from the end. It appeared that someone had entered the house, presumably through the back kitchen window, and the old lady had apparently gone downstairs and no doubt disturbed the intruder, who had attacked and then raped her, and later, inserted the end

of the passer into the vaginal passage causing the injuries disclosed in the postmortem.

In view of the nature of the crime, all aliens in the York area were requested to have their fingerprints taken. A list of all known local criminals with convictions for 'breaking' offences and sexual offences was made, and the fingerprints were later compared with those left at the scene of crime.

Two obvious questions arose. Who was the person responsible for the finger impressions found on the brandy bottle and on the bedroom door? And secondly, who was the owner of the boots or shoes which had left the clear impressions in the flower-bed and the less clear impressions on the sheet outside the back bedroom door and on top of the clothes-basket?

It was decided at this stage to ask for the assistance of New Scotland Yard, and two officers arrived. A conference, attended by the Scientists from the Forensic Laboratory, the Pathologist, the Fingerprint Experts and Officers from New Scotland Yard and the local Constabulary, was held, and as there were a number of Military camps in the York area, it was decided to have all Military personnel fingerprinted. One such camp, situated some six miles from the city, which dealt with large numbers of soldiers constantly being posted overseas, was first choice, and on the 16<sup>th</sup> March, 1953, Officers of the York City Police, together with Officers from the County Constabulary in whose area the camp was situated, commenced to take fingerprints of all personnel stationed there.

An officer from the Fingerprint Department at Wakefield was present, making a snap check of the fingerprints as they were being taken, and comparing them with the prints found at the scene of crime.

Some 437 officers and men had been dealt with when the officer from Wakefield identified Private Philip Henry of the King's Own Yorkshire Light Infantry as being the person, who had left the finger marks on the bedroom door and on the brandy bottle found at 30 Diamond Street. Later the same day, Henry was arrested, but stoutly denied ever having been near the scene of crime. The police took possession of his clothing for scientific examination.

It was established that Henry had returned from his home at Stockton-on-Tees on the 9<sup>th</sup> March, 1953. Enquiries were made in Stockton, where it was ascertained that Henry had had his shoes repaired by a cobbler at Stockton, who had placed Redfern Tufhide soles and Goodyear Wingfoot heels on them. Henry admitted bringing the shoes back to York on the 9<sup>th</sup> March, 1953, but when asked if he cared to say where the shoes were he stated that they had been stolen from under his bed at the camp on the Saturday following the murder. It is significant that mention had been made in a local newspaper that the police had been seen taking plaster casts of what were believed to be footprints.

Enquiries in the camp revealed that Henry had not been seen in the camp until reveille at 6 a.m. on the 10<sup>th</sup> March, 1953, although he stated he had returned by the last bus at 11 p.m. the previous night. Other passengers on the bus denied that Henry was on that bus.

It was also established that Henry had been cleaning his clothing with a cleaning preparation sold in the Camp N.A.A.F.I., and had washed all his underclothing. This was somewhat unusual as he was not a particularly clean or smart soldier, and there was a camp laundry available. However, when the shirt worn by Henry was examined by the Forensic Laboratory, the Scientists found a minute splinter of wood—identified as *Pinus sylvestris* (common pine) on the shirt pocket. This was compared with the control sample of wood taken from the window-sill of the back bedroom window at 30 Diamond Street, York, which was also identified as *Pinus sylvestris*.

At the trial at York Assizes, which lasted three days, the prosecution presented the following evidence:

- Photographs and plaster casts of the footprints found at the scene.
- Evidence from the cobbler at Stockton-on-Tees, who had repaired Henry's footwear with Redfern Tufhide soles and Goodyear Wingfoot heels.
- Evidence from the Production Manager of Redfern's that the imprints had been made by Redfern soles.

- Evidence that the splinter of wood found on Henry's shirt was identical with the sample of wood taken from the window-sill of the house.
- Evidence that the old lady had been raped and later violated with the shaft of the washing possor.
- Evidence that the finger impressions found at the scene were identical with those of Henry.

Counsel for the defence endeavoured to eliminate the usefulness of these points and suggested that the cobbler might have been mistaken when he said he had fitted rubber soles and heels to the shoes mentioned, and that even if he had, they were of a very common type as worn by many thousands of people in this country. The splinter of wood was also of a very common variety and the prisoner's explanation was that it could have been picked up on his shirt when chopping and carrying wood for the fire at his home, whilst on leave. This left only the fingerprint evidence and the expert gave evidence that there were 15 points of similarity between the impression on the bottle found in the sink and the left thumb impression of Henry. There were 12 points of similarity between the left forefinger impression on the bedroom door and the left forefinger of Henry. The expert had to undergo a vigorous cross-examination from the defence counsel, but his evidence was obviously accepted as Henry was found Guilty and sentenced to death on the 18<sup>th</sup> June, 1953.

Henry subsequently appealed against conviction, and his appeal, which was heard at the Court of Criminal Appeal on the 13<sup>th</sup> July, 1953, was dismissed. There was no reprieve and he was executed at Leeds Prison on the 30<sup>th</sup> July, 1953.

In reconstructing the case, it would appear that on the night of the murder, Henry intended to break into a dwelling house and steal (he had previous convictions for that type of offence). There is little doubt that he at first entered the yard of No. 32 Diamond Street, and after removing the "blackout" found the window secured. He then scaled the wall dividing No. 32 from No. 30 and entered the living-room by way of the window. He was probably disturbed by the victim, whom he attacked and raped in the living-room.

Henry was a half-caste and could easily have been identified. Following this, no doubt in an endeavour to cover up his crime, he attempted to stage an accident or suicide, first by starting a fire and later preparing the gas oven for the reception of Miss Gilligan or vice versa. Having failed, or become discouraged, in these attempts, he carried his unfortunate victim to the first floor back bedroom and pushed her out of the window head first onto the concrete of the yard, 12 ft. 2 ins. below.

A considerable amount of cash was found in the house, but it was impossible to establish whether any money had been taken, although it is certain that some of the cash in her handbag had been handled by a person who had left bloodstains on one of the Treasury notes.

The selecting of the particular camp at which Henry was stationed was a particularly fortunate choke, for, as previously stated, soldiers were constantly being received and re-drafted, and in fact Henry himself was due for an overseas draft on the 19<sup>th</sup> March, 1953. Some of the witnesses called at the trial were taken from a troop ship at Liverpool on the 17<sup>th</sup> March, 1953. ■





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# NOTES FOR CONTRIBUTORS

## Editorial objectives

The journal covers articles of general police interest as well as research papers based on empirical data pertaining to police work. Authentic stories of criminal case successfully worked out with the help of scientific aids and techniques are also published. Only original manuscripts are accepted for publication. Articles submitted to the journal should be original contribution and should not be under consideration by any other publication at the same time. A certificate to this effect should invariably accompany the article.

## Areas covered include

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- ❖ If it is found suitable, it undergoes a review process by a member of our Board of Referees.
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