

26/11

MUMBAI

An E Digest of selected articles on terror attack on Mumbai



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Introduction

The attack on Mumbai (26/11 2008) has been a tragedy of extremely severe proportions. It not only shook the people of Mumbai but also the country as a whole. Its repercussions have been on the politics in South Asia.

Terrorism as such has been dominating the political scene from last few decades, more so after the dastardly attack on World Trade Center on 9/11, 2001. While the official version of the act has come under severe questioning, all the same this event was used by United States to further its goal of controlling the oil wealth in the West Asia. It led to a chain of events leading to the invasion of Afghanistan and occupation of Iraq by US. This resulted in total misfortune on the people of Iraq, one symbol of that came in the form of Muntadhar al-Zaidi, an Iraqi journalist hurling his shoes at George Bush. (December 2008).

The Al Qaeda which was blamed for the 9/11 has a long history and as its deeds came to surface, one came to know in due course that it was formed by US itself to fight the Russian armies in Afghanistan. The word, Islamic Terrorism was constructed by the US media and was uncritically picked up by global media. The meanings of words Jihad and Kafir were modified to suit the indoctrination module developed by US to train the terrorists in the Madrassa especially set up in Pakistan. It is the left over of these groups which have played havoc in South Asia, Kashmir and parts of India in particular.

As such terrorism has been also been the major expression of ethnic-national aspirations of few regions in the World, Kashmir, North East, Sri Lank (Jafana) and Ireland (Irish Republican Army). There have been attacks of terror after the gross injustices committed on sections of society during communal carnages, after post Babri demolition Mumbai violence and after Gujarat carnage of 2002. The worst political sin of current times has been the US propaganda identifying terrorism with Islam and Muslims. The theory of Clash of civilizations, which formed the ideological ground of attack on Muslim countries in the West Asia, has been the hallmark of US policy after the collapse of Soviet Socialist State. Israel and its terrorizing policies in the West Asia have been adjuncts of the US Imperial designs.

Here in India, the acts of terror by Al Qaeda type groups were worst compounded by the acts of terror done by RSS affiliates, Bajrang Dal, its plants in Bhonsla Military School and what have you. Starting from April 2006 Nanded blast where two Bajrang Dal workers lost their lives while making bombs, innumerable instances of involvement of RSS in the acts of terror came to surface but were not pursued to their logical conclusion as the investigating authorities were working on the ground that all terrorists are Muslims.

The matters changed when an upright ATS officer from Maharashtra, Hemant Karkare, ignored this formulation and doggedly pursued the links and leads of Malegaon blast. The

evidence collected by him showed the involvement of Sadhvi Pragya Singh Thakur, Swami Dayanand pander, Lt Col Prasad Shrikant Purihit and Rtd Major Upadhayay in the Malegaon blasts. The investigation of the Malegaon blasts and other blasts invited the ire of RSS affiliates and they threw abuses on Hemant Karkare.

In the context of Mumbai tragedy many thought provoking articles have been published. These highlight most of the facets of the problem, the phenomenon of terrorism, the state and social response to the same, the Government rushing to formulate new law giving more powers to investigating authorities, the investigation into terror attacks, the events building up to the terror attack and even the war cry against our neighbor, who herself is the victim of this phenomenon in equal measure. What is important at this juncture is the joint efforts by India and Pakistan to root out the phenomenon from the sub continent, to investigate the terror attack and to pursue the investigations in to Malegaon blasts.

It is also imperative that we have a broader and long term vision of Peace and opposition to Imperial designs of US, to restore the political/moral authority of UN with more emphasis on democracy amongst nations and to strengthen the global democratic process.

We wish to bring out such E digests for social activists to give them all the material for their mulling over and making up their minds on various issues in the struggle against the rising communalism and the threat of fascism.

Ram Puniyani, Shabnam Hashmi

Terror : The Aftermath

Anand Patwardhan

November 2008

The attack on Mumbai is over. After the numbing sorrow comes the blame game and the solutions. Loud voices amplified by saturation TV: Why don't we amend our Constitution to create new anti-terror laws? Why don't we arm our police with AK 47s? Why don't we do what Israel did after Munich or the USA did after 9/11 and hot pursue the enemy? Solutions that will lead us further into the abyss. For terror is a self-fulfilling prophecy. It thrives on reaction, polarization, militarization and the thirst for revenge.

The External Terror

Those who invoke America need only to analyze if its actions after 9/11 increased or decreased global terror. It invaded oil-rich Iraq fully knowing that Iraq had nothing to do with 9/11, killing over 200,000 Iraqis citizens but allowing a cornered Bin Laden to escape from Afghanistan. It recruited global support for Islamic militancy, which began to be seen as a just resistance against American mass murder. Which begs the question of who created Bin Laden in the first place, armed the madarsas of Pakistan and rejuvenated the concept of Islamic jihad? Israel played its own role in stoking the fires of jihad. The very creation of Israel in 1948 robbed Palestinians of their land, an act that Mahatma Gandhi to his credit deplored at the time as an unjust way to redress the wrongs done to Jews during the Holocaust. What followed has been a slow and continuing attack on the Palestinian nation. At first Palestinian resistance was led by secular forces represented by Yasser Arafat but as these were successfully undermined, Islamic forces took over the mantle. The first, largely non-violent Intifada was crushed, a second more violent one replaced it and when all else failed, human bombs appeared.

Thirty years ago when I first went abroad there were two countries my Indian passport forbade me to visit. One was racist South Africa. The other was Israel. We were non-aligned and stood for disarmament and world peace. Today Israel and America are our biggest military allies. Is it surprising that we are on the jihadi hit list? Israel, America and other prosperous countries can to an extent protect themselves against the determined jihadi, but can India put an impenetrable shield over itself? Remember that when attackers are on a suicide mission, the strongest shields have crumbled. New York was laid low not with nuclear weapons but with a pair of box cutters. India is for many reasons a quintessentially soft target. Our huge population, vast landmass and coastline are impossible to protect. The rich may build new barricades. The Taj and the Oberoi can be made safer. So can our airports and planes. Can our railway stations and trains, bus stops, busses, markets and lanes do the same?

The Terror Within

The threat of terror in India does not come exclusively from the outside. Apart from being hugely populated by the poor India is also a country divided, not just between rich and poor, but by religion, caste and language. This internal divide is as potent a breeding ground for terror as jihadi camps abroad. Nor is jihad the copyright of one religion alone. It can be argued that international causes apart, India has jihadis that are fully home grown. Perhaps the earliest famous one was Nathuram Godse who acting at the behest of his mentor Vinayak Savarkar (still referred to as "Veer" or "brave" although he refused to own up to his role in the conspiracy), murdered Mahatma Gandhi for the crime of championing Muslims.

Jump forward to 6th December, 1992, the day Hindu fanatics demolished the Babri Mosque setting into motion a chain of events that still wreaks havoc today. From the Bombay riots of 1992 to the bomb blasts of 1993, the Gujarat pogroms of 2002 and hundreds of smaller deadly events, the last 16 years have been the bloodiest since Partition. Action has been followed by reaction in an endless cycle of escalating retribution. At the core on the Hindu side of terror are organizations that openly admire Adolph Hitler, nursing the hate of historic wrongs inflicted by Muslims. Ironically these votaries of Hitler remain friends and admirers of Israel.

On the Muslim side of terror are scores of disaffected youth, many of whom have seen their families tortured and killed in more recent pogroms. Christians too have fallen victim to recent Hindutva terror but as yet not formed the mechanisms for revenge. Dalits despite centuries of caste oppression, have not yet retaliated in violence although a small fraction is being drawn into an armed struggle waged by Naxalites.

It is clear that no amount of spending on defense, no amount of patrolling the high seas, no amount of increasing the military and police and equipping them with the latest weaponry can end the cycle of violence or place India under a bubble of safety. Just as nuclear India did not lead to more safety, but only to a nuclear Pakistan, no amount of homeland security can save us. And inviting Israel's Mossad and America's CIA/FBI to the security table is like giving the anti-virus contract to those who spread the virus in the first place. It can only make us more of a target for the next determined jihadi attack.

Policing, Justice and the Media

As for draconian anti-terror laws, they too only breed terror as for the most part they are implemented by a State machinery that has imbibed majoritarian values. So in Modi's Gujarat after the ethnic cleansing of Muslims in 2002, despite scores of confessions to rape and murder captured on hidden camera, virtually no Hindu extremists were punished while thousands of Muslims rotted in jail under draconian laws. The same happened in Bombay despite the Shiv Sena being found guilty by the Justice Shrikrishna

Commission. Under pressure a few cases were finally brought to trial but all escaped with the lightest of knuckle raps. In stark contrast many Muslims accused in the 1993 bomb blasts were given death sentences.

The bulk of our media, policing and judicial systems swallows the canard that Muslims are by nature violent. Removing democratic safeguards guaranteed by the Constitution can only make this worse. Every act of wrongful imprisonment and torture that then follows is likely to turn innocents into material for future terrorists to draw upon. Already the double standards are visible. While the Students Islamic Movement of India is banned, Hindutva outfits like the RSS, the VHP, the Bajrang Dal, and the Shiv Sena remain legal entities. The leader of the MNS, Raj Thackeray recently openly spread such hatred that several north Indians were killed by lynch mobs. Amongst these were the Dube brothers, doctors from Kalyan who treated the poor for a grand fee of Rs.10 per patient. Raj Thackeray like his uncle Bal before him, remains free after issuing public threats that Bombay would burn if anyone had the guts to arrest him. Modi remains free despite the pogroms of Gujarat. Congress party murderers of Sikhs in 1984 remain free. Justice in India is clearly not there for all. Increasing the powers of the police cannot solve this problem. Only honest and unbiased implementation of laws that exist, can.

It is a tragedy of the highest proportions that one such honest policeman, Anti-Terrorist Squad chief Hemant Karkare, who had begun to unravel the thread of Hindutva terror was himself gunned down, perhaps by Muslim terror. It is reported that Col. Purohit and fellow Hindutva conspirators now in judicial custody, celebrated the news of Karkare's death. Until Karkare took charge, the Malegaon bomb blasts in which Muslims were killed and the Samjhauta Express blasts in which Pakistani visitors to India were killed were being blamed on Muslims. Karkare exposed a hitherto unknown Hindutva outfit as masterminding a series of killer blasts across the country. For his pains Karkare came under vicious attack not just from militant Hindutva but from the mainstream BJP. He was under tremendous pressure to prove his patriotism. Was it this that led this senior officer to don helmet and ill-fitting bullet proof vest and rush into battle with a pistol? Or was it just his natural instinct, the same courage that had led him against all odds, to expose Hindutva terror?

Whatever it was, it only underlines the fact that jihadis of all kinds are actually allies of each other. So Bin Laden served George Bush and vice-versa. So Islamic and Hindutva jihadis have served each other for years. Do they care who dies? Of the 200 people killed in the last few days by Islamic jihadis, a high number were Muslims. Many were waiting to board trains to celebrate Eid in their hometowns in UP and Bihar, when their co-religionists gunned them down. Shockingly the media has not commented on this, nor focused on the tragedy at the railway station, choosing to concentrate on tragedies that befell the well-to-do. And it is the media that is leading the charge to turn us into a war-mongering police state where we may lead lives with an illusion of safety, but with the certainty of joylessness.

I am not arguing that we do not need efficient security at public places and at vulnerable sites. But real security will only come when it is accompanied by real justice, when the principles of democracy are implemented in every part of the country, when the legitimate grievances of people are not crushed, when the arms race is replaced by a race for decency and humanity, when our children grow up in an atmosphere where religious faith is put to the test of reason. Until such time we will remain at the mercy of "patriots" and zealots.

As The Fires Die :

The Terror of The Aftermath

By Biju Mathew
06 December, 2008

Samar Mag

As the smoke lifts from Mumbai, skepticism must prevail over those conjectures which support the official state narrative. It is crucial to increase the pressure for transparency and accountability at this moment to ensure that India doesn't slide into the same state as post-9/11 USA.

The deaths continue even as I write this. The death toll stands at 195. And of the several hundred injured some may not survive. It is now official. The siege is over. The last of the gunmen inside the Taj Hotel has been shot dead. The other targets - the Leopold Cafe (a popular tourist hangout), the CST railway terminus (also called the Victoria Terminus), the Metro Cinema, the Cama Hospital, all seem to be targets the gunmen attacked as they zoned in on the hotels and Nariman House. In the end this has become a story of two sets of men with guns.

The human story of the innocents who died, the hotel staff who kept their cool and moved guests around the hotel through the service entryways and exits, those who helped each other escape, will not really make it to the headlines. The maintenance worker at the Oberoi who shielded guests and took the bullets in his stomach will remain unsung. The hospital orderlies who ran in and out with stretchers carrying the wounded - each time not knowing if they will make it back themselves to the ambulance, will not be noted. The several trainee chefs at the Taj who fell to bullets even as other kitchen workers escorted guests away from the firing and hid them inside a private clubroom will not be written up in the book of heroes. The young waiter at Leopold who was to leave to work in a Cape Town restaurant will soon be forgotten. The two young men who dragged an Australian tourist shot in the leg away from the Leopold entrance and carried her to a taxi will not even identify themselves so that she can thank them. These stories, in as much as they are told, will remain on the lips of only the workers, the guests and the tourists who helped each other. The officials will try and produce a clean story to tell the world. And we know the clean story is untrue.

The official story that has already begun to emerge is one that may have some facts embedded in it. But we must remember that between every two facts is a lot of conjecture. The conjectures that unite the few facts (16 gunmen, AK47s, grenades, passports of multiple nationalities, boats on which at least some of them arrived, a dead Anti-Terror Squad (ATS) chief, Hemant Karkare, who was heading the investigation

against the Hindu Right wings' terror campaign, the gunmen trying to identify British and American citizens) makes the story. The story then is as much a product of the conjecture as it is of the facts. And there are certain stories that we are already oriented towards. The conjectures that create that story - the story we are already prepared for - is the one the State will dole out for our consumption. Already the conjectures that will serve the State, are out there in great profusion.

Several reporters have noted that the gunmen were clean-shaven, dressed in jeans and T-shirts. The silent conjecture is that they were expecting and were surprised by the fact that these men did not have beards and did not sport the Muslim prayer cap. Every newspaper worth its salt - the Times of India, the Jerusalem Post, the Independent from the UK, among scores of others - have already run commentary on the unsecured coastline of India. The conjectural subtext is that securing the coastline is possible and if India had done so, this attack would have been prevented.

There is also a quick labeling going on -- India's 9/11. The subtext is that India could and should act as the US did after 9/11 - decisively and with great aggression. There is also the subtext that the Indian State is soft on terror that adds to the US-tough-on-terror contrast. Sadanand Dhume, writing in the Wall Street Journal, has castigated the Indian government for withdrawing the Prevention of Terrorism Act (POTA) and for preventing states like Gujarat from passing their own version of the draconian worse-than-Patriot Act legislations. Neither Mr. Dhume, nor the several reporters who will now write stories about how the POTA repeal represents the Indian State's soft attitude towards terror will ever feel the need to explain how POTA could have prevented this attack.

The dead are on the floor. The vultures are moving in. The conjecture will try to unite the country into a series of unexamined positions. That POTA must be recalled. That States must be allowed to pass even more draconian laws. That Hindu terror is not a big issue and must be forgotten for now - especially now that we may not find an honest policeman or woman to head the ATS. That the defense budget must go up. That the coastline must be secured.

None of the well educated masters of the media will write that the 7000 odd kilometer coastline cannot be protected - that all it will translate to is billions in contracts for all and sundry including Israeli and American consultants. Nobody will write that a hundred POTAs will not prevent a terror attack like this one; that Guantanamo Bay has not yielded a single break through. Nobody will write that higher defense budgets have been more often correlated with insecure and militarized lives for ordinary citizens. Nobody will write that almost without exception all of US post-9/11 policies have been disasters. Bin Laden is still around, I am told and so is the Al Qaeda. The number of fundamentalist Christians, Muslims, Hindus and Jews have probably gone up over the last decade. So much for good policy. But the conjecture will go on.

The foreign hand and its internal partner will be floated without ever naming anything precise. But the country will read it just as it is meant to be read - Pakistan and the Indian

Muslim. Everything will rest on the supposed confession of the one gunman who has been captured. A Pakistani from Faridkot, I am told. Why should we believe it? Didn't the same Indian State frame all the supposed accomplices in the Parliament attack case? Didn't the same Indian State claim that the assassins of Chattisinghpura were from across the border until that story fell apart? And more recently, didn't the same Indian State finally agree that all the accused in the Mecca Masjid bombings were actually innocent? And even if Mr. Assassin supposedly from Faridkot did say what he did say - why should we believe him? Why is it so difficult to believe that he has his lines ready and scripted? If he was willing to die for whatever cause he murdered for, then can he not lie? Oh the lie detector test - that completely discredited science that every militarized State trots out. And the media love the lie detector test because it is the best scientific garb you can give to conjecture.

I certainly don't know the truth. But I do know that there is more than enough reason for skepticism. The problem is that we need a new theory of the State. We need to re-understand the State.

There is such unanimity when it comes to analyzing the Pakistani State - that the ISI, and if not all of the ISI, at least a segment of it, is a rogue element. Furthermore, that its bosses may not be sitting in Islamabad, but perhaps elsewhere in the country or even abroad. If we can accept that about the Pakistani State, why is it so difficult to accept it about the Indian State? We all know that Colin Powell was a kind of a patsy - a fall guy, who trotted out some lies on behalf of a segment of the neo-conservative movement firmly entrenched within the American State (which Obama will not touch). We also know that if the ISI has a rogue element in it, it was in good part created by the CIA. Then why do we think that the same guys couldn't render another State - such as the US - itself hollow from the inside.

The contemporary State is a different being. For every story of money-corruption you hear, there could just as well be one of political-corruption. Every vested interest who locates himself inside the State apparatus is not just a vested interest going after money but could just as well be securing the space for creating a certain politics. The RSS has a long history of trying to take over the bureaucracy, doesn't it? So do the neo-cons and so do the jamaatis. Then why do we believe in a theory of the State that is unified and with liberal goals?

The history of the liberal State and its relationship with capitalism of all types is a simple one. The longer that relationship persists the more corrupt and hollow the liberal State gets, leaving the space open for political ideologies to occupy its very insides. The logic for this is inherent in the very system. If profit is above all, then given the power the State has, it must be bought. Cheney is no different from Shivraj Patil, and Ambani is no different from Halliburton. They are both part of the story of hollowing the State out. And once the hollowing process begins, every ideological force can find its way in, as long as it has resources. The archetypal bourgeois liberal State is over. It never really existed, but

what we have at the end of four decades of neo-liberalism bears no resemblance to the ideal formulation whatsoever. What we have instead is a series of hollowed out States with their nooks and crannies, their departments and offices populated with specific neo-conservative ideological interests. The US has its variant. India has its. And Israel its very own. It is incapable of delivering the truth, and not just the truth, it is only capable of producing lies.

If this story of skepticism makes sense then we have only one choice. To understand that it is crucial to increase the pressure for transparency at this moment, to be relentless in our demand for openness and detail, in our call to ensure that no investigation or inquiry that was in place be halted and that every one of these be subjected to public scrutiny. It is our responsibility to reject the discourse of secrecy based on security and demand specific standards of transparency. What we should demand is that every senior minister and every senior intelligence officer be examined and the records be made available to the public. What we must demand is that an officer of impeccable record be found to replace Hemant Karkare. What we must demand is that we get explanations of how a POTA clone would have stopped this crime. What we must ask is how POTA or the Patriot Act could have ever helped prevent terror? What we must do is support the Karkare family in their demand for a full investigation of his death in the company of the encounter specialist-Salaskar. What we must have is an open debate on every single case of terror over the last decade in India.

When I am in Bombay, I always stay at a friend's on Third Pasta Lane. Each afternoon I would walk out and see the Nariman House. I have wondered what the decrepit building was. I have always contrasted the drabness of the building with the colorful sign on the next building that announces Colaba Sweet House. The next time I won't wonder. I will know that it was one of the places where the drama that inaugurated India's renewed march towards fascism unfolded. Unless we act. Unless we act with speed and determination demanding transparency and accountability and a careful rewriting of the story of terror in India. Only a renewed movement can ensure that India doesn't slide into the same state as post 9/11 USA.

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Hotel Taj : Icon Of Whose India ?

Gnani Sankaran
04 December, 2008

Openspace.org.in

Watching at least four English news channels surfing from one another during the last 60 hours of terror strike made me feel a terror of another kind. The terror of assaulting one's mind and sensitivity with cameras, sound bites and non-stop blabbers. All these channels have been trying to manufacture my consent for a big lie called - Hotel Taj the icon of India. Whose India, Whose Icon ?

It is a matter of great shame that these channels simply did not bother about the other icon that faced the first attack from terrorists - the Chatrapathi Shivaji Terminus (CST) railway station. CST is the true icon of Mumbai. It is through this railway station hundreds of Indians from Uttar Pradesh, Bihar, Rajasthan, West Bengal and Tamilnadu have poured into Mumbai over the years, transforming themselves into Mumbaikars and built the Mumbai of today along with the Marathis and Kolis

But the channels would not recognise this. Nor would they recognise the thirty odd dead bodies strewn all over the platform of CST. No Barkha dutt went there to tell us who they were. But she was at Taj to show us the damaged furniture and reception lobby braving the guards. And the TV cameras did not go to the government run JJ hospital to find out who those 26 unidentified bodies were. Instead they were again invading the battered Taj to try in vain for a scoop shot of the dead bodies of the page 3 celebrities.

In all probability, the unidentified bodies could be those of workers from Bihar and Uttar Pradesh migrating to Mumbai, arriving by train at CST without cell phones and pan cards to identify them. Even after 60 hours after the CST massacre, no channel has bothered to cover in detail what transpired there.

The channels conveniently failed to acknowledge that the Aam Aadmis of India surviving in Mumbai were not affected by Taj, Oberoi and Trident closing down for a couple of weeks or months. What mattered to them was the stoppage of BEST buses and suburban trains even for one hour. But the channels were not covering that aspect of the terror attack. Such information at best merited a scroll line, while the cameras have to be dedicated for real time thriller unfolding at Taj or Nariman bhavan.

The so called justification for the hype the channels built around heritage site Taj falling down (CST is also a heritage site), is that Hotel Taj is where the rich and the powerful of India and the globe congregate. It is a symbol or icon of power of money and politics, not India. It is the icon of the financiers and swindlers of India. The Mumbai and India were built by the Aam Aadmis who passed through CST and Taj was the oasis of peace and

privacy for those who wielded power over these mass of labouring classes. Leopold club and Taj were the haunts of rich spoilt kids who would drive their vehicles over sleeping Aam Aadmis on the pavement, the Mafiosi of Mumbai forever financing the glitterati of Bollywood (and also the terrorists) , Political brokers and industrialists.

It is precisely because Taj is the icon of power and not people, that the terrorists chose to strike.

The terrorists have understood after several efforts that the Aam Aadmi will never break down even if you bomb her markets and trains. He/she was resilient because that is the only way he/she can even survive.

Resilience was another word that annoyed the pundits of news channels and their patrons this time. What resilience, enough is enough, said Pranoy Roy's channel on the left side of the channel spectrum. Same sentiments were echoed by Arnab Goswami representing the right wing of the broadcast media whose time is now. Can Rajdeep be far behind in this game of one upmanship over TRPs? They all attacked resilience this time. They wanted firm action from the government in tackling terror.

The same channels celebrated resilience when bombs went off in trains and markets killing and maiming the Aam Aadmis. The resilience of the ordinary worker suited the rich business class of Mumbai since work or manufacture or film shooting did not stop. When it came to them, the rich shamelessly exhibited their lack of nerves and refused to be resilient themselves. They cry for government intervention now to protect their private spas and swimming pools and bars and restaurants, similar to the way in which Citibank, General Motors and the ilk cry for government money when their coffers are emptied by their own ideologies.

The terrorists have learnt that the ordinary Indian is unperturbed by terror. For one whose daily existence itself is a terror of government sponsored inflation and market sponsored exclusion, pain is something he has learnt to live with. The rich of Mumbai and India Inc are facing the pain for the first time and learning about it just as the middle classes of India learnt about violation of human rights only during emergency, a cool 28 years after independence. And human rights were another favourite issue for the channels to whip at times of terrorism. Arnab Goswami in an animated voice wondered where were those champions of human rights now, not to be seen applauding the brave and selfless police officers who gave up their life in fighting terrorism. Well, the counter question would be where were you when such officers were violating the human rights of Aam Aadmis. Has there ever been any 24 hour non stop coverage of violence against dalits and adivasis of this country?

This definitely was not the time to manufacture consent for the extra legal and third degree methods of interrogation of police and army but Arnabs don't miss a single opportunity to serve their class masters, this time the jingoistic patriotism came in handy to whitewash the entire uniformed services.

The sacrifice of the commandos or the police officers who went down dying at the hands of ruthless terrorists is no doubt heart rending but in vain in a situation which needed not just brawn but also brain. Israel has a point when it says the operations were misplanned resulting in the death of its nationals here.

Khakares and Salaskars would not be dead if they did not commit the mistake of traveling by the same vehicle. It is a basic lesson in management that the top brass should never travel together in crisis. The terrorists, if only they had watched the channels, would have laughed their hearts out when the Chief of the Marine commandos, an elite force, masking his face so unprofessionally in a see-through cloth, told the media that the commandos had no idea about the structure of the Hotel Taj which they were trying to liberate. But the terrorists knew the place thoroughly, he acknowledged.

Is it so difficult to obtain a ground plan of Hotel Taj and discuss operation strategy thoroughly for at least one hour before entering? This is something even an event manager would first ask for, if he had to fix 25 audio systems and 50 CCTVs for a cultural event in a hotel. Would not Ratan Tata have provided a plan of his ancestral hotel to the commandos within one hour considering the mighty apparatus at his and government's disposal? Are satellite pictures only available for terrorists and not the government agencies? In an operation known to consume time, one more hour for preparation would have only improved the efficiency of execution. Sacrifices become doubly tragic in unprofessional circumstances. But the Aam Aadmis always believe that terror-shooters do better planning than terrorists. And the gullible media in a jingoistic mood would not raise any question about any of these issues.

They after all have their favourite whipping boy - the politician the eternal entertainer for the non-voting rich classes of India.

Arnabs and Rajdeeps would wax eloquent on Nanmohan Singh and Advani visiting Mumbai separately and not together showing solidarity even at this hour of national crisis. What a farce? Why can't these channels pool together all their camera crew and reporters at this time of national calamity and share the sound and visual bytes which could mean a wider and deeper coverage of events with such a huge human resource to command? Why should Arnab and Rajdeep and Barkha keep harping every five minutes that this piece of information was exclusive to their channel, at the time of such a national crisis? Is this the time to promote the channel? If that is valid, the politician promoting his own political constituency is equally valid. And the duty of the politician is to do politics, his politics. It is for the people to evaluate that politics. And terrorism is not above politics. It is politics by other means.

To come to grips with it and to eventually eliminate it, the practice of politics by proper means needs constant fine tuning and improvement. Decrying all politics and politicians, only helps terrorists and dictators who are the two sides of the same coin. And the rich and powerful always prefer terrorists and dictators to do business with.

Those caught in this crossfire are always the Aam Aadmis whose deaths are not even mourned - the taxi driver who lost the entire family at CST firing, the numerous waiters and stewards who lost their lives working in Taj for a monthly salary that would be one time bill for their masters.

Postscript: In a fit of anger and depression, I sent a message to all the channels, 30 hours through the coverage. After all they have been constantly asking the viewers to message them for anything and everything. My message read: I send this with lots of pain. All channels, including yours, must apologise for not covering the victims of CST massacre, the real mumbaikars and aam aadmis of India. Your obsession with five star elite is disgusting. Learn from the print media please. No channel bothered. Only Srinivasan Jain replied: you are right. We are trying to redress balance today. Well, nothing happened till the time of writing this 66 hours after the terror attack.

Why the United States got it wrong

P. Sainath

It is worth learning this: Al-Qaeda was the biggest beneficiary of the "response" of the United States to 9/11 alongside U.S. corporations. America's "War on Terror" produced far more terrorism in the world than there had been prior to that response.

Of all the arguments making the rounds after the appalling slaughter of 180 people in Mumbai, the worst is this: that India should learn from the United States about how to respond to such terror. "Look at the USA," goes the refrain, "after 9/11 has there been another attack on U.S. soil?" In short, Washington's measures after that tragedy were so effective, nobody ever bothered them again. This knocks at the doors of insanity. The U.S. " ;response" does stand out as worth learning from. There is very little it did not get wrong.

Around 3,000 people lost their lives in the dreadful attacks on the World Trade Centre in New York on 9 /11. America's response was to go to war. It launched two wars, one of against a country that had not a single link to the events of 9/11. Close to a million human beings have lost their lives in that response. That includes 4,000 U.S. troops in Iraq and nearly 1,000 in Afghanistan. That is apart from several hundred thousand Iraqis losing their lives. Countless Afghans die each month, as one of the world's poorest states sinks deeper into devastation. (Afghanistan, for U.S. liberals, is "the good war.") Millions have suffered dislocation and deprivation in the region.

\$ 3 trillion-war

Nobel Laureate Joseph Stiglitz estimates that the Iraq war is costing the United States \$ 3 trillion in all. (About three times India's GDP.) Good news for American corporations that make a killing every time there is large-scale killing, but not of much use to ordinary Americans. With the U.S. economy in awful crisis, those costs are haemorrhaging. The war in Iraq was launched with "intelligence" findings on "weapons of mass destruction (WMDs)" being stockpiled in that country. And on the ground that Baghdad was linked to 9/11. This was the excuse for the "response." Both claims proved false. At the time, the US media played a huge role -- its response -- in planting fabricated WMD stories. That helped launch perhaps the most destructive conflict of our time. American costs also include tens of thousands wounded, injured and ill soldiers. With over 100,000 US soldiers "returning from the war suffering serious mental health disorders, a significant fraction of which will be chronic afflictions." (Stiglitz: "The Three Trillion Dollar War."). Besides, the war meant huge spending cuts at home. At the time of writing, California, the largest of American states, is mulling massive cuts. "Its budget deficit is around \$ 11 billion," says journalist and analyst Conn Hallinan. "Just about a month's worth of war costs in Iraq and Afghanistan."

By late 2006, a little over three years after that "response" began, over 650,000 Iraqis were estimated to have lost their lives. A survey by researchers at the Johns Hopkins Bloomberg School of Public Health in Baltimore, Maryland and the Al Mustansiriya University in Baghdad put it bluntly: "As many as 654,965 more Iraqis may have died since hostilities began in Iraq in March 2003 than would have been expected under pre-war conditions. The deaths from all causes — violent and non-violent — are over and above the estimated 143,000 deaths per year that occurred from all causes prior to the March 2003 invasion." Iraq's overall mortality rate more than doubled from 5.5 deaths per 1,000 persons before the war began to 13.3 per 1,000 persons by late 2006.

Many more civilians have died since then, an extension of the USA's "response" to 9/11. Pre-war Iraq was the Arab country most ruthless towards Islamic fundamentalists. Today, the latter wield enormous power in a country they had no base in. Fundamentalism harvested new recruiting fields — fertilised by U.S. violence. It's worth learning this: Al Qaeda was the biggest beneficiary of the "response" of the United States to 9/11 alongside U.S. corporations. America's "War on Terror" — produced far more terrorism in the world than there had been prior to that response.

There are other lessons in the U.S. debacle. Almost every week now, the U.S. bombs some part of Pakistan — its firm ally of decades. Civilians are routinely killed by this, and if Mr. Obama's campaign promises are to be kept, this will go up. So will the appeal of fundamentalism amongst the affected.

This is Islamabad's reward for decades of faithful support to American military adventures in Afghanistan. A lot of Pakistan's distress arises from the very kind of strategic ties with the United States that India's elite would so love to have themselves. Also, the resultant undermining of Pakistan, is bad news for India. More fundamentalisms, more militancy, and worse, both sides of the border.

"Embedded journalism"

The media too, have much to learn from the response of their U.S. counterparts. The "embedded journalism" that disgraced some of America's leading media institutions. Regardless of a bleating anti-war editorial, *The New York Times* will never live down its WMD stories. The very media that now mock George Bush propped him up at the time. Now they report how unpopular the war is, how silly he was. But the "war for ratings" had already done damage hard to undo. It's both pathetic and funny: the very forces in the United States that saw only external and foreign reasons for all that had happened — now advise India exactly the opposite. Not to rush to any such conclusions. "In coming days," says the *New York Times* for example, "India will have to look inward to see where and how its government failed to protect its citizens."

The damage of whipped up hysteria as part of the "response" occurred within the United States, too. Sikhs in America became the targets of vicious hate crimes across the country after 9/11. Why? The demonising for years of anyone with turbans and beards

made them targets of "retaliation." One Sikh body says it has logged over 300 hate crimes against Sikhs after 9/11. These include torching of a home, vandalising of Gurdwaras, vicious assaults and one death by shooting. This is the model to emulate?

Curbing of civil liberties

Globally, the barbaric prison camp at Guantanamo, from where several prisoners have been released as innocent after years of brutal torture, has been a widely criticised part of the American "response." Inside the United States, the curbing of civil liberties — a vital 9/11 response — was at its worst since the McCarthy period. The Patriot Act was just one symbol of these. And Mr. Bush now ranks among the most despised U.S. Presidents of all time. (Though he did succeed, in another constituency, in bringing more popularity to Osama bin Laden than Al-Qaeda's leader could have dreamed of.)

There is a need for a strong and vigorous response to the appalling outrage in Mumbai. Parts of what that should be are obvious: bringing the guilty to book, revamping the intelligence networks, overhauling a range of security agencies, being more prepared. It is no less vital, though, that the immediate response also be to deny the authors of the outrage the success of their goal. To ensure that further polarisation within Mumbai society along religious, sectarian lines does not occur. To make sure that innocent people are not killed or terrorised in the "response." To dump the notion that shredding civil liberties and democratic rights helps anybody in any way. Shred chauvinism and jingoism, not the Constitution of India. To strongly counter those attempting to foment communal strife, regardless of which religion they belong to. To see there is no repeat of 1992-93 when close to a quarter of a million people fled the city in terror. That would a great reply. But to learn from Mumbai's events that we should emulate America's response — at the very time Americans are figuring out how poorly they were served by it — would be to repeat history both as tragedy and as farce.

The monster in the mirror

Arundhati Roy

The Mumbai attacks have been dubbed 'India's 9/11', and there are calls for a 9/11-style response, including an attack on Pakistan. Instead, the country must fight terrorism with justice, or face civil war

We've forfeited the rights to our own tragedies. As the carnage in Mumbai raged on, day after horrible day, our 24-hour news channels informed us that we were watching "India's 9/11". Like actors in a Bollywood rip-off of an old Hollywood film, we're expected to play our parts and say our lines, even though we know it's all been said and done before.

As tension in the region builds, US Senator John McCain has warned Pakistan that if it didn't act fast to arrest the "Bad Guys" he had personal information that India would launch air strikes on "terrorist camps" in Pakistan and that Washington could do nothing because Mumbai was India's 9/11.

But November isn't September, 2008 isn't 2001, Pakistan isn't Afghanistan and India isn't America. So perhaps we should reclaim our tragedy and pick through the debris with our own brains and our own broken hearts so that we can arrive at our own conclusions.

It's odd how in the last week of November thousands of people in Kashmir supervised by thousands of Indian troops lined up to cast their vote, while the richest quarters of India's richest city ended up looking like war-torn Kupwara – one of Kashmir's most ravaged districts.

The Mumbai attacks are only the most recent of a spate of terrorist attacks on Indian towns and cities this year. Ahmedabad, Bangalore, Delhi, Guwahati, Jaipur and Malegaon have all seen serial bomb blasts in which hundreds of ordinary people have been killed and wounded. If the police are right about the people they have arrested as suspects, both Hindu and Muslim, all Indian nationals, it obviously indicates that something's going very badly wrong in this country.

If you were watching television you may not have heard that ordinary people too died in Mumbai. They were mowed down in a busy railway station and a public hospital. The terrorists did not distinguish between poor and rich. They killed both with equal cold-bloodedness. The Indian media, however, was transfixed by the rising tide of horror that breached the glittering barricades of India Shining and spread its stench in the marbled lobbies and crystal ballrooms of two incredibly luxurious hotels and a small Jewish centre.

We're told one of these hotels is an icon of the city of Mumbai. That's absolutely true. It's an icon of the easy, obscene injustice that ordinary Indians endure every day. On a day when the newspapers were full of moving obituaries by beautiful people about the hotel rooms they had stayed in, the gourmet restaurants they loved (ironically one was called

Kandahar), and the staff who served them, a small box on the top left-hand corner in the inner pages of a national newspaper (sponsored by a pizza company I think) said "Hungry, kya?" (Hungry eh?). It then, with the best of intentions I'm sure, informed its readers that on the international hunger index, India ranked below Sudan and Somalia. But of course this isn't that war. That one's still being fought in the Dalit bastis of our villages, on the banks of the Narmada and the Koel Karo rivers; in the rubber estate in Chengara; in the villages of Nandigram, Singur, Chattisgarh, Jharkhand, Orissa, Lalgarh in West Bengal and the slums and shantytowns of our gigantic cities.

That war isn't on TV. Yet. So maybe, like everyone else, we should deal with the one that is.

There is a fierce, unforgiving fault-line that runs through the contemporary discourse on terrorism. On one side (let's call it Side A) are those who see terrorism, especially "Islamist" terrorism, as a hateful, insane scourge that spins on its own axis, in its own orbit and has nothing to do with the world around it, nothing to do with history, geography or economics. Therefore, Side A says, to try and place it in a political context, or even try to understand it, amounts to justifying it and is a crime in itself.

Side B believes that though nothing can ever excuse or justify terrorism, it exists in a particular time, place and political context, and to refuse to see that will only aggravate the problem and put more and more people in harm's way. Which is a crime in itself.

The sayings of Hafiz Saeed, who founded the Lashkar-e-Taiba (Army of the Pure) in 1990 and who belongs to the hardline Salafi tradition of Islam, certainly bolsters the case of Side A. Hafiz Saeed approves of suicide bombing, hates Jews, Shias and Democracy and believes that jihad should be waged until Islam, his Islam, rules the world. Among the things he said are: "There cannot be any peace while India remains intact. Cut them, cut them so much that they kneel before you and ask for mercy."

And: "India has shown us this path. We would like to give India a tit-for-tat response and reciprocate in the same way by killing the Hindus, just like it is killing the Muslims in Kashmir."

But where would Side A accommodate the sayings of Babu Bajrangi of Ahmedabad, India, who sees himself as a democrat, not a terrorist? He was one of the major lynchpins of the 2002 Gujarat genocide and has said (on camera): "We didn't spare a single Muslim shop, we set everything on fire ... we hacked, burned, set on fire ... we believe in setting them on fire because these bastards don't want to be cremated, they're afraid of it ... I have just one last wish ... let me be sentenced to death ... I don't care if I'm hanged ... just give me two days before my hanging and I will go and have a field day in Juhapura where seven or eight lakhs [seven or eight hundred thousand] of these people stay ... I will finish them off ... let a few more of them die ... at least 25,000 to 50,000 should die."

And where, in Side A's scheme of things, would we place the Rashtriya Swayamsevak

Sangh bible, *We, or, Our Nationhood Defined* by MS Golwalkar, who became head of the RSS in 1944. It says: "Ever since that evil day, when Moslems first landed in Hindustan, right up to the present moment, the Hindu Nation has been gallantly fighting on to take on these despoilers. The Race Spirit has been awakening." Or: "To keep up the purity of its race and culture, Germany shocked the world by her purging the country of the Semitic races – the Jews. Race pride at its highest has been manifested here ... a good lesson for us in Hindustan to learn and profit by."

(Of course Muslims are not the only people in the gun sights of the Hindu right. Dalits have been consistently targeted. Recently in Kandhamal in Orissa, Christians were the target of two and a half months of violence which left more than 40 dead. Forty thousand people have been driven from their homes, half of who now live in refugee camps.)

All these years Hafiz Saeed has lived the life of a respectable man in Lahore as the head of the Jamaat-ud Daawa, which many believe is a front organization for the Lashkar-e-Taiba. He continues to recruit young boys for his own bigoted jihad with his twisted, fiery sermons. On December 11 the UN imposed sanctions on the Jammat-ud-Daawa. The Pakistani government succumbed to international pressure and put Hafiz Saeed under house arrest. Babu Bajrangi, however, is out on bail and lives the life of a respectable man in Gujarat. A couple of years after the genocide he left the VHP to join the Shiv Sena. Narendra Modi, Bajrangi's former mentor, is still the chief minister of Gujarat. So the man who presided over the Gujarat genocide was re-elected twice, and is deeply respected by India's biggest corporate houses, Reliance and Tata.

Suhel Seth, a TV impresario and corporate spokesperson, recently said: "Modi is God." The policemen who supervised and sometimes even assisted the rampaging Hindu mobs in Gujarat have been rewarded and promoted. The RSS has 45,000 branches, its own range of charities and 7 million volunteers preaching its doctrine of hate across India. They include Narendra Modi, but also former prime minister AB Vajpayee, current leader of the opposition LK Advani, and a host of other senior politicians, bureaucrats and police and intelligence officers.

If that's not enough to complicate our picture of secular democracy, we should place on record that there are plenty of Muslim organisations within India preaching their own narrow bigotry.

So, on balance, if I had to choose between Side A and Side B, I'd pick Side B. We need context. Always.

In this nuclear subcontinent that context is partition. The Radcliffe Line, which separated India and Pakistan and tore through states, districts, villages, fields, communities, water systems, homes and families, was drawn virtually overnight. It was Britain's final, parting kick to us. Partition triggered the massacre of more than a million people and the largest migration of a human population in contemporary history. Eight million people, Hindus fleeing the new Pakistan, Muslims fleeing the new kind of India left their homes with

nothing but the clothes on their backs.

Each of those people carries and passes down a story of unimaginable pain, hate, horror but yearning too. That wound, those torn but still unsevered muscles, that blood and those splintered bones still lock us together in a close embrace of hatred, terrifying familiarity but also love. It has left Kashmir trapped in a nightmare from which it can't seem to emerge, a nightmare that has claimed more than 60,000 lives. Pakistan, the Land of the Pure, became an Islamic Republic, and then, very quickly a corrupt, violent military state, openly intolerant of other faiths. India on the other hand declared herself an inclusive, secular democracy. It was a magnificent undertaking, but Babu Bajrangi's predecessors had been hard at work since the 1920s, dripping poison into India's bloodstream, undermining that idea of India even before it was born.

By 1990 they were ready to make a bid for power. In 1992 Hindu mobs exhorted by LK Advani stormed the Babri Masjid and demolished it. By 1998 the BJP was in power at the centre. The US war on terror put the wind in their sails. It allowed them to do exactly as they pleased, even to commit genocide and then present their fascism as a legitimate form of chaotic democracy. This happened at a time when India had opened its huge market to international finance and it was in the interests of international corporations and the media houses they owned to project it as a country that could do no wrong. That gave Hindu nationalists all the impetus and the impunity they needed.

This, then, is the larger historical context of terrorism in the subcontinent and of the Mumbai attacks. It shouldn't surprise us that Hafiz Saeed of the Lashkar-e-Taiba is from Shimla (India) and LK Advani of the Rashtriya Swayam Sevak Sangh is from Sindh (Pakistan).

In much the same way as it did after the 2001 parliament attack, the 2002 burning of the Sabarmati Express and the 2007 bombing of the Samjhauta Express, the government of India announced that it has "incontrovertible" evidence that the Lashkar-e-Taiba backed by Pakistan's ISI was behind the Mumbai strikes. The Lashkar has denied involvement, but remains the prime accused. According to the police and intelligence agencies the Lashkar operates in India through an organisation called the Indian Mujahideen. Two Indian nationals, Sheikh Mukhtar Ahmed, a Special Police Officer working for the Jammu and Kashmir police, and Tausif Rehman, a resident of Kolkata in West Bengal, have been arrested in connection with the Mumbai attacks.

So already the neat accusation against Pakistan is getting a little messy. Almost always, when these stories unspool, they reveal a complicated global network of foot soldiers, trainers, recruiters, middlemen and undercover intelligence and counter-intelligence operatives working not just on both sides of the India-Pakistan border, but in several countries simultaneously. In today's world, trying to pin down the provenance of a terrorist strike and isolate it within the borders of a single nation state is very much like trying to pin down the provenance of corporate money. It's almost impossible.

In circumstances like these, air strikes to "take out" terrorist camps may take out the camps, but certainly will not "take out" the terrorists. Neither will war. (Also, in our bid for the moral high ground, let's try not to forget that the Liberation Tigers of Tamil Eelam, the LTTE of neighbouring Sri Lanka, one of the world's most deadly terrorist groups, were trained by the Indian army.)

Thanks largely to the part it was forced to play as America's ally first in its war in support of the Afghan Islamists and then in its war against them, Pakistan, whose territory is reeling under these contradictions, is careening towards civil war. As recruiting agents for America's jihad against the Soviet Union, it was the job of the Pakistan army and the ISI to nurture and channel funds to Islamic fundamentalist organizations. Having wired up these Frankensteins and released them into the world, the US expected it could rein them in like pet mastiffs whenever it wanted to.

Certainly it did not expect them to come calling in heart of the Homeland on September 11. So once again, Afghanistan had to be violently remade. Now the debris of a re-ravaged Afghanistan has washed up on Pakistan's borders. Nobody, least of all the Pakistan government, denies that it is presiding over a country that is threatening to implode. The terrorist training camps, the fire-breathing mullahs and the maniacs who believe that Islam will, or should, rule the world is mostly the detritus of two Afghan wars. Their ire rains down on the Pakistan government and Pakistani civilians as much, if not more than it does on India.

If at this point India decides to go to war perhaps the descent of the whole region into chaos will be complete. The debris of a bankrupt, destroyed Pakistan will wash up on India's shores, endangering us as never before. If Pakistan collapses, we can look forward to having millions of "non-state actors" with an arsenal of nuclear weapons at their disposal as neighbours. It's hard to understand why those who steer India's ship are so keen to replicate Pakistan's mistakes and call damnation upon this country by inviting the United States to further meddle clumsily and dangerously in our extremely complicated affairs. A superpower never has allies. It only has agents.

On the plus side, the advantage of going to war is that it's the best way for India to avoid facing up to the serious trouble building on our home front. The Mumbai attacks were broadcast live (and exclusive!) on all or most of our 67 24-hour news channels and god knows how many international ones. TV anchors in their studios and journalists at "ground zero" kept up an endless stream of excited commentary. Over three days and three nights we watched in disbelief as a small group of very young men armed with guns and gadgets exposed the powerlessness of the police, the elite National Security Guard and the marine commandos of this supposedly mighty, nuclear-powered nation.

While they did this they indiscriminately massacred unarmed people, in railway stations, hospitals and luxury hotels, unmindful of their class, caste, religion or nationality. (Part of the helplessness of the security forces had to do with having to worry about hostages. In

other situations, in Kashmir for example, their tactics are not so sensitive. Whole buildings are blown up. Human shields are used. The U.S and Israeli armies don't hesitate to send cruise missiles into buildings and drop daisy cutters on wedding parties in Palestine, Iraq and Afghanistan.) But this was different. And it was on TV.

The boy-terrorists' nonchalant willingness to kill – and be killed – mesmerised their international audience. They delivered something different from the usual diet of suicide bombings and missile attacks that people have grown inured to on the news. Here was something new. Die Hard 25. The gruesome performance went on and on. TV ratings soared. Ask any television magnate or corporate advertiser who measures broadcast time in seconds, not minutes, what that's worth.

Eventually the killers died and died hard, all but one. (Perhaps, in the chaos, some escaped. We may never know.) Throughout the standoff the terrorists made no demands and expressed no desire to negotiate. Their purpose was to kill people and inflict as much damage as they could before they were killed themselves. They left us completely bewildered. When we say "nothing can justify terrorism", what most of us mean is that nothing can justify the taking of human life. We say this because we respect life, because we think it's precious. So what are we to make of those who care nothing for life, not even their own? The truth is that we have no idea what to make of them, because we can sense that even before they've died, they've journeyed to another world where we cannot reach them.

One TV channel (India TV) broadcast a phone conversation with one of the attackers, who called himself Imran Babar. I cannot vouch for the veracity of the conversation, but the things he talked about were the things contained in the "terror emails" that were sent out before several other bomb attacks in India. Things we don't want to talk about any more: the demolition of the Babri Masjid in 1992, the genocidal slaughter of Muslims in Gujarat in 2002, the brutal repression in Kashmir. "You're surrounded," the anchor told him. "You are definitely going to die. Why don't you surrender?"

"We die every day," he replied in a strange, mechanical way. "It's better to live one day as a lion and then die this way." He didn't seem to want to change the world. He just seemed to want to take it down with him.

If the men were indeed members of the Lashkar-e-Taiba, why didn't it matter to them that a large number of their victims were Muslim, or that their action was likely to result in a severe backlash against the Muslim community in India whose rights they claim to be fighting for? Terrorism is a heartless ideology, and like most ideologies that have their eye on the Big Picture, individuals don't figure in their calculations except as collateral damage. It has always been a part of and often even the aim of terrorist strategy to exacerbate a bad situation in order to expose hidden faultlines. The blood of "martyrs" irrigates terrorism. Hindu terrorists need dead Hindus, Communist terrorists need dead proletarians, Islamist terrorists need dead Muslims. The dead become the demonstration,

the proof of victimhood, which is central to the project. A single act of terrorism is not in itself meant to achieve military victory; at best it is meant to be a catalyst that triggers something else, something much larger than itself, a tectonic shift, a realignment. The act itself is theatre, spectacle and symbolism, and today, the stage on which it pirouettes and performs its acts of bestiality is Live TV. Even as the attack was being condemned by TV anchors, the effectiveness of the terror strikes were being magnified a thousandfold by TV broadcasts.

Through the endless hours of analysis and the endless op-ed essays, in India at least there has been very little mention of the elephants in the room: Kashmir, Gujarat and the demolition of the Babri Masjid. Instead we had retired diplomats and strategic experts debate the pros and cons of a war against Pakistan. We had the rich threatening not to pay their taxes unless their security was guaranteed (is it alright for the poor to remain unprotected?). We had people suggest that the government step down and each state in India be handed over to a separate corporation. We had the death of former prime minister VP Singh, the hero of Dalits and lower castes and villain of Upper caste Hindus pass without a mention.

We had Suketu Mehta, author of *Maximum City* and co-writer of the Bollywood film *Mission Kashmir*, give us his version of George Bush's famous "Why they hate us" speech. His analysis of why religious bigots, both Hindu and Muslim hate Mumbai: "Perhaps because Mumbai stands for lucre, profane dreams and an indiscriminate openness." His prescription: "The best answer to the terrorists is to dream bigger, make even more money, and visit Mumbai more than ever." Didn't George Bush ask Americans to go out and shop after 9/11? Ah yes. 9/11, the day we can't seem to get away from.

Though one chapter of horror in Mumbai has ended, another might have just begun. Day after day, a powerful, vociferous section of the Indian elite, goaded by marauding TV anchors who make Fox News look almost radical and leftwing, have taken to mindlessly attacking politicians, all politicians, glorifying the police and the army and virtually asking for a police state. It isn't surprising that those who have grown plump on the pickings of democracy (such as it is) should now be calling for a police state. The era of "pickings" is long gone. We're now in the era of Grabbing by Force, and democracy has a terrible habit of getting in the way.

Dangerous, stupid television flashcards like the Police are Good Politicians are Bad/Chief Executives are Good Chief Ministers are Bad/Army is Good Government is Bad/ India is Good Pakistan is Bad are being bandied about by TV channels that have already whipped their viewers into a state of almost uncontrollable hysteria.

Tragically, this regression into intellectual infancy comes at a time when people in India were beginning to see that in the business of terrorism, victims and perpetrators sometimes exchange roles. It's an understanding that the people of Kashmir, given their dreadful experiences of the last 20 years, have honed to an exquisite art. On the mainland

we're still learning. (If Kashmir won't willingly integrate into India, it's beginning to look as though India will integrate/disintegrate into Kashmir.)

It was after the 2001 parliament attack that the first serious questions began to be raised. A campaign by a group of lawyers and activists exposed how innocent people had been framed by the police and the press, how evidence was fabricated, how witnesses lied, how due process had been criminally violated at every stage of the investigation. Eventually the courts acquitted two out of the four accused, including SAR Geelani, the man whom the police claimed was the mastermind of the operation. A third, Showkat Guru, was acquitted of all the charges brought against him but was then convicted for a fresh, comparatively minor offence. The supreme court upheld the death sentence of another of the accused, Mohammad Afzal. In its judgment the court acknowledged there was no proof that Mohammed Afzal belonged to any terrorist group, but went on to say, quite shockingly, "The collective conscience of the society will only be satisfied if capital punishment is awarded to the offender." Even today we don't really know who the terrorists that attacked the Indian parliament were and who they worked for.

More recently, on September 19 this year, we had the controversial "encounter" at Batla House in Jamia Nagar, Delhi, where the Special Cell of the Delhi police gunned down two Muslim students in their rented flat under seriously questionable circumstances, claiming that they were responsible for serial bombings in Delhi, Jaipur and Ahmedabad in 2008. An assistant commissioner of Police, Mohan Chand Sharma, who played a key role in the parliament attack investigation, lost his life as well. He was one of India's many "encounter specialists" known and rewarded for having summarily executed several "terrorists". There was an outcry against the Special Cell from a spectrum of people, ranging from eyewitnesses in the local community to senior Congress Party leaders, students, journalists, lawyers, academics and activists all of whom demanded a judicial inquiry into the incident. In response, the BJP and LK Advani lauded Mohan Chand Sharma as a "Braveheart" and launched a concerted campaign in which they targeted those who had dared to question the integrity of the police, saying it was "suicidal" and calling them "anti-national". Of course there has been no inquiry.

Only days after the Batla House event, another story about "terrorists" surfaced in the news. In a report submitted to a sessions court, the CBI said that a team from Delhi's Special Cell (the same team that led the Batla House encounter, including Mohan Chand Sharma) had abducted two innocent men, Irshad Ali and Moarif Qamar, in December 2005, planted 2kg of RDX and two pistols on them and then arrested them as "terrorists" who belonged to Al Badr (which operates out of Kashmir). Ali and Qamar who have spent years in jail, are only two examples out of hundreds of Muslims who have been similarly jailed, tortured and even killed on false charges.

This pattern changed in October 2008 when Maharashtra's Anti-Terrorism Squad (ATS) that was investigating the September 2008 Malegaon blasts arrested a Hindu preacher Sadhvi Pragya, a self-styled God man Swami Dayanand Pande and Lt Col Purohit, a

serving officer of the Indian Army. All the arrested belong to Hindu Nationalist organizations including a Hindu Supremacist group called Abhinav Bharat. The Shiv Sena, the BJP and the RSS condemned the Maharashtra ATS, and vilified its chief, Hemant Karkare, claiming he was part of a political conspiracy and declaring that "Hindus could not be terrorists". LK Advani changed his mind about his policy on the police and made rabble rousing speeches to huge gatherings in which he denounced the ATS for daring to cast aspersions on holy men and women.

On the November 25 newspapers reported that the ATS was investigating the high profile VHP Chief Pravin Togadia's possible role in the Malegaon blasts. The next day, in an extraordinary twist of fate, Hemant Karkare was killed in the Mumbai Attacks. The chances are that the new chief whoever he is, will find it hard to withstand the political pressure that is bound to be brought on him over the Malegaon investigation.

While the Sangh Parivar does not seem to have come to a final decision over whether or not it is anti-national and suicidal to question the police, Arnab Goswami, anchorperson of Times Now television, has stepped up to the plate. He has taken to naming, demonising and openly heckling people who have dared to question the integrity of the police and armed forces. My name and the name of the well-known lawyer Prashant Bhushan have come up several times. At one point, while interviewing a former police officer, Arnab Goswami turned to camera: "[Arundhati Roy](#) and Prashant Bhushan," he said, "I hope you are watching this. We think you are disgusting." For a TV anchor to do this in an atmosphere as charged and as frenzied as the one that prevails today, amounts to incitement as well as threat, and would probably in different circumstances have cost a journalist his or her job.

So according to a man aspiring to be the next prime minister of India, and another who is the public face of a mainstream TV channel, citizens have no right to raise questions about the police. This in a country with a shadowy history of suspicious terror attacks, murky investigations, and fake "encounters". This in a country that boasts of the highest number of custodial deaths in the world and yet refuses to ratify the International Covenant on Torture. A country where the ones who make it to torture chambers are the lucky ones because at least they've escaped being "encountered" by our Encounter Specialists. A country where the line between the Underworld and the Encounter Specialists virtually does not exist.

How should those of us whose hearts have been sickened by the knowledge of all of this view the Mumbai attacks, and what are we to do about them? There are those who point out that US strategy has been successful inasmuch as the United States has not suffered a major attack on its home ground since 9/11. However, some would say that what America is suffering now is far worse. If the idea behind the 9/11 terror attacks was to goad America into showing its true colors, what greater success could the terrorists have asked for? The US army is bogged down in two unwinnable wars, which have made the United States the most hated country in the world. Those wars have contributed greatly to the

unraveling of the American economy and who knows, perhaps eventually the American empire. (Could it be that battered, bombed Afghanistan, the graveyard of the Soviet Union, will be the undoing of this one too?) Hundreds of thousands people including thousands of American soldiers have lost their lives in Iraq and Afghanistan. The frequency of terrorist strikes on U.S allies/agents (including India) and U.S interests in the rest of the world has increased dramatically since 9/11. George Bush, the man who led the US response to 9/11 is a despised figure not just internationally, but also by his own people. Who can possibly claim that the United States is winning the war on terror?

Homeland Security has cost the US government billions of dollars. Few countries, certainly not India, can afford that sort of price tag. But even if we could, the fact is that this vast homeland of ours cannot be secured or policed in the way the United States has been. It's not that kind of homeland. We have a hostile nuclear weapons state that is slowly spinning out of control as a neighbour, we have a military occupation in Kashmir and a shamefully persecuted, impoverished minority of more than 150 million Muslims who are being targeted as a community and pushed to the wall, whose young see no justice on the horizon, and who, were they to totally lose hope and radicalise, end up as a threat not just to India, but to the whole world. If ten men can hold off the NSG commandos, and the police for three days, and if it takes half a million soldiers to hold down the Kashmir valley, do the math. What kind of Homeland Security can secure India?

Nor for that matter will any other quick fix. Anti-terrorism laws are not meant for terrorists; they're for people that governments don't like. That's why they have a conviction rate of less than 2%. They're just a means of putting inconvenient people away without bail for a long time and eventually letting them go. Terrorists like those who attacked Mumbai are hardly likely to be deterred by the prospect of being refused bail or being sentenced to death. It's what they want.

What we're experiencing now is blowback, the cumulative result of decades of quick fixes and dirty deeds. The carpet's squelching under our feet.

The only way to contain (it would be naïve to say end) terrorism is to look at the monster in the mirror. We're standing at a fork in the road. One sign says Justice, the other Civil War. There's no third sign and there's no going back. Choose.

Counter-Terrorism Must Not Kill Democracy

By Praful Bidwai
28 December, 2008

Countercurrents.org

In a season in which politicians have become everybody's punching bag and targets of vicious media attacks, it would have been a miracle had Minister for Minority Affairs Abdul Rehman Antulay not attracted ridicule for demanding an inquiry into the killing of Maharashtra Anti-Terrorism Squad chief Hemant Karkare and his colleagues Ashok Kamte and Vijay Salaskar. I am no admirer of Antulay. I was among the handful of journalists who exposed his brutal evacuation and expulsion of pavement-dwellers in Mumbai in 1983. Yet, the questions he posed about Karkare's death won't go away -- despite his own ignominious climbdown.

Antulay didn't allege that Karkare, who famously cracked the Hindutva terror network involving Pragya Thakur and Lieutenant Colonel Shreekant Purohit, was shot by one of its members. His query was, who asked Karkare to go to Mumbai's CST station and to Cama Hospital, near which he was killed by Abu Ismail and Ajmal Amir Kasab?

We still don't know what motivated Karkare's team to go there without high-grade bullet-proof jackets and in violation of the norm that senior officers shouldn't travel in the same vehicle in an emergency. Home Minister P Chidambaram's statement to Parliament doesn't clarify the issue. According to one police account aired on television, the team went to Cama Hospital to rescue another officer, Sadanand Date, who was injured. According to a second account, the team was pursuing a red car carrying Ismail and Kasab.

It is hard to believe that senior officers like Karkare, Kamte and Salaskar all had to walk to CST/Cama because the police had erected barricades, and that they abandoned their separate vehicles to get into one car while chasing the fugitives. Even the circumstances of Karkare's killing, allegedly in a narrow lane behind the hospital, remain obscure.

If the police wireless message about the red car was meant to lure the team into an ambush, it is vital to ask where and how the report originated. If the gunmen were firing from the left, as Constable Arun Jadhav -- who was in Karkare's car, but survived the attack -- said, how was Karkare hit three times in the chest while Jadhav got two bullets in his right arm? Also, the ambush story doesn't quite hang together. The only vegetation in the lane has wire netting around it, behind which it'd be hard to hide.

Clearly, even if one discounts all conspiracy theories, unanswered questions remain.

Hindutva groups reviled Karkare for his bold, scrupulous investigation into the Thakur-Purohit terror network. L K Advani, no less, wanted him removed from the ATS and levelled charges, disproved after medical examination, that Thakur was tortured in ATS custody. This, and the gaps in the police account(s), make imperative a dispassionate, thorough, high-level investigation into his killing -- in addition to an inquiry into the intelligence failures and state agencies' inept response to the attacks.

The case for an inquiry in the Karkare case is all the stronger because many in the Muslim community -- which has borne the brunt of excesses committed in the name of fighting terrorism -- and other citizens too, have seriously questioned the official account.

Antulay or no Antulay, it's the government's duty to answer them. Supremely callous colonial rulers ignore public concerns. But democratic governments' legitimacy depends on respecting them and sharing the truth with the public in the interests of social cohesion. A credible inquiry would help rebuild the public's faith in the government, which has recently suffered erosion.

There are moments in the life of a nation when exemplary rectitude, transparency and adherence to law are called for, and an effort worthy of universal respect is necessary to reach out to those who feel excluded. Justice H R Khanna's dissenting opinion in the Emergency case, Justice B N Srikrishna's inquiry into the Mumbai violence of 1992-1993, and Karkare's own brilliant investigation into the Hindutva terror network, are instances of these. In each case, State functionaries rose above pressures to harness their work to extraneous agendas. The entire nation gained from their work. We badly need another such effort today.

Regrettably, the United Progressive Alliance government seems to be caving in to Right-wing pressures from the Bharatiya Janata Party to adopt a macho, national-chauvinist, 'to-hell-with-civil-liberties' stance to show that it has the will to fight terrorism. That alone explains the deplorable haste with which it railroaded through Parliament two tough counter-terrorism laws without serious debate. These erode federalism and infringe civil liberties.

The National Investigation Agency Act establishes a new organisation to investigate acts of terrorism and offences related to atomic energy, aviation, maritime transport, sedition, weapons of mass destruction, and Left-wing extremism. Significantly, it excludes Hindutva-style right-wing extremism, which has taken a far higher toll in India than left-wing Naxalism. It's far from clear how the NIA can secure the cooperation of other existing agencies, rather than face turf battles and sabotage.

Unlike the Central Bureau of Investigation, which needs the consent of a state before investigating crimes there, the NIA will supersede state agencies. This is a serious intrusion into the federal system. The NIA, and the special courts set up under the Act, will be vulnerable to political abuse by the Centre.

The second law, the Unlawful Activities (Prevention) Amendment Act brings back the discredited POTA, except for admitting confessions made to the police as evidence. It radically changes criminal procedures, extends periods of police custody and detention without charges, denies bail to foreigners, and reverses the burden of proof in many instances. The Act will turn India into a virtual police State.

The UPA abrogated POTA in 2004 in response to innumerable complaints of abuse against Muslims and application to offences not connected with terrorism. But the UPA retained all other tough laws, and also amended the Unlawful Activities Act. This increased punishment for terrorism and harbouring/financing terrorists, made communications intercepts admissible as evidence, and increased detention without charges to 90 days from 30 days.

However, despite numerous recent terrorist attacks, the UPA firmly rejected the BJP's demand that POTA be re-enacted. But now, it has shamefully caved in to the demand -- under the pressure of elite opinion and with an eye on the next general election.

The UAPA Act contains a range of draconian clauses, including a redefinition of terrorism, harsh punishment like life sentence or death, long periods of detention, and presumption of guilt in many cases. The redefinition includes acts done with the intent to threaten or 'likely' to threaten India's unity, integrity or sovereignty. Under this hold-all provision, the police can arrest, search and seize the property of anyone whom it 'has reason to believe from personal knowledge, or any information by any person... or any articles or any other thing...' Even rumours and baseless suspicion fit this description. Also covered are attempts to kidnap Constitutional and other functionaries listed by the government. The list is endless.

Under the Act, an accused can be held in police custody for 30 days, and detained without charges for 180 days. This is a travesty of Constitutional rights. Even worse is the presumption of guilt in case there is a recovery of arms, explosives and 'substances of a similar nature.' The police routinely plants arms and explosives, and creates a false recovery record. The punishment range extends from three or five five years to life. This shows the government has not applied its mind.

Under the Act, there is a general obligation to disclose 'all information' that a police officer thinks might be relevant. Failure to disclose can lead to imprisonment for three years. Journalists, lawyers, doctors and friends are not exempt from this sweeping provision, which presumes guilt on mere suspicion. Besides making telecommunications and e-mail intercepts admissible as evidence, the Act also denies bail to all foreign nationals and to all others if a prima facie case exists on the basis of a First Information Report by the police.

POTA and its predecessor, the Terrorist and Disruptive Activities (Prevention) Act, were extensively abused. They targeted the religious minorities, specifically Muslims. Some 67,000 people were arrested under TADA, but only 8,000 put on trial, and just 725 convicted. Official TADA review committees found its application untenable in all but

5,000 cases. POTA's abuse was even more appalling.

The two new laws will increase the alienation of Muslims from the Indian State given that they have been the principal victims of India's recent anti-terrorism strategy. Many Muslims are also distressed at the alacrity with which the laws were passed -- in contrast with the UPA's failure to enact the promised law to punish communal violence and hate crimes.

This will make the social-political climate conducive to State terrorism, promote muscular nationalism, and create a barbed-wire mentality. These are the ingredients of a terrible national security State, much like Pakistan's or Israel's, and similar to the way the US is evolving. Nothing could be worse for our citizens' safety and our democracy's health.

Handling Queries : Democratic Responses

Antuley Remarks and the Aftermath

Ram Puniyani

The tragic terror attack on the city of Mumbai (Nov.2008) has shaken not only the people of city but also the whole nation. It is not the first time that terror attacks have taken place in this city. The first major one was seen in the aftermath of Mumbai carnage of 1992-93. The investigation of this blast showed that the terrorist took advantage of the gross injustices done to Muslim minority and lured a small section of them to execute their dastardly designs. Then in the aftermath of Gujarat carnage again one witnessed the blasts. The tragic happenings of Gujarat had incited this reaction. This time around November 26, 2008, there is no immediate provocation, but the role of Al Qaeda type elements is clear. What is puzzling this time around is that the attack came at a time when the investigation being done by Maharashtra ATS into Malegaon blast was leading to certain impeccable findings of the involvement of Hindutva elements. This was resulting in a hostile reaction to the ATS chief who was doing a thorough professional job. He was being abused and criticized by the people like Advani and Modi for being deshdrohi (anti national). Pune Police had also received a death threat to him from an anonymous caller just couple of days ahead of the terror attack.

After this tragedy many a versions of death of Karkare and his two colleagues came forward. The first one was that he has been killed at Taj, second one saying the death occurred in the lane near Cama hospital and the yet another one saying that he was killed while sitting in the vehicle. In this context many doubts were raised by some social activists and later by the Union minister for minorities Mr. A.R. Antuley. His statement that "superficially they (the terrorists) had no reason to kill Karkare. Whether he (Karkare) was a victim of terrorism or terrorism plus something, I do not know," implying that a thorough probe in to his death should be undertaken to clear the mist around his death. This does not imply any finger pointing but a mere doubt, which is lurking in the minds of many.

This statement followed a vicious attack on him by many, especially by the Hindu right wing and a section of media. While many felt that the idea was to ensure that Truth comes out, the others felt that he should not only be sacked from his post but a case of treason be launched against him. While few voices like those of Digvijay Singh came to support Antuley statement and Maharashtra Assembly speaker Baba Saheb Kupekar said that since Maharashtra Government is setting up a probe into the allegations of negligence of the top level Police officers, that committee can very well probe the death of Hemant Karkare as well.

The degree of hostile reaction to some doubt raised and need for unearthing truth in a

democratic society should be taken seriously. Why and who is afraid of truth coming out? Strangely we seem to have various types of reactions which have lot of political tinge than elements of reason. One of this is to ignore some events and facts which go against the social common sense and the interests of dominant political streams. One such example is the blasts which took place in Nanded in the house of RSS worker in which two Bajrang Dal workers died while making bombs (April 2006). While some channels can work overtime to put out the visuals of events with potential of sensationalism, this particular incident was literally blocked by large section of media. No doubt few papers and channels carried it but it remained a marginal story. Then the events of blasts in front of Mecca Masjid in Hyderabad were also attributed to the usual Jehadi elements, many of them arrested/tortured to the extreme. The blast and the tragedy was news. Later when they got released for the lack of any evidence, that was neither news nor a time to introspect as to why the wrong people are being caught, or to think if there is a need to review the line of investigation in the cases of blasts? Here the media shapes popular perception and the investigating authorities remained stuck to the old theory, terrorists are Muslims. So by overlooking the crucial news/event, a valuable lead was suppressed, the proper unearthing of which might have led to prevention of some attacks later.

The second form of reaction is from vested political elements and section of media which flows with the tide. Once Maharashtra ATS could lay its hands on the motorcycle used by terrorists in Malegaon blast, the investigation shifted to Sadhvi Pragya Singh Thakur, Swami Dayanand, Lt Col Prasad Purohit and Retd major Upadhyay. This investigation being conducted with professionalism came for scathing attack from Hindutva elements that went to intimidate the ATS officer to the extent that he went for moral support and counseling to the one of the most forthright police officers, Julio Reibero. Mr. Reibero in his article in Times of India tells us the pressure Karkare was going through while doing his professional duty. Shiv Sena not only organized for legal support for Sadhvi and Company but also its mouth piece Saamana went on to write, "We will declare all names and addresses of policemen on Malegaon case, the people will take action. This is nothing but a ploy to defame Hindutva by people in the ATS who have taken supari (contract) of this. On such officers we spit, we spit."

In this context all those trying to strive for truth are also being labeled with choicest abuses. Any raising of question about the investigation, the narration of incidents comes to be branded as being pro Pakistan and anti India. One is not arguing against India or for Pakistan, one is trying to see that the real picture of things will strengthen India. Can a hollow shell full of falsity be the base of the Democratic Indian state? More we try to smoothen the knots more are we will be trying to ensure that Indian society becomes better. In this jingoism, war again Pakistan is the rash demand, quenching the instant anger generated due to terror attack. One has to see such oppressive outburst like the one's we have seen from Advani and company which are not in sync with the building of a harmonious atmosphere and justice to all. All the legal provisions at our command need to be marshaled to see that the work initiated by the likes of Karkare is not allowed to be stifled.

What does one make of the ignoring crucial leads in the first place and then reacting angrily, with such passion to the innocuous demands of a probe? This burst of pseudo nationalism needs to be understood. It is the one which wants to intimidate the voice of reason and is primarily trying to stifle the democratic space. In Antuley's case he is also being hurled abuses by the same section, labeling him as Pakistan supporter and what not. Its time our columnists remember that in democracy the people have full right to express their opinions and doubts. As a matter of fact those hysterically browbeating those raising doubts are the one's who are undermining the nation's constitution. Definitely the most befitting tribute to the officers who have laid down their lives while protecting the society from the insane acts of terror, is to ensure that the truth of their death comes out and that Malegaon probe goes on properly.

THE MUMBAI TERROR ATTACKS: NEED FOR A THOROUGH INVESTIGATION

Raveena Hansa

In all the confusion and horror generated by the ghastly terrorist attacks in Bombay, a dimension which has not received the attention it deserves is the circumstances surrounding the death of Anti-Terrorist Squad (ATS) chief Hemant Karkare and two of his colleagues, encounter specialist Vijay Salaskar and Additional Commissioner of Police Ashok Kamte. The major pattern of operations involved well-organised attacks on a few high-profile sites in Colaba – the Taj and Oberoi Hotels and Nariman House – while a parallel set of operations was centred on VT or CST station, Cama Hospital and the Metro cinema, in the middle of which is the police headquarters where Karkare worked. The latter is an area where foreigners are much less likely to be found.

Why is a Proper Investigation Crucial?

Hemant Karkare was engaged in unearthing a terror network with characteristics which had not been seen so far. The investigation started by tracing the motorcycle used to plant bombs in Malegaon in September 2008 to a Hindu Sadvhi, Pragyasinh Thakur; it later uncovered a cellphone conversation between her and Ramji, the man who planted the bombs, in which she asked why more people had not been killed. For the first time, the Indian state was conducting a thorough professional probe into a terror network centred on Hindu extremist organisations, this one with huge ramifications, some leading into military and bomb-making training camps and politicised elements in the army, others into organisations and political leaders affiliated to the BJP. One of the most potentially explosive discoveries was that a serving military intelligence officer, Lt.Col. Srikant Purohit, had procured 60 kg of RDX from government supplies for use in the terrorist attack on the Samjhauta Express (the India-Pakistan 'Understanding' train) in February 2007, in which 68 people were killed, the majority of them Pakistanis. Initially, militants of Lashkar-e-Taiba and other Islamist terror groups had been accused of carrying out the attack, but no evidence against them had been found.

The hostility generated by this investigation was enormous, with allegations that the suspects had been tortured and that Karkare was being used as a political tool, and demands that the ATS team should be changed. Chief Minister of Gujarat Narendra Modi and BJP Prime Ministerial candidate L.K.Advani accused him of being a 'desh drohi' or traitor, a charge that in India carries a death penalty. The Shiv Sena offered legal aid to those accused of the terrorist attack, and an editorial in its mouthpiece Saamna threatened that 'the people will take action' against the ATS officers involved in the Malegaon blast probe, adding that 'On such officers we spit, we spit'. In an interview shortly before he died, Karkare admitted he was hurt by the campaign against him. On

November 26, just before the terrorist attack, the police in Pune received a call from an anonymous caller saying in Marathi that Karkare would be killed in a bomb blast within two or three days.

Just as attitudes to Karkare in society at large were polarised, with some admiring him as a hero – one Maulana went so far as to call him a 'massiha (messiah) of Muslims', an amazing tribute from a Muslim to a Hindu – while others hated him as a traitor worthy of death, attitudes within the police force too were polarised. For example, dismissed encounter specialist Sachin Vaze (who with three colleagues was charged with murder, criminal conspiracy, destruction of evidence and concealment of the dead body in the Khwaja Yunus case shortly before the terrorist attack) was a member of the Shiv Sena who was actively engaged in the campaign against Karkare and in support of the Malegaon blast accused.

Hard Evidence or Pulp Fiction?

Given this background, and reports that are riddled with inconsistencies, it is not surprising that many residents of Bombay are asking questions about the exact circumstances of the death of Hemant Karkare and his colleagues; when A.R. Antulay raised the question in parliament, he was merely giving voice to a small part of the doubts entertained by many others. The earliest reports, presumably relayed from the police via the media, said that Karkare had been killed at the Taj, and Salaskar and Kamte at Metro. If this was not true, why were we told this? And why was the story later changed? Was it because it conflicted with eye-witness accounts? In the early hours of the 27th, under the heading 'ATS Chief Hemant Karkare Killed: His Last Pics', IBNlive showed footage first of Karkare putting on a helmet and bullet-proof vest, then cut to a shootout at Metro, where an unconscious man who looks like Karkare and wearing the same light blue shirt and dark trousers (but without any blood on his shirt or the terrible wounds we saw on his face at his funeral) is being pulled into a car by two youths in saffron shirts. [The commentary says](#) that Karkare 'could well have fallen prey to just indiscriminate, random firing by the cops', and also reports that there were two vehicles, a Toyota Qualis and Honda City, from which the occupants were firing indiscriminately.

Later we were given two accounts of the killings where the venue was shifted to a deserted lane without cameras or eye-witnesses. The first account is by the lone terrorist captured alive, claiming to be A.A. Kasab from Faridkot in Pakistan and a member of the terrorist group Lashkar-e-Taiba. According to him, just two gunmen, he and Ismail (also from Pakistan), first attacked VT station, where they sprayed bullets indiscriminately. (Around 58 people were killed there, over one-third of them Muslims, and many more might have been killed if the announcer, Mr Zende, had not risked his life to direct passengers to safety.) They then went to Cama, a government hospital for women and children used mainly by the poor. Initially, [according to the police](#), Kasab claimed he and Ismail had killed Karkare, Salaskar and Kamte. Later, in his 'confession,' he claimed that while coming out of the hospital, he and Ismail saw a police vehicle passing and hid behind

a bush; then another vehicle passed them and stopped some distance away. A police officer got out and started firing at them, hitting Kasab on the hand so that he dropped his AK47, but Ismail opened fire on the officers in the car until they stopped firing. There were three bodies in the vehicle, which Ismail removed, and then [drove off in it with Kasab](#).

The other account is by police constable Arun Jadhav. According to him, Karkare, Salaskar, Kamte, a driver and four police constables including himself were driving down the alley from VT to the back entrance of Cama (barely a ten-minute drive) in their Toyota Qualis to check on injured police officer Sadanand Date when two gunmen emerged from behind trees by the left side of the road and sprayed the vehicle with bullets, killing all its inmates except Jadhav. They then dragged out the three officers, hijacked the vehicle, drove to Metro junction and then Mantralaya in South Bombay, abandoned it when a tyre burst, [and grabbed another car](#). According to police accounts, they then drove to Girgaum, where Kasab was injured and arrested [and his companion killed](#).

These accounts raise more questions than they answer. Kasab claimed that a band of ten terrorists landed and split up into twos, going to various destinations, he and his companion going to VT. He said they wanted to blow up the Taj, as in the attack on the Marriott in Islamabad; yet we are told that only 8kg of RDX were found at the Taj, and even that was not used; contrast this with 600kg of RDX and TNT used to blow up the Marriott: could they really have expected to blow up the Taj? Given that the rest of the operation was so systematic, why did they plant two bombs in taxis to go off in random locations, one in Dockyard Road and another in Vile Parle, 25 kilometres away? He said that the terrorists planned to use their hostages as a means of escape, yet there was no attempt at any time to do that; at other times, he also said they had been instructed to [fight to the death](#). He says he is a labourer from Faridkot near Multan and only studied up to Class IV, but it is reported that he speaks fluent English. Several people have pointed out that the pictures of him in VT show him wearing a saffron wrist-band, a Hindu custom, and police later revealed that he could not recite a single verse from the Koran, which any child growing up in a Muslim family would have been able to do. Indeed, a thoughtful article on the soc.culture.jewish group argued that the terrorists were not Muslims but mercenaries, given their appearance and behaviour (especially their reported consumption of alcohol and drugs), pointing out that they did not need to disguise themselves, since Muslims who look like Muslims are plentiful in Bombay, and [would not attract undue attention](#).

During his interrogation, Kasab said that he and eight of the operatives had done a reconnaissance trip to Bombay a few months back, pretending to be students and renting a room at Colaba market, which is close to Nariman House. It is extremely hard for Pakistani nationals to get Indian visas, and they are kept under close surveillance by the police; it is also most unlikely that the Indian immigration authorities would be fooled by forged passports of another country. In that case, the Indian immigration authorities would have visa applications of nine of the terrorists including Kasab, and could match the photographs in them to those of the terrorists: [has this been done?](#) Later, Kasab changed

his story and said that the team who carried out reconnaissance was different from the team who had carried out the attacks.

The events in VT and Cama and the back lane also put a question mark over his story. [According to witnesses](#), two gunmen started firing at the mainline terminus in VT at 21.55 on Wednesday night, but at precisely the same time, according to CCTV footage, two gunmen [began an assault](#) on the suburban terminus. If the first account is true, there were four gunmen at the station: where did the other two come from, and where did they go? We are shown video footage, claiming to be CCTV but without the timeline of normal CCTV footage, of Kasab and Ismail wandering around the parking lot near the mainline terminus. This surely cannot be before the shootout, since the station is completely deserted; and after the shootout, Kasab and Ismail are supposed to have escaped via the footbridge from Platform 1 of the suburban station on the other side of VT: this, again, suggests there were four gunmen. Even if Kasab and Ismail had been shown photographs of Karkare, Salaskar and Kamte before they embarked on their trip, how could they possibly have identified the police officers in a dark alley in the dead of night according to Kasab's first story? According to his later confession, a police officer got out of the vehicle and started firing first, injuring him; how, then, did Ismail manage to kill the rest by himself?

Witnesses in Cama hospital say the terrorists spoke fluent Marathi, and this report in two Marathi papers (Maharashtra Times and Navakaal of 28 /12/ 2008) has been [confirmed](#). The gunmen killed two guards in uniform, spared a third, who was in civilian dress and begged for his life saying he was the husband of a patient, demanded water from an employee in the staff quarters and then killed him. They then appear to have made a beeline for the 6th floor (which was empty) and the terrace, taking with them [the liftman, Tikhe](#). 15-30 minutes later, six to eight policemen arrived, and another employee took them up to the 6th floor. The policemen threw a piece of steel up to the terrace, whereupon Tikhe came running down and told them there were two terrorists on the terrace. A fierce gun-battle ensued for 30 to 45 minutes, in which ACP Sadanand Date was injured. Panic-stricken patients and staff in the maternity ward on the 5th floor barricaded the door; nurses instructed the women to breast-feed their babies to keep them quiet, and one woman, who was in the middle of labour, was told to hold back the birth; but they were not invaded. Eventually the gunmen appear to have escaped, [it is not clear how](#). If they were Kasab and Ismail, then these two must have been fluent Marathi speakers. And why would they have taken up positions on the terrace? Was it because it overlooks the lane in which Karkare, Salaskar and Kamte were later supposedly killed?

The other account is equally dubious. In [his first account](#), Jadhav said Karkare was in the second row of the Qualis, while in the second he was supposed to be in the front row with Kamte. In the second account, Salaskar was initially sitting behind the driver, but then asked the driver to slow down and got behind the wheel himself: is it plausible that an experienced encounter specialist would deliberately make himself into a sitting duck like this when they were in hot pursuit of terrorists? In the first account they were supposed to

be going to check up on their injured colleague Sadanand Date, but in the second were supposed to be looking for a red car in which they had been told the gunmen were travelling. If the report about the red car was a decoy to lure them into an ambush, it is important to know who told them that the terrorists were in a red car. If the gunmen were firing from the left side, as Jadhav claimed, how was Karkare hit three times in the chest while Jadhav himself got two bullets in his right arm? In fact, the only vegetation in that part of the lane is on the right side, and is pinned to the wall by chest-high wire netting; it would be necessary to climb over the netting to hide behind it, and climb over again to come out: impossible under the circumstances. Witnesses say only two bodies were found at the spot next morning: what happened to the third officer? Who were the three constables killed?

How did two terrorists manage to kill six police personnel, including Karkare and Kamte who he said were armed with AK47s and Salaskar, an encounter specialist, when one terrorist was later captured and the other killed by policemen armed only with two rifles and lathis? Assistant Police Inspector Ombale was killed in that encounter, but his colleagues survived. A DNA report on 2 December said that sub-inspector Durgude, who had been posted in front of St Xavier's College, between Cama Hospital and the exit point of the back lane onto Mahapalika Road, saw two young men whom he took to be students and called out to warn them that there was firing at Cama. When they ignored him, he approached them, upon which one of them turned an AK47 on him [and killed him](#). If Kasab and Ismail were there, who was firing inside Cama? Again, it is evident that at least four terrorists, and possibly more, were involved in this operation.

There was also [an intriguing report in DNA](#) on 28 November saying that Anand Raorane, a resident of a building opposite Nariman House, heard sounds of celebration from the terrorists there when the news of Karkare getting killed was flashed on TV: isn't that strange? The same report quoted a resident of Nariman House and a local shopkeeper who said that the terrorists had purchased large quantities of food and liquor before the attack, suggesting that more than two of them were planning to occupy the place for a long time. Eye-witnesses in St Xavier's saw a man shot and lying on the pavement in front of the college around 12.30 a.m., while about three gunmen stood over him: who was that? Various reports said that two to eight terrorists were captured alive. Now there is only one in police custody: what happened to the other(s)?

A careful scrutiny of all the reports available so far suggests, to this writer anyway, that the killing of Karkare was a premeditated act executed by his self-proclaimed enemies, some of whom had prior intelligence of the attack on the hotels and planned their own attack to coincide with it. The operation in Cama, in particular, seems to have had the sole objective of luring Karkare into the lane where he was later reportedly killed. A.R. Antulay's demand for a probe into the killing was widely supported, even though the same parties who were earlier vilifying and threatening Karkare responded by baying for his blood. P.Chidambaram's clarification that it was by chance that Karkare, Salaskar and Kamte happened to be travelling in the same vehicle does not explain any of the other

anomalies: Why did the terrorists go into Cama? If they were intending to slaughter people ruthlessly as they did in VT, why did they desist – did they have a sudden crisis of conscience? If they intended to create a hostage crisis, why did they go to the 6th floor and terrace, where there were no patients or staff? On the other hand, if they were looking for a getaway vehicle, wouldn't they have been more likely to find it on the road than on the terrace of Cama? How did these Pakistanis learn to speak Marathi so fluently? And are we really expected to believe that they could defy the laws of nature by being in two places at the same time, engaged in a shootout at Cama while at the same time gunning down sub-inspector Durgude outside St Xavier's?

The Objective: Shutting Down Terrorist Networks

These are just a few of the numerous questions being asked by vigilant Bombayites who find themselves thoroughly dissatisfied with the information that has been doled out. These are citizens who understand that their security depends on identifying Islamist terrorist networks in Pakistan and shutting them down, but feel it is equally important to their security to identify and shut down Hindutva terrorist networks in India, which have been responsible for the majority of terrorist attacks in Maharashtra, and possibly the whole country, in the past five years. Why are they so cynical about the possibility of a genuine professional investigation? The answer is that we have too much bitter experience of investigations in which innocent people (usually Muslims) are rounded up, tortured and even killed, while the real culprits are allowed to go free. Interpol chief Robert Noble's amazing revelation on December 23 that India had not shared any information about the terrorists with it, despite its offer to use Interpol's extensive resources to assist in the investigation, can only fuel the suspicion that the information dished out by the police to the public via the media is not of a quality that would be acceptable to a truly professional police agency. Karkare broke with this dismal record, but now he is dead. When a person who has been vilified, slandered and threatened with death is killed in suspicious circumstances, it is imperative that a proper investigation should be carried out soon, before too much evidence can be manufactured and/or destroyed. If Kasab aka Iman disappears or is assassinated like Lee Harvey Oswald, or is executed, that could only be seen as evidence of a cover-up.

The government and people of Pakistan have as much interest as the government and people of India in eliminating the terror networks that have killed President Asif Ali Zardari's wife Benazir Bhutto and thousands of others in both Pakistan and India. The terrorists, on the other hand, be they Islamist or Hindutva, have a common interest in destroying secularism, democracy and peace within and between the two countries. That is their precise agenda. Pakistani politicians had offered a joint investigation into the terrorist attacks, a far more sensible suggestion than belligerent statements by some Indians accusing Pakistan of harbouring terrorists who are killing Indians, which led us to the brink of war. It should be obvious that a military conflict between India and Pakistan, advocated by the Shiv Sena, would be disastrous for both countries

economically, while a nuclear war, which might ensue if extremist forces captured power in both countries, would have unthinkable consequences. If the Indo-Pakistan peace process is halted, as L.K.Advani advocates, the terrorists would have won.

Indeed, without a joint investigation, the terrorist networks behind this outrage can never be uncovered: how else could the names and addresses in Pakistan revealed by Kasab be followed up to the satisfaction of all parties? Interpol could act as a coordinating agency, but would not be able to follow up information about the terrorists unless it is provided by the Indian authorities. The Indian government owes it to the memory of Karkare, Salaskar and Kamte, who died fighting terrorism of all hues, to establish a credible account of exactly where, when and how they were killed, and identify their killers; unlike the well-known female TV anchor and others who berated Antulay for 'helping Pakistan,' we do not have to agree that one has to be a moron in order to be a good Indian! The government also owes it to us, the public, who are the prime targets of all terrorist attacks, to carry out a credible investigation which identifies and puts behind bars all the mass murderers involved in this and other attacks.

Terrorism, Rule of Law, and Human Rights

K.G. Balakrishnan

Adherence to the constitutional principle of 'substantive due process' must be an essential part of our collective response to terrorism. Any dilution of the right to a fair trial for all individuals, however heinous their crimes may be, will be a moral loss against those who preach hatred and violence.

From our recent experience, we have learnt that terrorist attacks against innocent and unsuspecting civilians threaten the preservation of the rule of law as well as human rights; and terrorism can broadly be identified with the use of violent methods in place of the ordinary tools of civic engagement and political participation. It has become an increasingly recurrent strategy for insurgent movements as well as identity-based groups to make their voice heard through armed attacks and bomb blasts in place of public dialogue. Independent India is no stranger to the problem of tackling armed terrorists and has faced long-running insurgencies as well as sporadic attacks in many parts of the country.

However, in the age of easy international travel and advanced communications, terrorist networks have also assumed cross-border dimensions. In many instances, attacks are planned by individuals located in different countries who use modern technology to collaborate for the transfer of funds and procurement of advanced weapons. This clearly means that terrorism is an international problem and requires effective multilateral engagement between various nations.

A challenge

For the international legal community, this poses a doctrinal as well as practical challenge. I say this because from the prism of international legal norms, prescriptions against violent attacks have traditionally evolved under two categories — firstly, those related to armed conflict between nations, and secondly, those pertaining to internal disturbances within a nation. While the conduct and consequences of armed conflicts between nations — such as wars and border skirmishes — are regulated by international criminal law and humanitarian law, the occurrence of internal disturbances within a nation are largely considered to be the subject-matter of that particular nation's domestic criminal justice system and constitutional principles.

It is often perceived that these doctrinal demarcations actually inhibit international cooperation for cracking down on terrorist cells with cross-border networks. In the absence of bilateral treaties for extradition or assistance in investigation, there is no clear legal basis for international cooperation in investigating terrorist attacks — which are

usually classified as internal disturbances in the nation where they took place. Since there are no clear and consistent norms to guide collaboration between nations in acting against terrorists, countries like the United States have invented their own doctrines such as 'pre-emptive action' to justify counter-terrorism operations in foreign nations.

However, the pursuit of terrorists alone cannot be a justification for arbitrarily breaching another nation's sovereignty. In this scenario, one strategy that has been suggested is that of recognising terrorist attacks as coming within a new 'hybrid' category of armed conflict, wherein obligations can be placed on different countries to collaborate in the investigation and prosecution of terrorist attacks that have taken place in a particular country. This calls for a blurring of the distinction between the international and domestic nature of armed conflict when it comes to terrorist strikes.

Another suggestion that has been made in this regard is that of treating terrorist attacks as offences recognised under International Criminal Law, such as 'crimes against humanity,' which can then be tried before a supranational tribunal such as the International Criminal Court (ICC). However, the obvious practical problem with this suggestion is that prosecutions before this Court need to be initiated by the United Nations Security Council (UNSC) and the latter body may be reluctant to do so in instances of one-off terrorist attacks as opposed to continuing conflicts.

Practical constraint

Yet another practical constraint that has been brought to the fore with the Mumbai attacks has been the question of holding governments responsible for the actions of non-state actors. While one can say that there is a moral duty on all governments to prevent and restrain the activities of militant groups on their soil, this is easier said than done. For example, several terrorist groups are able to organise financial support and procure weapons even in western nations where the policing and criminal justice systems are perceived to be relatively stronger than in the subcontinent.

Coming to the domestic setting, I must state that the symbolic impact of terrorist attacks on the minds of ordinary citizens has also been considerably amplified by the role of pervasive media coverage. In India, the proliferation of 24-hour television news channels and the digital medium has ensured that quite often some disturbing images and statements reach a very wide audience. One of the ill-effects of unrestrained coverage is that of provoking anger among the masses. While it is fair for the media to prompt public criticism of inadequacies in the security and law-enforcement apparatus, there is also a possibility of such resentment turning into an irrational desire for retribution.

Furthermore, the trauma resulting from the terrorist attacks may be used as a justification for undue curtailment of individual rights and liberties. Instead of offering a considered response to the growth of terrorism, a country may resort to questionable methods such as permitting indefinite detention of terror suspects, the use of coercive interrogation techniques, and the denial of the right to fair trial. Outside the criminal

justice system, the fear generated by terrorist attacks may also be linked to increasing governmental surveillance over citizens and unfair restrictions on immigration.

'Slippery slope'

In recent years, the most prominent example of this 'slippery slope' for the curtailment of individual rights is the treatment of the detainees in Guantanamo Bay who were arrested by U.S. authorities in the wake of the 9/11 attacks. It is alleged that they have detained hundreds of suspects for long periods, often without the filing of charges or access to independent judicial remedies.

For its part the U.S. administration has defended these practices by asserting that the detainees at Guantanamo Bay have safeguards such as appeals before military commissions, administrative review boards and combatant status review tribunals. A follow up to this in *Hamdan v. Rumsfeld* (126 S. Ct. 2749 (2006)) led to the ruling that the terror suspects could not be denied the right of habeas corpus and should be granted access to civilian courts. The rationale for this was that the various military tribunals did not possess the requisite degree of independence to try suspects who had been apprehended and detained by the military authorities themselves.

Even in the United Kingdom, the House of Lords in the *Belmarsh decision* (*A v. Secretary of State for the Home Department*, [2004] UKHL 56) ruled against a provision in the Anti-Terrorism, Crime and Security Act, 2001, which allowed the indefinite detention of foreign terror suspects. This ruling prompted the enactment of the Prevention of Terrorism Act, 2005, which was fiercely debated. The British Parliament accepted a 42-day period as the maximum permissible for detention without charges, subject to judicial checks. Evidently, the judiciary in these two countries has played a moderating role in checking the excesses that have crept into the response against terrorism.

In some circles, it is argued that the judiciary places unnecessary curbs on the power of the investigating agencies to tackle terrorism. In India, those who subscribe to this view also demand changes in our criminal and evidence law — such as provisions for longer periods of preventive detention and confessions made before police officials to be made admissible in court. While the ultimate choice in this regard lies with the legislature, we must be careful not to trample upon constitutional principles such as 'substantive due process.' This guarantee was read into the conception of 'personal liberty' under Article 21 of the Constitution of India by our Supreme Court. (This idea of 'substantive due process' was incorporated through the decision in *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.) The necessary implication of this is that all governmental action, even in exceptional times, must meet the standards of reasonableness, non-arbitrariness, and non-discrimination.

This implies that we must be wary of the use of torture and other forms of coercive interrogation techniques by law enforcement agencies. Coercive interrogation techniques mostly induce false confessions and do not help in preventing terrorist attacks.

Furthermore, the tolerance of the same can breed a sense of complacency if they are viewed as an easy way out by investigative agencies.

Need for professionalism

The apprehension and interrogation of terror suspects must also be done in a thoroughly professional manner, with the provision of adequate judicial scrutiny as mandated in the Code of Criminal Procedure. This is required because in recent counter-terrorist operations, there have been several reports of arbitrary arrests of individuals belonging to certain communities and the concoction of evidence — such as the production of similarly worded confession statements by detained suspects in different places. The proposal for the admissibility of confessional statements made before the police is also problematic since there are fears that such a change will incentivise torture and coercive interrogation by investigative agencies in order to seek convictions rather than engaging in thorough investigation.

The role of the judiciary in this regard should not be misunderstood. Adherence to the constitutional principle of 'substantive due process' is an essential part of our collective response to terrorism. As part of the legal community, we must uphold the right to fair trial for all individuals, irrespective of how heinous their crimes may be. If we accept a dilution of this right, it will count as a moral loss against those who preach hatred and violence. We must not confuse between what distinguishes the deliberations of a mature democratic society from the misguided actions of a few.

(This is based on Chief Justice of India K.G. Balakrishnan's presidential address at the inaugural session of the international conference of jurists on "Terrorism, Rule of Law & Human Rights" in New Delhi on December 13, 2008.)

Acts of Terror and Terrorising Act

Unfolding Indian Tragedy

Sukla Sen

In some circles, it is argued that the judiciary places unnecessary curbs on the power of the investigating agencies to tackle terrorism. In India, those who subscribe to this view also demand changes in our criminal and evidence law — such as provisions for longer periods of preventive detention and confessions made before police officials to be made admissible in court. While the ultimate choice in this regard lies with the legislature, we must be careful not to trample upon constitutional principles such as 'substantive due process.'

The role of the judiciary in this regard should not be misunderstood. Adherence to the constitutional principle of 'substantive due process' is an essential part of our collective response to terrorism. As part of the legal community, we must uphold the right to fair trial for all individuals, irrespective of how heinous their crimes may be. If we accept a dilution of this right, it will count as a moral loss against those who preach hatred and violence.

K. G. Balakrishnan, Chief Justice of India

It is a matter great shame and concern that the amended UAPA Act which had been placed before the Lok Sabha on Tuesday evening was passed unanimously the very next day, on Dec. 17.

Similarly, the Rajya Sabha passed it the following evening.

This is almost a rerun of the shameful saga concerning the saga of the highly controversial and contested SEZ Act in early 2005. There is, however, at least one crucial difference. In the earlier case, it was a rather quiet affair, almost a hush-hush. This time it was done amidst ugly chest-thumping. Last time, in the Lok Sabha, the BJP did not even participate in the deliberations. This time they claimed with full gusto the credit (sic) for the passage of the Bill overshadowing its official sponsors.

While the full details remain to be accessed and analysed, it is pretty much clear that most of the provisions of the earlier scrapped POTA, on account of strong reactions triggered by a history of huge misuse against the minorities, other marginalised sections of the society, people struggling against social and political injustices and also known opponents of those in positions of power have been brought back. Only the provision for legal admissibility of a "confession" made in police custody is left out. But there are other areas, where its reach has further extended. The most important aspect, however, is that the court has to treat an accused as guilty till proved otherwise and unless the court finds the

accused prima facie innocent it won't grant any bail to the accused. In case of a "foreign national", there is just no provision for any bail, whatever. This evidently runs counter to the recent Supreme Court directive that during a trial granting of bail should be the norm, and rejection an exception.

Even the BJP's start speaker in the Rajya sabha, Arun Jaitley, had to thus admit in course of his shrill advocacy for a draconian Act while supporting the Bill:

Quote

It is obvious that an anti terror law is not a substitute for stronger intelligence and security responses. You need a powerful intelligence mechanism which infiltrates into the enemy camp and brings you advance information of what the enemy is planning. The intelligence has to be coordinated and then effectively passed on to those who will take preventive measures. Your security responses have to be fast. Your commando reactions must send fear into the enemy mind. Obviously, an anti terror law is not a replacement of all these.

Unquote

[Source: <http://offstumped.nationalinterest.in/2008/12/18/arun-jaitleys-speech-in-rajya-sabha-on-nea-uapa-bills/>.]

It is not necessary here to get into the utterly perverse nature of Jaitley's foundational assumption of some perpetual enmity and a permanent "enemy camp" except for noting that this is the central element of mobilization strategy of the Hindutva Brigade in pursuance of its "Hindu Rashtra" project – ideological negation and physical liquidation of "secular democratic" India.. But what is more relevant is that even he cannot run away from the obvious fact that draconian laws are no substitute for good intelligence gathering (to prevent acts of terrorism) and prompt and effective response to such acts when they take place nevertheless.

A rider, a forewarning, issued by the incumbent Chief Justice of India, in a recent article of his is extremely instructive in the current context:

Quote

(T)he trauma resulting from the terrorist attacks may be used as a justification for undue curtailment of individual rights and liberties. Instead of offering a considered response to the growth of terrorism, a country may resort to questionable methods such as permitting indefinite detention of terror suspects, the use of coercive interrogation techniques, and the denial of the right to fair trial. Outside the criminal justice system, the fear generated by terrorist attacks may also be linked to increasing governmental surveillance over citizens and unfair restrictions on immigration.

This implies that we must be wary of the use of torture and other forms of coercive interrogation techniques by law enforcement agencies. Coercive interrogation techniques

mostly induce false confessions and do not help in preventing terrorist attacks. Furthermore, the tolerance of the same can breed a sense of complacency if they are viewed as an easy way out by investigative agencies.

Unquote

[Source: <<http://www.hindu.com/2008/12/16/stories/2008121653310800.htm>>.]

Pretty unfortunately, but rather expectedly, the entire thrust of the discourse spearheaded by the outraged elite is to "tighten the law" to ensure "conviction" of the accused by granting more powers to the law enforcing agencies whose performance in stalling terrorist attacks amidst repeated claims of busting the "terror modules" and capturing, and also "neutralising" through encounters, the (innumerable) "masterminds" remains utterly and increasingly dismal. Highly conspicuous is any anxiety to ensure an efficient investigation and effective intelligence gathering and making those responsible for failures accountable for their failures.

Draconian laws, let there be no confusion, will only tend to turn the highhanded, corrupt and lousy police force even more so and thereby further worsen the situation. Not that there will not be more convictions and many more arrests, indefinite detentions, custodial and encounter deaths. The continued incarceration of Dr. Binayak Sen – a dedicated doctor of highest distinction and a human rights activist of national stature - behind the bars since May 2007 on apparently trumped up charges despite national and global protests, even without the aid of the newly brushed up UAPA Act, is enough of a pointer. But that will not stop or deter terrorism, rather further aggravate. It is a great tragedy that such measure is being sold and consumed considered as the silver bullet in spite of clearly proven track record of gross failures. The attack on the Indian Parliament, the Red Fort, Akshardham temple in Gandhinagar and also the hijacking of an Indian Airlines plane to Kandahar are just a few examples. All these are, incidentally, of somewhat nature as that of the latest attack in Mumbai.

The latest terror attack in Mumbai, which is somewhat atypical in the context of endless terror attacks in India since the one on March 12 1993 - flowing directly from the preceding bloodbath sparked on January 6 1993 – has, however, one common characteristic. That is the gross failure of intelligence.

Intelligence gathering and sorting out of the same through interactions of various agencies into actionable knowledge has various stages and levels. The gathering itself has essentially two categories – domestic and external. The external element is of course the charge of a very specialized agency mainly through a set of trained "spies", and tips from other "friendly" agencies. The internal gathering process is, however, far more varied. Even then the base, and the most crucial element, is constituted of intelligence gathering at the grassroots level. Here the present practice is to obtain information through paid "informers" – all sorts of shady characters, petty and professional criminals. Given the extremely negative image of the police vis-à-vis the local communities, it could

hardly be otherwise. But this method cannot but be far less efficient than would have been in case of voluntary and free flow of information from the common citizenry. But that would call for a very different image of the police. A very different relationship with the local communities. Instead of an institution symbolizing and embodiment of torture and oppression, the police has to have a people-friendly image in order to make that possible. But in such an event, not only intelligence gathering would be far more efficient – but that would rather be a fringe benefit – the maintenance of "law and order" itself would be much smoother.

Nothing can be truer and more forthright than a recent assessment of the current state of Indian policing as contained in a statement issued by the Asian Human Rights Commission on the last December 2, in the wake of the terror attack in Mumbai.

Quote

The fact remains that the Maharashtra State Police, like any other state police force in the country, can hardly do anything to avert these incidents. The state of policing in the country is in such demise that it has completely severed its contact with the people. Most police officers contact the members of the public only to demand bribes. Corruption in the police service is at such levels that even in order to lodge a complaint the complainant has to pay a bribe.

Police brutality is so rampant in the country that the sight of a police uniform is enough to scare an ordinary person, particularly among the poor population. Information, independent of its nature, has to be forced out of the ordinary people. Information obtained under the threat of violence is tainted and cannot be acted upon. Terrorists are different from the ordinary people in the sense that they have money, better training and equipment at their disposal to achieve their goals. They can bribe the police and are in fact doing so.

To expect an ordinary Indian to approach the local police with information is an impossibility in the country. An example is the statements made by the parents who lost their children in the infamous 2006 December Noida serial murder case. The case began after the recovery of the skeletal remains of missing children in Nithari village in the outskirts of Noida city close to New Delhi.

Unquote

[Source: <<http://www.ahrchk.net/statements/mainfile.php/2008statements/1789/>>.]

The unfortunate "unanimous" passage of the freshly amended Unlawful Activities (Prevention) Act is only an indicator of the deep rot in the system. It is no less revealing that during the debates no one reportedly raised the very sensible and in fact obvious demand for a credible public enquiry covering all the aspects of widely alleged intelligence failure, response lags and lapses, who are behind the attack and why to work out a set of thoughtful and rational responses to make the system at least somewhat less vulnerable

the next time round; to make the reoccurrence significantly less probable; . to make such a tragedy far less costly if it manages to happen nevertheless. We had only chest thumping demagoguery, clamour for draconian laws and war cries all around.

Instead of helping contain terrorism, let alone eradicating, it will only further aggravate social tensions through legitimization of corrupt highhandedness of the police force and targeting of specific segments of the society with full protections of the law. It is perhaps Gorky who had pronounced that if order is injustice then disorder is the beginning of justice. Unfortunately, law itself predictably turning more and more unlawful and tyrannical, more and more youngsters would tend to embrace that as a piece of divine wisdom with disastrous consequences on all sides to follow.

That even the sage words of the serving Chief Justice of India stand so casually dismissed only goes to further underscore the depth of the tragedy we have dug ourselves in.

Only an awakened common citizenry refusing to succumb to the easy lure of ugly blood lust triggered by such disasters as the last terror attack in Mumbai and steadfastly demanding thoughtful actions and radical reforms to prevent recurrence of such shameful failure is the way to get ourselves out.

Our Politicians Are Still Not Listening

By Colin Gonsalves
20 December, 2008

Mail Today

One would have thought that after the Bombay attack and the public outpouring of resentment against politicians, that the establishment would get its act in order. One would expect that careful thought would go into the making of proposals to combat terrorism and to keep the people secure. Instead what do we find? The same old clichés and the usual attack on human rights activists.

What the people of India expected, was that the governments would give careful thought to making the police a professional fighting force oriented towards the security of the ordinary citizens of India rather than operating, as it does now, as the protectors of politicians. They also expected that the police would eliminate from its ranks the use of torture and the vice of corruption, two aspects of policing today that make the general public both distrustful and fearful of the police.

Listening carefully, however, to the statements of BJP and Congress politicians in the media, one can find no reference to the demands of the people. Politicians are obviously distracted by the national elections scheduled for early next year and even such a serious incident of terrorism as the Bombay attack figures even now in their consciousness as a vote catching exercise.

In a knee-jerk reaction, GOI proposes to enact The Unlawful Activities (Prevention) Amendment Act, 2008. Under section 15, the prosecution is to be granted upto 180 days to file a chargesheet (it is a 90 day limit today after which the accused is granted bail mandatorily), the provisions for bail are stricter, and if arms or explosives are proved to be recovered from the accused, then the court is entitled to presume that the accused has committed a terrorist act.

Indian criminal law provisions rank among the strictest in the world. In the US and the UK even after the terrorist attacks in those countries, the maximum period of detention without a chargesheet is 2 days and 28 days respectively. The provisions in India for search and seizures are the most liberal in the world.

Supreme Court decisions to the effect that even if the searches and seizures are illegal they may still be relied upon in evidence against the accused, has given the police a free hand to do all kinds of hanky panky while conducting raids. Amendments have been made in various statutes to permit interceptions of communications.

Supreme Court decisions after 2000 have watered down the criminal law protection of accused persons and have lowered the criminal law standard of proof beyond reasonable

doubt to such an extent, that international jurists are appalled by the way in which the Indian courts are convicting accused persons. Why then, with such strict laws and with such a convicting judiciary, did the Bombay attack happen with such impunity? The answer is simple. The problem in India lies not in the law but in its implementation.

This is where the main demands of the people that the police become a professional force, that law and order be separated from the investigation of crimes, and that corruption and violence be eliminated, becomes important. The Central Government also proposes to pass The National Investigation Agency Bill, 2008 which will see the setting up of a national body to oversee the investigation and prosecution of terrorist offences. Here again the approach is cosmetic rather than substantial and the aim is to impress rather than protect. The Central Bureau of Investigation (CBI) is today a national body for the investigation of all serious crimes. The only difference between the CBI and the NIA is that the former is required to take the permission of the states prior to acting within the state, whereas the NIA can operate without consent. But if all the states are agreed, as indeed they are, that terrorism ought to be fought at the national level as well, then there ought to be no difficulty for the Central Government to consult the legislatures of the states in a transparent manner, to obtain consent for the CBI to operate throughout the country.

All that would be necessary thereafter is for the Central Government to administratively upgrade the CBI. THOUGH it must be said to the credit of the Union Government that they have not succumbed to the temptation to introduce the draconian POTA provision authorising confessions to a police officer (which rendered POTA trials farcical), the reference to Left Wing Extremism in the Statements of Objects and Reasons is disappointing.

Naxalism has deep social roots in injustice, poverty and state violence, unlike the senseless terrorism of Pakistani agents. Like the IRA in Ireland, it must be recognised as a political tendency and negotiated with politically. The reasons for the growth of naxalism must be understood as requiring a radical shift from the inequities of globalisation to a more socialistic programme where the common person is treated with dignity. In the present political situation however, one can only see hysteria and the lack of reason.

India's New Anti-Terror Laws Draconian Say Activists

Praful Bidwai
20 December, 2008

Inter Press Service

NEW DELHI, Dec 19 (IPS) - Following the late November terror attacks in Mumbai, India has passed two tough laws being seen by rights activists as potentially eroding the country's federal structure and limiting fundamental liberties.

Parliament -- meeting under the shadow of the November 26-29 attacks on India's commercial hub resulting in close to 200 deaths -- approved the legislations on Thursday with no considered debate and the ruling United Progressive Alliance (UPA) of Prime Minister Manmohan Singh pushing them past amendments tabled by several parliamentarians.

One law, the National Investigation Agency (NIA) Act, seeks to establish a new police organisation to investigate acts of terrorism and other statutory offences.

The other, the Unlawful Activities (Prevention) Amendment (UAPA) Act, radically changes procedures for trying those accused of terrorism, extends the periods of police custody and of detention without charges, denies bail to foreigners, and the reverses the burden of proof in many instances.

Civil liberties activists and public-spirited citizens are appalled at the new laws, which they describe as draconian and excessive in relation to the measures India really needs to take to fight terrorism.

"The UAPA Act is particularly vile, and will have the effect of turning India into a virtual police state," says Colin Gonsalves, executive director of the Delhi-based Human Rights Law Network. "It basically brings back a discredited law, the Prevention of Terrorism Act of 2002 (POTA), except for admitting confessions made to a police officer as legal evidence."

POTA was an extremely unpopular law, which the UPA government abrogated upon coming to power in 2004 in response to innumerable complaints of its selective and discriminatory use against India's Muslim minority, and its cavalier and irresponsible application to offences not even remotely connected with terrorism.

While rescinding POTA, the UPA kept in place all of India's criminal laws, which are much stricter than those in many democracies.

In addition, it also enacted an amendment to the Unlawful Activities Act, 1967, which

increased punishment for committing acts of terrorism and for harbouring terrorists or financing them, enhanced police powers of seizures, made communications intercepts admissible as evidence, and increased the period of detention without charges to 90 days from the existing 30 days.

However, this was not enough to please those who want a "strong" militarised state which will prevent and punish terrorism by violating the citizen's fundamental rights, including the right to a fair trial, and not to be detained without charges.

India's main right-wing political group, the Bharatiya Janata Party, has been stridently demanding that POTA be re-enacted. Until recently, the UPA, the Left and other centrist parties stood firm in rejecting the demand despite the numerous terrorist attacks that India has suffered over the past few years.

"But now, the UPA has suddenly, and shamefully, caved in to the BJP's demand under the pressure of elite opinion," says Jairus Banaji, a highly regarded Mumbai-based social scientist. "The capitulation seems to be based on the UPA's anxiety to counter the BJP's ridiculous charge that it lacks the will to fight terrorism, and on its political calculations about the next general election due by May."

In its desperation to be seen to be taking a tough stand against terrorism, the Manmohan Singh government also tabled the NIA Bill earlier this week. The new agency will specifically investigate offences related to atomic energy, aviation and maritime transport, weapons of mass destruction, and Left-wing extremism, besides terrorism.

Significantly, it excludes Right-wing terrorism, which has become a greater menace in India.

Unlike the existing Central Bureau of Investigation, which needs the consent of a state before investigating crimes there, the NIA will not need a state's concurrence. This is a serious infringement of the federal system, where law and order is a state subject.

Many state governments and regional political parties have sharply criticised the Act on this count. In India, Central agencies are politically vulnerable to manipulation by New Delhi and often used to settle scores with states ruled by opposition parties.

The NIA Act also provides for special courts to try various offences. This too has drawn criticism from eminent lawyers such as Rajeev Dhavan, who argues that the potential misuse of this anti-terror legislation will now "come from both the states and the union, which can hijack the case".

The UAPA Act contains a number of draconian clauses, and is also applicable to the entire country -- unlike the Unlawful Activities Act, which was originally not extended to the strife-torn state of Jammu and Kashmir. This too has drawn protests from Kashmir-based political parties and human rights groups.

The stringent clauses cover a broad range, including a redefinition of terrorism, harsh punishment extending from five years' imprisonment to life sentence or death, long periods of detention, and presumption of guilt in case weapons are recovered from an accused person.

The new definition now includes acts done with the intent to threaten or "likely" to threaten the unity, integrity, security or sovereignty of India, and offences related to radioactive or nuclear substances, and even attempts to overawe, kidnap or abduct constitutional and other functionaries that may be listed by the government. Dhavan says: "The list is potentially endless."

Under the Act, an accused can be held in police custody for 30 days, and further detained without charges for 180 days, although courts can restrict the period to 90 days.

"This is a travesty of constitutional rights and the rule of law," says Gonsalves. "Even worse is the presumption of guilt in case there is a recovery of arms, explosives and other substances, suspected to be involved, including fingerprints on them. The police in India routinely plants such arms and explosives, and creates a false record of recovery."

"The very fact that offences such as organising terrorist training camps or recruiting or harbouring terrorists carry a punishment as broad as three or five years to life imprisonment shows that the government has not applied its mind to the issue," Gonsalves added.

Under the Act, there is a general obligation to disclose any information that a police officer of a certain rank thinks is relevant to the investigation. Failure to disclose information can lead to imprisonment for three years. Journalists are not exempt from this.

Besides making telecommunications and e-mail intercepts admissible as evidence, the Act also denies bail to all foreign nationals, and mandates a refusal of bail to anyone if a prima facie case exists, which is decided on the basis of a First Information Report filed by the police.

POTA and its predecessor, Terrorist and Disruptive Activities (Prevention) Act (TADA), were extensively abused. They typically targeted the religious minorities, specifically Muslims, and allowed for their harassment and persecution.

The TADA story is especially horrifying. Some 67,000 people were arrested under it, but only 8,000 put on trial, and a mere 725 convicted.

Official TADA Review Committees themselves found the law's application untenable in all but 5,000 cases. In 1993, Gujarat witnessed no terrorism, but more than 19,000 people were still arrested under TADA.

Religious minorities were selectively targeted under both Acts. For instance, in Rajasthan, of 115 TADA detainees, 112 were Muslims and three Sikhs.

Gujarat had a worse pattern under POTA, when all but one of the 200-plus detainees were Muslims, the remaining one a Sikh.

The passing of the two new laws is certain to increase the alienation of India's Muslims from the state. They have been the principal victims of India's anti-terrorism strategy and activities in recent years.

Muslims are first to be arrested and interrogated after any terrorist incident, even when the victims are Muslims, and although strong evidence has recently emerged of a well-ramified pro-Hindu terrorist network, in which serving and retired army officers were found to be key players.

Muslims also distressed at the alacrity and haste with which the new laws were passed, especially since it contrasts with the UPA government's failure to enact a law it promised five years ago to punish communal violence and hate crimes targeting specific religious groups.

"This will pave the way for more disaffection amongst Muslims and make the social and political climate more conducive to terrorism," argues Gonsalves. "Even worse, it will promote excesses of the kind associated with state terrorism. And that is no way to fight sub-state terrorism."

TERRORISM : ARE STRONGER LAWS THE ANSWER?

By Prashant Bhushan

The terrorist attack on two five star hotels in Mumbai has led to a lot of jingoism and muscle-flexing in the media, and on the streets. "Enough is enough", "We will not pay our taxes", "we must destroy terrorist training camps in Pakistan" are the kind of cries that are heard most frequently. "Get tough on terror" is the new mantra and among other things, getting tough means bringing tougher laws. The UPA government which repealed POTA just 4 years ago because it was found to be draconian, misused and counterproductive, has now used the jingoism to enact a "tougher terror law" in the form of amendments in the already draconian Unlawful Activities Prevention Act. These amendments were introduced in Parliament on the 15th December and passed the next day with virtually no debate and without any opportunity to civil society to study, digest and debate the implications of the amendments.

Those who have been clamouring for tougher laws often do not know what makes the law tough, and how "tougher" laws would deter or prevent terrorism. In the first place, it must be understood that a law can only help to keep in custody and prosecute and convict any person who has been arrested. No law, however tough or draconian, can deter or deal with suicidal terrorists who are willing to die before they are caught. The prospect of no bail or the prospect of being convicted is hardly likely to scare or deter the kind of terrorists who attacked Mumbai. In fact, in Iraq, the security forces or the Army can detain or keep in detention indefinitely or even shoot down any person at will. The police or security forces cannot have more draconian powers than that. Yet, those powers, far from bringing down terrorism in Iraq, have only led to conditions, which have created more terrorists who are blowing up themselves and hundreds of people every day.

When POTA was repealed, some of its draconian provisions had been engrafted into the Unlawful Activities (Prevention) Act. Those, along with The Chhattisgarh Public Security Act, whose provisions make it an offence to provide any kind of assistance to a banned organization or a person belonging to a banned organization, have been used to incarcerate Binayak Sen, the General Secretary of the PUCL. Sen unquestionably one of the most selfless activists, spent a good part of his life in setting up public health clinics in remote areas of Chhattisgarh. He has been in detention for the last one and half years on the charge that he has "assisted" Maoists who were in jail by taking letters from them and giving them to their comrades. It matters not that these letters he is alleged to have carried did not contain anything subversive. The mere fact that he is alleged to have carried letters from an alleged Maoist is enough to charge him with "assisting" an unlawful (Maoist) organization and thus a terrorist act.

Denial of bail under POTA had only allowed the investigative agencies to keep under detention innocent persons, against whom the investigative agencies had no evidence of terrorism. No court would grant bail anyway to a person against there is any evidence of involvement in any terrorist act. No government has ever come up with a case that some terrorist act was committed by a person who was arrested earlier but released on bail because of the absence of "stronger laws". Similarly, everybody knows that police confessions can be obtained from anyone by torture or under the threat of torture. They are a totally unsafe and unreliable basis for charging or convicting any person. These draconian provisions of POTA and its predecessor TADA had only encouraged the police to detain innocent persons indefinitely, charge sheet them on the basis of police confessions and then prosecute them in trials which go on for years. Once having arrested the persons and chargesheeted them, the police claims that the case has been solved. During this time, these persons are usually tortured in custody, and forced to confess. Their prolonged incarcerations lead to the permanent loss of their reputation and the economic destruction of their families. The fact that most of the persons chargesheeted under these draconian laws were innocent, is clear from the fact that more than 98% of them were eventually acquitted. But their acquittal came only after an enormous toll on their reputation, health, lives and the economic survival of their families. This has not only caused great injustice to thousands of innocent persons who have been unfairly arrested and victimized by the investigative agencies in this manner, it is one of the major causes of the insecurity, alienation and anger of the minorities against the police, the criminal justice system and indeed the ruling establishment of the country.

This is indeed the finding of several People's Tribunals which have extensively heard the testimonies of large numbers of persons who were victimized by these Acts. The People's Tribunal on POTA consisting of eminent jurists like Ram Jethmalani, Justice Suresh, Justice D.K. Basu, K.G. Kannabiran, and other eminent persons, opined in their report in 2004, that, "Our review of victim and expert testimony shows that the misuse of the Act is inseparable from its normal use. It is a Statute meant to terrorise, not so much the terrorists as ordinary civilians – particularly the poor and disadvantaged such as dalits, religious minorities, adivasis and working people."

A People's Tribunal on the terror investigations of the police in various states of the country was held in Hyderabad in August 2008. The jury consisted of two former Chief Justices, several other eminent, academics, lawyers and social scientists. They came to the unanimous conclusion that:

"The testimonies showed that a large number of innocent young Muslims have been and are being victimized by the police on the charge of being involved in various terrorist acts across the country. This is particularly so in Maharashtra, Gujarat, Madhya Pradesh, Andhra Pradesh and Rajasthan, though not limited to these States.

This victimization and demonisation of Muslims in the guise of investigation of terror offences, is having a very serious psychological impact on the minds of not only the

families of the victims but also other members of the community. It is leading to a very strong sense of insecurity and alienation which may lead to frightful consequences for the nation."

The amendments now rushed through in the Unlawful Activities Act undoubtedly make it more draconian by giving more powers to the police to search, arrest, keep in police custody and in jail persons on mere subjective suspicion even if they have no evidence of their being involved in any terrorist Acts. The newly introduced Section 43A of the act empowers an officer of a designated authority to search any premises or arrest any person of whom he has "reason to believe or knows" that he has a "design to commit an offence under the Act.

Further, police officers investigating an offence under the Act have (with the approval of the SP), been empowered to require any organization or any individual to furnish any information that the officer may demand for his investigation. The failure to furnish such information has been made punishable with up to 3 years imprisonment. Such a provision can and will easily be misused by the police to harass all kinds of activists, lawyers, doctors and journalists who stand up for, or provide any assistance, even legal or medical, to an alleged terrorist.

The maximum period for keeping persons in police custody have been extended from 15 to 30 days. Police custody is sought for "custodial interrogation" which we all know is a euphemism for custodial torture. India has the highest number of custodial deaths in the world and is among the few countries, which has not signed the UN convention on torture. Though the Constitution provides that no one can be compelled to be a witness against himself, yet such coercive "custodial interrogation", is being allowed by the Courts for months without end. Abu Basheer, the Azamgarh cleric who has been dubbed as one of the many "Masterminds" of the serial blasts in Ahmedabad, Jaipur and Delhi, has been continuously kept in police custody for more than 6 months now by arresting him serially (after every 15 days) in one after another of the more than 25 FIRs that have been registered in Ahmedabad, Jaipur and Delhi for the serial blasts.

The Code of Criminal Procedure provides that if the chargesheet against an arrested person is not filed within 90 days, he will be entitled to Bail. This is for the reason, that till the chargesheet is filed, it is virtually impossible for an arrested person to get bail, even if the police has no evidence against him. The new amendments also extend the maximum period for filing a chargesheet against an arrestee to 180 days. A n o t h e r amendment makes bail virtually impossible even during trial. It provides that an "accused person shall not be released on bail or on his own bond, if the court on a perusal of the case diary or the report made under section 173 (the chargesheet) of the code is of the opinion that there are reasonable grounds for believing that the accusations against the persons are prima facie true"

These amendments make the Unlawful Activities Act as or more draconian than POTA. The

only draconian provision of POTA left out in this Act now is the admissibility of police confessions.

Far from curbing terror, we find that draconian laws used by a corrupt and communal police, are creating conditions which will only exacerbate the problem. The normal laws of the land are adequate to deal with terror offences. The problem lies with the police, which is the implementing agency. The Supreme Court had issued many directions in September 2006 to implement police reforms which several expert agencies of the government had recommended many years ago, but which had not been implemented. They included, setting up independent State and National Security Commissions, Police Establishment Boards, Police Complaints Authorities and giving a minimum tenure to heads of field police officers at all levels including Police Chiefs etc. The thrust of these recommendations was to make the police and investigative agencies accountable to the law and free them from the strangulating control of the political executive. Neither the Central nor most of the States governments have implemented the directions of the Supreme Court about the police reforms. None of the major political parties are prepared to relinquish their political control over the police.

Implementation of reforms within the Police and Intelligence agencies should certainly improve security and reduce terror attacks. But that will not eliminate the problem. Israel, with the most efficient intelligence, security and police has not been able to eliminate the problem, despite the small size of the country. They have suicide attacks almost every month. No amount of intelligence or security can stop terrorists who are willing to give up their lives. They can only be stopped if their motivation is eliminated. That will require what Chomsky advised in the wake of 9/11. He said: "As to how to react (to 9/11), we have a choice. We can express justified horror; we can seek to understand what may have led to the crimes, which means making an effort to enter into the minds of the likely perpetrators. We may try to understand, or refuse to do so, contributing to the likelihood that much worse lies ahead."

Eventually, understanding the motivations of the terrorists and dealing the injustices that pervade our society, and repairing the institutions of justice, particularly the police and the judiciary, will be a much more effective way of fighting terror, than laws which give more draconian powers to corrupt and insensitive police organisations.

Mumbai Under Siege

Yoginder Sikand

"O ye who believe! stand out firmly for God, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear God. For God is well-acquainted with all that ye do."

(The Quran, Surah Al-Maida: 8)

Numerous theories are doing the rounds about the dastardly terrorist assault on Mumbai. The dominant view, based on what is being suggested by the media, is that this is the handiwork of the dreaded Pakistan-based self-styled Islamist and terrorist outfit Lashkar-e Tayyeba, which, ever since it was ostensibly proscribed by the Government of Pakistan some years ago, has adopted the name of Jamaat ud-Dawah. This might well be the case, for the Lashkar has been responsible for numerous such terrorist attacks in recent years, particularly in Kashmir.

The Lashkar is the military wing of the Markaz Dawat wal Irshad, an outfit floated by a section of the Pakistani Ahl-e Hadith, a group with close affiliations to the Saudi Wahhabis. It has its headquarters at the town of Muridke in the Gujranwala district in Pakistani Punjab. The Markaz was established in 1986 by two Pakistani university professors, Hafiz Muhammad Saeed and Zafar Iqbal. They were assisted by Abdullah Azam, a close aide of Osama bin Laden, who was then associated with the International Islamic University in Islamabad. Funds for setting up the organization are said to have come from Pakistan's dreaded official secret services agency, the Inter Services Intelligence (ISI). From its inception, it is thus clear, the Lashkar had the support of the Pakistani establishment. The Lashkar started out as a paramilitary organisation to train warriors to fight the Soviets in Afghanistan. Soon it spawned dozens of camps across Pakistan and Afghanistan for this purpose. Militants produced at these centres have played a major role in armed struggles, first in Afghanistan, and then in Bosnia, Chechenya, Kosovo, the southern Philippines and Kashmir.

Like other radical Islamist groups, the Lashkar sees Islam as an all-embracing system. It regards Islam as governing all aspects of personal as well as collective life, in the form of the shariah. For the establishing of an Islamic system, it insists, an 'Islamic state' is necessary, which will impose the shariah as the law of the land. If, the official website of the Lashkar announces, such a state were to be set up and all Muslims were to live strictly according to 'the laws that Allah has laid down', then, it is believed, 'they would be able to control the whole world and exercise their supremacy'. And for this, as well as to respond to the oppression that it claims that Muslims in large parts of the world are suffering, it insists that all Muslims must take to armed jihad. Armed jihad must continue, its website announces, 'until Islam, as a way of life, dominates the whole world and until Allah's law is

enforced everywhere in the world'.

The subject of armed jihad runs right through the writings and pronouncements of the Lashkar and is, in fact, the most prominent theme in its discourse. Indeed, its understanding of Islam may be seen as determined almost wholly by this preoccupation, so much so that its reading of Islam seems to be a product of its own political project, thus effectively ending up equating Islam with terror. Being born as a result of war in Afghanistan, war has become the very *raison d'être* of the Lashkar, and its subsequent development has been almost entirely determined by this concern. The contours of its ideological framework are constructed in such a way that the theme of armed jihad appears as the central element of its project. In the writings and speeches of Lashkar spokesmen jihad appears as violent conflict (*qital*) waged against 'unbelievers' who are said to be responsible for the oppression of the Muslims. Indeed, the Lashkar projects it as the one of the most central tenets of Islam, although it has traditionally not been included as one of the 'five pillars' of the faith. Thus, its website claims that 'There is so much emphasis on this subject that some commentators and scholars of the Quran have remarked that the topic of the Quran is jihad'. Further, a Lashkar statement declares, 'There is consensus of opinion among researchers of the Qur'an that no other action has been explained in such great detail as jihad'.

In Lashkar discourse, jihad against non-Muslims is projected as a religious duty binding on all Muslims today. Thus the Lashkar's website claims that a Muslim who has 'never intended to fight against the disbelievers [...] is not without traces of hypocrisy'. Muslims who have the capacity to participate or assist in the jihad but do not do so are said to 'be living a sinful life'. Not surprisingly, therefore, the Lashkar denounces all Muslims who do not agree with its pernicious and grossly distorted version of Islam and its hideous misinterpretation of jihad—Sufis, Shias, Barelvis and so on—as being 'deviants' or outside the pale of Islam or even in league with 'anti-Islamic forces'. The Lashkar promises its activists that they would receive great rewards, both in this world and in the Hereafter, if they were to actively struggle in the path of jihad. Not only would they be guaranteed a place in Heaven, but they would also 'be honoured in this world', for jihad, it claims, is also 'the way that solves financial and political problems'.

Astoundingly bizarre though it is, the Markaz sees itself as engaged in a global jihad against the forces of 'disbelief', stopping at nothing short of aiming at the conquest of the entire world. As Nazir Ahmed, in-charge of the public relations department of the Lashkar, once declared, through the so-called jihad that the Lashkar has launched, 'Islam will be dominant all over the world'. This global war is seen as a solution to all the ills and oppression afflicting all Muslims, and it is claimed that 'if we want to live with honour and dignity, then we have to return back to jihad'. Through jihad, the Lashkar website says, 'Islam will be supreme throughout the world'.

In Lashkar discourse, its self-styled jihad against India is regarded as nothing less than a war between two different and mutually opposed ideologies: Islam, on the one hand, and

Hinduism, on the other. It tars all Hindus with the same brush, as supposed 'enemies of Islam'. Thus, Hafiz Muhammad Saeed, Lashkar chief, declares: 'In fact, the Hindu is a mean enemy and the proper way to deal with him is the one adopted by our forefathers, who crushed them by force. We need to do the same'.

India is a major target for the Lashkar's terrorists. According to Hafiz Muhammad Saeed, 'The jihad is not about Kashmir only. It encompasses all of India'. Thus, the Lashkar sees its self-styled jihad as going far beyond the borders of Kashmir and spreading through all of India. Its final goal, it says, is to extend Muslim control over what is seen as having once been Muslim land, and, hence, to be brought back under Muslim domination, creating what the Lashkar terms as 'the Greater Pakistan by dint of jihad'. Thus, at a mammoth congregation of Lashkar supporters in November 1999, Hafiz Muhammad Saeed thundered, 'Today I announce the break-up of India, Inshallah. We will not rest until the whole of India is dissolved into Pakistan'.

The Lashkar, so say media reports, has been trying to drum up support among India's Muslims, and it may well be that it has managed to find a few recruits to its cause among them. If this is the case, it has probably been prompted by the fact of mounting murderous Hindutva-inspired anti-Muslim pogroms across the country, often abetted by agencies of the state, which has taken a toll of several thousand innocent lives. The fact that no semblance of justice has been delivered in these cases and that the state has not taken any measure to reign in Hindutva terrorism adds further to the deep-seated despondency and despair among many Indian Muslims. This might well be used by self-styled Islamist terror groups, such as the Lashkar, to promote their own agenda. Obviously, therefore, in order to counter the grave threat posed by terror groups such as the Lashkar, the Indian state needs to tackle the menace of Hindutva terror as well, which has now assumed the form of full-blown fascism. Both forms of terrorism feed on each other, and one cannot be tackled without taking on the other as well.

Mercifully, and despite the denial of justice to them, the vast majority of the Indian Muslims have refused to fall into the Lashkar's trap. The flurry of anti-terrorism conferences that have recently been organised by important Indian Islamic groups is evidence of the fact that they regard the Lashkar's perverse understanding of Islam as being wholly anti-Islamic and as a perversion of their faith. These voices urgently need to be promoted, for they might well be the most effective antidote to Lashkar propaganda. Numerous Indian Islamic scholars I know and have spoken to insist that the Lashkar's denunciation of all non-Muslims as 'enemies of Islam', its fomenting of hatred towards Hindus and India and its understanding of jihad are a complete misrepresentation of Islamic teachings. They bitterly critique its call for a universal Caliphate as foolish wishful thinking. And they are unanimous that, far from serving the cause of the faith they claim to espouse, groups like the Lashkar have done the most heinous damage to the name of Islam, and are to blame, to a very large extent, for mounting Islamophobia globally.

At the same time as fingers of suspicion are being pointed at the Lashkar for being behind

the recent Mumbai blasts, other questions are being raised in some circles. The significant fact that Hemant Karkare, the brave ATS chief who was killed in the terrorist assault, had been investigating the role of Hindutva terrorist groups in blasts in Malegoan and elsewhere and had received threats for this has not gone un-noticed. Nor has the related fact that the assault on Mumbai happened soon after disturbing revelations began pouring in of the role of Hindutva activists in terror attacks in different parts of India. That the attack on Mumbai has led to the issue of Hindutva-inspired terrorism now being totally sidelined is also significant.

And then there is a possible Israeli angle that some are raising. Thus, the widely-read Mumbai-based tabloid Mid-Day, in an article about a building where numerous militants were holed up titled 'Mumbai Attack: Was Nariman House the Terror Hub?', states:

"The role that Nariman House is coming to play in this entire attack drama is puzzling. Last night, residents ordered close to 100 kilograms of meat and other food, enough to feed an army or a bunch of people for twenty days. Shortly thereafter, the ten odd militants moved in, obviously, indicating that the food and meat was ordered, keeping their visit in mind, another cop added.

"One of the militants called up a television news channel and voiced his demands today, but, interestingly, when he was asked where are they all holed him, he said at the Israeli owned Nariman House and they are six of them here", one of the investigating cops said. Since morning, there has been exchange of gun fire has been going on and the militants seem well equipped to counter the cops fire. To top it, they have food and shelter. One wonders [if] they have the support of the residents, a local Ramrao Shanker said."

A Mossad/Israeli hand in the affair might seem far-fetched to some, but not so to others, who point to the role of Israeli agents in destabilizing a large number of countries as well as possibly operating within some radical Islamist movements, such as a group in Yemen styling itself 'Islamic Jihad', said to be responsible for the bombing of the American Embassy in Sanaa, and which is said to have close links with the Israeli intelligence. Some have raised the question if the Mossad or even the CIA might not be directly or otherwise instigating some disillusioned Muslim youth in India, Pakistan or elsewhere to take to terror by playing on Muslim grievances, operating through existing Islamist groups or spawning new ones for this purpose.

If this charge is true—although this remains to be conclusively established—the aim might be to further radicalize Muslims so as to provide further pretext for American and Israeli assaults on Islam and Muslim countries. The fact that the CIA had for years been in very close contact with the Pakistani ISI and radical Islamist groups in Pakistan is also being raised in this connection. The possible role of such foreign agencies of being behind some terror attacks that India has witnessed in recent years to further fan anti-Muslim hatred and also to weaken India is also being speculated on in some circles.

Whether all this is indeed true needs to be properly investigated. But the fact remains that

it appears to be entirely in the interest of the Israeli establishment and powerful forces in America to create instability in India, fan Hindu-Muslim strife, even to the point of driving India and Pakistan to war with each other, and thereby drag India further into the deadly embrace of Zionists and American imperialists.

In other words, irrespective of who is behind the deadly attacks on Mumbai, it appears to suit the political interests and agendas of multiple and equally pernicious political forces—Islamist and Hindu radicals, fired by a hate-driven Manichaeian vision of the world, but also global imperialist powers that seem to be using the attacks as a means to push India even deeper into their suicidal axis.

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