CHAPTER - 5
INSTITUTIONAL AND ADMINISTRATIVE RESPONSE TO
TERRORISM IN INDIA

5.1. Introduction

India has to guard its 15,106.7 km land border and 7,516.6 km coastline in order to provide security from external threat, prevent and combat transborder crime and within it to protect the life, liberty, security and property of individual, maintain the law and order, respect and ensure all human rights without discrimination. To discharge such obligation, India and its states relies on its established institutions and administrative agencies, whose role are very significant to prevent and combat terrorism which in itself is a dynamic concept having various facets of it.\(^1\) According to Subhash Kapila, India’s national security decision making processes have stood neglected since independence and no effective and institutionalized structures or mechanisms catering to unique security were designed despite having being subjected to four aggressive wars by China and Pakistan besides a host of insurgencies, ‘terrorism’ and proxy wars sponsored by them.\(^2\)

It is expected from the state to adopt both preventive as well as deterrent measures against terrorism to establish rule of law which demands a good legislative framework, fair and transparent procedure and for its implementation various strong and accountable institutions. The government of India has relied on the extension of powers of intelligence, security services and specific policies by enacting legislation creating terrorist act as penal offence, establishing procedure to investigate and prosecute the terrorist and bring them for justice.

The government has time and again responded to avert and prevent terrorism by restructuring its existing institutional and administrative set up. Wining war on terrorism or to prevent and combat terrorism depends upon the success of these institution and administrative

---

agencies which include unambiguous legislative framework, intelligence and investigation agencies, prosecution work and judicial and quasi-judicial body and their activism.

5.2. Proactive Vs. Reactive:

Whenever the major terrorist attack was witnessed by India, like intrusion in Kargil, unprecedented attack on Parliament, Mumbai, Bangalore, Ahmadabad, Assam and Gaya, it had raised question on the function of institutional and administrative agencies, their capacity and efficacy (pro-active and responsive capacity) to prevent and combat terrorism. As a reactive expression after such incidents of terrorist attack, the functioning of India’s security and intelligence set up and its ability to meet the new emerging challenges have always scrutinized extensively so to suggest changes to strengthen the legislative, administrative and judicial capability to prevent and combat terrorism.

Any democratize country must have it criminal justice system based upon both proactive as well as reactive measures to prevent, combat and provide justice to victims of terrorist attack as well as to protect the citizen and the nation as a whole. Proactive law enforcement method emphasis preventing and interrupting crimes, rather than reacting to crimes already committed, and its novelty is often overstated. It demands a comprehensive system of substantive offences, intelligence and investigation powers and techniques, prosecution mechanism, evidentiary rules and inter-state cooperation mechanism.

5.3. Terrorism and National Security – Role of Ministry of Home Affairs (MHA) and Ministry of External Affairs (MEA)

5.3.1. Ministry of Home Affairs (MHA): At the national level MHA is the nodal Ministry for combating terrorism in all its manifestations and is also responsible for the general maintenance of Internal Security in the Country. The MHA administers various security, investigative and law enforcement agencies such as the National Investigation Agency, the Narcotics Control Bureau, and the Intelligence Bureau giving power to investigate and prosecute the offence of terrorism in all its forms.3

---

The report on internal security by Group of Ministers 2001 has highlighted about the constitutional, legal and structural infirmities which eroded the Union Government’s authority to deal effectively with any threat to national security and called for appropriate restructuring of the MHA. Under the Government of India (Allocation of Business) Rules 1961, the department of internal security, Department of Centre State Relations, Department of Home, Department of Jammu and Kashmir, Department of Boarder Management, and official language are vested with the Ministry of Home Affairs. All the department of MHA are inter linked with each other and do not function in watertight compartments.

The major areas of responsibility of MHA has been divided into different Divisions such Internal Security Divisions, Jammu & Kashmir Division, Judicial Division, Naxal Management Division, North East Division, Police and Modernization Divisions, etc covering subject matters pertaining to terrorism.

5.3.2. The Ministry of External Affairs (MEA): The Ministry of External Affairs is responsible for all aspects of relations with other countries. The major area of work of the MEA is as follows: external affairs, relations with foreign states and commonwealth countries; U.N. offices and its specialized agencies in India, passports and visas; extradition of criminals and accused persons; the general administration of the Extradition Act, 1962 etc.

5.4. Institution of Indian Intelligence Agencies

5.4.1. Importance of Intelligence

Indian Intelligence profession occupies secondary position in India. According to Shri M. Hamid Ansari, the Vice President of India, “While intelligence information is at times incomplete, good intelligence often has made the difference between victory and defeat, life and death”. Intelligence capabilities are critical components of national power and are integral

---

8. *Supra Note 3.*
to the implementation of national security strategies. Thomas F. Troy quotes Fitz Gibbons that intelligence is ‘knowledge of enemy’\textsuperscript{10}, as it aims at increasing knowledge about the opponent, their movements, strategies and activity.

5.4.2. Means and Methods of Intelligence Gathering

There are various means and methods of information gathering which includes espionage, communication, interception, cryptanalysis, cooperation with other institutions, and evaluation of public sources.\textsuperscript{11} The collected information before making it available for the policy maker is required to be processed and analyzed by intelligence agencies. Decision makers are not bound to adhere to the proposed advice but India has witnessed destructive result when such advices were ignored. Timely intelligence acquisition, interpretation and analysis and more importantly, the seamless and unselfish flow of intelligence output to sister intelligence agency is sine quo-non to win war on terrorism.\textsuperscript{12}

5.4.3. Information and Intelligence:

‘Information is power’ and information based intelligence is the first stage in preventing the menace of terrorism to occur and to catch the fear creator. But the terms “information” and “intelligence” cannot be used interchangeably. Information is essentially raw data, either qualitative or quantitative. Information to become intelligence it has to undergo four stages of intelligence process determining requirements based on a comprehensive threat assessment, collecting relevant and usable information, analyzing the data and developing an appropriate response, and finally, assessing the effectiveness of the intelligence and decision-making processes. The first two stages are processes concerned with information, while the last two stages are processes based on intelligence and rooted in analysis.\textsuperscript{13}

It is also relevant that the term terrorism, terrorist and their related activity leading to the commission of terrorism must be well defined so that distinction between the intelligence

\textsuperscript{11} V.K. Singh, India’s External Intelligence Secret of Research and Analysis Wing, Manas Publication, New Delhi, 2007, pp 156-61.
\textsuperscript{12} Supra Note 9, p. 76.
for preventing and combating terrorism and other kind of information related task which are
traditional in nature can be maintained. But with the growth of technology, transportation, and
various means of communication there is overlapping in the nature of traditional crime and
modern crime or it is more appropriate to state that traditional crime has been used as a tool
for furthering the terrorist activities. Thus, intelligence that improves national security is intelligence
that improves law enforcement efforts, and vice versa.14

5.4.4. Strategic, Tactical and Operational Intelligence

Intelligence efforts applied towards preventing and combating terrorism may be classified
into following categories:

5.4.4. a. Strategic intelligence involves long term assessment of threats which entails
assessment of past and present development in terrorist activities.15 It provides detailed
information on the overview of criminal activity of groups, and threats, enabling broader
departmental policy planning and resource allocation.16 It’s having the functional ability to
predict when and where future operational terrorist acts might occur and which tactical targets
might prove more advantageous for a terrorist organization.

Through the use of gathered and processed data from varying sources the government
can take offensive and defensive action to anticipate and prevent their next target of attack.17
The purpose is to alert the policy makers about the changes in the nature of terrorist attack, its
means and methods, and it provides focus for tactical intelligence efforts. In India, an intelligence
agency with strategic planning operates without having power of arrest. The information gathered,
analyzed, and disseminated helps police to understand the structure, characteristics, motivations
and philosophy related to specific intelligence targets but it lack in most of the intelligence
agencies as evident from the Mumbai attack 2008.

5.4.4. b. Tactical intelligence is used for operational units and includes among other things,
human intelligence, open source intelligence, imagery intelligence, and direct observation. These

14. Ibid.
15. Peter Romaniuk, Multilateral Counter Terrorism(The global politics of cooperation and
17. Richard J. Hughbank, “Intelligence and Its Role in Protecting Against Terrorism”, Journal of
scholarcommons.usf.edu/cgi/viewcontent.cgi?article=1020&context=jss [accessed on 30-12-2014 at 8.03 p.m]
particular sources require trained and dedicated security forces/policemen as they can think on their feet and work for counter terrorism. They are best placed to identify gaps in local intelligence coverage and devise plans for stopping it. The primary purpose of this intelligence is to identify and locate terrorist cadres so that threat poses can be neutralized by direct action. It is used in either the formulation of ongoing criminal investigation or in threat mitigation during a crisis situation. In the case of a precise terrorist threat to an identifiable target it can help police move decisively to prevent the attack by raid planning. The strategic intelligence is the task for professional intelligence agencies operating at the national level and the tactical intelligence is for uniformed security forces.

5.4.4.c Operational intelligence is used often by law enforcement agencies to maintain public safety. It helps in monitoring individual who can pose a threat to public safety subject to limitation imposed by right to privacy law.

5.4.5. Intelligence Reforms –Recommendation of Various Committees

5.4.5.1. Intelligence Reforms –Pre Mumbai Terrorist Attack

5.4.5.1.a. Reforms by Committees (LP Singh Committee)

Morarji Desai government appointed L.P Singh Committee to look into the affairs of the IB and CBI and their misuse of Powers during the emergency period as reported in Justice J. C. Shah Commission third report. The committee found that the IB was in function on British model even after Independence. Therefore, it submitted recommendation laying down duties for the IB but had not reviewed the functions of R&AW. Late Indira Gandhi’s Government ignored the committee’s recommendation but the V.P Singh government had accepted and announced the establishment of NSC but failed to see it in function during its tenure of government as well as by successive government of Chandra Shekhar, PV Narshimha Rao.

5.4.5.1.b. KC Pant task Force: Finally in 1998, NSC been given space in intelligence domain of India which was armed with full-fledged secretariat that merged the JIC with newly created NSC.

18. Ibid.
5.4.5.1.c. Kargil Review Committee (KRC)

The Kargil Review Committee (KRC) under the chairmanship of Sri K. Subrahmanyam, was constituted to analyse the events leading to the Pakistani aggression in Kargil sector of J&K in 19th May 1998. The committee in its report submitted on January 2000 had highlighted the inadequacy of intelligence and lacuna in the National Security apparatus.

The R&AW having the primary responsibility for collecting external intelligence has failed in performing its task. There was inadequate coordination between the army intelligence. It was founds that there was institutional gap whereby the R&AW, IB, BSF and Army intelligence officials interact periodically at the level below the JIC.

It recommended for establishing a body patterned on US Security Agency and warned about the function of R&AW with HUMINI & TECHINI Capabilities in our body. The committee has remarked that the NSC is still evolving and its procedure will take time to mature. The member of NSC needs to be continually sensitized to assess intelligence pertaining to national, regional and international issues. Creation of NSA was just an interim measure therefore, there must a full time NSA.  

5.4.5.1.d GOM (Group Of Ministers)

On the basis of KRC report the BJP government had appointed Group of Ministers (GOM) to examine the recommendations of KRC. GOM had created four task forces to probe the issue concerning ‘the intelligence apparatus’, an internal security, border management and management of defence.

5.4.5.1.e. GC Saxena Task force on Intelligence Apparatus

The Task Force on Intelligence Apparatus was chaired by Girish Chandra Saxena. The report pointed out several major flaws in the existing intelligence set up. The report highlighted the absence of an institution at the highest level for tasking and evaluation of intelligence agencies. There are the lack of coordination, cooperation and sharing of intelligence between different agencies. Further, the consumer of intelligence is not involved in taking of intelligence agencies and there is general degradation of Human Intelligence (HUMINI) capabilities of our intelligence agencies.

The Task Force recommended institutionalizing the procedure for intelligence agencies to brief the policy makers and to share technical intelligence output. It provided texts of formal charters for R&AW and IB and newly created Defence Intelligence Agency (DIA). The committee recommended setting up a Multi-Agency Centre (MAC) and Joint Task Force on Intelligence (JTFI) under the IB. The MAC was to collect and coordinate terrorism related information and JTFI was to share the information with state govt. The recommendation of GOM led to the creation of National Technical Research Organization (NTRO) and mechanism like the intelligence Coordination Group (ICG), Technical Coordination Group (TCG), National Information Board (NIB)

5.4.5.2. Intelligence Reforms- Post Mumbai Terrorist Attack

5.4.5.2.a The Ram Pradhan Committee

A two member committee headed by Sri Ram Pradhan, former Home Secretary, was constituted by the Government of Maharashtra to probe the police and government response to Mumbai attack in 2008. The committee was tasked to evaluate the lapses in the law enforcement agencies and suggest measures to prevent terrorist attack. The committee has highlighted the attack as ‘war like’ and found that the Maharashtra Police system was not well equipped and lack capabilities to prevent or combat terrorist attack like of Mumbai in 2008. The report was rejected by the Government of Maharashtra. At the later stage no national level committee or commission was constituted though demand was there.

5.4.5.2.b Naresh Chandra Task Force

A task force headed by Sri Naresh Chandra, former Cabinet Secretary, was constituted by the government to review national security and challenges to internal security, defence and intelligence. Its members were experts from intelligence agencies like IB, R&AW, Defence, NIA, Atomic Energy, Applied Economics, and strategic Expert. The committee submitted its report in June 2012. The committee recommended for reforming the national security structure including intelligence and military apparatus. It recommended for merger of ARC with R&AW for avoiding turf war among various intelligence agencies. New post of Intelligence Advisor to assist NSA was made. National Intelligence Board was recommended to coordinate all the intelligence agencies. Creation of National Counter Terrorism Centre (NCTC) and NATGRID
were suggested. Committee stressed on inclusion of foreign language experts into intelligence and to generate intelligence based on information available from open source.

5.4.6 Structure of Indian intelligence and Security system

Over a period of time, as a reactive measures, various intelligence agencies has been set up in India to cater the need of national security from the threat of terrorism, insurgency, trans-boarder crime, cyber terrorism etc. These agencies are functioning and are responsible to different ministries.21

5.4.6.1. National Security Council (NSC)

National Security Council (NSC) of India is the apex agency looking into the political, economic, energy and strategic security concerns of India. Technically, it was established by the Late V. P. Singh government in 1990 but was in dormant position. It was practically brought in operation on the recommendation of Task Force, by the A B Vajpayee government on November 19, 1998, with Brijesh Mishra as the first National Security Advisor (NSA).22 Prior to the formation of the NSC, these activities were overseen by the Principal Secretary to the Prime Minister. The NSC is to consider long term perspectives and give direction to the Ministries and agencies on long term problems and coordinate and monitor longer term policy formulation.23 The NSC is a three-tiered organization consisting of the Strategic Policy Group (SPG), the National Security Advisory Board (NSAB) and the Secretariat represented by the Joint Intelligence Committee (JIC). 24

5.4.6.2. Joint Intelligence Committee (JIC)

In 1947, after independence there was Pakistani intrusion in J&K which necessitated the establishment of JIC, sub-committee of the chief of staff committee, to provide authentic

22. Jayantanuja Bandyopadhyaya, The Making of India’s Foreign Policy, Allied Publisher Private Ltd., New Delhi, 2006, pp.142, Available at https://books.google.co.in/books?id=mFAhDuuyelyC&printsec=frontcover&dq=isbn:8177644025&hl=en&sa=X&ei=K0WpVKrcGIs2JgIAKQDgCQ&ved=0CB0Q6AEwAA#v=onepage&q&f=false [Accessed on 04-01-2015 at 12.00 p.m.]
23. Ibid.
integrated intelligence assessment on defence related matter. It was chaired by a part time joint
decretary from the Ministry of External Affairs and a service officer as secretary.\textsuperscript{25}

In 1965, after receiving criticism on its functionality during Sino-India war, it was brought
under the cabinet Secretary and expected to make assessment based on political, social,
economic, technology, military along with internal security aspect. It has also acted as
coordination machinery for IB, R&AW and other intelligence agencies.\textsuperscript{26} During 1983, the
JIC was split into internal intelligence assessments and external intelligence assessment but it
was not proved to be effective and in 1985 it was again merged on the ground that the
assessment was getting blurred as the Indian terrorist movements sustenance from the overseas
so could not be assessed in isolation.\textsuperscript{27} JIC was also to serve the NSC in addition to its usual
tasks.\textsuperscript{28} In 1998, the JIC was converted into NSCS. After Mumbai Attack 2008 the role of
JIC was redefined and made to focus more on immediate or short term intelligence inputs
predominantly related to terrorism.

5.4.6.3. The Intelligence Bureau (IB)

The Indian Intelligence Bureau (IB) (Devanāgarī: Khufiya Bureau) is a highly secretive
organization and world’s oldest intelligence agency under the MHA.\textsuperscript{29} In 1903, it was renamed
as Department of Criminal Branch and finally in 1920, was named in present style as IB with its
detailed functions under the Government of India Act, 1919 and GOI Act, 1935.\textsuperscript{30} After
independence, the IB is continuing with its old fashioned responsibility of national security,
political surveillance with addition of combating terrorism, insurgency, Naxalism and is playing
a key role in counter intelligence though not having constitutional or legislative basis of its
existence.

\textsuperscript{25} Satish Kumar(ed), India’s National Security (Annual Review 2010), Routledge Taylor and Francis
Group, New Delhi, 2011, p 435.
\textsuperscript{26} http://www.globalsecurity.org/intell/world/india/jic.htm [accessed on 03-01-2015 at 1.00 p.m.]
\textsuperscript{27} Prem Mahadevan, The Politics Of Counter Terrorism In India: Strategic Intelligence and National
\textsuperscript{28} Supra Note 25, p 437.
\textsuperscript{29} Amitabh Sarkar, An Intelligence Service and Overview, available at http://
policeineurope.wordpress.com/indian-intelligence-service-an-overview-by-amitav-sarkar-bsc-
hons-ba-msc-msc-pending/ [accessed on 10-04-2014]
\textsuperscript{30} The Government of India Act, 1919, Section 40(2).
TABLE 2.
RECRUITMENT STATUS OF (IB)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-09</td>
<td>1330</td>
</tr>
<tr>
<td>2009-10</td>
<td>1434</td>
</tr>
<tr>
<td>2010-11</td>
<td>1242</td>
</tr>
<tr>
<td>2011-12</td>
<td>2112</td>
</tr>
<tr>
<td>2012-13</td>
<td>1103</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7221</strong></td>
</tr>
</tbody>
</table>


TABLE 3.
PERSONNEL TRAINED BY IB

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-09</td>
<td>3224</td>
</tr>
<tr>
<td>2009-10</td>
<td>4134</td>
</tr>
<tr>
<td>2010-11</td>
<td>5470</td>
</tr>
<tr>
<td>2011-12</td>
<td>4970</td>
</tr>
<tr>
<td>2012-13</td>
<td>1433</td>
</tr>
</tbody>
</table>


Being an adhoc administrative arrangement by the executive it has raised its strength by annual recruitment of personnel as shown in Table 2. The recruitment of IB personnel in 2012-13 has been decreased compare to 2011-12. Moreover, only 1433 IB personnel have been imparted training in the year 2012-13 compare to 4134, 5470 personnel in the year 2010-11 and 2011-12 respectively. The year 2012-13 has witnessed great down fall in number of IB personnel trained as shown in Table 3.

5.4.6.4. Research and Analysis Wing (R&AW)

The Research and Analysis Wing (R&AW) is an imperative external intelligence agency of India which was created in September 1968. It was the result of bifurcation of external and internal intelligence entrusted with the Intelligence Bureau which had shown its miserable performance in tactical and strategic intelligence during Indo-China war of 1962 and Indo-Pakistani war of 1965. This division has led to rivalry between the two esteemed agency which
hampered overall intelligence effectiveness. It was kept under the control of Cabinet Secretariat so to report directly to the Prime Minister and its operation, funding and structures are reserved as secret and not accountable to Parliament.

Initially, it’s function was to monitor political and military developments in neighboring countries affecting India’s national security. It played a vital role during the creation of Bangladesh, operation smiling Buddha of 1974, amalgamation of Sikkim in Indian Union. In the special operation of the mid 1980s, R&AW set up counter intelligence team-J (CIT-J) singling out the Khalistan movement to ferry weapons and funds across the border. In operation Chanakya, it infiltrated various ISI backed Kashmiri separatist groups and resorted to peace in the Kashmir valley. It has also collected military intelligence and provided evidence about ISI involvement in training and funding Kashmiri separatist groups.31

R&AW has also been credited with creating a split in the Hizbul-Mujahideen. About two to six month before terrorist attack in Mumbai 2008, the R&AW intercepted several telephonic calls through signal intelligence which pointed at impending attack on Mumbai Hotels by Pakistan based terrorist. Though the R&AW alerted the office of National Security Advisor (NSA), but the intelligence was ignored. On 15th January 2010, in a successful snatch operation R&AW agents nabbed Sheikh Abdul Khwaja, one of the handlers of Mumbai attack from Colombo and brought him over to Hyderabad for formal arrest.32

Even it was reported that RAW had a secret liaison relationship with the Mossad, Israel’s external intelligence agency to be benefited from Israel’s knowledge of West Asia and North Africa, and to learn from its counterterrorism techniques.33 The R&AW having the primary responsibility for collecting external intelligence has failed in performing its task during the Kargil intrusion and its weakness in intelligence collection, coordination, and follow up was clearly brought out by the Kargil Review Committee.34 The R&AW has been criticized for its

34. Kargil Review Committee Report, Available at http://nuclearweaponarchive.org/india/kargilRCB.html [accessed on 05-01-2015 at 9:00 p.m.]
lack of coordination with domestic intelligence and security agencies, weak analytical capabilities, and complete lack of transparency.

5.4.6.5. Defence Intelligence Agency (DIA)

DIA was created on March 2002 on the recommendation of Group of Minister report after Kargil issue fulfilling the long awaited demand of armed forces. The agency prime function was to track troop’s movement in neighboring countries and also to monitor terrorist groups operating both within and outside the country. It is the principal institution among all armed forces intelligence agencies and has to coordinate the function of three forces. Even in the region were AFSA is enforced, the DIA coordinate with civil intelligence to provide valuable information to commanders of armed forces. The agency uses satellite and high altitude aerial reconnaissance imagery and coordinates with signal intelligence Directorate, Defence Image Processing and Analysis Centre (DIPAC) use TECHNIT for more accurate and comprehensive strategies to combat terrorism.

5.4.6.6. Directorate General of Military Intelligence (DGMI)

The agency was set up in 1941 to generate only technical or field intelligence for the Indian Army within 50 km from the border. Its function includes counter terrorism in the north and Northeast. It also tasked with counter intelligence of army which entails detecting spies in military areas. It largely depends upon the inputs provided by R&AW and IB to meet its strategic intelligence requirement. Beside DGMI, the Indian Air Forces and Navy force also have their own intelligence directorate namely Directorate of Naval and Air Force Intelligence which collects intelligence and prepare it for dissemination. These intelligence directorate directly reports to their chiefs. DIA took away some of its signal monitoring capabilities and foreign military attaches.

5.4.6.7. Multi Agency Centre (MAC)

Setting up of MAC was suggested by the group of minister’s report after Kargil intrusion report of KRC which never seen in effect. After the Mumbai 26/11 attack the MAC was revamped in 2009 to streamline intelligence gathering and sharing. It is not responsible for

36. Ibid.
intelligence gathering rather to integrate and analyse internal security related intelligence. MAC which functions under the IB, is the nodal agency at the centre for sharing intelligence inputs and other agencies including the central police organisation are expected to report it. Similarly at the state level SMAC, a subsidiary multi agency centre is functioning in similar manner. State level Joint Intelligence Task Force (JITF) was set up on the recommendation of G. C. Saxena Task Force Report on Intelligence with intention to upgrade the counter terrorist capabilities of the state police forces and to ensure the information made available to IB. Upto march 2014, 370 locations have been connected under MAC-SMAC. There is no mechanism to monitor inputs sent to the states or other agencies which leaves a gap in the intelligence network.

5.4.6.8. The Central Economic Intelligence Bureau (CEBI):

The CEBI was created in 1985 to gather intelligence relating to economic offences. It is the secretariat of economic intelligence council, a nodal body to coordinate the response on economic offences including economic or finance terrorism by IB, R&AW etc. with Directorate General of Revenue Intelligence (Customs), the Directorate of Enforcement (Foreign Exchange), Directorate General of Anti Evasion (Central Excise), Directorate General of Income Tax and Narcotics Control Bureau. It supervises and monitors the Regional Economic Intelligence Council (REICS) in motion at field level.

5.4.6.9. Directorate General of Central Excise Intelligence (DGCEI):

The directorate General of Anti-Evasion (DGAE) was established in 1979 under the control of Directorate of Revenue Intelligence which was renamed as Directorate General of Central Excise Intelligence in 1983. The DGCEI primarily function to collect, collate and disseminate intelligence relating to evasion of central excise duty and service tax. It also coordinates with other department and investigates cases.

---

38. Supra Note 6.
41. Directorate General of Central Excise Intelligence, available at http://www.dgcei.nic.in/Home.HTM [accessed on 11-01-2015 at 8.00 p.m.]
5.4.6.10. Directorate of Revenue Intelligence (DRI)

To deal with the violation of custom laws and for collection, coordination and of intelligence with respect to custom laws, a Central Revenue Intelligence Bureau was made in 1953 which was renamed in 1957 as Directorate of Revenue Intelligence (DRI). Its function is to collect and disseminate intelligence on organized gangs, smugglers, identify areas vulnerable to smuggling and for developing strategic policy for their immobilization. It maintain liaison with intelligence and enforcement agencies within and outside India like NIA, CBI, INTERPOL etc.

5.4.6.11. Financial Intelligence Unit (FIU)

FIU was set up in 2004 as an agency responsible for receiving, processing, analyzing and disseminating information relating to suspect financial transaction leading to money laundering. It reports to Economic Intelligence Council (EIC) and responsible for strengthening the national, regional and international efforts to combat money laundering and related crimes as mentioned in part A of the Prevention of Money laundering Act, 2002. It shares information with other intelligence and law enforcement agencies like NIA to prevent and combat money laundering and other financial crimes including financial terrorism. A FICN Coordination Group (FCORD) has been formed in the MHA to share the intelligence amongst different security agencies to counter the menace of circulation of Fake Currency within the country.

Dr. K. P. Krishnan has released a press note stating that India has became observer at the FATF an inter governmental body responsible for setting global standards on anti-money laundering (AML) and combating the financing of terrorism (CFT) in the year 2006.

5.4.6.12. Narcotics Control Bureau (NCB)

NCB is an enforcement agency to collect, analyse data relating to seizures of narcotic drugs and psychotropic substance, study trends and modus operandi of drugs traffickers, collect and disseminate drugs related intelligence and collaborate with customs, local police

42. Directorate of Revenue Intelligence, available at [http://dri.nic.in/home/history/history](http://dri.nic.in/home/history/history) [accessed on 14-01-2015]
43. Ibid.
46. Supra Note 6.
and other enforcement agencies. On the recommendation of GOM on National security, the NCB was placed under the control of MHA from Ministry of Finance to achieve better coordination between intelligence agencies dealing with terrorism.47

5.4.6.13. Intelligence Unit of Security Forces

All the security forces are having their own intelligence unit to collect, collate and analyze the input received based on which they can direct their tactic or strategic policies. The BSF is having unit BSF (G) which processes intelligence inputs emerging from the Bangladesh and Pakistan border regarding enemy movements, narcotics and drugs trafficker or smugglers. The Indo Tibetan Border Police (ITBP) coordinates with intelligence collection with IB and SSB while guarding the border of China. The Assam Rifles (AR) collects intelligence inputs and work closely with the DGMI.

Central Reserve Police Force (CRPF) is having intelligence wing but it has to depend only on human intelligence which is tough to get quality and real time intelligence in insurgence or Maoist zone. The CRPF intelligence is much dependable on IB and respective state police intelligence inputs. Therefore, CRPF have demanded power to have TECHNIT intelligence so the power of electronic surveillance was demanded which is yet to be cleared by the government.48 1st December 2014, the intelligence agencies were failed to crack the lead code and 14 CRPF personnel were killed by PLGA in Chhattisgarh. The MHA has set up a high powered committee to analyse the failure of security forces.49 SSB is unique and it is both intelligence and also a specialized commando organization for behind enemy line operation.

### TABLE 4.
SANCTIONED AND ACTUAL STRENGTH OF SPECIAL BRANCH DEALING WITH INTELLIGENCE IN INDIA (AS ON 01.01.2013)

<table>
<thead>
<tr>
<th>Designated Position</th>
<th>Sanctioned</th>
<th>Actual</th>
<th>Vacancies</th>
</tr>
</thead>
<tbody>
<tr>
<td>DGP/ADGP</td>
<td>27</td>
<td>21</td>
<td>6</td>
</tr>
<tr>
<td>IGP</td>
<td>41</td>
<td>33</td>
<td>8</td>
</tr>
<tr>
<td>DIG</td>
<td>47</td>
<td>28</td>
<td>19</td>
</tr>
<tr>
<td>AIGP/SSP/SP</td>
<td>179</td>
<td>137</td>
<td>42</td>
</tr>
<tr>
<td>Addl. SP/Dy.Comn</td>
<td>158</td>
<td>99</td>
<td>59</td>
</tr>
<tr>
<td>ASP/Dy.SP</td>
<td>746</td>
<td>546</td>
<td>200</td>
</tr>
<tr>
<td>Inspector</td>
<td>2723</td>
<td>1852</td>
<td>871</td>
</tr>
<tr>
<td>SI</td>
<td>7639</td>
<td>4245</td>
<td>3394</td>
</tr>
<tr>
<td>ASI</td>
<td>4319</td>
<td>3445</td>
<td>874</td>
</tr>
<tr>
<td>Head Constable</td>
<td>10025</td>
<td>7771</td>
<td>2254</td>
</tr>
<tr>
<td>Constable</td>
<td>14795</td>
<td>12114</td>
<td>2681</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>40699</strong></td>
<td><strong>30291</strong></td>
<td><strong>10408</strong></td>
</tr>
</tbody>
</table>

**Source**: Ministry of Home Affairs, GOI (ON417)

State is having special branch dealing with intelligence in India in order to meet the law and order situation including combating terrorism. From the Table 4, it is clear that the number of lying vacancies of the Sub inspector is high and due to dearth of DGP, IGP, DIG, AIGP, ASP rank officer the process of intelligence particularly as terrorism controlling and combating intelligence was badly affected.

**5.4.7. The Intelligence Services (Powers and Regulations) Bill, 2011**

Mr. Manish Tiwari, Congress spokesperson and MP, has introduced ‘The Intelligence Services (Powers & Regulation) Bill 2011’, trying to codify oversight on our three major intelligence agencies (RAW, IB and NTRO) much on the same lines as the British laws. The draft bill provides fairly clear charter for each agency.50 This Bill was introduced in response to increasing concerns over the unregulated and often haphazard manner in which the nation’s

---

agencies such as the Research & Analysis Wing (RAW)\textsuperscript{51}, the Intelligence Bureau (IB)\textsuperscript{52} and the National Technical Research Organisation (NTRO)\textsuperscript{53} function.

The Bill mandates that all agencies are forbidden to “take any action that furthers the interests of any political party or coalition of political parties or other such interest groups”. They should send bi-annual reports with accounts to the Prime Minister. There will also be an ‘Intelligence Ombudsman’\textsuperscript{54} to address departmental grievances and a ‘National Intelligence Tribunal’\textsuperscript{55} chaired by a retired Supreme Court judge to investigate public complaints and issue compensation to aggrieved individuals.\textsuperscript{56}

5.5. Terrorism and Role of Armed Forces

Law enforcement means upholding and enforcing the laws and statues that are currently in force in a given jurisdiction. Law enforcement in India is conducted by numerous law enforcement agencies which are: (i) federal agencies:- BSF, CBI, CISF, CRPF, DRI, ITBP, NIA, NAG, RPF, SPF, SSB, NCB, (ii) Central Police Organisation – BPRID, NCRB, NIFC, (iii) State Police.

5.5.1 National Security Guard (NSG)

NSG is a non-military counter terrorist unit of India as SAS in U.K, GIGN in France, CSG-9 in Germany and GEO in Spain, is a federal border Police Force. After the blue star operation of Army at Golden Temple, Amritsar, the need was felt to create a special force for executing surgical special operation based on tactical intelligence. In 1984, the NSG was created and brought under the control and supervision of MHA, GOI by passing The National Security Guard Act, 1985. It is a small specialized force which is divided into two groups, Special Action Group (SAG) consists of Indian Army and Special Ranger Group (SRG) consist of Para military forces. NSG is deployed to neutralize any specific terrorist threats in any given area, building and vital installation, handling hijack situations involving piracy in air and on land,

\textsuperscript{51} The Intelligence Services (Powers & Regulation) Bill 2011, Section 2 (ix) and Section 3.
\textsuperscript{52} Ibid, Section 2 (ii) and Section 4.
\textsuperscript{53} Ibid, Section 2 (vi) and Section 6.
\textsuperscript{54} Ibid, Section 16.
\textsuperscript{55} Ibid, Section 2 (xii) and Section 23 to 31.
\textsuperscript{56} Ibid, Section 21 and 22.
Rescue hostages in kidnap situations, provide security to high risk persons and to VIP’s, create bomb data Information bank.

The Black Cat Commandos of the NSG handle situation ranging from in-progress hijacking, kidnappings to forensic activities at bomb sites. NSG has carried out operation Black Thunder-II and II in Golden Temple in 1986 and 1988 respectively, operation Ashwamedh, rescuing hostages from terrorist attack of BSF complex, defusal of bomb of Ghatkopar. The NSG battled terrorist in Mumbai on 26/11 for over three days before eliminated them.

5.5.2 Special Protection Group (SPG)

The assassination of late Prime Minister Smt. Indira Gandhi in 1984\textsuperscript{57} has put many questions on the efficacy of security arrangement in India. On the recommendation of Birbal Committee, in 1985 a special protection unit renamed as “Special Protection Group (SPG)” was set by initial by an executive order, later an Act of Parliament was made in 1988. Its prime responsibility is to provide proximate protection (close quarter protection) to the Prime Minister and Members of his/her family, wherever they happened to be present for a period of 10 years\textsuperscript{58}. The SPG is under the control of Cabinet Secretariat and Works in close Co-ordination with State and Central Intelligence agencies and local police. Its personnel’s are drawn on deputation from various police and Central para-military forces, Central Police Organizations.\textsuperscript{59}

5.5.3 Central Police Rapid Force (CRPF)

The crown representation police raised during 1939 was renamed as CRPF after independence. It personals are trained and equipped for assisting them in internal security including insurgency duties. The rapid action force (RAF)\textsuperscript{60} and commando battalion for resolute action (COBRA)\textsuperscript{61} are specialized wings of the CRPF to deal with the riots and left wings extremism/insurgency respectively. The CRPF has become the largest CAPF of the country to handle wide range of duties covering law and order, country insurgency, anti-military and anti

\textsuperscript{57} BBC News, 1984: Indian prime minister shot dead, 31st October, 1984 Indira Gandhi, the Prime Minister of India, has been assassinated by two attackers who were guards at her home and believed to be Sikh extremists on 31st October 1984. Available at http://news.bbc.co.uk/onthisday/hi/dates/stories/june/23/newsid_2518000/2518857.stm [Accessed on 14-09-2014 at 2.25 p.m.]

\textsuperscript{58} Giriraj Shah, Elite Forces of India, New Delhi, 1994, p.375.


\textsuperscript{60} In 1992, 10 battalion of CPRF were recognized and converted into 10 battalion of 4 coys each of RAF.

\textsuperscript{61} In 2008, the govt. approved raising of battalion of specialized force named COBRA in the CRPF.
-Naxal operations. It plays an active key role in assisting the state government and Union Territory administration in maintaining public order and construing subversive activities of militant groups. They are also performing guard duties at some of the vital installation and buildings including the shrine of Mata Vashon Devi and Raghunath temple in J&K, Ram Janam Bhoomi/Barbi Masjid in Ayodhya, kashi Vishwanath temple/Gyanuapi Masque in Varanasi, Krishna janam bhoomi and shalildgah Massjid in Mathura and the parliament house.

5.5.4 Border Security Force (BSF)

The prevention of illegal infiltration and transnational crime at border is entrusted to the BSF a paramilitary force established in 1965. It was established on the recommendation of the committee of Secretaries, after finding the inadequacy of the State Armed Police in preventing Pakistani militants in Kutch border in 1965. Its primary function may be divided for the purpose of peace time and war time. During the peace time it promotes a sense of security among the people living in the border areas, illegal infiltration, prevent trans border crimes, smuggling, other illegal activity, and are also deployed for counter insurgency and internal security purposes. During the war time, it protect important installation in India, assist in controlling refugees and hold ground in less threatened sectors. BSF was deployed in North East region, J&K for fighting insurgency. From January 2013 to March 2014, BSF has killed 10 militant, apprehended 407, got surrendered 69 and seized arm, ammunition, explosives and counterbands.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Total No. of Infiltration Reported</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>597</td>
</tr>
<tr>
<td>2006</td>
<td>573</td>
</tr>
<tr>
<td>2007</td>
<td>535</td>
</tr>
<tr>
<td>2008</td>
<td>342</td>
</tr>
<tr>
<td>2009</td>
<td>485</td>
</tr>
<tr>
<td>2010</td>
<td>489</td>
</tr>
<tr>
<td>2011</td>
<td>247</td>
</tr>
<tr>
<td>2012</td>
<td>264</td>
</tr>
<tr>
<td>2013</td>
<td>277</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3809</td>
</tr>
</tbody>
</table>

*Upto March 2014Source: Annual Report, Ministry of Home Affairs


Table 5 above shows that infiltration is a great problem in J&K. The year 2008 has recorded substantial decrease in infiltration incident which again rose in the year 2009 and maintained its high rate in 2010 also. After that the rate of infiltration came down but it is not under control. In the year 2013, 277 cases of infiltration were recorded apart from it many other unreported case are there threatening the security and safety of soil and its residents.

5.5.5 Sahastra Seema Bal (SSB)

SSB was set in 1963 in the wake of the Sino-Indian war to inculcate feeling of national belonging in the border population and was earlier known as Special Service Bureau. After the recommendation of group of ministers on national security it was declared as border guarding force (BGF) and lead intelligence agency for the border area covering Indo-Nepal, Bhutan, Uttrakhand, U.P, Bihar, West Bengal, Sikkim, Northeast region. It has also engaged in counter insurgency operation in J&K, Jharkhand and Bihar. Its obligated to prevent trans-border crimes, and unauthorized entry or exit, smuggling and other illegal activities.

In Burdwan blast case, one of the accused sheikh has confessed before NIA that the SSB constable has allegedly had given shelter to accused of the blast at Delhi for a week before he returned to West Bengal.64

5.5.6 Indian Reserve Battalions (IRB)

To meet the demand of States for deployment of Central para-military Forces on law and order and internal duties, the scheme was made in terms of “Indian Reserve Battalion (IRB)”. It was introduced to release the Stress of CPMF and to assist the State. IRB are integral part of armed forces of state for which they are sanctioned by the Government of India. Thus, IRB, though part of State Police but having color of Central para-military force/CPO.

5.5.7 Central Industrial Security Force (CISF)

Post Mumbai attack, government changed its rules allowing the Central Industrial Security Force (CISF) to guard private companies. Realizing the reality of risk to business from terrorism, Infosys became the first private sector company in India to opt for deploying the paramilitary force viz. Central Industrial Security Force (CISF) within the company’s

premises in July 2009. Now, over 900 CISF personnel guard six private establishments including Infosys campuses, Reliance’s Jamnagar refinery and ADAG-promoted Delhi Airport Metro Express Line. Being a government agency, the CISF provides special functions such as bomb disposal squads, dog squads and quick-reaction teams (QRTs), which are not available with other agencies. Nevertheless, such facilities entail additional costs to the companies.65

5.5.8 Costal Security Guard

Mumbai attack has exposed the costal security of India into limelight as all the terrorist were came for creating destruction through sea. Subsequently, the costal security was reviewed by the government and number of measures for its improvement were provided. The Indian Navy has been designated as authority responsible for overall maritime security which includes coastal and offshore security. The Indian Coast Guards has been additionally designated as the authority responsible for costal security in territorial water. All costal security operations are coordinated by Joint Operations Centre (JOC). In addition the state marine police and other agencies are networked with these centers.66 Crime branch on a tip off from the costal guard had seized 23 tones of red sanders being smuggled and also arrested Hajji Gracchi smuggler who was carrying smuggling imported cigarettes, electronic goods and live stock.67 The CSG was seen as lack of coordination with Navy and other agencies.

5.5.9 Assam Rifles

The Assam Rifles trace back its origin to British India and currently is a Central Armed Police Force under the supervision of MHA. It’s role is to provide internal security under the control of army through the conduct of counter insurgency and border security operation. It had played a significant role before and after independence. It is tasked to maintain internal security in North-East region and guarding the Indo-Myanmar border. From April 2013 to March 2014, the AR has killed 25 terrorist, apprehended 973 and induced surrender of 378

apart from recovering arms, ammunition, grenades etc. it has also succeeded in preventing trans-border crimes and seized large quantity of contraband items. 68

5.5.10 ITBP

ITBP was raised after the Indo-China war in 1962. It is deployed to cover the jurisdiction of north-western area covering India, China and Myanmar. The Commandos of the Indo-Tibetan Border Police were responsible for guarding Mumbai attack perpetrator Mohammad Ajmal Kasab when he was in Jail in Mumbai. It was also responsible for guarding the high security cell in Delhi’s Tihar jail.

5.5.11 State Security Forces

Each State Government is having its own security forces including special task forces to deal with insurgency, terrorism, extremism or organized crime like ATS, STF etc. Except constable who has been appointed more in number than the sanctioned post and DGP other position is lying vacant as shown in Table 6. The strength of special task force including the state police and their role should be enhanced because the first person to reach the site of a terrorist attack would invariably be the local State police along with the special task force expert in combating terrorism. Once a terrorist attack happens, the resources needed to contain violence, manage the crowd, traffic beside preventing terrorist act yet to be executed are beyond the capability of a central agency.

Table 6.

<table>
<thead>
<tr>
<th>Designation</th>
<th>Sanctioned</th>
<th>Actual</th>
<th>Vacancy</th>
</tr>
</thead>
<tbody>
<tr>
<td>DGP/Addl.DGP</td>
<td>8</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>IGP</td>
<td>15</td>
<td>8</td>
<td>7</td>
</tr>
<tr>
<td>DIG</td>
<td>15</td>
<td>11</td>
<td>4</td>
</tr>
<tr>
<td>AIGP/SSP/SP</td>
<td>52</td>
<td>24</td>
<td>28</td>
</tr>
<tr>
<td>Addl.SP/Dy.Comn</td>
<td>61</td>
<td>41</td>
<td>20</td>
</tr>
<tr>
<td>ASP/Dy.SP</td>
<td>290</td>
<td>164</td>
<td>126</td>
</tr>
<tr>
<td>Inspector</td>
<td>559</td>
<td>348</td>
<td>211</td>
</tr>
<tr>
<td>S.I.</td>
<td>1828</td>
<td>1140</td>
<td>688</td>
</tr>
<tr>
<td>A.S.I.</td>
<td>801</td>
<td>533</td>
<td>268</td>
</tr>
<tr>
<td>Head Constable</td>
<td>3339</td>
<td>2431</td>
<td>908</td>
</tr>
<tr>
<td>Constable</td>
<td>14084</td>
<td>14925</td>
<td>-841</td>
</tr>
<tr>
<td>TOTAL</td>
<td>21052</td>
<td>19633</td>
<td>1419</td>
</tr>
</tbody>
</table>

Source: Ministry of Home Affairs, Government of India. (ON417); www.Indiastat.com

68. Supra Note 6.
Preservation of evidence, securing witnesses, managing the media and the relatives and friends of the deceased, are other dimension of the problem which can only be handled by the State police. Therefore, the capability of the State police should be enhanced and intelligence, surveillance, sophisticated weapons, modern technologies and trained manpower should be augmented.69

5.6 Post Mumbai Attack Institutional and Administrative Measures

5.6.1 National Intelligence Grid (NATGRID)

The post Mumbai attack has brought a new institution NATGRID into establishment in December 2009 on the recommendation of Naresh Chandra Task force committee. It is having primary function to create, maintain, provide quick and continuous access to information by linking to 21 electronic databases covering of railways and air travel, bank accounts, income tax returns, telephone and internet usage, credit cards, immigration records, chemical vendors etc. Such data will be used by ten agencies including RAW, IB, Military Intelligence, and the CBI. Mr. Narendra Modi, P.M. has decided to include states also as user of database.70 It will provide integrated information to all the users so that the terrorist may be identified, captured and prosecuted so to prevent incident of terrorist attacks.

Sri. P. Chidambaram, has asserted that had the NATGRID in existence, the incident of Mumbai attack would not have occurred and Headley would not have found safe exit. NATGRID will not store data but only facilitate transfer which will be secured by firewalls.71 It was claimed by the government that NATGRID will be operationalised in full-fledged by 2014 at a cost of Rs.1100 corers but now it was delayed due to many hurdles in its way.

Many agencies are having fear to share information with NATGRID due to threat to their existence and operations. The Narendra Modi led NDA government has constituted one main committee and two sub-committee to link state as user, finalise policy, data sharing and coordination and to remove fear among the law enforcement agencies about breach of security

and misuse of information. Moreover, personal information of citizens kept with those organization may be shared which may result into violation right to privacy if procedure is not fair, just and equitable.

5.6.2 National Counter Terrorism Centre

The new counter-terror agency was conceived of after the Mumbai attacks of 2008. It was stated in the office memorandum on National Counter Terrorism Centre (Organisation, Function, Power and Duties) Order, 2012 that terrorism has become one of the gravest threats to internal security. The Group of Ministers aftermath of the Kargil conflict and had recommended to establish a Multi Agency Centre (MAC), a permanent Joint Task Force on Intelligence (JTFI) and an Inter State Intelligence Support System (INSIST) which were broadly accepted by the then Government and constituted accordingly in the year 2001. Further, the Second Administrative Reforms Commission (8th Report, 2008) had recommended that the Multi Agency Centre should be upgraded and converted into a National Centre for Counter Terrorism.

It was established to collect, integrate, analyse, and disseminate data; intelligence and assessment on terrorist and terrorist threat across India; to coordinate national and state agencies for effective response to counter terrorism operation. It is having power to search, seize property. Seek information from other law enforcement agencies and make arrest. The agency will also maintain a data base on terrorist and their associates including their families. It will serve as a single and effective point of control and coordination of all counter terrorism measures.

Though the NCTC was modeled on U.S. legal system, in 2004, after 9/11 terrorist attack, it upgraded CTC and made it as independent institution not under the control of any

74. Letter no. III-11039/25(XI)/2001-G dated December 06, 2001
75. Supra Note 73, Preamble and para 2.5.
existing agencies. But still India is waiting to go on the line of U.S. and continuing to locate NCTC from Intelligence Bureau. Moreover, the US, the NCTC is a legal institution set up under a Congressional legislation but it does not have any legal powers to act on its own in matters such as arrest, detention, interrogation, searches etc. whereas the Indian model has been set up under an executive notification under the Unlawful Activities Prevention Act of 1967 conferring powers of arrest and searches as part of its preventive operations.

Granting police power on NCTC is nothing but conferring the same power on IB indirectly. What cannot be done directly has been done indirectly by this executive order which violates the division of powers under the constitution. Even when such power is granted it has not brought under the Right to Information Act. Further, establishment of NCTC strike the principle of federalism though the government has defended it on the basis of Article 355.

It is important to note here that need of such agency cannot be avoided but manner of its introduction must be discussed, tested and consulted. NCTC can effectively use Crime and Criminal Tracking Network System (CCNTS), National Intelligence Grid (NATGRID), Central Monitoring System (CMS) and Unique Identification Authority of India (UIDAI). Personnel for NCTC can be pooled from relevant intelligence, investigation and security agencies which will help in avoiding institutional battle and efficacy of agencies can be maximized.78

5.7 Central Investigating Agencies

5.7.1 National Investigation Agency (NIA)

The creation of a NIA, Central Counter Terrorism Law Enforcement Agency, was the first domestic response of the governments mandated to collect, collates and analyses counter terrorism investigation and share inputs with the sister intelligence agencies and law enforcement units.79 The National Investigation Agency (NIA) Act, 2008 was enacted to provide for the setting up of the NIA to investigate selected cases of offenses under certain Acts, which have been mentioned in the Schedule of the NIA Act. The agency is empowered to investigate

77. The Unlawful Activities (Prevention) Act, 1967, Section 2(e), 43A, 43B.
79. Supra Note 6.
and prosecute offences that affect the sovereignty, security, and integrity of India, security of State, friendly relations with foreign states and offences under the Act enacted to implement international treaties, agreements, conventions and resolutions of the United Nations. The Act applies to the whole of India and to Indian citizens outside of India, to Government Officials, and to persons on ships and aircrafts registered in India.\(^{80}\)

5.7.1.1 Organizational structure

The NIA is functioning with headquarter at New Delhi and Branch offices at Hyderabad, Guwahati, Mumbai, Lucknow and Kochi. On the basis of function, the NIA is divided into four division/wings whose executive or administrative head is Director General (DG) having the power exercisable by the Director General of Police (DGP) in respect of the police force in the State. The DG is assisted by Special Director General or Additional Director General. The four wings are Investigation wing-I, Investigation-II and Policy wing, Investigation and Operation wing for North Eastern Region, and Administration/TFFC/Training wing.

**TABLE 7.**

<table>
<thead>
<tr>
<th>ORGANIZATIONAL STRUCTURE</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Head Office</td>
<td>1</td>
</tr>
<tr>
<td>Branch Office</td>
<td>4</td>
</tr>
<tr>
<td>Sanctioned Post</td>
<td>735</td>
</tr>
<tr>
<td>NIA Court</td>
<td>38</td>
</tr>
<tr>
<td>NIA Public Prosecutor</td>
<td>80</td>
</tr>
</tbody>
</table>

*Source: Annual Report, MHA, GOI*

**TABLE 8.**

<table>
<thead>
<tr>
<th>EXPENDITURE ON NIA</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td>Amount (Rs.)</td>
</tr>
<tr>
<td>2008-09</td>
<td>50,09,180</td>
</tr>
<tr>
<td>2009-10</td>
<td>12,03,10,573</td>
</tr>
<tr>
<td>2010-11</td>
<td>19,63,34,923</td>
</tr>
<tr>
<td>2011-12*</td>
<td>8,55,76,026</td>
</tr>
</tbody>
</table>

*Source: Rajya Sabha Unstarred Question No. 2397, dated 24.08.2011.*

*upto 17/08/2011*

The sanctioned strength of NIA is 735. So far 38 NIA special Court have been notified in 35 States/Union territory and 80 Special public prosecutors have been appointed (Table 7). The

\(^{80}\) The National Investigation Agency Act, 2008, Section 1.
NIA has placed before the BJP Government, requirement to expand its intelligence gathering and terror investigation mechanism which was turned down. NIA demanded raising of its force from current 800 to 2000 and also to increase it scope of investigation. The branch office of Mumbai, Hyderabad, Kerala, Lucknow, Guwahati and Kochi are under staffed and there is lack of counter terror infrastructure. Now the NIA has started preparing its own data base of criminals and terror related investigation as it did not have good relation and coordination with IB and other anti terror agencies. The State Governments are reluctant to allow its police staff to join NIA.\textsuperscript{81} Table 8 above shows that though the allocation of funds for NIA has been increased but is still is not sufficient to meet the requirement of the institution to discharge it function to the satisfaction of the purpose for which it was created. Therefore, the government should accept their requisition and provide additional funds in the coming budget session.

5.7.1.2 Status of Terror Cases Investigated by NIA

\begin{table}
\begin{center}
\begin{tabular}{|c|c|}
\hline
NIA INVESTIGATION STATUS (UPTO 30/05/2013) & TOTAL NUMBER \\
\hline
Number of Case Registered & 71 \\
Charge Sheet Filed & 35 \\
Investigation in Progress & 36 \\
\hline
\end{tabular}
\end{center}
\textbf{Source:} Rajya Sabha Unstarred Question No. 2397, dated 24.08.2011.
\end{table}

\begin{table}
\begin{center}
\begin{tabular}{|c|c|}
\hline
STATUS OF ACCUSED IN NIA CASE (UPTO 30/05/2013) & TOTAL NUMBER \\
\hline
Accused in NIA Case & 723 \\
Accused Arrested & 459 \\
Accused Charge Sheeted & 379 \\
\hline
\end{tabular}
\end{center}
\textbf{Source:} Rajya Sabha Unstarred Question No. 2397, dated 24.08.2011.
\end{table}

DHD(J) case was the first case handed over to the NIA for investigation which was successfully completed by the agency. The agency is entrusted with 71 cases (Table 9) out of which in 35 cases the agency has filed charge sheet against 379 accused before the NIA.

Special Courts. In other cases investigation is in progress. As per Table 10 above, 723 persons were accused in 71 cases which were entrusted to NIA upto 30-05-2013, out of which 459 were arrested but only against 379 were charge sheeted. It was observed that the NIA has not proactively disclosed the details of person arrested and their status in the case. Recently, from 2015 the NIA has started updating its website about arrested person and their status.

The cases entrusted by the Central Government with the agency for investigation (upto May 2013) includes the cases of procurement of arms and ammunition by DHD(J) for waging war against India- Guwahati, Fake Indian Currency Notes (FICN) case of Maharashtra, West Bengal, Kerala, Punjab, Andhra Pradesh and Tamil Nadu, David Coleman Headley case, Bomb Blast at Moffussil & KSRTC bus stand Kozhikode, Margao & Verna of Goa, Malegaon Maharashtra, Ajmer Sharif-Rajasthan, Delhi High Court, Bodh Gaya Mandir-Bihar, Malakpet-Hyderabad, Activities of Maoist, Extremist and Insurgents like LeT, CPI, SIMI, KYKL,UNLF, IM, PLA, KCP, RPF, PREPAK-UPPK, Italian Marine Case, Murder of Sunil Joshi.

5.7.1.3 Completed Investigation and Trial- Kozhikode bus stand bomb blast at places. The accused were charge sheeted for the offence under section 120A, 120B, 153A, 324 of IPC, Section 3, 4 & 5 of Explosive Substance Act, and Section 15 of UAPA terrorist activities. One accused become approver, two accused were convicted and two were acquitted by the court against which appeal is pending before the high court.82

Further in the case Goa bomb blast two accused person planted IED in a scooter with intention of sabotaging the Narakasur Effigy Competition near municipal Building, where both succumbed to injuries. They were charged under section 120B, 121A, 122, 123&427 of IPC, Section 16, 18, 23 of UAPA, section 3, 4, 5 of Explosive Substance Act. Charge Sheet was filed against six accused resulted into their acquittal and the case is in appeal before the high court.83

5.7.1.4 Closure report: BSF jawans recovered communication device and other suspected materials dumped by CPI (Maoist) in Odisha. Because no evidence was surfaces during the investigation the case was closed.

Closer report was also filed in case where PREPAK-UPPK was alleged to have nexus with Militant group.84 In another case same organisation was alleged to open a bank account with forged documents to channalise funds and invest in movable and immovable property across abroad. Charge sheet was filed against 4 accused and against other investigation is in progress. Trial is not yet started.85 Case in under investigation against member of PLA/RPF for making anti-national statement seeking waging war against the government while hosting party’s flag.86

5.7.1.5 Cases against the Maoist, Extremist, Left Wing:

**DHD(J):** In the Case of DHD(J), 16 (extremist) accused were charge sheeted under section 120B, 121 & 121A of IPC and sectin 25 of Arms Act for procuring arms and ammunition and promoting terrorist activities with a view to wage war against the state. During investigation cash of Rs. 32, 11, 000/-, rifles and other weapons were recovered resulted into incriminating them. At trial one person pleaded guilty and sentenced.87

**National Socialist Council of Nagaland (NSCN):** Charge sheet was filed against the four accused members of National Socialist Council of Nagaland (NSCN) accused of purchasing huge arms and ammunitions from abroad to wage war against the country and carry out terrorist activities. Trial is pending with investigation against other accused88.

**Lashkar-e-Taiba (LeT):** In the case of activities of LeT, Kerala, out of 24 accused 18 were charge sheeted for recruiting, aiding and assisting LeT so to facilitate them to wage war against the government. 13 were convicted and 5 were acquitted and appeals were pending before the high court. Trial of 2 accused is also pending before the NIA Special Court.89 A member of LeT was arrested and recovered arms ammunition and was convicted by the Special Court sentencing him 7 years of rigorous imprisonment and fine of Rs. 1000/-,90Further, Case against 2 Lashkar-e-Taiba (LeT) for attempting to procure explosive substance, Maharashtra, was registered and charge sheet was filed against one and investigation is in progress.91

---

case, LeT has hatched a conspiracy to attack important personalities of Hindu communities in Bangalore in which out of 23 accused charge sheet was filed against 14 and against other investigation is going on.92

**Student Islamic Movement of India (SIMI):** After completion of investigation 17 accused belonging to Student Islamic Movement of India (SIMI) a banned organisation were charge sheeted for holding secret anti-government meeting. They were charged under section 124A of IPC and section 10 & 13 of UAPA. Trial is pending.93 Further, another case was registered against 43 members (30 arrested) of SIMI for waging war against the government. Out of which 36 were charge sheeted by agency, cases against 5 absconders were dropped due to lack of evidence and against remaining 2 absconders investigation is in progress. Trial has not yet scheduled.94

**KYKL:** 11 accused members of KYKL, an extremist organisation was filed for conspiracy to wage war against the government, procuring arms and ammunition, raising funds by extortion and recruiting youth. Trial not started.95

**UNLF:** 2 members of United National Liberation Front (UNLF) were arrested during raid and after investigation charge sheet was filed against 25 accused and trial is in progress.96

**Indian Mujahideen (IM):** Unknown person has threatened Hotel management demanding money stating that he belongs to Indian Mujahideen (IM), terrorist organisation. Investigation is in progress.97 33 member of IM were accused for conspiracy to commit terrorist act at prominent paces in India by bomb blast. 14 were arrested out of whom 9 were charge sheeted. Case is under investigation and trial yet to start.98

**BKI (Punjab):** Case was registered against member of BKI Punjab based organisation to commit terrorism in India. Investigation is in progress.99 Cases against 43 Naxal cadres were registered for killing 4 BSF members and looting their arms and ammunition. Charge sheet was filed against one and investigation against other are in progress.100 Three person of Naxal,
Bihar was charge sheeted by state police for possessing arms and ammunition and the case in under investigation by NIA.\(^{101}\)

**Communist Party of India (CPI):** Maoist were involved in criminal conspiracy to wage war against government in furtherance of it their 13 member were charge sheeted by the agency out of which 5 absconder are declared as are proclaimed offender and attachment of their property was made. Trial is in progress.\(^{102}\) STF Kolkata Police arrested and filed charge sheet against 2 CPI member procuring grenades and its part to be used against the armed forces. Case is under investigation by NIA.\(^{103}\) Further, 97 members of CPI were accused of attacking the convoy of Parivartan Yatra of Congress, Chhattisgarh wherein 27 person killed and 38 injured. 6 accused were arrested and against others investigation is going on.\(^{104}\) On march 2014, Maoist attacked on CRPF and police force killing 15 force personnel and injuring three. They also looted their arms and ammunitions. Case is under investigation.\(^{105}\) Two person of CPI, Jharkhand was arrested and arms and ammunition were seized. State police has filed charge sheet and case in under investigation by NIA.\(^{106}\)

**People's Liberation Party (PLA):** (PLA), a terrorist organisation were involved in waging war against the government and were accused on July 2010 while holding their meetings with LWE organisation.\(^{107}\)

**Kangleipak Communist Party (KCP):** Case against member of Kangleipak Communist Party (KCP), terrorist organisation, which was involved in waging war against government and holding terrorist camps etc. in which out of 7 accused person charge sheet was filed against 6 and against 1 investigation is in progress. Trial yet to be schedule.\(^{108}\)

**ULFA:** Case against ULFA is also under investigation for recruiting caders, organising camps, resorting to extortion etc thereby intending to wage war against the government.\(^{109}\)


\(^{103}\) [www.nia.gov.in/NIA-Cases/DLI/2013/05-2013-NIA-DLI.aspx](http://www.nia.gov.in/NIA-Cases/DLI/2013/05-2013-NIA-DLI.aspx)


Islamic State of Iraq and Levant (ISIL): A case was registered on the allegation that some Indian youth had joined a banned terrorist organisation ISIL and wage war against Asiatic Powers in alliance with government of India and are likely to commit terrorist act. Case is under investigation.110

Others: The terror attack in the District of Baksa of Bodoland Territorial Areas District is under investigation wherein indiscriminate firing resulted in killings of innocent people with intention of waging war against the government of India.111 Case was registered against 54 accused for chopping right palm of Prof. T. J. Joseph and try to commit murder. Charge sheet against 37 were filed and trial is in progress. Investigation against remaining 17 absconding accused in progress.112 In the case of Kalamassery bus burning, 14 accused were charge sheeted for hijacking bus and setting it ablaze for illegal demand of release of their accomplice. Case against one accused was abated. Trial not scheduled.113

5.7.1.6 Cases of Bomb Blast:

Modasa Town bomb blast: In the case of Modasa Town bomb blast an Improvised Explosive Device (IED) was placed at Modasa Town wherein a boy was killed and 10 others injured. No arrest was made till date and still investigation is in progress.114

Samjhauta Express Train bomb blast: Two coaches of Samjhauta Express Train exploded causing 67 death and 13 injury to persons. Two unexploded bombs were also recovered. Charge sheet was filed against 8 persons and trial is in progress.115

Hyderabad Mecca Masjid bomb blast: At Hyderabad Mecca Masjid, a bomb was exploded during Friday prayer resulted into death of 19 person and injury to 58 persons. Case against 10 accused was registered and 5 were charge sheeted, 3 are absconding and 1 died. Investigation against other accused is in progress and trial has started.116

Malegaon Bomb blast: In Malegaon Bomb blast case 31 persons were killed and 312 were injured due to four bomb explosion. ATS Maharashtra filed charge sheet against 9, NIA against 4. Trial is yet to commence and investigation against other accused are in progress.\textsuperscript{117}

Dargah Sharif Bomb blast: ATS Rajasthan filed charge sheet against 3, NIA against 12 in bomb blast in the compound of Dargah Sharif, Ajmer causing 3 death and 15 injury to persons. Trial has not commenced.\textsuperscript{118}

Delhi high court Bomb blast: Delhi high court has witnessed bomb blast near its reception counter wherein NIA filed charge sheet against 7 person and one being a juvenile was sent to juvenile board for three years. Trial against other is in progress.\textsuperscript{119}Another bomb blast in 2011 occurred at gate no.7 of Delhi High Court and the case is in progress.\textsuperscript{120}

Gaya Mahabodhi Temple Bomb blast: Serial bomb blast were cased at Mahabodhi Temple complex in which several were injured. Four bombs were exploded at Tara Ghar, at main temple, in front of Mahabodhi tree and near fuel tank f the BTMC Ambulance station. The NIA filed charge sheet against 4 and the case is under investigation.\textsuperscript{121}

5.7.1.7 Recent Bomb blast: Recently during the Public address of Sri Narendra Modi at Gandhi Maidan during Hunkar Rally and at the same time bomb blast also reported at Patna Railway Station. NIA charge sheeted one accused against whom the Special court yet to frame charge and further investigation is in progress.\textsuperscript{122}In another shocking incident took place at Burdwan where 2 person were killed and another injured. Person injured were member of Jamaat-u-Mujahideen of Bangladesh and are evolved in preparation of bombs, ammunitions and organising terrorist camps.\textsuperscript{123}Total 17 persons were arrested and 16 are absconding.\textsuperscript{124}The Bomb blast in West Bengal state has revealed that the NIA is poorly equipped. It has no officers specialized in cyber surveillance, explosive or tracing chemicals and has been forced to ask companies to decrypt computers at crime scenes.\textsuperscript{125}

\textsuperscript{117}http://www.nia.gov.in/NIA-Cases/DLI/2011/03-2011-NIA-DLI.aspx
\textsuperscript{118}http://www.nia.gov.in/NIA-Cases/DLI/2011/04-2011-NIA-DLI.aspx
\textsuperscript{120}http://www.nia.gov.in/NIA-Cases/DLI/2011/10-2011-NIA-DLI.aspx
\textsuperscript{121}http://www.nia.gov.in/NIA-Cases/DLI/2013/07-2013-NIA-DLI.aspx
\textsuperscript{122}http://www.nia.gov.in/NIA-Cases/DLI/2013/11-2013-NIA-DLI.aspx
\textsuperscript{123}http://www.nia.gov.in/NIA-Cases/DLI/2014/03-2014-NIA-DLI.aspx
\textsuperscript{124}http://www.nia.gov.in/writereaddata/Press_Release_05022015.pdf
5.7.1.8 Fake Indian Currency Note (FICN) Cases: ATS Mumbai seized FICN and NIA special court convicted 6 accused to life imprisonment. Case in appeal to high court.\(^{126}\) FICN was recovered which was carried for smuggling at Kerala and 4 accused were charge sheeted. Further investigation is in progress.\(^{127}\) At Guru Nanak Dev University, Punjab FICN were recovered in which charge sheet was filed against 5 persons. A juvenile in the case was sent to Special home for three years. Trial is in progress.\(^{128}\) In FICN Malda case, WB, a person was arrested for circulating counterfeit Indian currency notes to destabilize the monetary economy and alleged to raise funds for terrorist activities. Charge sheet against 27 accused were filed by NIA and ne juvenile was sent t special home. Trial is in progress.\(^{129}\) Fake currency notes were seized at Karipur International Airport, Hyderabad. Charge sheet against 7 were filed and against to investigation is going on. Trial yet not started.\(^{130}\) The Directorate of Revenue Intelligence (DRI) at Nedumbassery International Airport recovered FICN in which NIA charge sheeted 2 accused and three are absconding. Trial not started.\(^{131}\) FICN case of Kasargod, Kerala is under investigation.\(^{132}\)

5.7.1.9 Accused in Terror Cases- Arrest, Bail: The online web source of NIA has not maintained the data regarding arrested persons, their date of arrest and further status. Such information about the arrested person should be provided pro actively by the NIA to reduce the possibility of violation of human rights and compliance to international norms on human rights.

5.7.2 Central Bureau of Investigation (CBI): Before the creation of NIA the CBI was the central agency to deal with terrorist cases. The CBI was created by the Delhi Special Police Establishment ordinance 1946, was replaced by the Delhi Special Police Establishment Act, 1946 whose superintendence was transferred to Home Department, now MHA. In1994, the CBI was reorganized and Special Crime division to deal cases of terrorism, bomb blast, sensational homicides, kidnapping for ransom band Crimes Committed by mafia/underworld. The Central Bureaus of Investigation Bill (CBI),

\(^{128}\) http://www.nia.gov.in/NIA-Cases/DLI/2012/07-2012-NIA-DLI.aspx  
\(^{129}\) http://www.nia.gov.in/NIA-Cases/HYD/2012/01-2012-NIA-HYD.aspx  
\(^{130}\) http://www.nia.gov.in/NIA-Cases/HYD/2012/02-2012-NIA-HYD.aspx  
\(^{131}\) http://www.nia.gov.in/NIA-Cases/HYD/2012/03-2012-NIA-HYD.aspx  
2010 was proposed to create one unified Central Government Agency, and harmonize its powers and functions. The Bill gives the CBI the duties to prevent, investigate, and prosecute offenses under seventy nine laws in force. The CBI is only empowered to prevent, investigate and prosecute offences under orders from the Central Government. The supervision of the CBI shall vest with the Central Government except in case of offences which are covered under the Prevention of Corruption Act, 1988 in which case it shall be under the superintendence of the Central Vigilance Commission. Officers of the bureau will have analogous powers as an officer in charge of a police station including powers and provisions relating to registration, investigation, arrest, search, seizure, and filing of final reports in the Court.

5.7.3 Enforcement Directorate (ED)

ED is acting as a multi disciplinary organization for enforcing the Foreign Exchange Management Act, 1999 (FEMA) and Prevention of Money Laundering Act, 2002 (PMLA). The former law was civil in nature accordingly the ED is empowered to conduct investigation, search & seizure, impose and realise penalties from the violators. The later law is criminal in nature and accordingly the ED is empowered to conduct investigation, trace attack and confiscate the proceed of crime under PMLA. Its function is to investigate, arrest, prosecute the offenders.

It’s also having extensive power enumerated under the Unlawful Activities (Prevention) Act, 1967 pertaining to dealing with funds of an unlawful association and terrorist activities including demands for making radioactive substance, nuclear device, raising funds for terrorist act, organizing terrorist camps, recruiting or harboring a person for terrorist act, or terrorist gangs, holding proceed of terrorism, membership of terrorist organisation or raising funds for terrorist organisation.

134. Ibid, Section 7 and schedule 1 and 2.
135. Ibid, Section 8 of CBI Bill 2010.
136. Ibid, Section 4 of CBI Bill 2010.
137. Ibid, Section 11 of CBI Bill 2010.
138. FERA 1973 was repealed and FEMA was enacted which was effective from 1st June 2000.
139. Directorate was entrusted for enforcement of PMLA w.e.f. 01-07-2005.
5.7.4 Central Bureau of Narcotics (CBN)

There is a close nexus between drugs trafficking, organized crime and terrorism.\textsuperscript{141} CBN is a law enforcement, investigation and prosecution authority for offences committed under the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS). Its primary function is to supervise over the illicit cultivation of opium, investigate cases, trace and freeze illegally acquired property, issue licenses for manufacturing of synthetic narcotic drugs, issuance of export and import certificate, prevent and enforce the offence committed or likely to be committed under NDPS Act, 1985.\textsuperscript{142} The function also include to coordinate and assist other investigation agencies on matter concerning narcotic drugs and related crimes.\textsuperscript{143} Central Bureau of Narcotics (CBN) is different from Narcotic Control Bureau (NCB).

5.8 NIA Special Court

The Act also gives the Central Government the power to constitute a special court to hear cases investigated by the NIA.\textsuperscript{144} The Act establishes a special court empowered to take cognizance of any offence, without the accused being committed to it for trial, after receiving a complaint of facts that constitute such offence or upon a police report of such facts.\textsuperscript{145} The Special NIA court is presided over by session judge or additional session judge who are appointed on the recommendation of the concerned high court chief justice.

<table>
<thead>
<tr>
<th>TABLE 11.</th>
<th>NIA SPECIAL COURT, CASE STATUS (UPTO 30/05/2013)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Factor</td>
<td>Total Number</td>
</tr>
<tr>
<td>Charge Sheet Filed</td>
<td>35</td>
</tr>
<tr>
<td>Conviction in Cases</td>
<td>2</td>
</tr>
<tr>
<td>Trial Pending</td>
<td>33</td>
</tr>
</tbody>
</table>

Source: Rajya Sabha Unstarred Question No. 2397, dated 24.08.2011.

Total thirty eight NIA special Court have been notified in thirty five States/Union territory and 80 Special public prosecutors have been appointed. Out of 71 cases investigated by the

\textsuperscript{141} Group of Ministers Report on Reforming National Security System, Para 4.29.
\textsuperscript{142} Central Bureau of Narcotics, Available at http://www.cbn.nic.in/html/aboutcbn.htm [accessed on 11-12-2014 at 5.00 a.m.]
\textsuperscript{143} Ibid.
\textsuperscript{144} The National Investigation Agency Act, 2008, Section 11.
\textsuperscript{145} Ibid, Section 16.
National Investigating Agency charge sheet was filed in 35 cases. Till May 2013 only 2 cases were resulted into conviction and remaining 33 are yet to be disposed of by the court. The rates of disposal of cases are below 10% (Table 11 above) which demands creation of special Tribunal for terrorist related cases instead of creating additional burden on Session Court. Though the NIA Court is having power of precedence over other cases but still the result is unsatisfactory. The charge sheet was filed by the agency but the trial did not started for months to months keeping the under trial in custody unduly.

The court may sit at such places as it think fit keeping in view the protection of witnesses etc and with reasons recorded in writing, the proceedings of the court will be held in camera.\textsuperscript{146} The Special Court if satisfied that the life of a witness is in danger, it may take measures to keep the identity and address of such witness secret\textsuperscript{147} the avoiding of the mention of the name and addresses of the witnesses, the issuing of directions for securing the identity and address of the witnesses are not disclosed, a decision that is in the public interest to order that all or any of the proceedings pending before the Court will not be published in any manner. The NIA Special Court, Kochi in a case related to the recruitment of youth from Kerala for terror camps in J&K has awarded double life terms on three convicts, T Abdul Jabbar, Sarfurz Nawaz and Sabir P Buhari. Other ten convicted persons were awarded life imprisonment.\textsuperscript{148}

5.9. Terrorist Sheltered by Law Enforcement Agency

The NIA, Guwahati, has filed a charge sheet against five officials of Nagaland Police, accusing them of being involved in smuggling arms and ammunition meant for the department of NSCM(IM) militants which were used for training militants. They were charged for criminal conspiracy, criminal breach of trust and several charges under Arms Act.\textsuperscript{149}

NIA filed charge sheet against a fugitive police informer, Sabir Khan Pathan alias Munna, who was arrested about two years ago by the Delhi Police Special Cell on the charge

\begin{itemize}
\item \textsuperscript{146} The National Investigation Agency Act, 2008,Section 17(1).
\item \textsuperscript{147} Ibid, Section 17(2).
\item \textsuperscript{149} “NIA charge sheet against five Nagaland policemen”, TNN, January 30, 2015, Available at \url{http://timesofindia.indiatimes.com/city/guwahati/NIA-chargesheet-against-five-Nagaland-policemen/articleshow/46059094.cms} [accessed on 31-01-2015 at 9.41 p.m.]
\end{itemize}
of being a Hizb-ul Mujahideen member. NIA investigation revealed that he was living in the Lodhi barrack of the Special Cell in South Delhi for the past eight years and was instrumental in planting weapons to implicate Sayyad Liaquat Shah. A report on the role of Delhi Police Special Cell will be submitted by NIA to the MHA for further course of action as evidence gathered support involvement of some police officer of Special Cell in the matter including Deputy Commissioner of Police (DCP). The DCP was constantly in touch with Haqla who was to bring shah back from Nepal as well as when he was in Srinagar. DCP along with other police officer were involved in framing false case against Liyawat. In Burdwan blast case, one of the accused sheikh has confessed before NIA that the SSB constable has allegedly had given shelter to accused of the blast at Delhi for a week before he returned to West Bengal.

5.10. Relief to victim of Terrorist Violence

The central Government has implemented “Central Assistance to the Civilian Victims of Terrorist/Communal/LWE Violence” scheme for maintenance of families of the civilian victims of terrorism whose members were killed or incapacitated in such violence. Under the revised scheme of 2012, an amount of rupees three lakhs shall be paid by the District Magistrate (DM) or Deputy Commissioner (DC) as a fixed deposit in an account of dependent or beneficiary in addition to assistance for education of orphans of family. The DM or DC may get the amount reimbursed form the central government 70% immediately and remaining after receipt of audit verification.

5.11. Counter Insurgency and Anti-Terrorist (CIAT) School

Counter Insurgency and Anti-Terrorist School was set up in the state (listed in the Table 12 below) for providing training to the police personnel’s for combating with terrorism and Left Wing Extremism (LWE). The state has to provide land for these school and all

administrative support for running these schools. Out of 21 CIAT schools, 15 were for LWE affected areas of Bihar, Chhattisgarh, Jharkhand, Odisha and West Bengal. Apart from it, all the Armed Security of CRPF, BSF, CISF, AR etc are having their own training school and centers.

**TABLE 12.**

<table>
<thead>
<tr>
<th>State Wise Details of CIAT School</th>
<th>Number of CIAT School</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>3</td>
</tr>
<tr>
<td>Bihar</td>
<td>3</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>4</td>
</tr>
<tr>
<td>Jharkhand</td>
<td>4</td>
</tr>
<tr>
<td>Odisha</td>
<td>3</td>
</tr>
<tr>
<td>Tripura</td>
<td>1</td>
</tr>
<tr>
<td>West Bengal</td>
<td>1</td>
</tr>
<tr>
<td>Manipur</td>
<td>1</td>
</tr>
<tr>
<td>Nagaland</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>21</strong></td>
</tr>
</tbody>
</table>

Source: Ministry of Home Affairs, GOI

5.12. ROLE OF CIVIL SOCIETY AND PRIVATE SECTORS IN COMBATING TERRORISM

To prevent and combat terrorism initially it is a matter of state to deploy police official for the safety and orderly governance of the state but keeping in mind the complexity of the problem and to handle it more effectively and efficiently there should be a strong bondage between civil society and private sectors. While building trust with the citizens is a long effort but it cannot be postponed endlessly and the authority must seek cooperation from the private sectors. There are at least four sectors from where much help and assistance can be obtained. The Information Technology department is one who can upgrade data processing and communication functions. Government machinery can strengthen their cyber space and e-threat posed by external agents casting an evil eye. Another is transport sector (trucker’s union, transport businesses, vehicle owners associations, manufactures and petrol station) from where anti-terrorism agency or squad may get cooperation by documenting every movement

153. Supra Note 6.
of vehicles and operators. The technology of GIS may also be used for this purpose. Third sector is architects and builders who can be engaged and directed to implement crime prevention through environment design while constructing any public space, shopping mall, railway stations, airports etc. to augment security measures. The fourth is financial sector who can share information about any huge transfer of fund or suspicious fund transfer or inflow-outflow of fund from to other nation. Even Private companies may be asked to deploy private security agency and be given training in combating terrorism.

In present time the civil society groups are considered to be the most effective in conflict resolution. The civil society especially the social workers shout promote the terrorism as a social evil. They should advocate with their governments to reduce socio-economic injustice, poverty, and inequality which are the main causes of terrorism. Civil society organization may advocate with the governments and intergovernmental organizations to resolve the long standing issues at national and international levels they may also try to advocate with the active terrorist groups to bring them towards the peaceful struggle to solve their problems. 154

5.13. Conclusion:

It is expected from the state to adopt both preventive as well as deterrent measures against terrorism to establish rule of law which demands a good legislative framework, fair and transparent procedure and for its implementation various strong and accountable institutions.

Kargil of Mumbai attack was not the failure of intelligence alone but it question the entire institutional and administrative structure of India, its efficacy, capability and sufficiency to prevent and combat terrorism in all forms. There is a lack of good coordination, cooperation and accountability between the institutional and administrative agencies which badly undermine the effectiveness of institution role in preventing and combating terrorism.

Most of the reports of committees relating to national security matters were reactive and crisis driven retrospective in nature, rather than need-based (proactive) broad perspective plans to reform and revamp. They looked into what went wrong, examined particular lapses and suggested ways and means to prevent their recurrence. Suggestions were made to establish

various agencies without defining their power, function and duties. In no committee the CAG was asked to be a member to provide a economic sketch to see the institution in operation without economic burden.

Though, India is having long list of intelligence agencies but still it far away behind proper, scientific and technical tasking, collection, analysis, production and dissemination of intelligence products for decision makers. IB does not have any constitutional or statutory sanction for its existence. There is no defined powers, functions and duties of the intelligence agencies (IB and R&AW) and have ad-hoc selection and staffing procedure. There is lack of public and private partnership, outsourcing, unbiased and honest analyst language skill at border areas or at location where to prevent and combat terrorism. India intelligence agencies does not acquaintance with sophisticated technical means of gathering intelligence related information and there is lack of trained persons to use those equipments. Even the training instructor need to be trained in training the newly recruited personnel’s. there is need to train the officers and staff with scientific and technological advancement, cyber trafficking and security, strategic intelligence, skill of execution, investigation and prosecution while preventing and combating terrorism. All the funds kept for intelligence agencies are not open for security by the Comptroller and Auditor General of India(CAG). There is centralized decision making and inaccurate reporting on security related issues. Many a time intelligence was used as a tool for targeting opposition. There is no review or monitoring of such policy at operational level in terms of its object being achieved. Toll rate of death of security personnel while on duty by terrorist is due to one of factor among others that is modernization of arms and ammunition was not provided for combating terrorism.

Number of Central and state armed forces are created to combat terrorism. Federal agencies like NSG, BSF, CISF, CRPF, ITBP, SPF, SSB and State Police forces are standing to combat terrorism in India. The para military and Central Police Forces are not trained, raised and equipped to deal with trans border terrorism, by well trained mercenaries armed with sophisticated equipment who are continuously infiltrating across border. The quality of these forces has not been appropriately upgraded effectively to deal with the challenges of the times and this has led to the increased dependence on the army fight insurgency and terrorism,
the conventional superiority of the army was downgraded to the level of paramilitary forces and paramilitary forces to that of ordinary police forces.

There is also conflict in opinion and existence between Army and paramilitary force, and between civil and military authorities which need reorganization of its structure and to provide permanent solution to the problem. Inspite of continuing counter terrorism policy over past many years, there has been no integrated equipment policy in respect of army, paramilitary and central police forces. There is need of power integration to ensure capability of equipment. There is lack of an effective border management policy which covers not only terrorist infiltration but illegal migration, smuggling and the flow of narcotics. Narcotics trade has been used by neighboring country for cross border terrorism.

Technology has added significantly to the potential of armies and terrorist. The terrorist comes equipped with rapid, stands off weapons, high explosives, real and fake currency and sophisticated communications equipment. The Indian Army, paramilitary forces and other security forces lagged behind in quality and quantity of their surveillance and communication equipment although superior equipment is already available all over the world.

The NIA is the central counter terrorist investigation agency of India primarily having function to investigate and prosecute offenders of schedule Act which are relating to terrorism. The branch office of Mumbai, Hyderabad, Kerala, Lucknow, guwahati and Kochi are under staffed and there is lack of counter terror infrastructure. Now the NIA has started preparing its own data base of criminals and terror related investigation as it did not have good relation and coordination with IB R&AW, BSF, Army and other anti terror agencies. The State Government are reluctant to allow its police staff to join NIA. Due to lack of staff, scientific advanced tools and means of investigation, cyber and forensic skill and expertise its performance has suffered in investigating terror related cases.

The UAPA and NIA have stringent legal policy, while implementing it full disclosure about detail of persons arrested, date, time and duration of custody, date on which bail granted, duration of police or judicial custody has not been proactively provided. It raise question on performance of NIA. An accused before the NIA special court has alleged that he was kept naked before brought to the court but the court also not taken the matter seriously and ignored
it allowing the officer to escape the liability. The NIA has been entrusted with terrorist related cases at the decision of central government and many cases of Maoist, extremist were not handed over to it.

The NIA Special court is working very slow in disposal of terrorist cases. With Less than one percentage growth it has disposed of the cases brought before it. Out of 35 cases only two cases has been resulted in conviction and in other 33 cases trial is in progress or pending. In many cases the court has not started the process of trial even after the agency has submitted the charge sheet. It is a fast track court and there is lack of time limit in disposal of case after charge sheet is filed.

It is important to note that terrorism is threat for humanity and security of nation and the world as a whole. All the institution and administrative body of India has to show collectively their concern and integrity to fight with terrorism. Success of institution much depends on the successful effort to keep their track and action in consonance with the rule of law.