In this chapter I attempt to understand the significance of paramilitary forces in India's democratic polity. The first part of the chapter deals with the evolution of these forces as indispensable instruments of internal security management. The argument is that the Indian state has been overly concerned about the internal challenges to its authority and has tended to respond in a manner which resulted in centralisation of internal security planning and increased reliance on the instruments of force to deal with those challenges. This led to a massive growth and frequent use of the paramilitary forces, which were created for a limited purpose. The second part of the chapter deals with civil-military relations in the context of the internal security policy of the Indian state. Whereas in other developing countries the rise in domestic violence resulted in increasing involvement of the military in politics, the case of India has been different. Here, despite enormous challenges to internal security and the frequent use of force to deal with these challenges, the participation of the military in the formulation of security policy has remained low. Particularly after the 1970s, when the Indian state's concerns about internal challenges became more pronounced,
the involvement of the military in internal security planning became even more marginal. The third part of the chapter examines the role of the paramilitary forces in India's federal polity. The growing reliance on these forces has contributed to the neglect of local initiatives to deal with growing internal violence. As a result, the capability and performance of local law enforcing agencies have suffered badly. Finally, the overall conclusion I have reached is that India needs to decentralise security planning in the area of internal security.

I. The Indian State and the Use of Force

The management of internal conflicts has always been a key concern of the Indian state. These conflict are seen as threats, not only to territorial integrity, democratic polity, and economic development, but also to inter-state relations and regional security. Except for the 1962 war with China, all the wars fought in the Subcontinent had their origins in domestic conflicts. Therefore, the management of internal conflicts is seen as a means not only to preserve territorial integrity and to promote democracy and development, but also to prevent inter-state wars. In a nuclearised environment where great efforts are made to prevent inter-state war, internal security issues gain added significance.
The stability of any state depends either on a certain amount of compromise and tolerance among its different units, or on the brutal use of force by an authoritarian regime. The Indian example, however, is a unique one. India is characterized by a complex heterogeneity in terms of religion, region caste, culture, class, language, and economic development. This heterogeneity, coupled with India's size and population, has been a great source of conflict in the past. Indian history is replete with the examples of such conflicts among its various units.

During British rule also, such conflicts demanded the use of force to hold different units together. It is not surprising, therefore, that many predicted the disintegration of India soon after British rule was over. The unity achieved during the struggle against colonial rule would be short-lived and, it was thought, India would succumb to the pressures from within. The Indian example has, however defied all such speculation. Not only has democracy survived in India, it has been successful, to a great extent, in keeping the military out of internal politics. In other developing countries, increasing domestic instability resulted in greater military intervention in internal politics.

Why has India been an exception? What role have the instruments of force played in its success? What is the role of the paramilitary forces in the survival of democracy in India?

The paramilitary forces were raised to serve a very limited purpose, because the maintenance of internal order was the responsibility of State governments. Thus, the CRPF was meant to be used, only in exceptional cases, to provide assistance to the State law and order machinery. The ITBP was raised in 1962, to guard the India-China border along Tibet. The BSF was created in 1965, to ensure the security of India-Pakistan international borders. The NSG came into existence, in 1986, as a specialized commando force to deal with specific threats posed by terrorist violence. Originally, the roles of these forces were well defined, and they were not meant to play significant role in internal security affairs.

Over the years, however, the paramilitary forces grew at a phenomenal rate. They started playing important roles in internal security matters. The CRPF, originally meant to provide assistance to State governments in emergencies, gradually became one of the indispensable instruments in the maintenance of internal order. The BSF grew as the largest paramilitary force in the world, with one third of its strength deployed for internal security duties. The growth and the diversification of the ITBP and the NSG was on similar lines
though in lesser degree. This massive expansion of the paramilitary forces and their frequent use in curbing internal violence point to two developments which took place in post independence India. First, the increasing reliance on the instrument of force to deal with internal challenges became almost a permanent feature in India. Secondly, the Union government gradually assumed a much greater role in areas which were under the jurisdiction of State governments. Both these developments have far reaching implications for the nature of the Indian state as well as its response to internal challenges.

**Spirit of the Constitution**

The use of force to deal with internal challenges and the increased power of the Union government derive legitimacy from the Constitution itself. The overwhelming concern over internal stability is evident in the debates which took place in the Constituent Assembly. Under the Cabinet Mission plan of 1946, the Union government had jurisdiction only over foreign affairs, defence, and communications. The rest of the powers, including residuary powers, were vested in the State governments. In the Constituent Assembly also, the Objective Resolution moved by Jawaharlal Nehru on 13 December 1946, outlined the Republic of India wherein the various territories would posses and retain the status of autonomous units.
together with residuary powers.²

However, in the debate on the Objective Resolution, P.D. Tandon, S.K. Sinha, S.P. Mukherjee, Dr. B.R. Ambedkar and Ujjwal Singh, all highlighted the need for a strong Centre.³ The overwhelming majority in the Assembly desired to establish a strong Centre with enough powers to tower over the units in times of emergency. In addition, the scope of the term ‘defence’ was defined widely enough to bring under it the internal security functions as well. According to K.M. Munshi, the scope of defence included raising, maintenance and control of the navy, the army and the air force and employment of these for the protection of India and the execution of the laws of the Union.⁴ A.K. Ayyar held that defence included the employment of the armed forces of His Majesty for the defence of the Provinces, and for the maintenance and execution of laws of the Union and of the Provinces.⁵ On the question of the scope of the defence powers of the Union, the Union Power Committee of the Constituent Assembly concluded that, ‘defence’ includes “defence

⁵ Ibid., p.718.
of the Union and every part thereof and includes, generally, all preparations for defence as well as such acts as may be conducive to its successful prosecution". In particular, defence also included the execution of the laws of the Union and its units.

This over encompassing definition of defence implied an important role for the armed forces in internal matters as well. Several members, however, objected to such a move. K.T. Shah, a member of the drafting body, claimed that the proposed provision appeared to "arm the Centre with special powers against the Units and arm the government against the people." H.V. Kamath stated "I fear that by this single chapter we are asking to lay the foundation of a totalitarian state, a police state, a state completely opposed to all ideals and principles that have hold aloft during the last few decades, a state where rights and liberties of millions of innocent men and women will be in continuous jeopardy."

The Constitution tries to strike a balance between these two opposing viewpoints. The Seventh Schedule of the Constitution makes a clear demarcation between the operational areas of the Centre and the States. Entry II of list II of the Seventh Schedule vests with the

---

6 Ibid., p.738.
8 Ibid.
States executive, powers in regard to public order. The Centre cannot claim any share in it. However, a careful reading of various provisions, particularly Articles 256, 257, 355 and 356 in the Constitution, shows that the Centre has overriding powers in the areas assigned to the State governments. Article 256 says, “the executive power of every State shall be so exercised as to ensure compliance with laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to States as appear to the Government of India to be necessary for that purpose”.

Further, Article 257(I) deals with ‘control of the Union over States in certain cases’ and lays down provisions similar to Article 256. Article 355 reads “It shall be the duty of the Union to protect every State against external aggression and internal disturbance and ensure that the government of every State is carried on in accordance with the provisions of this Constitution.”

As far as the actual deployment of the Union’s armed forces in States is concerned, Entries 1 and 80 of the Union list are of great salience. Entry 1 confers on the Union government the duty to defend

---


10 Ibid.

11 Ibid., p.100.
“India and every part thereof”. This, when viewed in the light of the spirit of the debates in the Constituent Assembly, confers almost blanket powers of deployment of the Union’s armed forces in any part of India. Entry 80 empowers the Union government to confer powers and duties on the members of any police force functioning in any other State. All this adds up to grant an undisputed control over the internal security apparatus to the Union government.

If the States refuse to comply with the above mentioned entries, Article 356 may be invoked under which the President’s rule can be imposed in any State if the President is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. This implies that if such a situation arises in which a State government is unwilling to carry out the Union government's directives, a Constitutional emergency may be imposed in the State under the Article 356.

Thus, it is clear from the currents in the Constituent Assembly as well as the provisions of the Constitution that the framers of the Constitution were greatly concerned about security issues. They

---

12 Ibid., p.152.
13 Ibid., p.155.
14 Ibid., pp.101-2.
saw both internal as well as external threats to security as equally menacing and armed the Union government with sufficient powers to deal with any challenge to the state. They saw the Union government as being responsible for protecting the States from internal security threats, though the maintenance of internal law and order was made a State subject. Any grave threat to internal security, they felt, called for Central intervention.

Thus, the Constitution provides the framework under which we can place the evolution and expansion of different paramilitary forces. This is basically a ‘police framework’ which says that the challenge to state authority could be dealt with by increasing the role of the Central government and the strength of police force under its command. Nowhere in the Constitution is defined what actually constitutes a threat to internal security. It was left to the judgement of the Central government. That means the Central government could use the provisions of the Constitution to suit its interest. P. Padmanabhan says “The Constitution is a queer document which negates what it positively asserts, gives enough room for compromises and manipulations and is elastic enough to meet any contingencies. Democracy and despotism are consistent with the
high sounding principles enumerated therein."\textsuperscript{16} The framers of the Constitution did not take these dangers seriously. They assumed that the distortions would be adjusted in the process of the democratic functioning of the state and, in any case, these provisions would be used under exceptional circumstances only.\textsuperscript{16}

Democracy at Work

In the early years of independence, it was widely believed that the progress of democracy in India would be smooth. The five-year plans, industrialization and democratization of large sections of population would ensure rapid progress and stability. However, since the mid 1960s we find the Indian state increasingly unable to simultaneously promote development and democracy. This resulted in widespread activism outside the established political channels that often led to violence. Relationships in India's civil society also started under going change. As Atul Kohli points out, "members of higher castes and other big men have gradually lost their capacity to influence the political behaviour of those below them in the socio-economic hierarchy. As a result, new social groups have entered the political arena and pressed new demands on the state. Without other


conflict resolution institutions, democratic accommodation of such demands has been difficult. The result has been a dramatic increase in political violence in India".\textsuperscript{17}

The state interpreted these changes as law and order problems, and both the process of centralisation and the growth of the paramilitary forces started as a result. Around the same time, Congress hegemony over Indian politics broke in 1969. Indira Gandhi lost her majority in parliament due to the split in the party, but managed to stay in power via the support of the smaller parties. Thus, the concern for durable support through voter participation began to diminish and the ruling party started misusing state institutions to serve narrow political purposes. During the years leading up to the emergency, the exercise of the coercive power of the state reached hitherto unprecedented levels of concentration and acquired a more monolithic structure. The role of the CRPF and the BSF increased in internal affairs. During the late 1960s and the early 1970s, there was a six-fold increase in the expenditure on the paramilitary forces, particularly on the BSF and the CRPF.

<table>
<thead>
<tr>
<th>Year</th>
<th>The BSF (In Rupees)</th>
<th>The CRPF (In Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1968-69</td>
<td>254,354,183</td>
<td>134,288,402</td>
</tr>
<tr>
<td>1969-70</td>
<td>304,923,924</td>
<td>234,656,141</td>
</tr>
<tr>
<td>1970-71</td>
<td>339,777,337</td>
<td>266,242,627</td>
</tr>
<tr>
<td>1971-72</td>
<td>424,899,398</td>
<td>323,251,675</td>
</tr>
<tr>
<td>1972-73</td>
<td>441,200,000</td>
<td>352,617,000</td>
</tr>
<tr>
<td>1973-74</td>
<td>459,000,000</td>
<td>387,800,000</td>
</tr>
<tr>
<td>1974-75</td>
<td>614,445,000</td>
<td>461,690,000</td>
</tr>
<tr>
<td>1975-76</td>
<td>694,016,000</td>
<td>577,430,000</td>
</tr>
<tr>
<td>1976-77</td>
<td>719,393,000</td>
<td>548,241,000</td>
</tr>
</tbody>
</table>

(Source: K.P. Misra, "Paramilitary Forces in India", Armed Forces and Society vol.6, no.3, Spring 1980, p.377.).

Alarmed by this sudden increase in expenditure, the Public Accounts Committee of the Lok Sabha noted: "There has been a large scale increase in Central Reserve Police, Border Security Force.... The Committee are surprised that police forces of such large strength should be necessary over and above the substantially large forces of the State governments who are required to do precisely the same job and are responsible for maintaining the law and order." The Ministry of Home Affairs justified this increase and argued “The maintenance of law and order and security of the border is a pre-requisite for any socio-economic development. It is in this context that the increase in the police expenditure which has been dictated by

---

the specific needs of internal and border security should be seen."\textsuperscript{19} Thus, the increase in the strength and expenditure on the paramilitary forces was seen as a pre-requisite for socio-economic development and the spread of democracy.

The declaration of the emergency, in 1975, was the culmination of this pattern of the state's response where inability of political leaders to promote their agenda encouraged them to use coercive measures to gain compliance. As Francine Frankel put it, "Indira Gandhi's government appeared powerless to carry out its own programme of institutional reform even after her party, in 1971 and 1972, had achieved its largest mandate in twenty years of electoral politics. Her inability to get the people to adopt the state's codes and norms led her to new responses; authoritarianism and harsh methods that still ran headlong against the same brick wall."\textsuperscript{20}

The emergency demonstrated that it was possible to run an authoritarian regime on a constitutional basis. The state's coercive instruments particularly the paramilitary forces played an important role in pushing the state agenda. The use of these forces during the emergency was widespread. They were used to put down political

\textsuperscript{19} Ministry of Home Affairs, Annual Report 1977-78 New Delhi, p.23.

dissent and opposition to the Central government. That way they contributed to the perpetuation of the interest of the ruling party. The argument of the Government of India, however, was that the paramilitary forces were used in order to eliminate corruption, achieve accelerated economic growth and defend the country's political unity and territorial integrity against internal as well as external enemies. The internal enemies were those who opposed the impositions of the emergency. This opposition led to the larger abuse of authority and misuse of power during the emergency. Consequently, the strength of the paramilitary forces was augmented.

The misuse of the paramilitary forces during the emergency appears more disturbing when viewed against the parallel increase in various legislative acts and constitutional developments. The Preventive Detention Act, 1950, remained largely inoperational till the emergency. The Defence of India Rule (DIR), which was imposed in 1962 and remained operational till 1968, was reimposed in 1971 and was used to detain persons unrelated to national security. For example, the DIR was invoked during the railways strike in 1974.

---


22 Ibid.

The Maintenance of Internal Security Act (MISA) was enacted in 1971. During the emergency, DIR and MISA were invoked extensively to arrest people and keep them behind bars to suit the interests of the ruling party.

The widespread use of such legislation meant an increase in demand for and use of the paramilitary forces. To facilitate this, the 42nd amendment to the Constitution added entry 2A of list I in the Seventh Schedule. It provided for “Deployment of any armed force of the Union or any other force subject to control of the Union or any contingent or unit thereof in any State in aid of civil power; powers, jurisdiction, privileges and liabilities of the members of such forces, while on such deployment, to be a Union subject.” This seriously reduced the autonomy of the State police administration even during normal times.

After the emergency, there was a widespread criticism of many aspects of the previous regime, including the use of the paramilitary forces for partisan and narrow domestic purposes. There were demands that these forces should be altogether abolished, that they should be reorganised, their number should be reduced and so on. The Government of India appointed a Committee of secretaries to review the strength of various paramilitary forces. In its interim

---

24 Constitution of India n.9, p.183.
report, the Committee recommended some reduction in the strength of the CRPF. Consequently, two of its battalions were disbanded.\textsuperscript{25} This small reduction suggests that no serious effort was made to rationalise the strength of various paramilitary organisations. No attempt was made to review the increasing role of these forces in Indian democracy. The forces by then had become a useful instruments of force to be used under different conditions by the Central government. The Central government made it known that among its obligations laid down in the Constitution was the maintenance of the unity of the country which involved dealing with unrest and insurgency situations.

The 1980s witnessed further centralisation of the Indian state to deal with political movements. The expansion of the paramilitary forces was phenomenal in this decade.

\begin{table}
\centering
\caption{Expansion of the Paramilitary Forces since 1980 in terms of battalion}
\begin{tabular}{|c|c|c|c|}
\hline
Year & The CRPF & The BSF & The ITBP \\
\hline
1980 & 66 & 56 & 9 \\
1985 & 80 & 85 & 14 \\
1990 & 103 & 145 & 28 \\
1995 & 135 & 156 & 29 \\
\hline
\end{tabular}
\end{table}


\textsuperscript{25} K.P. Misra, n.21, p.383.
The rapid expansion and widespread use of paramilitary forces after the 1980s was justified on the ground that the militancy in Punjab, in Jammu and Kashmir and large scale communal violence in various parts of the country posed a direct threat to the territorial integrity and the internal stability of India, and the Central Government was under obligation to ensure that stability at any cost. In this process, however, the Central Government assumed unprecedented powers through legislation and constitutional developments. In December 1980, the National Security Act (NSA) was passed. It gave the Central government the right to detain any person in order to prevent him or her from acting in a manner prejudicial to the defence of India or to the internal security of the nation. It also enabled the Centre and State governments to detain anyone in the interest of maintaining public order and the flow of supplies and services to the community. This implied that industrial strikes and bandhs could invite widespread arrest under the NSA.

Other important pieces of legislation that enhanced the role of the Central Government are: The Terrorist Affected Areas (Special Courts) Act, 1984, the Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983, the Prevention of Damage to Public Property Act, 1984, the National Security (Amendment) Act 1985

---

26 Raju G.C. Thomas, n.23, p.80.
and the Terrorist and Disruptive Activities (Prevention) Act (TADA), 1984. Under TADA, suspected terrorists could be detained for up to one year without trial. Court hearings and the testimony of witnesses would be conducted by a designated court and not the ordinary judiciary. There was widespread misuse of TADA. This is evident from the fact that around 70,000 persons were arrested under the Act, and the conviction rate was as low as 0.8%. Surprisingly, not a single conviction was under the section relating to terrorist activity.27 After much protest, TADA was scrapped in 1997. But the government is seriously considering the introduction of a similar Act, with slight modification.

Apart from these legislations, the 59th Amendment to the Constitution was passed which provided that an emergency could be extended in Punjab for up to three years without the matter being referred to the Parliament. The Punjab and Jammu and Kashmir were kept under President’s rule for a long period. This meant that the paramilitary forces had an important role to play.

The above discussion shows that there is a correlation between the expansion and the use of the paramilitary forces and the changing nature of the Indian state. Until the 1960s, when the state was based on consensus and there was no major political challenge,
the role of the paramilitary forces was very limited. After the mid 1960s, the state's inability to deal with political challenges resulted in growing centralisation, as a result of which the Central government assumed more powers. The use of paramilitary forces became more widespread. As C.P. Bhamri points out, "In the current Indian situation, all political forces should be permitted to compete with one another.... The different political parties find it difficult to perform their legitimate functions because the Centre is armed to the teeth. The Government of India is trying to impose uniformity on a social soil (by virtue of paramilitary forces) which is full of diversities and complex contradictions."28 The dominant philosophy of the Central Government has been to treat any kind of political challenge as a threat to internal security. This makes the role of the paramilitary forces even more important.

Does the increasing use of the paramilitary forces mean an erosion of democratic institutions in India? Is Indian democracy under threat? Some erosion of democratic values and institutions is virtually inescapable in any measures against internal threats because unlike external threats, the enemy here is not always easy to identify, and therefore, the war against it is very difficult. Therefore,

---

any administrative and legislative measures affect the common people in disturbed areas. Also, the scope of their misuse is great.

This does not necessarily constitute a direct threat to democracy, and the paramilitary forces are partially responsible for that. Basically, these forces are police organisations headed by IPS Officers. They are civilian institutions. Therefore, the use of force by them does not have a psychological impact to the extent of the use of the force by the military. The increasing use of the army in domestic affairs signals a more direct breakdown of democratic institutions and an erosion of their legitimacy, whereas the paramilitary forces function under a broader democratic framework. This also explains the general acceptability of such erosion of democratic institutions. As Rajiv Nayar says, "The mood and atmosphere of the people is one of seeking security and safety, and these measures [use of force] are interpreted by many to be an aid and catalyst for security and not an instrument for destruction. The coercive powers of the state machinery as also the fact that bail provisions are becoming more stringent, are welcomed with a sense of relief notwithstanding the fact that the dangers of abuse are greater."29 The perceived threat to national integrity, appears to justify, in the minds of many, the

continuing empowerment of the state and use by it of police and paramilitary forces.

II. Paramilitary Forces and the Civil-Military Relationship

The increasing reliance on the instruments of force to deal with the internal violence results in greater military involvement in internal affairs. In many Third World countries, the rise in domestic violence led to military take-overs. The frequent use of the armed forces for the maintenance of internal security tends to politicise them, often aggravates the conflict and prepares the ground for the military rule. Army rule, in such circumstances, is often justified on the ground that the civilian authorities are no longer capable of dealing with internal violence and the military, being the most professional and disciplined institution, can ensure internal peace which is a prerequisite for development and democracy. In India also, the Constitution makers gave preference to security over democracy. The undercurrents of the debates in the Constituent Assembly was that, to preserve territorial integrity, to ensure stability and to promote democracy and development it was necessary to arm

the Union government with sufficient powers including the use of force. The Constitution also empowers the Union government to use armed forces under its command to protect the ideals enshrined in the Constitution. In practice also, as discussed above, we find a trend towards gradual centralisation and frequent use of force to meet internal challenges. However, at the same time, we find that the Indian military has largely remained an apolitical force. The army was used, on many occasions, to deal with insurgencies, terrorism and communal violence in different parts of the country, but its involvement in the internal politics did not increase with corresponding rise in internal violence.

The Indian army opposes its greater involvement in internal conflicts. The argument is that the extensive use of the armed forces to deal with internal conflicts lowers military professionalism and makes the military less prepared for the task of defending the country against external aggression. In Lt. General M.L. Thapan's view, "A fundamental principle of war is concentration of man and material at the right place at the right time." Internal security duties, on the other hand, "requires dispersion and use of minimum force,

---

since our own countrymen are involved."\textsuperscript{32} Lt. General A.M. Vohra says "because the army has not mingled with the crowd as police are required to, the army's ability to sense and deal with internal riots is severely limited."\textsuperscript{33}

What has been the contribution of the paramilitary forces in keeping the military out of active politics? We find that after the 1970s, the role of the military in the formulation of security policy gradually declined. It was the same period when the steady expansion of different paramilitary forces began. While the size of the military has not increased much since 1965 war, the size of the paramilitary has increased regularly after 1970. The regular armed forces reached a peak 1.3 million uniformed personnel in the 1960s and remained approximately at the same figure, the strength of different paramilitary forces witnessed a sharp rise particularly after 1980. At present the total strength of paramilitary forces under Central and different State Government is around 9,60,000.\textsuperscript{34} If the strength of India Reserve battalions and civil police of different States are put together the strength is even bigger than the regular armed forces.


\textsuperscript{33} Lt. Gen. A.M. Vohra, n.31.

\textsuperscript{34} Raju G.C. Thomas, n.23, p.115.
We find a definite correlation between the rise in the strength of the paramilitary forces and the increase in the internal security threat. Is it a deliberate policy of the Central government to augment the strength of the paramilitary forces to keep military out of active politics? Stephen P. Cohen argues, “After independence, it was recognised that ‘aid to the civil’ could be damaging to the preparedness of the armed forces. The example of Pakistan (when the army ultimately intervened in central politics after having been repeatedly called out to prop up civilian authority) was noted. These two consideration led to the creation of a massive structure of paramilitary forces which were to serve as a buffer between the regular armed forces and the rough and tumble of domestic disorder.”

After the 1970s, the military’s say in the formulation of defence policy diminished. Around the same time, the decision making structure of internal and external security policy making was clubbed together. This arrangement reduced the participation of the army in the decision making process.

The increasing problems of internal violence and political instability complicate the formulation and conduct of defence policy.

---

The problem arises from the interactive nature of many external and internal security issues and the integrated system of national security. When the internal and external security making bodies are integrated, the areas of participation by the military in decision making bodies become ambiguous.36 The military leaders are supposed to participate in meetings dealing with external security but when internal and external security issues are discussed together the military gets excluded altogether.

Before the 1971 war, the security decision making was directed against threats from external powers, especially China. The Defence Committee of the Cabinet (DCC) was the highest decision making body. The defence ministers committee (DCC) and the Chief of the Staff Committee (CSS) were the second and third in the hierarchy. The purpose of the three interactive committees was to bring together political, bureaucratic and military leaders to assess the threat to the security of India and formulate appropriate policy. In the mid 1970s, the DDC became the Cabinet Committee on Political Affairs (CCPA) and the DMC became the Defence Planning Committee (DPC).

Whereas the DDC had included only some Cabinet Ministers connected with defence, the CCPA included the Prime Minister, the

Finance Ministers. Other Ministers could also participate from time to time depending on the requirement. Earlier, there was a practice to invite the Chief of all three Services, the Defence Secretary, and the Financial Advisor (Defence) into the CCPA meeting to seek on the spot professional advice, but gradually this practice has been done away with.\textsuperscript{37} From the military point of view, the most serious problem with the new Committee was the reduced participation of the armed forces. Lt. General S.K. Sinha points out, "though the Chiefs of the Services were technically expected to attend the meetings of the CCPA these occasions have invariably got fewer because the Committee is also involved with a host of other problems which are not connected with defence."\textsuperscript{38} This led to a situation where Service Chiefs are often not invited even when defence issues are being discussed. Instead, the Services are often represented by the Defence Secretary and direct military inputs to the final decision making body were thus eliminated.\textsuperscript{39}


\textsuperscript{39} Raju G.C. Thomas, n.23, p.116.
The DMC was replaced by the DPC in 1978. It is chaired by the Cabinet Secretary, the Secretary to the PM, the Secretaries of Defence, Defence Production, the Foreign Secretary, the Finance Secretary, and the Secretary to Planning Commission. The overwhelming presence of civilian bureaucrats in this committee reduces the military inputs at this level also. Moreover, the DPC does not provide any direct interaction between Service Chiefs and the Defence Minister which the DMC had provided. In fact, even the Defence Minister’s say was reduced because the Cabinet Secretary reports directly to the PM. Thus, while the Service Chiefs can discuss matters of inter-service concerns, their participation and direct input into security policy has been reduced gradually over the years.40

III. The Paramilitary Forces in India’s Federal Polity

The above discussion shows that the Central government, by attaching great importance to the issue of internal security, has assumed massive powers. This has resulted in an unprecedented growth of paramilitary forces. When viewed against the fact that the maintenance of internal security is the responsibility of various State governments, this raises certain pertinent questions. Under what circumstance does the Central government intervene in the

40 Ibid.
jurisdiction of State governments? What are the areas of contention between the Central and State governments as far as the deployment of the paramilitary forces is concerned? Have the State police organisations failed to deliver their constitutional obligation to maintain internal order? Is centralised policing the answer to local problems?

The paramilitary forces are deployed to provide assistance to State governments. But we have certain examples where the Central government used these forces suo motu. This not only created tension between the Centre and the concerned State but also raised certain important constitutional questions.

In 1968, at the time of the Central governments employees' strikes in Kerala, the Centre sent the CRPF for protection of its offices and property there. No consent of the State government was sought. The Chief Minister, E.M.S. Namboodiripad, considered the Center's action as encroachment upon the State's jurisdiction. The Union Home Minister Y.B. Chavan argued that the attitude of the State government towards the problem of maintaining law and order in connection with the agitation of government employees had left no option but to deploy the CRPF without previous intimation of the
State government. More serious Centre-State confrontations occurred when, on March 24 1969, the CRPF fired at a mob in the Durgapur steel plant in West Bengal, in which sixty people were injured. Reacting to the incident, the West Bengal government demanded immediate withdrawal of the CRPF from the State, on the ground that the maintenance of law and order, including the protection of the property of the Central government, was within the constitutionally delimited jurisdiction of the State government. Relations between the Centre and West Bengal further deteriorated as a result of Cossipore firing in April 1969. As a protest against firing on the workers by the security guards of the Cossipore Gun and Shell factory, there was a call for Bengal bandh. The West Bengal government supported the bandh. The Central government criticised this move saying that the State government did not take effective measures to prevent or to deal with any interference with the various Central government agencies.

Though the above incidents were not of great significance in terms of the national security, they raised the question about the

---


42 Ibid.

43 The Statesmen (Calcutta), 12, April 1969.
Centre's use of paramilitary forces without the consent of the State government. Both the Administrative Reform Commission and the Commission on Centre-State Relations (Sarkaria Commission) deliberated on this issue at length. In the view of the Administrative Reform Commission, "The CRPF and the BSF are armed forces raised by the Union to meet the need of the security of the country both external and internal. In the circumstances, the use of the armed police of the Union in aid of the civil power of a State is perfectly constitutional. It is also clear that such aid can be provided at the request of the State government or suo motu. The question whether such aid is needed must obviously be a matter of judgement by the Centre." Deposing before the Commission on Centre-State Relations the Union Home Ministry argued, "The Union government has a duty and, therefore, the responsibility expressly imposed on it to protect every State against external aggression and internal disturbance vide Article 355. In substance, this duty is to maintain the unity and integrity of India. The Union government is expected to use its armed forces for the discharge of this responsibility and if the situation so demands, may do so suo motu, even if there is no request from the State government. If the consent of the State government for such

---

deployment were to be made a precondition, the Union government would not be able to discharge its duty under Article 355".45

The State governments, on the other hand, firmly held that Article 355 cannot be construed or interpreted in any way so as to mean that the Union government has been allowed by the Constitution to assume direct control over the law and order machinery in any State. This article, in fact, imposes a duty on the Union government to ensure that the armed forces at its disposal are made available to State governments. Suo motu deployment of the CRPF or the BSF goes against the constitutional scheme of the distribution of powers under Article 246, which lists 'public order' and 'police' as State subjects. Hence, the Union government has no jurisdiction to interfere in the State police administration without the expressed consent of the State government concerned.46

The Sarkaria Commission, while interpreting the scope of the Article 355, says that the Union government is bound to intervene to protect every State from external aggression as well internal disturbance. However, an ‘internal disturbance’ is far more serious than ‘public disorder’. It is domestic chaos that endangers the security of the state or paralyses administration in a large area of any

46 Ibid., pp.191-214.
State. If the State government is unwilling to suppress an 'internal disturbance' or refuses to seek the aid to the armed forces of the Union, the latter may deploy its armed forces suo motu to deal with the disturbance and restore public order.47

It is clear, therefore, that if the Centre is convinced that a grave situation exists, it can intervene on its own. But on 6 December 1992, in Ayodhya, Article 355 was not invoked despite that fact that a serious situation existed, Babri Masjid was demolished with serious ramifications.

It was not that the Centre was not aware of the seriousness of the situation. Before 6 December 1992, the Union Home Minister informed the Parliament that the government was fully prepared to meet any eventuality and, if needed, Article 355 would be invoked.48 Accordingly, around 20,000 paramilitary forces were mobilised to be deployed at Ayodhya. It was the largest mobilisation of the paramilitary forces after independence.49 The possibility of imposing the President rule under the Article 356 was also contemplated. But on 6 December, the Centre decided not to intervene. Several reasons were cited for this decision. First, the State Government did not ask

47 Ibid., p.197.
49 Ibid., p.363.
for any help. Secondly, if the Centre intervened, there was a possibility of a bloodbath, because lakhs of people were assembled around the mosque. The possibility of an armed confrontation between the Central forces and the Uttar Pradesh Provincial Armed Constabulary (PAC) which had a sympathetic attitude towards the kar sevaks. Certainly, the UP government took a political decision not to ask for Central help.

The Ayodhya episode exposed many loopholes in the internal security decision-making structure in a crisis situation. A lot of Central agencies were involved in the decision making including the Prime Ministers Office (PMO), the Home Ministry, the Cabinet Secretariat, the Intelligence Bureau and the paramilitary organisations. Apart from this, a host of other Ministers were involved. Madhav Godbole, who was the Union Home Secretary at that time wrote, “The Ayodhya matter hardly even went to a full Cabinet discussion. During the three months preceding the 6 December debacle, most of the CCPA meetings were informal which led to a lot of confusion... the Home Minister was very unhappy that the various other Ministers were being asked by the PM to deal with

\[80\text{ Ibid., p.387.}\]
\[81\text{ Ibid.}\]
Ayodhya matters while he was kept completely in the dark”.\textsuperscript{62}

The involvement of various agencies without proper accountability led to a situation where conflicting views kept emerging till the last moment and the proper assessment of the situation could not be made. It also manifested the absence of a well structured decision making body which led to ad-hoc responses till the last moment.

So far, we have discussed that though the Center has opted for a centralised framework to deal with internal challenges, the gray areas in the Centre-State relationship provides enough room for interpretation of various situations differently. As a result, we find the Central government invoking constitutional provisions selectively. Thus, while in the Ayodhya episode the Uttar Pradesh Chief Minister was held responsible, the Central government claimed after the West Bengal and Kerala episodes, as discussed above, that the Constitution gave it the mandate to deploy paramilitary forces suo motu. Much of this confusion stems from the fact that the terms ‘internal disturbance’, ‘public order’ ‘law and order’ are open to different interpretations.

Justice M.Hidayatullah of the Supreme Court of India, attempted to define these terms in Arun Ghosh versus the State of

\textsuperscript{62} Ibid., p.381.
West Bengal case. Justice Hidayatullah observed that, "The true test for determining whether acts are connected with 'public order' or with 'law and order' is not each individual act by itself but its potentiality, and if these acts have the effect of disturbing the even tempo of the life of the community of that specified locality, then those acts relate to 'public order' and not to 'law and order'. It is the 'degree of disturbance' and its effect upon the life of the community in the locality which determines whether a disturbance amounts only to breach of 'public order'. In one case, it might affect specific individuals only and, therefore, touches the problem of law and order only, while in another it might affect public order."

Further, in the case of Ram Manohar Lohia versus the State of Bihar, Justice Hidayatullah elaborated the concept further. He held that one has to imagine concentric circles with law and order representing the largest circle within which falls the next circle representing the public order and the smallest circle representing the security of the state. The maintenance of law and order means the prevention of disorder of comparatively lesser gravity and of local significance."

---

This definition lays emphasis on the intensity of an act of violence and its impact on a particular community or a larger area. For example, if a communal violence is stopped at the early stage, it is a 'law and order' problem. If that violence breaks out and causes damage to life and property in a particular area, it will be termed 'public disorder'. And if that violence spreads to other parts of the State or to other States, it becomes a threat to the security of the state. The paramilitary forces enter at the second stage because the local police, by that time, realise that they cannot stop the violence. Their inability to stop the violence leads them to seek the assistance of the paramilitary forces. Even when these forces enter the scene, they work under the control of local authorities. Therefore, the capability of the local administration to deal with any act of violence has a bearing on the demand for and the use of the Central police forces. In other words, the growth and increasing deployment of the paramilitary forces are a function of the ability of the local authority to maintain law and order.

On the other hand, what we have witnessed, over the years, is that the reliance on the paramilitary forces has increased and they are, at present, being deployed even for normal law and order duty. This implies that the capability of local police to discharge their constitutional obligation to maintain public order has diminished over the years. They have not been able to cope with the rising level
of violence in the society. One reason is that when the Constitution makers conferred the responsibility of the maintenance of law and order to State authorities, the scope of law and order was very limited. It envisaged, largely, prevention and investigation of crime and dealing with violent mobs. At present, India is faced with, as N.N. Vohra says, "highly motivated and trained terrorist groups which deploy state-of-the-art weaponry, including remote controlled gadgets of destruction. The state police forces do not possess the required capability and resources to deal with the proxy war situation."^85

Sufficient attention was not paid to improve the capability of the local police, and gradually it became a demoralized force. To quote N.N. Vohra, the former Home Secretary of the Government of India: while the Union Home Ministry has been providing technical guidance for upgradation and modernisation of State.

"While the Union Home Minister has been providing technical guidance for upgradation and modernisation of State Police, the sad reality is that barring one or two States, almost all the constabularies and the officer cadres of most States have been politicised and communalised. There is continuous political and extra legal interference in the functioning of the police that has led to the ruination of the command and control structures. Political interference in recruitment has compromised the prescribed educational and physical fitness of those enlisted. The training, appointment and promotion of personnel has also been adversely affected. Even the higher

appointments, including those of State Directors-General of Police, are invariably influenced by considerations of caste, community and politics, thus abandoning the system of seniority, competence, professionalism and proven integrity. The appointment of pliable commanding officers has resulted in the loss of morale, indiscipline and unreliability of forces in crises.\textsuperscript{66}

If we view this decline in the orientation, capability and resultant performance of the local police against the simultaneous increase in the strength and the use of the paramilitary forces, one thing emerges strongly that the local imitative to deal with the internal security problems has diminished further. This has resulted in further neglect of the local police. The Centre has, at its disposal, well organised, trained and equipped forces to be used for various purposes. So, this decline in the local police does not appear to be alarming. The State authorities have also developed a tendency to rely on the Central forces even when they are capable to deal with a situation. As K.F. Rustamji points out, "the State police generally have developed an attitude of complete dependence on the CRPF. A certain ambivalence has also appeared as a consequence. They lean towards politics, neglect the basics of policing, refuse to take preventive action, try to placate political and mafia leaders and then, when the matter goes out of control, they ask for the CRPF to come and put the situation right with the use of force which ought to have

\textsuperscript{66} Ibid., p.60.
been applied much earlier.\textsuperscript{67} The local authorities, if the Central forces are available, do not try other methods to handle the situation. The National Police Commission has noted this tendency: "Far too often, more police force is requisitioned than absolutely necessary. The District Superintendent of Police tries to play safe and the superior officials also find it expedient to fall in line. The tendency to over deploy the force needs to be checked".\textsuperscript{68}

This overdeployment affects the paramilitary forces badly. It means continuous rotation from one station to another with little time for rest and recreation. Long absences from home and family and living in hostile stations such as Punjab or Jammu and Kashmir or other areas means not only great physical but also mental disorders.\textsuperscript{69} This overdeployment also results in diversification of roles of various paramilitary forces. Due to the shortage of the CRPF, the BSF and ITBP have been deployed for various internal security duties. These duties are not their original role. Frequent deployment for internal security duty affects the BSF's and the ITBP's capability to perform their roles of border security.


\textsuperscript{68} Quoted in Ved Marwah, "Army Has to be Used to Combat Terrorism", The Hindustan Times, New Delhi, 2 March 1992.

\textsuperscript{69} Madhav Godbole, n.46, p.316.
Thus, any effective planning for internal security needs to emphasise the role of local police in prevention and containment of local conflicts. On account of their familiarity with the area and population, the local police can take a lot of preventive action and initiate various confidence building measures in the society, particularly in communally sensitive areas. By proper intelligence gathering, they can anticipate trouble and identity the trouble makers. An effective and responsive local administration can be an effective instrument in terrorism and in insurgency prone areas also because no terrorist movement can ever be built up on the spur of the moment. It takes time to strengthen a terrorist's base by systematically working out strategy and exploiting the sentiments of the masses to advantage. Such activities would naturally catch the attention of the police which is professionally competent and has its own network to cover these groups.

In counterinsurgency and anti-terrorist operations also, effective co-operation from the local police is essential. On many occasions when the paramilitary forces are deployed on insurgency duties, they feel like strangers in an alien land without adequate knowledge of the topography, demographic features, and language of the area where they have to operate.\textsuperscript{60} They lack operational and

\textsuperscript{60} Shankar Sen, \textit{Indian Police Today}, (New Delhi; Ashish Publishing House, 1994), P.60.
actionable intelligence like the key activists of the movement, arms caches, possible hideouts, communication systems, main collaborators, supporters and so on. In this area, they have to depend on the local police.

In fact, counterinsurgency operations require coordination between different arms of the government, types of security forces operating in the area and the local administration. Each part has its own importance and will contribute to the achievement of overall strategic goals. Use of force plays only a limited role. The emphasis should be on identification of the root cause of the problem, which is often a political one. And the local administration can play an important role in this strategy. The paramilitaries should be called upon only in an emergency.

The above discussion points to the need for increasing initiative at the local level to deal with the problem of violence. In a true federal polity, the State level and District level inputs to the policy initiative taken by the Centre need to be enhanced. In addition, the preventive aspect of the strategy should be given more importance. There is need to improve decentralized internal security planning. The first step towards this approach should be to strengthen local police structures.
IV. Conclusion

A number of paramilitary forces were raised after independence, at different point of time, to meet specific challenges. Initially, their role in India’s democratic polity was very limited because the maintenance of law and order is the responsibility of State governments. Gradually, these forces acquired centre-stage in India’s internal security planning. They expanded at a phenomenal rate, and their use became more frequent. This happened for two reasons. First, over the years, particularly after the 1970s, the Indian state assumed massive powers and the resultant centralisation contributed to the growth of the paramilitary forces. Secondly, the local law enforcing agencies were neglected and they could not cope with the changing nature of internal security threats. The increasing reliance on the paramilitary forces helped preserve the overall democratic structure of the Indian polity because their presence kept the military, to a great extent, out of domestic problems. Though democracy survived in India, gradual erosion of democratic institutions was visible as a result of centralisation and increasing reliance on the instruments of force.

Paramilitary forces are specialised agencies. They cannot replace the local law enforcing agencies. The importance of local initiatives in dealing with challenges to internal security needs to be
emphasised. The local law enforcing agencies, if properly trained, can take a lot of preventive measures and can initiate confidence building measures in troubled area that can reduce the possibility of a small conflict developing into a bigger one. The Indian paramilitary forces have a role but should be used only in an emergency.