

# Security and Risks

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## Disaster Management

### Uttarakhand Failure

#### *Violation of Nature as the Cause*

1. There is ample scientific evidence that the Himalayan watersheds have witnessed unprecedented deforestation. Vegetative cover slows the speed of falling rain and prevents soil erosion and gully formation. Besides forests and soil soak water from the rain, release it slowly and prevent water flowing as run-off.
2. There is mounting evidence that global warming is fast catching up with the Himalaya.
3. While it is important to appreciate the aspirations of locals and economic activities, there cannot be a lack of enforcement of land use laws. Such laws were violated with impunity in Uttarakhand as construction activity came up on the river banks.
4. Hydel activities cause slope weakening and destabilisation. Similarly sand mining and stone industries also weaken the river system.

#### *Role of Ecological Neglect by the State*

1. It is not as if the state government wasn't unaware of the looming threat. Government reports had warned of the unchecked dangers of urbanisation and from hydel projects. The authorities have always treated environment with scant regard.
2. The Centre had declared a stretch of 100 km between Gomukh and Uttarkashi along the Bhagirathi river as an eco-sensitive zone. However, the state government is opposing the move, saying this would adversely affect the development in the region.
3. The fact is that the dams, barrages and embankments on one hand, magnify the enormity of high floods when they come and on the other, instil a false sense of security in minds of those who come to occupy the erstwhile *khadar* lands that all is well. The truth is the opposite. Only normal and periodic climatic events have been converted into man-made disasters, with man coming to colonise *khadar* land.

#### *Role of Dams*

1. Big dams, like the one at Tehri, disturb the highly fragile Himalayan tectonic system.
2. But this time the dam managed to protect big towns like Rishikesh and Haridwar through regulation of the Bhagirathi river waters, most of which were held back in the 42-km long reservoir. Experts have now recommended a big dam across the Alaknanda river also to further manage the flow of water.
3. Being a hill state, Uttarakhand is ecologically sensitive but its two main sources of income are tourism and hydel energy. The state cannot look away from these two sources.
4. Construction of hydel dams require rivers to be diverted through tunnels to generate power. The construction of these tunnels unsettles the mountainous terrain and contributes to a greater quantity of rocks and sediment crashing down.

#### *CAG Report on Uttarakhand's Preparedness*

1. It pointed out that the SDMA had remained virtually non-functional.
2. The state had also failed to incorporate disaster prevention into the development planning.
  1. No thought was given to the fragile ecosystem of the state in the developmental planning process.
  2. Buildings were permitted on floodplains of the rivers.
  3. Such unsafe construction is linked to the religious tourism. Why can't we adopt policies of Bhutan where tourism is regulated to bring it in harmony with the environment?
  4. Construction of hydel dams require rivers to be diverted through tunnels to generate power. The construction of these tunnels unsettles the mountainous terrain and contributes to a greater quantity of rocks and sediment crashing down.
3. Vulnerability assessment at local level and identification of necessary mitigative action had not been done. Buildings were permitted on floodplains of the rivers.
4. The disaster management plan was in place but its implementation was absolutely poor.
  1. The communication system was also inadequate, with the delay in sharing of disaster information.
  2. Absence of any guidelines meant the preparedness was almost nil. The disaster struck on June 16 and rescue and relief operations could begin only on June 24 when the Army was called in.
  3. Until then the government had no clue. It had no idea about the magnitude of what had struck the state.
5. Restoration work undertaken under the Calamity Relief Fund were delayed and violated the guidelines.
6. Some warning system had been in place, such as radars and climate prediction.
  1. The reports of IMD have always been very imprecise like "heave to very heavy rainfall in some areas in Uttarakhand". No one has any idea of what heavy to very heavy means.
  2. The prediction accuracy and forewarning capabilities of IMD need to be increased. Apart from quantifying the amount of rainfall, spatial distribution information should also be given.
  3. World over such systems are in place and even in our country such systems are in place for cyclones.

#### National Oil Spill Contingency Plan (NOSDCP)

The idea is to mitigate the impact of all oil spills on the environment by -

- Setting specific standards for oil spill equipment stockpiles

- Establishing time frames for oil spill response
- Increasing collaboration among partner agencies.

### Types of Crises

1. Crises caused by acts of nature. These can further be divided into the following sub-categories:
  1. Climatic events: cyclones and storms (associated sea erosion), floods and drought
  2. Geological events: earthquakes, tsunamis, landslides and avalanches;
2. Crises caused by environmental degradation and disturbance of the ecological balance;
3. Crises caused by accidents. These, again, can be further classified into: industrial and nuclear mishaps and fire related accidents;
4. Crises caused by biological activities: public health crises, epidemics etc;
5. Crises caused by hostile elements: war, terrorism, extremism, insurgency etc;
6. Crises caused by disruption/failure of major infrastructure facilities including communication systems, large-scale strikes etc; and
7. Crises caused by large crowds getting out of control.

### Life Cycle Approach to Crisis Management

1. A crisis does not emerge suddenly; it has a life cycle, which may take days, months or even decades to develop. A crisis, therefore, needs to be examined in terms of its management cycle. This 'life cycle' of crisis management may be divided broadly in three phases - pre-crisis, during crisis and post crisis.

### World Conference on Natural Disaster Reduction, Yokohama, 1994

1. Risk assessment is an important initial step.
2. Disaster prevention and preparedness are next important steps and should be included at the planning level itself.
3. Capacity development is next important step.
4. Early warning systems should be installed and steps taken for fast and wide warning information dissemination.
5. Local community involvement is important.
6. Education and training to the whole community is important.
7. International sharing of technology is important.
8. Environmental protection is important and poverty alleviation is imperative.
9. Needs of developing countries should be kept in mind in disaster management efforts.

### Yogyakarta Declaration

1. Hoyogo Framework for Action: This is the agreement reached in 2005 between countries on disaster management. It runs from 2005 to 2015. It was a roadmap for the government and other players.
2. Yogyakarta declaration includes calls to integrated local knowledge and climate change into disaster management plans, political commitment, accountability, awareness and education, and to build local capacity.

### Disaster Risk Reduction Framework

1. A policy framework has to be drawn up backed by the legal and institutional mechanisms that focuses on risk reduction as the major priority in disaster management.
2. Assessment of risk including hazard analysis and community vulnerability.
3. Risk Awareness and Preparation of Plans for Risk Mitigation.
4. Implementation of the Plan.
5. Early Warning Systems.
6. Development of systems for processing and sharing of disaster related information.

### INDIA'S KEY HAZARDS, VULNERABILITIES AND THE CRISIS RESPONSE MECHANISM

1. Almost 85% of the country is vulnerable to single or multiple disasters and about 57% of its area lies in high seismic zones. Approximately 40 million hectares of the country's land area is prone to flood, about 8% of the total land mass is vulnerable to cyclone and 68% of the area is susceptible to drought.
2. There is no reason why so much loss happens in India whereas earthquakes of similar measurements in USA or Japan have had relatively little impact.
3. Post monsoon cyclones are usually more intense both in numbers and intensity.

### *Cyclone Shelters*

1. In densely populated coastal areas, where large scale evacuations are not always feasible, public buildings can be used as cyclone shelters.
2. These buildings can be so designed, so as to provide a blank face with a minimum number of apertures in the direction of the prevailing winds. The shorter side of the building should face the storm, so as to impart least wind resistance.
3. Green belts can be used in front of these buildings to reduce the impact of the storm.

### *Traditional Knowledge for Disaster Management*

1. If tribals in the Andamans could survive the tsunami, it was because their existing warning systems worked well in comparison to our non-existent modern systems.

2. The fact that traditional houses of wood and stone survived the Uttarkashi earthquake not so long ago while modern buildings collapsed offered a similar lesson.
3. In the flood-prone rural North-East, one can find houses on bamboo stilts that allow flood waters to flow under them rather than through or over!

#### *Flood Control and Management*

1. There should be a master plan for flood control and management for each flood prone basin.
2. Adequate flood-cushion should be provided in water storage projects. In highly flood prone areas, flood control should be given overriding consideration in reservoir policy even at the cost of sacrificing some irrigation or power benefits.
3. While physical flood protection works like embankments and dykes will continue to be necessary, increased emphasis should be laid on non-structural measures such as flood forecasting, flood plain zoning and flood proofing.
4. There should be strict regulation of settlements in the flood plain zones along with flood proofing.

#### *Landslides and Avalanches*

1. The Himalayas comprise of tectonically unstable younger formations and often the slides are huge, and in most cases, the overburden along with the underlying lithology is displaced during sliding. In contrast, the Western Ghats are geologically stable and the slides are usually confined to the over burden without affecting the bedrock beneath.
2. Structural measures:
  1. Planting (Avalanche Prevention Forest)
  2. Stepped Terraces
  3. Avalanche Control Fence
  4. Other protection structures
3. Non-structural measures - removing snow deposits on slopes by blasting, predicting avalanches and evacuating people from vulnerable areas.

#### *Industrial Disasters*

1. In the pre-Bhopal Gas Tragedy era, industrial safety was governed by legislations like the Factories Act, 1948 and the Explosives Act, 1884. These laws proved to be inadequate to provide safety to workers as well as to the people living in the surrounding areas. After the Bhopal Gas Tragedy, a new chapter was inserted in the Factories Act, 1948 dealing with hazardous processes. The Environment Protection Act, 1986 was enacted. More importantly, several Rules were promulgated under the Act.

#### *Rail Disaster Management*

It is an integral part of railway safety. However, earlier the disaster management was confined to reacting to the railway accidents. After the NDMA, 2005 the Railway ministry has developed an integrated disaster management plan. As per this plan,

1. The railway zones and railway divisions have been made the nodal agencies for planning, mitigation and relief within their zones.
2. The Plan is not focused towards reacting to the accidents only, but it also includes, terrorist attacks, natural disasters affecting the railways, crowd management during festivals or natural calamities. It heavily relies on modern technology like CCTVs, ACDs, satellite communications, upgraded signaling systems, self propelled accident relief vans, modern cranes, luggage scanners.
3. It emphasizes in relief during golden hours (first hour of the accident) i.e. reach the spot within 1 hour. Training is done at Bangalore in the disaster relief operations.
4. The Railway Protection Force is developing a rapid action team to be trained by NSG to respond to the terrorist attacks on railway trains and assets.
5. Railway officials to maintain contact with the general administrative authorities in their areas for prompt relief in case of the disasters.

#### Creeping Emergencies

1. Disasters can also be classified as 'slow onset' disasters and 'rapid onset' disasters. Earthquakes, cyclones, floods, tsunamis would fall under the category of rapid onset disasters; climate change (global warming), desertification, soil degradation, and droughts, would fall under the category of slow onset disasters. Slow onset disasters are also termed as 'Creeping Emergencies'.

#### *Sea Erosion*

1. The landward displacement of the shoreline caused by the forces of waves and currents is termed as erosion.
2. The impact of the event is not always seen immediately, but it is equally important when we consider loss of property that it causes. It takes months or years to note the impact. So, this is generally classified as a "long term coastal hazard".
3. Anthropological effects that trigger beach erosion are: construction of artificial structures, mining of beach sand, offshore dredging, or building of dams.

#### Traditional Disaster Management Architecture in India

##### *The Response Mechanism*

1. Field level response
  1. The community is the first responder in a disaster. Field level response in rural areas is by the nearest police station and

the revenue functionary; in urban areas the response is by agencies like the civic authorities, the fire brigade and the local police station.

2. At present, panchayats do not have the capacity to react in any effective manner and it is the district administration with the Collector playing a pivotal role. He has the authority to mobilize the response machinery and has been given financial powers to draw money.
  3. All departments including the police, fire services, public works, irrigation etc. work under the leadership of the Collector during a disaster, except in metropolitan areas where the municipal body plays a major role.
  4. The District Collector also enjoys the authority to request for assistance from the Armed Forces if circumstances so demand.
2. Role of state government
    1. The basic responsibility to undertake response measures rests with the State Governments.
    2. The entire structure of crisis administration in the State Governments has been oriented towards post disaster relief and rehabilitation.
    3. Most of the states have Relief Commissioners. The Relief Commissionerate is usually an adjunct of the Revenue Department. In some states, the Revenue Secretary is also the ex-officio Relief Commissioner.
    4. This has the advantage of providing a direct chain of command to the district Collectors and the Tehsildars, but the focus on crisis prevention and mitigation or even of preparedness is missing.
    5. Every state has a Crisis Management Committee under the Chief Secretary, consisting of secretaries of concerned departments, which reviews crisis situations on a day-to-day basis, coordinates the activities of all departments and provides support to the district administration.
    6. At the ministers' level, a Cabinet Committee on Natural Calamities under the Chief Minister takes stock of situations and is responsible for all important policy decisions.
  3. Role of Union Government
    1. It plays a key supportive role with resources and providing complementary measures such as early warning and co-ordination of efforts of all Union ministries, departments and organizations.
    2. At the apex level, a Cabinet Committee on Natural Calamities reviews the crisis situations.
    3. A High Level Committee of Ministers under the chairmanship of Minister of Agriculture deals with the issue of financial support to be provided to the State Governments.
    4. Matters relating to nuclear, biological and chemical emergencies are looked after by the Cabinet Committee on Security.
    5. The Cabinet Secretary heads the National Crisis Management Committee. Secretaries of ministries and departments concerned and heads of other organizations are members, which reviews and monitors crisis situations on a regular basis and gives directions to the Crisis Management Group.
    6. The Central Relief Commissioner in the Ministry of Home Affairs is the Chairman of the Crisis Management Group (CMG) consisting of nodal officers from various concerned ministries. The CMG's functions are to review annual contingency plans formulated by various ministries, measures required for dealing with a natural disaster, coordinate the activities of the Union Ministries and State Governments. In the event of a disaster, the CMG meets frequently to review relief operations and extends assistance required by the affected states.

#### *The Finance Mechanism*

1. Schemes for financing expenditure on disaster management are governed by the recommendations of the Finance Commission.
2. Under the existing scheme, each state has a Calamity Relief Fund (CRF) administered by the Chief Secretary. The size of the corpus is determined with reference to the expenditure normally incurred by the state on relief and rehabilitation over the past ten years.
3. In case the funds under CRF are not sufficient, State Governments can seek assistance from the National Calamity Contingency Fund (NCCF) - the approval for which is granted by the High Level Committee of Ministers.
4. Both these funds, as the names suggest, are meant for relief and rehabilitation and do not cover either mitigation or reconstruction works, which have to be funded separately.

#### Evolution of Disaster Management Architecture

Following the Gujarat earthquake, the Government of India took important policy steps for revamping the disaster management system in the country. These

1. Disaster management with reference to rapid onset disasters was moved from the purview of the Ministry of Agriculture to the Ministry of Home Affairs. The Ministry of Agriculture retains the responsibility for droughts, pest attacks and hailstorms.
2. State Governments were advised to reorganize their Relief & Rehabilitation Department into a separate Disaster Management Department.
3. State Governments were further advised to constitute State Disaster Management Authority under the Chairmanship of State Chief Ministers and the District Disaster Management Committee under the Chairmanship of District Collectors.
4. National Disaster Response Force to be constituted.
5. A fail-proof disaster communication network to be set up.
6. The National Institute of Disaster Management was set up for training, capacity building, research and documentation.
7. Disaster management to be included in education system at all levels starting from schools.

#### The Disaster Management Act, 2005

##### *The National Disaster Management Authority (PM Level Body)*

1. To lay down policies on disaster management.
2. Lay down guidelines to be followed by the states in drawing up the State Plan and the union ministries to draw up their plans.

3. Approve the National Plan and plans prepared by various union ministries.
4. Coordinate the implementation of the plans for disaster management.
5. Recommend provision of funds for the purpose of mitigation.
6. Provide support to other countries.
7. Lay down broad policies and guidelines for the functioning of the National Institute of Disaster Management.

*The National Executive Committee (Secretary Level Body)*

1. Act as the national level coordinating and monitoring body for disaster management.
2. Prepare the National Plan to be approved by the NDMA.
3. Monitor and evaluate the preparedness level, the implementation of the national policy, guidelines laid down by NDMA, national plan, plans of various union ministries.
4. Provide necessary technical assistance to the states for preparing their disaster management plans and carry out other functions under this Act.
5. Promote general education and organize special training programmes in relation to disaster management.
6. Coordinate response in the event of any disaster. Require any department or agency to make available men or material resources for emergency response.
7. Lay down guidelines for, or give directions to union ministries and states regarding measures to be taken by them in response to any threatening disaster situation or disaster.

*The State Disaster Management Authority (CM Level Body)*

1. Lay down the State disaster management policy.
2. Lay down guidelines to be followed by the state ministries.
3. Approve the State Plan and plans prepared by various state ministries.
4. Coordinate the implementation of the state plan and other state ministries' plans.
5. Recommend provision of funds for mitigation and preparedness measures.

*The State Executive Committee (Chief Secretary Level Body)*

1. Lay down guidelines for preparation of plans by the various state ministries and the DDMA's.
2. Monitor the implementation of the national policy, the national plan, the state plan and the plans prepared by various state ministries and the DDMA's. Also monitor the implementation of guidelines laid down by the SDMA and evaluate the level of preparedness.
3. Provide necessary technical assistance or give advice to DDMA's and state ministries.
4. Coordinate response in the event of any disaster. Give directions to any Department or agency regarding response actions to be taken.
5. Promote general education and community training.
6. Advise the State Government regarding all financial matters in relation to disaster management.
7. Examine the vulnerability of different parts of the state and specify measures to be taken.
8. Examine the construction in any area and if it is of the opinion that the standards for the prevention of disaster have not been followed, may direct the DDMA to take needed action.
9. Ensure that communication systems are in order and the disaster management drills are carried out periodically.

*The District Disaster Management Authority (Collector Level Body)*

1. Collector as ex officio Chairperson, elected representative of the local authority as the ex officio co-Chairperson, the Superintendent of Police, Chief Medical Officer and maximum two other district level officers to be appointed by the State Government, as members.
2. It acts as the district planning, coordinating and implementing body for disaster management and takes all measures according to the guidelines laid down by the NDMA and the SDMA.

*The National Disaster Management Plan (Prepared by NEC and approved by NDMA)*

1. Measures to be taken for the prevention and mitigation.
2. Measures to be taken for integration of mitigation measures in the development plans.
3. Measures to be taken for preparedness and capacity building to effectively respond.
4. Roles and responsibilities of different ministries.

*The State Disaster Management Plan (Prepared by SEC and approved by SDMA)*

1. The vulnerability of different parts of the State to different forms of disasters.
2. The measures to be adopted for prevention and mitigation of disasters.
3. Measures to be taken for integration of mitigation measures in the development plans.
4. Measures to be taken for preparedness and capacity building to effectively respond.
5. The roles and responsibilities of different state ministries.

*The District Disaster Management Plan (Prepared by DDMA)*

1. Every office of the government having office at district level shall prepare a disaster management plan in accordance with the district plan and submit a copy of the plan to the DDMA.
2. The areas in the district vulnerable to different forms of disasters.

3. The measures to be taken, for prevention and mitigation of disaster.
4. The capacity-building and preparedness measures to effectively respond.
5. The response plans and procedures, in the event of a disaster, providing for-
  1. Allocation of responsibilities to the departments and the local authorities in the district.
  2. Prompt response to disaster and relief.
  3. Procurement of essential resources.
  4. Establishment of communication links.
  5. Dissemination of information to the public.

*The National Institute of Disaster Management (NIDM)*

1. It will function within the broad policies and guidelines laid down by the NDMA.
2. It will be responsible for promoting research in the area of disaster management.
3. It will be responsible for documentation of the disasters and their management cases.
4. It will be responsible for the development of a national level information base.

*The National Disaster Response Force*

1. The general superintendence, direction and control of the Force shall vest in the NDMA

*The National Disaster Response Fund & The National Disaster Mitigation Fund*

1. The response fund will be made available to the NEC and the mitigation fund to the NDMA.
2. Besides, every ministry shall make provisions in its annual budget, for funds for actions set out in its disaster management plans.

*Other Salient Features of the Act*

1. The Central Government can issue directions to any authority (union or state) to assist in disaster management.
2. Any officer or authority shall have to make available such manpower as requested by NEC, SEC or DDMA.
3. If it appears to the NEC, SEC or DDMA that provisions of any rule regulation etc. need to be made or amended for purposes of prevention and mitigation of disasters, it may require to do so.
4. The NDMA, the SDMA or a DDMA may recommend to the Government to give direction to any person in control of any media or means of communication to carry out any warnings or advisories regarding disasters.
5. The NDMA shall prepare an annual report to the Central Government which shall cause it to be laid before Parliament.
6. Actions taken under this law will be immune from court challenges.

India's Disaster Preparedness

National Executive Committee had not met after May 2008, although the country faced many disasters since that date. This had affected The National Plan for Disaster Management had not been formulated even after six years of the enactment of the Disaster Management Act.

(Paragraph 3.1.1)

There were no provisions to make the National Guidelines, issued by National Disaster Management Authority, binding on states in preparation of the state plans.

(Paragraph 3.2)

There were significant deviations from the prescribed roles and practice of Ministry of Home Affairs, National Executive Committee and National Disaster Management Authority.

There was no Advisory Committee of NDMA, since June 2010.

(Paragraph 4.2)

None of the major projects taken up by NDMA was completed. Due to improper planning either the projects were abandoned midway or were still incomplete after lapse of a considerable period.

(Paragraph 4.3)

NDMA was not performing several functions as prescribed in the DM Act. These included recommending provision of funds for the purpose of mitigation and recommending relief in repayment of loans or for grant of fresh loans.

(Paragraph 4.4.2)

NDMA had not started the work of systematic assessment of major national projects, to include structural requirements for disaster reduction.

(Paragraph 4.4.3)

Several critical posts in NDMA were vacant and consultants were used for day to day working.

There were delays and mismanagement in respect of State Disaster Response Fund (SDRF) in states. The states were not regular in sending the details of utilisation and unspent balances under SDRF to National Disaster Response Fund was utilised for various purposes other than those stated in the GOI guidelines. 'On account' releases National Disaster Mitigation Fund was yet to be established. Most of the states had also not established state and district level Disaster Mitigation funds.

National Database for Emergency Management which was to be completed by August 2011, was yet to be operationalised.

National Disaster Communication Network and National Disaster Management Informatics System projects of NDMA were still at the planning stage after several years of conceptualization.

Effectiveness of the National Disaster Response Force was hampered by shortage of trained manpower, absence of required training facilities, infrastructure and equipment. The preparedness on part of The Standard Operating Procedures for deployment of NDRF had not been approved as of September 2012 and NDRF was increasingly deployed for small or localised disasters.

Only seven states had raised their State Disaster Response Forces. In Fire and Emergencies services were not adequately staffed in various

The schemes for ensuring seismically safer habitats by training of practicing architects and engineers failed to achieve its targets. The schemes were shelved without analyzing the reasons for its failure.

Non filling up of critical posts at National Institute of Disaster Management had hampered the coverage of training programmes.

The National Earthquake Risk Mitigation Project taken up by NDMA was still in preparatory phase after a lapse of five years of its conceptualization.

#### **Floods:**

- ❖ Only eight states had prepared Emergency Action Plans for 192 large dams against the targeted 4728 large dams in 29 states as of September 2011.

#### **Cyclones and Tsunami:**

- ❖ Modernization project to enhance the weather forecasting capabilities was not completed. Only 47.68 *per cent* funds could be

#### **Droughts:**

- ❖ The activities envisaged in the national guidelines on drought management were yet to be carried out to further strengthen disaster preparedness.

#### **Biological Disaster:**

- ❖ The Epidemic Diseases Act, 1897 requires reviewing and updating.
- ❖ The lab facilities and surveillance at national entry points like airports were found lacking in facilities.

### **What did we recommend?**

- **National Executive Committee (NEC) and Ministry of Home Affairs (MHA) should ensure that a comprehensive National Plan for disaster management is developed at the earliest.**
  - **NDMA should follow up implementation of its National Guidelines by the ministries, departments and State Governments.**
  - **Regular meetings of NEC should be convened to perform its assigned role in the disaster management of the country.**
  - **Roles and responsibilities of MHA, NEC and NDMA should be specified for clear demarcation of functions of these stakeholders.**
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- **NDMA should ensure early constitution of its Advisory Committee of experts.**
  - **NDMA should start the work of assessment of major national projects to include structural requirements for disaster reduction.**
  - **NDMA should firm up its business rules at the earliest.**
  - **MHA should strengthen its monitoring mechanism, so that states regularly send the details of utilization and unspent balances under SDRF. It should ensure timely release of SDRF to states.**
  - **Disaster Mitigation funds at national, state and district level should be created to boost mitigation activities.**

- **National Disaster Response Force (NDRF) should make concerted efforts to fill the vacant positions including specialist positions. DG, NDRF should be given better control over transfers and deployment of the NDRF personnel.**
- **The standard infrastructure for the NDRF battalions should be created at the earliest.**
- **The Standard Operating Procedures for deployment of NDRF should be firmed up and circulated to all stakeholders.**
- **States should be encouraged to raise their State Disaster Response Forces.**
- **MHA should ensure completion of scheme for upgradation of Fire and Emergency Services.**
- **The Ministry of Earth Sciences (MoES) should prepare the Earthquake Management Plan in consonance with National Guidelines issued in this regard.**
- **NDMA should complete its project on 'Vulnerability Assessment and Risk Analysis' with respect to various natural hazards.**
- **Ministry of Water Resources should ensure preparation of Emergency Action Plans of the states covering all the major dams.**
- **There is a need to ensure timely completion of various projects undertaken by Ministry of Earth Sciences for modernization of India Meteorological Department.**

#### Analytical Issues in Disaster Management in India

##### *Constitutional Provision - is there need for a separate entry for Disaster Management in the 3 Lists?*

1. Disaster management doesn't figure in any of the 3 lists. So the parliament has the competence to legislate on this subject. However, by practice and convention the primary responsibility for managing disasters rests with the State Governments
2. The Disaster Management Act, 2005 was enacted by invoking entry 23 namely 'Social security and social insurance, employment and unemployment' in the Concurrent List even though all aspects of crisis management cannot be said to be covered by this entry.
3. There are already various entries in the three lists, which deal with some aspect or other of disaster management. 'Public order' finds a place in the State List, as does Public Health. Entries 14 and 17 in the State List deal with Agriculture and Water respectively. Environment and Social Security are included in the Concurrent List. Atomic energy and Railways are part of the Union List.
4. Due to the cross cutting nature of activities that constitute disaster management and linkages required which involve coordination between the Union, State and local governments on the one hand and a host of government departments and agencies on the other; setting up of a broadly uniform institutional framework at all levels is of paramount importance.
5. There is need to ensure congruence and coherence with regard to the division of labor among the agencies at the Union, State and other levels. This could best be achieved if the subject of Disaster Management is placed in the Concurrent List of the Constitution.

##### *What should a law on crisis management provide?*

1. Centralization versus decentralization
  1. A totally centralized or totally decentralized mechanism would be ineffective because while the response should be made from the local level, the level of coordination required necessitates involvement of the central government. It is best if certain functions of disaster management are centralized while others are decentralized down to the lowest level.
  2. Immediate rescue, relief and then rehabilitation should be the responsibility of the level of government closest to the affected population. This logically has to be the district administration and the local self-governments.
  3. The district administration is part of the State Government and the primary responsibility for managing any disaster is with the State Governments.
  4. The resources of states being limited they seek and get assistance from the Union Government. This arrangement of 'bottom-up' responsibilities regarding implementation is appropriate and has worked well in the past and should not be disturbed.
  5. On the other hand, disaster management planning requires wider perspective and expertise. Developments in science and technology, specialized manpower and equipment, repository of best practices, early warning systems, standard capacity

building and awareness generation programmes call for an agency to coordinate efforts at the state and the national levels.

6. Thus, the legislation needs to create agencies at all levels. The responsibility and the authority assigned to each one of these have to be distinct. National level planning, research, analysis and adoption of best practices, development of standard operating procedures (national level), development of training and capacity building programmes, administration of early warning systems and formulating policy on disaster management are best entrusted to a national body. Local planning and the actual work of implementation are better left with State Governments, local governments and the district administration with support from the Union Government's implementing agencies.
2. Mobilization of resources: The law needs to empower authorities handling disasters to requisition such resources for specified periods and the issue of compensation should not be a hindrance in crisis management efforts.
3. Information dissemination: Even with good early warning technologies, the human element involved in the transmission process is crucial. Prompt transmission of information should be made a statutory duty of each concerned functionary and SoPs devised. Responsibilities of citizens should also be defined in the process.
4. Misutilization of funds: Funds meant for disaster relief often tend to get misused as normal procedures are not followed because of urgency. While enforcing stringent procurement procedures may become a hurdle in the disaster management effort, the penalty for misutilization of funds meant for disaster relief should be stringent and could form part of the law itself.

#### *Analysis of the Disaster Management Act, 2005*

1. It defines disaster as natural or man made event that causes substantial loss to life, property and environment. The scope of this definition does not cover a variety of other crisis situations that may or may not culminate in a disaster.
2. It concentrates very comprehensive powers at the national level for dealing with disasters.
  1. The NDMA as well as the NEC have been given the role not just of planning, coordinating, monitoring and providing assistance during a disaster but also executive functions related to implementation of the emergency relief and disaster response.
  2. What, in fact, is however needed is further empowerment and delegation to the front-end functionaries. In any crisis situation the field functionaries and the State Governments being aware of the field situation would be in the best position to provide timely and effective response.
  3. International practices also do not normally involve setting up centralized authorities with command and control functions to deal with disasters.
3. The integration of the institutional structure prescribed under the Act with the existing administrative framework of the country may pose several problems.
  1. The NDMA and the NEC will also lay down guidelines for the state authorities, coordinate the enforcement and implementation of these policies and ensure timely response.
  2. All these functions traditionally have been performed by State Governments.
4. Cabinet Secretary at the union level is more appropriate authority for the coordination of disaster management efforts rather than the NEC under department secretary.

#### *Recommendations on the DMA, 2005*

1. Disaster Management should continue to be the primary responsibility of the State Governments and the Union Government should play a supportive role.
  1. The functions of the NDMA should be: to recommend policies, to lay down guidelines, to promote research, to advise on parameters of categorization of disasters, documentation and dissemination of knowledge, capacity building, early warning systems, to deploy resources in support of local/State Governments, and to give recommendations to the government.
  2. The task of implementation of mitigation/prevention and response measures may be left to the State Governments and the district and local authorities with the line ministries of the union playing a supportive role.
  3. The role of the local governments should be brought to the forefront for disaster management.
2. The Act should provide categorization of disasters (say, local, district, state or national level). This categorization along with intensity of each type of disaster will help in determining the level of authority primarily responsible for dealing with the disaster as well as the scale of response.
3. The law should cast a duty on every public functionary, to promptly inform the concerned authority about any crisis.
4. The law should make provisions for stringent punishment for misutilization of funds meant for disaster management.
5. The NEC as stipulated under the Disaster Management Act need not be constituted, and the NCMC should continue to be the apex coordination body. At the state level, the existing coordination mechanism under the Chief Secretary should continue.

#### *Is There a Case for a Separate Ministry/Department of Disaster/Crisis Management?*

1. The functions expected of the ministry were networking and coordination of national resources while the concerned 'functional' ministries would continue to discharge their responsibilities and functions in accordance with their respective disaster management plans.
2. Given the multi-disciplinary nature of activities in crisis management, creation of a separate ministry is likely to lead to conflict and delays rather than coordination. For planning, research, capacity building and coordination of national resources; such a coordination mechanism is now available with the formation of the NDMA. And for the purposes of implementation, a coordination mechanism headed by the Cabinet Secretary would be more effective.

#### *NCMC vs NEC*

1. The National Crisis Management Committee (NCMC) headed by the Cabinet Secretary coordinates and guides the work of different departments of Government of India in times of crisis. The NEC would be duplicating the role of NCMC to a great extent.
2. The NCMC has inherent advantages of ensuring quick decisions and immediate implementation. If parallel bodies are created

the possibility of the pre-existing and newly formed committees trespassing on each other and creating confusion cannot be ruled out.

#### *NDRF vs Army*

1. NDRF would be a highly trained quick response agency to respond to the needs of disaster response. To a large extent, this role has been filled by the Army.
2. The lessons learnt from the devastating disasters around the world is that extraordinarily severe disasters could overwhelm specialized agencies and that in such situations the Armed Forces remain the 'measure of last resort'.
3. It is imperative that even after the NDRF becomes fully functional, the 'enabling role' of the Armed Forces in assisting the civil authorities be retained and the Armed Forces continue to maintain capabilities.

#### *Role of Local Self-Governments*

1. Local bodies are closest to the people but too small in their reach and capabilities to lead the response operations on their own. They thus need to play an important role in crisis management under the overall leadership of the District Administration.
2. State Governments may examine the need to incorporate provisions in the state disaster management law and also the state laws governing local bodies to provide for a well defined role to the PRIs.
3. In major cities, Municipal Corporations have a large administrative system including departments like engineering, public health and revenue, and sometimes fire services. These should provide a good response.

#### *Need for Holistic Water Management to Reduce Water Disasters*

1. Water related disasters can't be addressed unless larger issues like water management through a National Water Policy are properly addressed.
2. Central Water Commission
  1. A major impediment is the 'segmented policy attention' from a number of departments and there are multiple union departments involved with different aspects of water management. This leads to time-consuming repeated consultations, constant inter-departmental references and meetings and weak coordination and lack of a holistic approach.
  2. So the CWC should be restructured into a statutory autonomous inter-disciplinary Commission, with maximum powers, in order to deal with policy and reforms, center - state and inter-state issues.
3. Using powers under Entry 56 in the Union List, a Law may be enacted to set up mechanisms for collection of data, managing flow in rivers and release of water from reservoirs, so as to prevent disasters, with interstate ramifications.

#### *Steps to Improve Education and Awareness in Disaster Management*

1. Strengthening of National Institute of Disaster Management.
2. Disaster Management should be introduced as a subject in Management and Public Administration.
3. Professionalisation of disaster management is a desirable objective.

#### *Improving Disaster Management Plans by Better Information and Practices*

1. It has been noticed that the district plans are usually not based on proper hazard and vulnerability analysis of the district.
2. Preparing Seismic Micro Maps
  1. The seismic zone based categorization of the entire country on 1:1.25 million scale is a good indication of the seismic hazards at a macro level, but is inadequate for undertaking seismic activities at the city level. This requires advanced micro maps in 1:1000 scale, based on local geological, soil and ground water surveys.
  2. The preparation of such maps was taken up on a pilot basis for the selected cities, but none of the studies has been completed with common standards and protocols that can be accepted at national level.
3. Use of GIS and GPS: It is also possible to use GIS tools to integrate various spatial data such as topography, hydrology, land use, land cover, settlement pattern, built up structures etc and non-spatial data such as demography, socio-economic conditions and infrastructure like road, rail network, communication system, hospital etc. on a common platform. This can be further integrated with GPS for real time monitoring of crisis.
4. Enforcement of Plans
  1. Normally, it is understood that plans incorporate only developmental measures such as construction of shelters, construction of embankments etc.
  2. But disaster mitigation plans should also incorporate a schedule of 'enforcement measures' and the functionaries who will be held responsible for these.
  3. Such enforcement measures being 'unpleasant' and unpopular are very often not contemplated leave aside acted upon.
  4. These measures could include enforcement of building regulations in urban areas, removal of encroachments from natural watercourses or environmentally fragile areas, and strict enforcement of environmental, safety and public health regulations.
5. Integration of Disaster and Developmental Planning
  1. The activities in the disaster management plans should be included in the development plans of the line agencies and local bodies.
  2. The supervisory level of each agency should ensure that the annual plan of that agency incorporates the activities listed out in the disaster management plan.
  3. Incorporation of disaster mitigation plans into the development plans should be specially monitored at the five year and annual plan discussions at State and Planning Commission levels.
6. Environment management should be made an integral part of all plans.
7. National Building Code of India 2005

1. Its guidelines are seldom used. The main reason for this is ignorance about them and escalation of the costs if they are followed.
  2. A balance has to be struck between safety and cost.
  3. As a pre-requisite, it should be in public domain and freely available on Internet.
  4. Simplified versions should be made available. The BIS should convert the norms (at least for small dwelling units) into commonly understood principles, which could be followed and enforced even by village panchayats.
1. The approach of drafting model rules and circulating them to the states for incorporation by the local bodies has not produced the desired results. Adoption of these model regulations would require periodic monitoring. Targets should be fixed each year and financial incentives should be used.
  2. For retrofitting old buildings, a suitable financial package may be worked out by the state governments along with banks and insurance agencies. Even non-financial incentives like relaxation on extent of built up areas could act as an incentive to motivate private owners to take up retrofitting.
  3. Zoning regulations
    1. They could be used to prevent settlements in hazard prone areas like the riverbanks or areas near coasts or ecologically sensitive areas. They could also be used to spread out the population so that impact of any hazard is limited.
    2. However, at present zoning regulations exist only in big cities. In small towns and rural areas the concept of zoning regulations is almost non-existent.
    3. Even in bigger cities, they are often not prepared with an intention to mitigate hazards.
    4. Another weakness of these zoning regulations is their poor enforcement.
  4. Communications networks, with sufficient redundancies should be established.
  5. Undertaking location specific training programmes for the community should be a part of the disaster management plan right from the PRI level.

#### *Emergency Plan at the District Level*

1. Emergency Response Plans should be up-to-date and should lay down the 'trigger points' in unambiguous terms.
2. The district emergency response plan should be prepared in consultation with all concerned. The plan should be known and accepted by all the role players.
3. SoPs should be developed. Handbooks, checklists, manuals etc should be developed and disseminated.
4. Unity of command should be the underlying principle.
5. Mock drills and capability building efforts must be regularly carried out.
6. It must be remembered that plans are no substitute for sound judgement at the time of crisis.
7. Handling of crisis should be made a parameter for evaluating the performance of officers.
8. Institutions such as civil defense, home guards must be revived and integrated with disaster response at field level.

#### *Gender Issues in Disaster Management*

1. More women are affected in disasters they have little say in decision making, are comparatively less literate, have lesser mobility and are dependent on men folk. This disadvantaged situation obviously gets aggravated in crisis situation. So the special needs and concerns of women need to be kept in mind.
2. The vulnerability analysis should bring out the specific vulnerabilities of women and these should be addressed in any mitigation effort. Disaster mitigation plans should be prepared, in consultation with womens' groups.
3. Rescue and relief operations should focus on the most vulnerable groups - women, children, the elderly and the physically challenged.
4. In the recovery phase, efforts should focus on making women economically independent.
5. Camp managing committees should have adequate number of women representatives.

#### Epidemics

1. The complex nature of control of epidemics is evident from the fact that in the Constitution of India all the three legislative lists of the Seventh Schedule enumerate some aspects of the matter as follows: List-I; entry 28 "quarantine" and entry 81 "inter-State quarantine"; List-II; entry 6 "Public health and sanitation"; List-III; entry 29 "prevention of the extension from one State to another of infectious or contagious diseases".
2. The Epidemic Diseases Act, 1897 continues to deal with management of epidemic related diseases. It is an omnibus legislation which essentially supercedes all laws in force in the event of outbreak or a threatened outbreak of a 'dangerous epidemic disease' and authorizes the Union and State Governments (when authorized by the Union), to resort to all necessary measures to deal with the emergency. The Act also empowers search of vessels and other means of transport and detention and segregation of any persons suspected to be suffering from an epidemic disease.
3. The Public Health Emergency Bill
  1. It enables the Union or State Governments to declare a particular area as 'epidemic or bio-terrorism affected'.
  2. Upon such declaration, action can be initiated which apart from measures like inspection and quarantine etc., also empowers government to prohibit activities which lead to or are likely to lead to epidemics or bio-terrorism.
4. The manner in which the Disaster Management Act, 2005 defines the term 'disaster' leaves no doubt that an epidemic of extraordinary severity spreading rapidly is covered by it. The Act also overrides the provision of any other law (Section 72). As such, it is clear that management of epidemics-related crisis would also fall within the jurisdiction of the NDMA. NDRF needs to be equipped to handle the cases of bio-terrorism.

#### **Civil Defence in Disaster Management**

1. It was amended to cater to the needs of disaster management so as to utilize the Civil Defence volunteers effectively for greater public participation in disaster management related activities.
2. The CD organisation is raised only in such areas which are considered vulnerable. This is reviewed periodically.
3. **CD Setup at national level:** Three tier structure as given below has been created to formulate and implement CD policy.
  1. Civil Defence Advisory Committee under the Chairmanship of Union Home Minister.
  2. Civil Defence Committee under the Chairmanship of Home Secretary.
  3. Civil Defence Joint Planning Staff Committee under the Chairmanship of Director General Civil Defence.
4. **Civil Defence Setup in the States:** The state government appoints a Director of Civil Defence and also may constitute, for any area within the state a body of a person to be called the Civil Defence Corps.
  1. However, often such organizations remain deactivated. Out of 225 towns from 35 states notified as CD towns, currently the CD organisations at only 130 towns have been activated.
5. **Civil defence setup at district level:** Each town has nucleus of four Permanent Staff along with 400 CD Volunteers for a two lakh population.
  1. But current strength is < 50% of the target.
6. **CD Training:** It is expected that each state will have one CD Training Institute.

### Home Guard

1. **Role:** The role of Home Guards is to serve as an auxiliary to the police in the maintenance of law and order, internal security and help the community in any kind of emergency.
2. **Statutory Mechanisms and Service Condition:** They are recruited from a cross section of the population such as doctors, engineers, lawyers, private sector organisations, college and university students, agricultural and industrial workers, etc. Home Guards are provided free uniform, duty allowances and awards for gallantry, distinguished and meritorious services. Members of Home Guards with three year service in the organisation are trained to assist police.

### National Cyclone Risk Mitigation Project (NCRMP) ox 4.2: National Cyclone Risk Mitigation Project

**Aim:** The scheme aims to upgrade cyclone forecasting, tracking and warning systems, build capacity in multi-hazard risk management and to construct major infrastructures including multi-purpose cyclone shelters and embankments.

**Execution Authority:** The National Disaster Management Authority (NDMA) has been designated the implementing agency. The scheme is regularly monitored by NDMA and MHA.

**Principal Components:** The major components under the scheme are as follows;

- Community mobilisation and training,
- Cyclone Risk Mitigation Infrastructure (construction of cyclone shelters, roads/missing links and construction/repair of Saline Embankments etc.),
- Technical assistance for capacity building on Disaster Risk Management (risk assessment, damage and need assessment),
- Capacity Building and knowledge creation along with project management and implementation support.

### Security Challenges - Role of Media

#### Security Challenges - Role of Social Media

##### Mumbai Police's Social Media Laboratory

1. In December 2012, as television sets beamed images of outrage from the streets of Delhi, one could see that the crowd was young, the emotions displayed were "real", and, most importantly, the police couldn't control the crowd. The crowd had first gathered on the social media. They came to the streets much later.
2. The youth of the country are not reading the papers or watching the panel discussions on television. They are on the Internet—reading, forming opinions, tweeting, sharing. A tweet is open to the whole world.
3. Special Branch officers trawl through social media sites, looking for hints of trouble. An officer begins with surfing for important news feeds and coding the reactions into positive, negative and neutral. On days the intelligence officers fear that a particular subject that is trending on a social media site could lead to public tension, the tweets are saved and revisited to track the number of times these have traveled and places where the information has reached. Data mining techniques are used and concern is just with numbers.
4. Apart from traditional intelligence briefs, a new file now reaches the table of the Police Commissioner, revealing the day's top five trends on social media. On crucial days, the file is updated every two hours.
5. This does not intrude upon people's privacy. Activities include "befriending" rogue elements through social networks and routinely looking for those who boast online after an episode. Tools like geotagging are used to understand the geographical location of online troublemakers.

### Security Challenges - Role of Communication Networks

#### PRISM

1. NSA has obtained direct access to the systems of Google, Facebook, Apple and other U.S. internet giants. The NSA access is part a programme called PRISM, which allows officials to collect material including search history, the content of emails, file transfers and live chats. Unlike the collection of those call records, this surveillance can include the content of communications and not just the metadata.
2. The NSA access was enabled by a US surveillance law which allows for the targeting of any customers of participating firms who live outside the US, or those Americans whose communications include people outside the US. The law indemnifies internet companies against any actions arising as a result of cooperating with authorities' requests.
3. The PRISM programme allows the NSA to obtain targeted communications without having to request them from the service providers and without having to obtain individual court orders.
4. US has a "home-field advantage" due to housing much of the internet's architecture.
5. Iran was where the highest amount of data was gathered and India was fifth in the leaked list.
6. Metadata is enough to construct behavioral and interest patterns among internet users, so claims that the metadata does not carry much informational value are spurious. Unlike in the telephone era, meta-data in the Internet age makes it possible to construct a

detailed profile of a person, including not only information on their network of contacts and details on the length of their conversations or their locations during those conversations, but also, for example, their sexual orientation, medical history or information that might be relevant to insurance claims

7. The claims that the programme has been used only for surveillance of foreign subjects makes a mockery of the trust shown by consumers across the world who sign up for services offered by the internet companies (which claim to operate on the basis of elaborate privacy policies) and shows scant regard for the sovereignty of foreign nations.

#### Central Monitoring System (CMS)

1. It is an Indian government move to implement blanket eavesdropping of online activities, telephone calls and text messages. The Central Monitoring System is a so-called "single window" allowing Indian state bodies to monitor communications.
2. In April 2013, the India began rolling out the CMS which will enable the government to monitor all phone and the internet communications. The CMS will facilitate direct monitoring of phone calls, text messages, and the internet use by government agencies, bypassing service providers.
3. It draws its legislative backing from the IT (Amendment) Act, 2008 which allows the government to snoop any information in the interest of "sovereignty or integrity of India, defence of India, security of the state, friendly relations with foreign states, or public order or for preventing incitement to the commission of any cognizable offence or for investigation of any offence.

#### National Cyber Coordination Centre (NCCC)

1. It would carry out "real-time assessment of cyber security threats" and "generate actionable reports for proactive actions" by law enforcement agencies. This will give law enforcement agencies direct access to all Internet accounts.

#### *Principles Guiding Surveillance in a Democracy*

1. Surveillance should be targeted as narrowly as possible and only carried out if it is both necessary and proportionate to the crime under investigation.
2. The surveillance regime should be transparent. This does not mean that every order should be made public the moment it is issued. However, it does mean that there should be basic clarity, no arbitrariness and that decisions are made public as soon as circumstances allow, so that they can be subject to public scrutiny.
3. An appropriate system of checks and balances is in place to avoid misuse of surveillance powers. A strong privacy bill is not in place. In addition, intelligence agencies in India are not under parliamentary oversight.

#### International Internet Governance

##### *Current Governing Structure*

1. Currently it is done by a US NGO called ICANN. The 2 main resources of internet control are root zone servers and DNS servers. ICANN controls both and is governed by US law.
2. All important databases and servers are in USA.
3. All nations use the same internet but its service is monopolized by USA only.
4. Barriers to entry and exit in using the internet are very low. Language is no barrier.

##### *India's Proposal*

1. India has proposed creation of a UN Committee on Internet Related Policies (CIRP) accountable to the General Assembly to govern internet.

##### *Weaknesses in Current Governing Structure*

1. Issues of unilateral control and accountability
  1. Unilateral control of the root zone systems and lack of accountability of root zone operators.
  2. Inconsistent application of privacy and data-protection rights and freedom of expression.
  3. Lack of multilateral mechanisms.
2. Issues of intellectual property
  1. Concerns over allocation policies for IP addresses and domain names.
  2. Confusion about application of intellectual property rights in cyberspace.

### 3. Developing countries

1. Substantially higher connectivity costs in developing countries.
2. Insufficient capacity building efforts in such countries.
3. Insufficient progress towards multilingualism.

### 4. Consumer rights

1. Absence of global standards for consumer rights.

#### *Indian Interests*

1. India is asked to ratify the Budapest Convention on Cybercrime, in the negotiation of which India played no part, in order for us to be eligible to be qualified as a "data-secure" country.
2. Warning that Indian IT companies are heavily dependent on global internet majors and that they will suffer by India's championing of the cause of democratisation of internet governance. However this fear is misleading for the following reasons:
  1. First, there has been no evidence of any such impact.
  2. Second, independent of India's proposal, Indian IT companies have more or less reached the maximum of the current models of their growth.
  3. Third, we need next generation of googles and facebooks from India which cannot come under the present architecture.

#### *International Telecommunications Union (ITU) Conference in Dubai*

1. It has been called to decide on internet governance issues. US doesn't want to give it any extra authority.
2. Another issue is whether the telecom companies (the ISPs) should be able to charge some users differentially (so as to get a share of the huge profits made by leading web firms). If they don't pay up, their access can be slowed down.

#### **DIPLOMATIC E-IMMUNITY**

- India is quietly working at ensuring that long-standing international norms governing the immunity of diplomatic correspondence also guide state behaviour in cyberspace following revelations by whistleblower Edward Snowden about the United States intercepting diplomatic e-mails of several countries including the Indian mission in Washington.
- The government has revisited the ubiquitous Vienna Convention and the lesser-known Tallinn Manual of the Northern Atlantic Treaty Organisation (NATO) and feels the application of norms derived from existing international laws is an essential measure to decrease the risks to international peace and security due to unlawful snooping of diplomatic e-mails.
- Indian officials note that when the Vienna Convention on Diplomatic Relations is read with the International Court of Justice's Tehran Hostages judgement, it is amply clear that protection applies to diplomatic archives at any time and wherever they might be.
- Though the subject needs greater study and consultation, Indian officials feel states cannot get away from their international obligation of ensuring there is no breaking of what they call diplomatic e-immunity. They agree with cyber law experts that digital assets enjoy the same diplomatic protection as their physical ones and that there is no need for new rules to govern cyberspace.
- With this view, the officials feel the Vienna Convention's Articles 24 (the host country must protect the mission from intrusion or damage and never search the premises, nor seize its documents or property) and 27 (host country must permit and protect free communication between the diplomats at the mission and their home country; a diplomatic bag must never be opened even on suspicion of abuse; a diplomatic courier must never be arrested or detained) could be extended to ensuring e-immunity.
- The issue of interception of diplomatic e-mails is going to remain because as countries start looking for cheaper storage space in cloud computing, there will be an increase in vulnerability of diplomatic communications as compared to in-house servers, which are becoming more expensive by the day.
- Diplomats here find the Tallinn Manual more contemporary as its recommendations have come in the context of earlier instances of cyber warfare such as the cyber attack of unknown origin against Estonia in

## **Security Challenges - Cyber Security Basics**

### Role of the IT Act in Cyber Security

#### *Weaknesses of the IT Act*

1. Most of the cyber crimes have been made bailable offences which make the law weak.
2. The implementation of the Act is feeble in tier-two cities as awareness of the law by enforcement agencies remains a big challenge
3. Controversies surrounding Section 66A.

#### *Strengthening the IT Act*

1. The 2008 amendments reduced the quantum of punishment for a majority of cyber crimes. This needs to be rectified. More cyber crimes need to be made non-bailable offences.
2. Cyber war needs to be made an offence under the Act.
3. The Act does not cover a majority of crimes committed through mobiles. This needs to be rectified.
4. The Act should have a comprehensive data protection regime defined in it.
5. The Act should have a comprehensive privacy regime defined in it.
6. Section 66A should be amended to bring it in consonance with the reasonable restrictions mentioned in the Constitution.

#### *IT Guidelines, 2011*

1. IT (Amendment) Act provides immunity to intermediaries for the content they provide because it recognizes that they don't have editorial power over it. However such an immunity is subject to due diligence and observing government guidelines. Intermediaries are ISPs, search engines, DNS providers, facebook, twitter etc.
2. As per new guidelines, once the intermediary has knowledge that a content it hosts violates the guidelines it has to remove it within 36 hours. The aggrieved person will not be heard and this gives the power of a court to the ISP.
3. The guidelines have ambiguous terms like "grossly harmful" and "blasphemous" to include acts of violation.

#### *IT Act Section 66A*

1. It provides for imprisonment and a fine, for any person who sends information that is offensive, has a menacing character or causes annoyance, inconvenience, insults or promotes hatred or ill-will.
2. Critics argue this Section is beyond the scope of reasonable restrictions on the exercise of free speech, provided under Article 19(2).
3. Another criticism is that it criminalises conduct, in excess of what constitutes an offence under the Indian Penal Code. It's argued that a verbal insult or annoyance is not an offence, then why should the same thing, if done using an electronic medium, be deemed a crime?
4. Actions such as spreading blasphemous content is not a crime in print media. Then why internet?

#### National Cyber Security Policy, 2013

##### *Salient Features*

1. It ropes in the private sector and envisages an investment of \$1 billion from it. Their help will be sought in research and training of manpower.
2. It will also lay grounds for international cooperation with countries such as the US and Israel.
3. It clarifies the role of various government agencies engaged in cyber security. CERT-In will function as an umbrella organization.
4. The policy proposes an agency and a contingency plan to handle cyber attacks on vital installations and critical infrastructure.
5. It provides for government monitoring of internet communications.
6. It calls to promote awareness, information sharing and capacity building.
7. Cyber security policy 2013 sets up National Critical Information Infrastructure Protection Agency.

#### Weaknesses in India's Cyber Security Architecture

##### 1. Lack of Human Resources

1. India's trained manpower involved in cyber security is a minuscule 500 compared to over 1 lakh in countries such as China and USA.
2. The biggest reason for this is non involvement of private sector in the government's cyber security architecture.
3. The National Cyber Security Policy, 2013 aims to increase private sector participation and thus address this.
4. Special courses need to be included in the university curriculum as well.

#### **Security Challenges - Money Laundering**

##### Money Laundering vs Terror Funding

1. 2 features distinguish money laundering from terror funding. These are:
  1. In money laundering, the activity begins with the generation of proceeds from unlawful activities and ends with conversion into legal assets. On the other hand, terror funding could be from legal or illegal funds and it culminates when it reaches the perpetrators of a terrorist act. Even if it involves money laundering in between, the money trail has to continue to its final destination. This widens the scope of investigation in cases involving terrorist finance.
  2. In the case of money laundering, even if the proceeds of unlawful activities get 'laundered', enforcement authorities could undo the effect on the basis of post-facto investigation. In case of terrorist finance, once the finance chain is completed and an act of terrorism has taken place, post facto investigation is limited; loss of life and damage to property and public confidence is already done.
2. It follows from the above that the law enforcement and investigation regime has to be wider in scope while dealing with terrorist finance as compared to money laundering operations. Further, in terror funding, the emphasis has to be more on obstructing such activities while in progress.

##### Prevention of Money-Laundering (Amendment) Bill, 2011

1. It links the provisions of Indian law with the laws of foreign countries and provides for harsher punishment.
2. It expands the definition of offence under money laundering to include activities like concealment, acquisition, possession and use of proceeds of crime.
3. It provides for attachment and confiscation of property for a period not exceeding 180 days if the authority has reason to believe

that the offense of money laundering has taken place.

4. It proposes to confer powers upon the directors of financial intermediaries to call for records of transactions or any additional information.
5. It seeks to make the financial intermediary, its designated directors and employees responsible for omissions or commissions in relation to the reporting obligations.
6. In the proceedings relating to money laundering, the funds shall be presumed to be involved in the offence, unless proven otherwise.
7. It provides for appeal against the orders of the Appellate Tribunal directly to the Supreme Court.

## **Security - Role of External States and Non State Actors**

### Emerging Threats

1. Global cooperation amongst terrorist networks
  1. Terrorist networks have taken advantage of the communications revolution to develop transnational links, making terrorism a global threat.
  2. Al Qaeda is a global terror network which is a loose federation of terror-cells spread across the world but operating autonomously with very little operational linkages among them other than adherence to a particular form of extremist ideology.
  3. Another feature is the ability of many terrorist outfits to cooperate with each other and build operational links in the form of supply of arms, logistical and even operational support without necessarily sharing ideological bonds.
  4. Such networks are also able to obtain support from organized crime outfits to further their destructive objective.
2. The existence of a large migrant population and porous borders in an increasingly multi-cultural world has increased sleeper cells.
3. Terrorists are using money laundering and banking networks for movement of money across borders fund their activities easily.
4. Piracy threat from non state actors.
5. Tribal chiefs in Pakistan and Afghanistan posing a threat.
6. Crime syndicates like Dawood also pose a threat.

### *United Jihad Council*

1. It is an umbrella organisation of 14 militant groups led by the Hizbul Mujahideen along with the Lashkar-e-Tayyaba and the Jaish-e-Mohammed.

### Strategy to Counter Terrorism

1. Socio-economic development: Much of the discourse has been based on the premise that security can be achieved by ensuring protection of life and property for all. However, it needs to be understood that socio-economic development has to go hand-in hand. So eradication of poverty is essential for tackling terrorism. Vulnerable sections should not fall prey to the propaganda of terrorists.
2. Political consensus: Political parties must arrive at a national consensus on the need for the broad contours of the anti-terror strategy. Parties should rise above their sectarian and petty electoral compulsions.
3. Respect for rule of law: Governmental agencies must not be allowed to transgress law even in dealing with critical situations since it only creates more ill will.
4. Countering the subversive activities of terrorists: The emphasis should be on civil as opposed to military measures to counter terrorism and insurgency. Psychological 'warfare' or management of information services and the media, in conjunction with the intelligence wing of the police, can play an important role in achieving this objective.
5. Providing the appropriate legal framework: Terrorism is an extraordinary crime. The ordinary laws of the land may not be adequate to book a terrorist. This may require special laws and effective enforcement mechanisms, but with sufficient safeguards to prevent its misuse.
6. Building capacity: The capacity building exercise should extend to the intelligence gathering machinery, security agencies, civil administration and the society at large.
7. Proactive approach: Any form of extremism with faith in a dogma ending in violence has the potential of escalating from hate campaign, violent hooliganism and murders of perceived enemies to terrorist activities.

### *Definition*

1. While the laws of other countries speak of the intention behind the terrorist act being for the purpose of advancing a 'political, religious or ideological cause', the Indian laws have avoided any such intention or purpose being incorporated to define or describe a terrorist act.

### *Balancing Counter-Terrorism Efforts and Human Rights*

1. The conflict stems from entrusting the law-enforcement agencies with extraordinary powers to meet an extraordinary situation.
2. The irony is that the first and foremost impact of such measures is felt by law-abiding citizens on account of inroads they make into individual liberties.
3. But human rights violation cannot be tolerated because such a violation by security forces reduces the public support for the state and leads to more terrorism.

### *Role of Civil Society in Combatting Terrorism*

1. NGOs have been instrumental highlighting the human rights violations by the security forces. But this should not be seen as adversary because rights violations by security forces cannot be allowed and will only fuel terrorism in the first place.

2. Given the proximity of these groups to the grassroots, they could also be used in providing local intelligence, fostering social inclusion (to undercut the roots of terrorism), act as interlocutors, spreading awareness of the basic precautions to be taken and being the first responders in any crisis.

### *Role of Media in Combatting Terrorism*

1. Misuse of media by terrorists
  1. Terrorists want to use media to spread their propaganda. Terrorists thrive on publicity. The media does not intend to promote terrorism, but it can be exploited by the terrorists as the news coverage may serve the expectations of the terrorists.
  2. Government wants the media to depend on the official version. In fact, when it comes to acts of terrorism, both the media and the government have a common interest. Therefore government should work towards harnessing the power of the media as a part of its strategy to defeat terrorism.
  3. Induction of media professionals from outside and imparting of media education should be encouraged through the governmental apparatus.
2. Reporting without verification of facts.
3. Reporting in a manner which hampers counter terrorist operations.

### National Counter Terrorism Centre (NCTC)

#### *Provisions*

1. Its aim will be to collect, analyze and disseminate intelligence data, coordinate between various national and state counter terrorism bodies, to plan and carry out counter terrorist operations. It can search, seize property, arrest, demand information from any other agency while carrying out its tasks. The legal basis for its powers is UAPA provision where the central government can permit an officer to make arrest etc. if he has got a "reason to believe" that a person committed an unlawful activity.

#### *New Consensus*

1. DGPs of states to be on NCTC board.
2. Arrest / search / seizure to be done by state police only except in exceptional circumstances with approval of director. Thus effectively, the operations part has been taken out of NCTC.
3. NCTC will not be located under IB.

#### *Advantages*

1. Currently India has RAW, IB, NTRO, Defence Research Agency and Aviation Research Centre etc. working on terrorism. There is no coordination between them.
2. NCTC is unavoidable because, at present, the Union Government cannot deploy its military and para-military forces suo motu to deal with internal security problems in the States and often the States are unwilling to accept these Central forces due to dubious political compulsions.
3. State police forces are not professional and lack capabilities to deal with terror. State forces are also used to serve political ends. Unfortunately, the record of the Union Government is equally questionable.

#### *Limitations*

1. Unlike the American NCTC which deals only with planning and integration of intelligence without any operational involvement, the Indian agency will have not only intelligence functions but also powers to conduct operations. It is this concentration of powers that has had the states objecting to the NCTC .
2. Current agencies are not willing to submit their autonomy. Different agencies also report to different ministries which are not willing to part with them.
3. NCTC is also an arm of IB which doesn't have arrest / search powers right now. But NCTC has been given such powers.
  1. Being an IB wing, there is a likelihood of these powers being misused for political gains. Also with such powers, IB would be busy defending its arrests in courts and this would compromise its efficacy.
  2. NCTC would also get embroiled in IB's running battle with the Research and Analysis Wing (R&AW), which is responsible for external intelligence. Terrorism has both international and national aspects; hence, the NCTC must be separated from the IB to maintain equidistance from the IB and the R&AW.
4. Instead of NCTC, the law and order machinery in the States should be fully assisted by the Centre with equipment, technology and training. This would be more relevant to meeting the threat since they have local knowledge of the terrain, language and culture.
5. Inadequate consultations with the states and a top-heavy attitude of the central government is what brought about its downfall. It tried to put it under IB, outside parliamentary oversight. It also was trying to create NCTC via an executive order and not a legislation.

### Multi Agency Centre

1. Its the nodal centre in IB for all intelligence activities related to terrorism. It collects, analyses and then disseminates such information to all parties including state administrations. Subsidiaries of MAC (S-MACs) are established in every state capital.
2. It was setup on the recommendations of the GoM after the Kargil War (same GoM also suggested NatGrid and National Memory Bank).

### NatGrid

1. NatGrid links databases from 21 departments and ministries like registration of records, bank transactions, insurance, tax, driver license, internet and phone logs etc. This way security agencies can have virtually all information about any person in India.

2. This project was put on hold due to privacy issues but with CCS approval in place, it would be established by 2014.

### National Investigation Agency (NIA)

1. It is the agency setup after the Mumbai terror attacks to probe and investigate forensics of terror attacks without taking state permission.
2. Apart from terror strikes, it is empowered to investigate hijacking, attack on nuclear installation, weapon of mass destruction attacks, organized crime, human trafficking etc.
3. The staff would be derived from existing local staff on permanent deputation.
4. But so far it has played second fiddle to local police forces in terror case investigations. It has never directly investigated a case, it gets cases only by referral from state police and then too it assists only in an informal way. NIA is suffering from massive staff shortage and hence is unable to discharge its duties properly.

### Issues Surrounding an Anti Terrorist Legislation

#### *Need for a Comprehensive Anti Terrorist Legislation*

1. Law Commission of India had recommended in 2000 a separate legislation to deal with the menace of terrorism. The draft bill as recommended by the Law Commission of India included provisions such as definition of terrorist acts, enhanced punishment for such acts, possession of certain unauthorized arms, special powers of investigating officers regarding seizure and attachment of property representing proceeds of terrorism, constitution of special courts, protection of witnesses, confessions made to police officers to be taken into consideration, enhanced police custody, constitution of review committees, protection of action taken in good faith.
2. The IPC was not designed to fight or to check organised crime of the nature we are faced with now. It is difficult to get any witnesses because people are afraid of their own safety and safety of their families. It is well known that during the worst days in Punjab, even the judges and prosecutors were gripped with such fear and terror that they were not prepared to try or prosecute the cases against the terrorists. There is enormous delay in going on with the trials against the terrorists.
3. In such a situation, insisting upon independent evidence or applying the normal peace-time standards of criminal prosecution, may be impracticable. It is necessary to have a special law to deal with a special situation.
4. It is one thing to say that we must create and provide internal structures and safeguards against possible abuse and misuse of the Act and altogether a different thing to say that because the law is liable to be misused, we should not have such an Act at all. The Supreme Court has repeatedly held that mere possibility of abuse cannot be a ground for denying the vesting of powers or for declaring a statute unconstitutional.

#### *Which is a Better Place for the Anti Terror Law- UAPA or National Security Act, 1980?*

1. The UAPA deals primarily with the prevention of certain unlawful activities of individuals and associations, whereas the National Security Act deals with prevention of those activities which are prejudicial to national security and also contains provisions for preventive detention which do not find place in normal laws. Hence the National Security Act is a more appropriate place.

#### *Bail Provisions*

1. Pro-bail lobbies have argued that even in the most heinous cases, the general position is "bail but not jail", which should also be the case in terrorism related matters. POTA had the stipulation that the "court has to be satisfied that the accused has not committed any offence" before granting the bail. One of the main reasons cited for the repeal of POTA was the prolonged periods of detention as the accused were not able to get bail.
2. Investigation agencies have put forward the argument that persons accused of terrorism are not ordinary criminals and witnesses are afraid to depose against such persons. Therefore gathering evidence against them is difficult and time consuming, and if such persons are let out on bail they are bound to adversely influence the investigation.
3. A pragmatic approach would be to classify the cases on the basis of the gravity of the involvement of the undertrial, nature of case against him and the period already served in jail.

#### *Confession before a Police Officer*

1. All confessions made to a police officer are inadmissible in a court of law.
2. Law Commission recommended that confessions made before the police could be admissible in case of grave offences like terrorism. The inadmissibility of evidence of a confession made to a police officer remains a weak link, the logic being that given the widespread reluctance of witnesses to tender evidence in terrorist cases, this will remain a major handicap for the prosecution.
3. Those opposing the admissibility of confessions before the police have argued that if an accused is willing to make a voluntary confession, then he could easily be produced before a Magistrate rather than being produced before a senior police officer. It is also argued that police may resort to coercive methods in order to extract confessions.
4. Confessions made before the police should be admissible. All such statements should be video-recorded and the tapes produced before the court. The witness/accused should be warned on video tape that any statement he makes is liable to be used against him in a court of law, and he is entitled to the presence of his lawyer or a family member while making such a statement.
5. The accused should be produced before a magistrate immediately thereafter, who shall confirm by examining the accused whether the confession was obtained voluntarily or under duress.
6. Such statements can be made admissible if proper police reforms are carried out and an independent complaints authority against the police is setup.

#### *Presumptions under the Law*

1. According to one school of thought, shifting the burden of proof to the accused is violative of the basic principles of jurisprudence. Another viewpoint is that there are certain facts which are only within the knowledge of the accused and establishing such facts by the prosecution becomes difficult and the benefit generally passes on to the accused.
2. But because of the nature of the crime and the potential it has to threaten the security and integrity of the country, it is necessary that the person who has indulged in the terrorist act is not able to make use of the protection which is provided to an accused person under the normal laws.

#### *Witness Protection*

1. Implementing a US type witness protection program in India may not be feasible because an individual Indian's identity is so inextricably linked with his social milieu and place of origin that it may be practically impossible to extricate him from the same and relocate him with a fresh identity somewhere else in the country. It is also extremely costly. It can be made available if the witness himself requests for it.
2. Measures such as holding of proceedings in camera, empowering the Court to take appropriate measures for keeping the identity of the witness secret, disallowing the accused to see and cross examine the witness (the court can itself cross examine the witness on the request of the accused instead of allowing him to directly do so) can still go a long way in witness protection.

#### *Unlawful Activities (Prevention) (Amendment) Bill, 2011*

1. This Bill has been brought to comply with the requirements of India signing FATF (against money laundering and terrorism finance activities) and to strengthen anti terror provisions.
2. Definition of terror
  1. It includes terrorist acts to include counterfeit currency, demanding bombs and other weapons, violent acts with the intention of compelling the government.
3. Terror property
  1. It also clarifies that the 'proceeds of terrorism' include property intended to be used for terrorism (even if derived from legitimate sources) and by an individual terrorist as well (earlier it had only gangs and organizations).
  2. Under the Bill, raising funds likely to be used (in full or in part) to commit a terrorist act or for the benefit of terrorists shall be punishable irrespective of whether the funds have been raised from legitimate or illegitimate sources.
  3. It also states that 'participating, organising or directing' fund raising activities shall constitute an offence.
  4. The property of the accused can be attached merely on suspicion. If the person "dies" at any stage before trial is over (including custodial death), the property will be permanently confiscated.
4. Scope of legislation
  1. The earlier Act was applicable against individuals and group associations, the Bill is applicable against NGOs, HUF, companies also.
5. The sweep of the Bill criminalizes association with suspected organization. In case of association, the burden of proof for showing "innocence / lack of knowledge" falls on the accused. He can be arrested for 180 days merely on suspicion. To seek extension of the arrest period, the police merely needs to show that investigation is proceeding as against showing evidence against the accused.
6. It extends the period of banning organizations from 2 to 5 years before a judicial review.
  1. Even those organizations working lawfully for human rights can be labeled as Naxalites by the government and banned for 5 years.

#### **Security Challenges - Management in Border Areas**

1. International border is a line which separates two sovereign nations and both the nations have agreed that this is the line separating them. Maps are exchanged and features are marked on the ground.
2. The rule is that no armed forces shall be posted on the international borders. So the police forces from either sides are posted. Police forces come under MIA and thus maintaining the tranquility along the international borders is the sole responsibility of MIA and not MoD.

#### Complexity in Indian Borders

1. China: We don't have an international border but a LAC. The central zone has been recognized by China but not ratified by them.
  1. LAC
    - Johnson line is the line which was marked as the boundary between the kingdom of J&K and Tibet. Indian maps show Johnson line.
    - McCartney & McDonald line was drawn between the British and Tibet passing through the Aksai Chin region. After acquisition of Tibet, China constructed a road connecting Xinjiang to Tibet towards the right of this line.
    - India wants this line to be the international borders (the road will remain in China). But China doesn't agree to the sanctity of this line since Tibet had no authority to draw any international line (it was never a free country). China wants the entire Aksai Chin plateau.
    - Line of Actual Control is towards the left of McCartney line and gives most of the Aksai Chin plateau to the Chinese.
    - In 1996 it was agreed that none sides will cross the LAC. In 2005, it was reiterated that both the sides will maintain peace and tranquility along the LAC. If the two patrols meet, they will avoid confrontation.
    - LAC is maintained jointly by the army and ITBP (doesn't work under army). ITBP is under MIA and it refused to hand over the control to the army. If we keep ITBP at the border, we send a signal to China that we are willing to accept it as an international border because ITBP is a police force. A police force mans only internationally agreed borders. Also

army is better equipped to maintain the border. China's border police is also there but functions under the Chinese army command. So ITBP can be maintained there but command given under army.

## 2. McMahon Line

- Runs from Bhutan to end of Arunachal Pradesh (Siang).
- Concept of watershed: The watershed area serves as the border i.e. drainage system on either side of the watershed flows to either directions. This concept is used in the hilly areas to draw the international boundaries between the two nations.
- However McMahon line doesn't really follow the watershed concept. It also doesn't define very clearly the geographical locations through which it passes. GoI's stand is that McMahon line is the guiding principle to draw the international border. The vaguely drawn line needs to be correctly drawn. India considers the watershed line to be the LAC.
- Chinese stand is entire Arunachal Pradesh as its own (extension and part of Tibet). China considers that culturally as well Arunachal Pradesh is Tibetan. India believes culture alone cannot be the reason for drawing international boundaries. China also cites old historical ties with the Arunachal to claim it. India's views is old historical claims cannot be the guiding factor in drawing international lines. Asoka and Cholas cannot be used to draw international boundaries today. Finally China doesn't have any written document to support its historical claims.

## 3. Sikkim Border

- When Sikkim joined India, China didn't recognize it. In 2003, it de facto (not de jure) recognized Sikkim as a part of India. So Sikkim is an international border now. But it is still manned by the army.
- To defend the Sikkim border, the Cabinet Committee on Security, has approved to raise a force called Sikkim Scouts. They will guard the Sikkim - China border. It will be under the army and will be trained and equipped in mountain warfare.

## 4. Some border agreements with China

- Panchsheel.
- Sino-Indian Agreement, 1993: Calls for both armies to maintain peace and tranquility at the border.
- Sino-Indian Agreement, 1996: Confidence building measures were instituted along LAC - to maintain pace, promote border openings at 2 points (Nathula in Sikkim and Chusul in Laddakh) for people to people contact and periodical meetings at senior army level.
- Sino-Indian Agreement, 2005: Maintaining restraint along the LAC.
- Border Defence Cooperation Agreement: Recently India and China have started exchanging documents for border cooperation. Aim is to develop a new mechanism for border security.
- Hand in Hand Agreement: This is for jointly countering terrorism.
- Currently there are plans to increase the person to person contact at 2 more points @ Lipulekh and Manna in Uttarakhand.

## 2. Pakistan: Sir Creek is disputed. From there till Jammu we have an international border. From Jammu to NJ9842 is the LoC. From NJ9842 to Sia Chin is the Actual Position Line.

### 1. Sir Creek

- East portion of Sir Creek is called the Green line. Pakistan considers this line to be the international border. Red line is the western border of the Creek and India claims it to be the international border (?).
- India and Pakistan have carried out many joint surveys of the Sir Creek area. These surveys were carried out by the surveyor generals of both nations. The countries also have a Joint Working Commission on the issue and already have had 4 rounds of talks on it.
- At one stage, an agreement appeared imminent when India agreed to the use of the *Thalweg Doctrine*. Thalweg Doctrine is an internationally recognized procedure for the demarcation of international borders where a line is drawn through the greatest depth of the water. One of its biggest shortfalls is that water bodies may change their course. Also the deepest portion may not be the central portion.
- Later on India went back and opposed Thalweg Doctrine as it is applicable to water bodies having a flow. India says it is closed from one end and doesn't have a flow. So Thalweg Doctrine is not applicable.
- This area is infested by illegal arms dealers, smugglers and drug traffickers. If given to Pakistan, it may give easy access to India to such elements from Pakistan. Pressure of smugglers is higher in this area as the international border has been fenced and lighted.
- Another importance is the potential oil and gas reserves in the vast additional EEZ as per the UNCLOS if Sir Creek comes to either nation.
- Responsibility of defending Rann of Kutch goes to BSF and not the army although it is not an international border. Responsibility to safeguard the waters along the coast goes to the Coast Guard. Currently BSF is holding complete Sir Creek.

### 2. International border

- This border is also looked after by the BSF and BSF mans all the border outposts along the international border. Army is positioned in cantonments at least 50 km away from the borders. Border fencing has already been done. Fencing is done 150 meters away from the border.
- Drug trafficking through the international crossings is a major issue.

### 3. LoC

- Since it is not an international border, it is controlled by the army. Major portion has got fencing, lighting, thermo imaging instruments, high powered telescopes and electronic surveillance.
- Currently the status between the two countries is that of a ceasefire. Both have to maintain tranquility and not open fire.
- Major issue here is terrorist infiltration.

### 4. Sia Chin glacier

- Its strategic importance is that it goes up to the Karakoram pas and thus overlooks the Karakoram highway.

## 3. Bangladesh

1. The major issue is the porosity of the border and the associated illegal migration into India. Other issues are smuggling,

cross border crimes, terror sanctuaries on the other side of the border, drug trafficking.

2. Both countries have come up with a Border Management Plan.
  - As per this plan, the BSF and the Border Guards of Bangladesh agreed to reduce the killing of people crossing the border.
  - They have agreed to refrain from firing at civilians. Troops will not fire at each other.
  - Both sides will periodically exchange information. A Joint Consultation Commission has been formed to increase the cooperation.
  - In vulnerable points, coordinated patrolling will be carried out.
3. Recently both countries have agreed to develop the following on the border:
  1. Land customs stations.
  2. Land ports.
  3. Integrated check posts.

#### 4. Bhutan

1. It has been a peaceful and open border. There is a Joint Group to assess the threats to Bhutan and India from various organizations. It also discusses ways and means to maintain security of the open border. To achieve this, the local officials on both the sides have been directed to conduct regular meetings.
2. The threat is that because the border is open and the topography of Bhutan is difficult, it was a safe hideout for terrorists. This threat has reduced considerably after the Bhutanese army with the help of the Indian Army cleared out the terrorist camps in Bhutan (Operation All Clear).
3. This border is maintained by Sashakt Seema Border (along with Indo-Nepal border).

#### 5. Myanmar

1. This is a completely porous border. The tribes are on both sides of the border like the Nagas, the Mizos, the Kukis. This is also a hilly and thickly forested area.
2. Assam Rifles does the policing of the border. However the policing is not as effective as the other borders. This is so because of a strong opposition from all tribal groups in the region on both sides. The policing from the Myanmar side too is very weak. Crime flourishes all along this border including smuggling, counterfeit currency notes, drug trafficking, insurgency. Although the government has approved border fencing, but because of the objection from the locals, fencing operations have not made much headway. The opposition is so much that even the border pillars have been removed by the tribals. But currently some fencing near Moreh and Zawkhatar is coming up.
3. India and Myanmar have a border trade agreement. There are border haats at 2 points - Moreh in Manipur and Zawkhatar in Mizoram. There is also a border trade committee to facilitate the trade.
4. Because the same tribes stay on both sides, there is an understanding between the two governments to facilitate the movement of such tribes. This understanding features a permit system instead of the normal visa route and a person with the permit can come up to 16 km inside the other country's territory and can stay for up to 3 days.

#### 6. Nepal

1. It is an open border. People can cross the border without permit. Nepal became a hub of anti-Indian activities by proxy mainly encouraged by ISI. It also serves as a transit point for such people. Terrorists, arms, drugs and counterfeit currency notes are smuggled from Nepal into India through this open border.
2. So to police the border, both countries have developed a joint mechanism which includes meetings up to the home secretary level. There is also a Border District Coordination Committee which is a coordination mechanism between the district administrations on both sides.

### *Reasons for Complexity of Indian Borders*

1. Past history: Historical colonial era treaties.
2. Geography: Sir Creek issue, Palk Straits with Sri Lanka.
3. Ethnic / cultural relations with our neighbors: People speak same language, of same ethnic origins across the borders. There is no well demarcated distinct cultures across the two sides of the border.
4. Overpopulation near the border: This creates pressures and complications in the border demarcation process. It makes the borders porous.

### *Challenges in Indian Maritime Security*

1. We have unresolved maritime borders with our neighbors. This leads to issues like fishermen getting imprisoned and clash over fishing rights.
2. Sometimes spies and terrorists cross the boundaries in the guise of fishermen. Fishing is mostly unorganized and so surveillance becomes very difficult.
3. Counter the growing influence of radical elements, foreign powers in the other island states like Maldives.
4. Extra-regional powers like US, Russia, China, France have their naval presence here.
5. Piracy, terrorism, smuggling, narcotics, human trafficking, unregulated sea traffic. The non state actors acting in the Arabian Sea are technologically advanced making it an even bigger challenge.

### *Changes Post 26/11 in Maritime Security*

1. Overall responsibility of securing Indian coasts lies with Navy. Before 26/11, coast guard, navy and police were independent of each other and coordination was poor. Post 26/11 a coherent organizational structure was built. The apex body is navy and all other come under it.
2. Maritime police
  1. Territorial waters are to be secured by the maritime police. Maritime police is a new concept post 26/11. Coastal police stations would be setup.

2. The overall work was scheduled to be completed in 2 phases. Phase 1 includes raising the coastal police and setting up 73 coastal police stations.
3. The coastal police stations are a part of the maritime police (which comes under the state police) and their task has been well defined to include protection of coastal regions. They are trained by the coast guards.
3. Coast Guard
  1. EEZ is to be secured by the coast guard.
4. Sagar Prahari Bal
  1. It is a fighting force which has been constituted to look after physical coastal security.
  2. All its members come from the navy.
5. Electronic tier
  1. The 4th tier of coastal security is the electronic security. This includes the use of satellites such as RISAT, OceanSat 1 and 2, coastal radars.
  2. All data from all radars will be processed centrally on a real time basis. These radars can pick up boats 30 - 50 nautical miles away.
  3. All merchant ships arriving in Indian waters must give mandatory 96 hours of notice before entering Indian waters.
  4. AIDs will be installed even on fishing boats (merchant ships already have them). If any vessel's Automatic Identification System doesn't get triggered then the vessel will be intercepted by the security forces.
6. Local community involvement
  1. Fishermen will be sensitized towards coastal security.
  2. Their boats will be equipped with electronic identification systems and they themselves will be given biometric identity cards.
7. The mandate of the department of border management has been extended to include all coastal border regions as well.
8. Phase 2
  1. This includes installation of coastal radars, other electronic surveillance systems, setting up of new coast guard stations, creation of NSG hubs in the coastal metros.

#### *Weaknesses in Current Maritime Security Architecture*

1. No port in India has the Container Security Initiative compliance i.e. to see what is there in the container since it is impractical to open all containers and look in manually. When the containers are transferred from the ship to the port, the CSI system scans them immediately before they are placed on the inland transport. This is a very big threat to our security.
2. We don't have strict laws to deal with some illegal activities in Indian waters. For instance, India is a big destination of dismantling of old ships - a ship drifted on to the Juhu beach recently.
3. Currently we don't have procedure to electronically identify every ship.
4. The real time coordination between the navy, the coast guard and the marine police is still weak.

#### Role of Interlocutors

1. They are people who have no formal position in the government or any formal authority to speak on behalf of the government. Whatever they speak are their personal views. However, communications via interlocutors are very useful in conveying information and ideas. They generally don't include active politicians or serving government servants.
2. They try to find out what are the views of the other parties and gives the feedback to the government. Such a feedback is not binding on the government, it is only an additional information in the decision making.
3. They are people generally on who both the parties have confidence.
4. They are different from the negotiators in the sense that the negotiators have more powers and official backing to make concessions and convey the official line.

#### Border Area Development Programme

##### *Evolution*

1. It was launched in 1988 initially for the Pakistan border areas. Its aim is integrated development of the border areas. It falls under the Department of Border management (check website) under the MIA.
2. It includes developing schools, water supply, health, sports. It is 100% centrally funded.
3. If there are any remote border locations and they have any specific needs, then to address those.
4. Funds are provided to the States for development of border areas on the basis of (i) length of international border (ii) population of border blocks and (iii) area of border blocks. Weightage of 15% over and above the total allocation is also given to States having hilly/desert/Kutchh areas.

*The border block will be the spatial unit within which the State Government shall arrange to utilize the BADP funds only in those villages of the blocks, which are located 'within 0-10 km' from the international border. Those villages, which are located nearer to the international border will get first priority. After saturating these villages with basic infrastructure, the next set of villages located within 0-15 km and 0-20 km need to be taken up.*

## *Planning and*

*1*

*implementation of BADP schemes should be on participatory and decentralized basis thorough the Panchayati Raj Institutions/Autonomous Councils/Other Local Bodies/Councils. Projects not exceeding Rs.5.00 lakh should strictly be implemented through local bodies such as village committees/panchayats only.*

The State Governments may consider creating/nominating a Nodal Department/Cell with in the existing administrative arrangement for implementation of the Border Area Development Programme (BADP). The Nodal Department dealing with the BADP in the State shall hold individual meetings with line departments of the States such as Power, Rural Development, Electricity, Roads & Buildings, Water Supply, Social Welfare, Public Distribution, Civil Supplies etc. in order to ensure the implementation of the respective State/Central schemes in the identified border blocks. Utilization of funds under the Centrally Sponsored Schemes/Flagship Schemes of Govt. of India and the State plan schemes to the maximum possible extent in the border blocks should be ensured.

A baseline survey shall be carried out in border villages in order to assess the gaps in basic physical and social infrastructure

State Governments, may keep a provision not exceeding 15% of the allocation made to the State for the maintenance of assets created under the BADP subject to the condition that such expenditure can be made only after three (3) years from the date of issue of completion certificate in respect of the asset.

The State Governments can reserve 1.5% (one and half percent) of the

*2*

allocation made to the State subject to a maximum of Rs. 40 lakh for the purpose of monitoring, training of staff at block level and for the evaluation of the BADP, administrative expenditure for preparing the perspective plans, if any, survey, logistic support (excluding purchase of vehicles), media publicity etc.

The policy matters such as the guidelines of BADP, the geographical areas within which the BADP is implemented, allocation of funds, modalities of execution of schemes etc. will be laid down by an Empowered Committee constituted under the Chairmanship of the Secretary (Border Management) in the Ministry of Home Affairs.

schemes for each State will be approved by a State Level Screening Committee chaired by the Chief Secretary of the State.

Each border block should be assigned to a high-ranking State Government Nodal Officer who should regularly visit the block and take responsibility for BADP schemes.

## Land Ports Authority of India (LPAI) Act

### *Aims*

1. To establish check points in the designated entry and exit points on the international borders.
2. To provide the customs, immigration etc. with infrastructure at these designated points.

### *Provisions*

1. Land Port is a designated entry/exit point located on land borders.
2. Private sector can be hired by LPAI to perform the non-sovereign functions of maintenance and management.

3. The Integrated Check Post will be developed as a sanitized zone with state of art facilities to handle the flow of goods.

## The 6th Schedule

### *Legislative Powers of District and Regional Councils*

1. With the assent of the Governor, they can make laws with respect to:
  1. Use of land other than a reserved forest.
  2. Management of any forest not being a reserved forest.
  3. Use of water resources for irrigation.
  4. Regulation of shifting cultivation.
  5. Establishment of village or town committees or councils and their powers.
  6. Any other matter relating to village or town administration, including village or town police and public health and sanitation.
  7. Appointment or succession of Chiefs or Headmen.
  8. Inheritance of property.
  9. Marriage and divorce.
  10. Social customs.
  11. Control of money-lending and trading by non-tribals.
  12. The governor can vest them with additional criminal powers.
  13. Any act of state legislature in matters pertaining to councils' affairs will have no effect unless assented to by the councils.

### *The Governor's and the President's Additional Powers*

1. The Governor may declare that a state law is not applicable (or applicable in a modified form) to a tribal area in affairs not under tribal councils' domain.
2. The president may declare that a central law is not applicable (or applicable in a modified form) to a tribal area in affairs not under tribal councils' domain.

### *Judicial Powers of District and Regional Councils*

1. Constitute courts and appoint their personnel for the trial of cases between Scheduled Tribes within such areas.
2. The Regional and District Councils are also empowered to act as Courts of Appeal.

### *Financial Powers of District and Regional Councils*

1. Constitution of District and Regional Funds
  1. Each council will have its own fund. All moneys due to such councils from various sources including the state and the central governments shall be credited to these funds to be used by the councils at their discretion.
  2. Estimated receipts and expenditure pertaining to the council by the state shall be first placed before the Council for discussion and then shown separately in the budget of the state.
  3. The accounts are to be maintained as prescribed by the CAG, who is also entrusted with their audit.
2. Powers to Collect Taxes and Fees
  1. Councils can collect land revenue and impose taxes within their jurisdictions such as on lands and buildings, on professions, trades, callings and employments, animals, vehicles and boats, on the entry of goods into a market, tolls on passengers and goods carried in ferries and for the maintenance of schools, dispensaries or roads.
  2. They are entitled to royalties from the extraction of minerals from their area.

## Issues with the 6th Schedule (Art 244)

### *Vesting the Councils with the Executive Powers*

1. Due to historical reasons and lack of proper understanding, a notion prevails that the role of the Councils is confined to passing laws, establishing and administering justice through local courts and generally taking up a few regulatory functions. They are not expected to have any role in development matters.
2. Even though some subjects stand formally transferred to the Councils under the Sixth Schedule, the State Governments have been slow in transferring related executive powers and control over the corresponding departments to them.
3. The State Governments have continued to retain parallel development and administrative apparatus under their own command. This has led to functional overlap and conflicts between the States and the District Councils.
4. The Indian Constitution provides that the executive power of the Union extends to matters with respect to which Parliament has power to make laws and states have the executive powers in the matters where their legislatures are competent to make laws. The powers given to Autonomous Councils also need to be interpreted in the same light: the legislative powers of the Councils should also be their executive powers.

### *Issue of Village Self Governance in the Sixth Schedule Areas*

1. When the 6th Schedule was formulated, tribal customs reigned supreme and thus there was no thought of elections at the village level. So the 6th Schedule doesn't pay any attention to the village self governance.
2. The idea of a two / three tier elected panchayat structure came only with the Mehta Committee Report in 1957. With various rural development schemes and programmes becoming village centric and with Panchayats increasingly becoming involved in implementation of such programmes, the issue of village governance in scheduled areas came to the fore.

3. All the Councils should now pass legislation for establishing village self governance with well defined powers and allocate them resources preferably like the State Finance Commission. Such village self governments should be empowered to implement the various developmental schemes and also local planning.
4. In this they can be encouraged by tying the additional funding with the level of empowerment they do of the village self governance bodies.
5. Apart from the elected members, the traditional village functionaries will also need to be included in these Village self governments as ex-officio members. However, it needs to be ensured that the majority of the members and the head are elected.

#### *Part IX and 6th Schedule of the Constitution*

1. The Councils are at the mercy of the State Governments for budgetary support and elections and are not covered by the State Finance Commissions and the State Election Commissions. This anomaly needs to be corrected and appropriate parts of the Part IX should be extended to the Schedule 6 areas also. Currently the part 9 explicitly is not applicable at all to the 6th Schedule areas.
2. Apart from SFC, the release of the council funds should be single window, untied and hassle free.

#### *Governor's Special Powers - Discretion vs Advise of CoM*

1. The idea of 6th Schedule was to protect the autonomy of the tribal areas and to save them from the decisions of the overwhelming majority of the state.
2. The Governor enjoys these special powers as a custodian of tribal interests and hence he needs to exercise these on his discretion and not on the advise of the state council of minister.

#### Conditions in North East

##### *Poor Economic Conditions*

1. Per capita income is increasingly falling significantly behind the rest of the country. At the time of Independence per capita income in the undivided State of Assam was higher than the national average while today it is lower by almost 40% in Assam. With the economic reforms, the difference in the growth rates increased still further.
2. Much of the income generated is on account of government spending. The share of income generated by public administration is 10.6% and significantly higher than in the rest of the country. This underlines the overwhelming dependence of the population on the government and a lack of productive economic activities.

##### *Issues in Assam*

1. Migration
  1. Its population more than doubled in the first half of the last century largely due to migrations.
2. Land pressure
  1. The dependence of the State on agriculture is given from the fact that the rate of urbanization is way below the national average and even below rest of NE.
3. Minorities
  1. The situation is further compounded by a significant presence of religious and linguistic minorities, approximately 18% and 30% respectively.
4. Rivalry among the 6th Schedule Councils
  1. Bodoland Territorial Council has been given greater administrative and financial powers compared to the Karbi Anglong Autonomous Council (KAAC) and the North Cachar Hills Autonomous Council (NHAC).
  2. Its funds are significantly larger than those available to the other councils. Control of line departments in the area have also been transferred to the Council.
  3. However, it is the only Council with a few seats exclusively reserved for non-tribals. Also, it is the only 'Sixth Schedule Council' which does not have judicial powers. The judiciary as existent in other parts of the country was fully functional in these areas by the time the BTC was born.
  4. There is a growing demand that there should be full parity among the three Councils in terms of legislative and executive powers.
5. 6 Tribe Specific Councils (created under State enactment spread over 12 districts)
  1. These have fragmented the state administration and also given rise to other issues.
  2. In order to cover the largest possible numbers of the relevant tribe, a further 'innovation' has been made to identify satellite areas i.e. isolated pockets with significant population of the target group.
  3. Such areas are kept within the purview of the Council despite the fact that they are cut off from the core areas and may be in other districts.
  4. Such districts may be under the purview of the 73rd Constitutional amendment with the regular Panchayat institutions and thus a clash with the Tribal council.
  5. The Constitutional pattern needs to be respected and Panchayats be strengthened in these areas, rather than to create councils on the basis of ethnic identity.

##### *Issues with North East Council*

1. In the wake of the reorganization of the States of the region in 1972, the North East Council was set up to provide a forum for inter-state coordination, regional planning and integrated development.
2. The Council is chaired by the Union Minister for the Department of North-East with the Governors and Chief Ministers of North-East States and Sikkim as its Members.
3. The Council has not been able to live up to its expectations. The most important reasons are inadequate availability of funds and absence of professional

planning and implementation capacity.

4. Also, the increasing State Plan outlays along with enhanced central allocations through CSS and ad hoc allocations have resulted in a shift of attention from the Council to the Planning Commission.

### Issues with North East Ministry

1. Ministry of Development of North Eastern Region coordinates with various Ministries/Department primarily. But the respective Ministries/Departments are responsible in respect of subjects allocated to them.
2. The formation of the DONER Ministry has added to the confusion. Ironically, therefore, a region which requires a focused attention on many key issues has been made the responsibility of several organizations with blurred responsibilities.

### Linkages Between Development and Extremism

#### 6th schedule and 5th schedule

Moving governance of tribal areas in central India from the Fifth to the Sixth Schedule will help address the demand for autonomy

Bastar district in Chhattisgarh is governed by the Fifth Schedule, but it wants to move into the Sixth Schedule. The Fifth Schedule on the other hand fails because it has never been applied.

PESA was considered the most logical step in the Fifth Schedule areas to ensure tribal welfare and accountability. But, alas, it has not been properly implemented.

Tribal communities have progressively been denied self-government and rights to their communities' natural resources that should have been provided under the legislation.

In its 1997 **Samatha decision**, the Supreme Court ruled that the Fifth Schedule enjoined Governors to bar purchase of tribal land for mining activity by any entity that was not state-owned. This judgment however, led to an opposite reaction from the Ministry of Mines, and subsequent appeals from the Andhra Pradesh government claiming that Samatha would have an adverse effect not only on the mining sector but also on non-agricultural activities especially industrial activity and hence would impact the economic development throughout the country. In response, the Governors were then given unfettered authority in the transfer of Scheduled Tribe land to the government and allotment to non-tribals, altering the balance of power and undermining the stated goal of tribal autonomy.

Other examples abound, including the Scheduled Tribes and Other Traditional Forest Rights Act of December 2006, which ostensibly recognises the right of communities to protect and manage their forests (as does PESA), but only if the state decides whether a certain region is denoted as Village Forest or Reserved Forest. In this process, many communities are evicted without a proper channel of rehabilitation.

#### **BHARAT RURAL LIVELIHOOD FOUNDATION**

- The Union Cabinet approved the proposal for setting up of the Bharat Rural Livelihood Foundation (BRLF) as an independent charitable society under the Societies Registration Act, 1860 to facilitate and upscale civil society action in partnership with Government for transforming livelihoods and lives of rural households, with an emphasis on women, particularly in the Central Indian Tribal Region.
- It will provide financial grants to Civil Society Organizations (CSOs) to
  - meet their human resource and institutional costs for upscaling of proven interventions;
  - invest in institutional strengthening of smaller CSOs and
  - capacity building of professional resources working at the grassroots.

- Projects supported by BRLF would be able to reach 10 lakh poor families by the end of the fifth year. BRLF would also have supported the capacity building of 1,000 CSO professionals and institutional strengthening of a significant number of smaller CSOs within the above time frame.
- The society will be constituted as a partnership between Government on the one hand and private sector philanthropies, private and public sector undertakings (under Corporate Social Responsibility) on the other hand.

## 9-POINT ACTION PLAN FOR NAXAL AREAS

- Concerned over the extreme left groups' penetration into tribal territories and their ability to win over the hearts and minds of people deprived of basic necessities of life, the government has drawn-up a nine point action plan to deal with a host of development challenges.
- The government had decided to expedite the "recognition of forest rights," as well as review the definition of backward districts under the Integrated Action Plan/Backward Region Grant Fund (BRGF) as part of the action plan.
- According to the document, it was felt that there was a need to advance from the ad hoc criteria of selecting districts to a more outcome oriented criterion.
- Taking note of the gap and requirement of large residential schools, the Director of School Education and the Ministry of Tribal Affairs are looking to establish such institutions with a minimum of 1000-2000 students in the LWE areas.

7

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- To improve the communication infrastructure Bharat Sanchar Nigam Limited (BSNL) will install 2199 low cost mobile towers in those areas. The Telecom Commission is also exploring energy efficient alternate fuels such as solar energy.
- A special window, too, has been introduced under the Forest Conservation Act to expedite the laying of transmission lines under the Rajiv Gandhi Gramin Vidyutikaran Yojna (RGGVY).
- The Ministry of Environment and Forests has given a notification to cover all the 82 IAP districts granting general approval under the Forest Conservation Act for diversion of forest land up to 5 acres.
- The Ministry of Power will review pending works in 1776 villages to ascertain the ones which can be "cleared with the issuance of the new notification."
- The Mobile Health Units will address the LWE districts "endemically affected" by malaria. Additionally, an increase in Mobile Health Units is likely to be introduced in the 12th Plan.

### Evolution and Current Status of LWE

1. Various groups of Naxalites started resurfacing in various parts of India during the early 1980s. The naxalites of Andhra Pradesh regrouped as the CPI-ML (Peoples' War Group/ PWG); likewise the Bihar Naxalites rechristened themselves as the Maoist Communist Centre (MCC).
2. PWG of Andhra Pradesh
  1. It turned out to be the most active not only in Andhra Pradesh but also in Orissa, in the tribal belt (Bastar-Dandakaranya) of Madhya Pradesh (now mostly in the State of Chhattisgarh) and Maharashtra, causing considerable violence in these States.
  2. It succeeded in mobilising a fairly large section of the rural population in the outlying districts and also in the urban areas. It also succeeded in enlisting the support of a vocal section of the civil society. It openly started holding Praja Courts in which complaints against land-owners, money-lenders and even against government officials were being entertained and 'swift justice' meted out. Even elected representatives were being given 'directives' by such courts, which were generally obeyed.
  3. When police action started, it created a sense of insecurity among sections of the Maoist cadres which prompted them to resort to brutal murders and tortures of villagers on the slightest suspicion of being police informers. This created alienation among the local villagers.
  4. At a later stage, Greyhounds operations were launched and PWG pushed out of Andhra.
3. Chattisgarh
  1. Here they developed expertise in the use of landmines and IEDs which caused significant casualties.
  2. Another significant development was the creation of Salwa Judum and its subsequent dismantling.
4. MCC of Bihar
  1. Here the naxalites found that their greatest adversary was not so much the administration and the police but the armed gangs (*senas*) of the landlord class - the Ranbir Sena. Here instead of assuming the characteristics of class struggle as propagated by Maoist ideologues, the skirmishes took the shape of caste warfare.
5. West Bengal
  1. Here the Naxalites seem to be repeating some of their tactics of the 1969-72 period. Thus they have started targeting specific CPM party functionaries at local levels. Their targets are not confined to the known Naxalite affected districts of West Midnapore, Purulia and Bankura only. A number of CPM party functionaries have been attacked and killed in the districts of Nadia, Burdwan, Birbhum, Murshidabad etc.
6. Consolidation

1. It was completed with the formation of the CPI (Maoist) on 21 September 2004. This was followed by their increasing militarisation and acquisition of sophisticated firearms and ammunitions.
2. Their arsenal now boasts of self loading rifles (SLRs), AK series of rifles and INSAS rifles. It is believed that currently the Maoists have also gained access to the technology of fabricating rockets and rocket launchers. The threat from the Maoists has increased on account of their developing expertise in fabricating and detonating Improvised Explosive Devices (IEDs). Unlike in J&K where landmines are detonated with remote-controlled device, the Naxalites so far have been using wire-controlled detonations which cannot be neutralised electronically.

#### Recent Strategy Decisions to Counter Naxalism

1. Security response
  1. To enhance the level of central forces and focus on surgical operations to take out the top leadership. State police to continue taking the lead role.
  2. Good thing is that LWE is gaining importance in the policy circles and recent years have witnessed more than tripling of the numbers in central forces deployed in the naxalite areas.
  3. To follow the Andhra Pradesh model.
  4. To increase inter state cooperation and conduct cross-border raids.
2. Administrative response
  1. Development funds are often diverted to the Naxalites. The political parties/ political leaderships too pay 'protection money' to the Naxalites. Poor governance has led to increase in Naxalite activities. The state's delivery mechanism has to be revamped. The state has to penetrate into remote tribal areas.
  2. The only way forward is to build infrastructure and add to the manpower. Teachers, nurses, doctors should want to go there.

#### *The Andhra Model*

1. Security response
  1. Use of specialized and dedicated police force called the Greyhounds.
  2. Strengthening the intelligence gathering and intelligence based operations.
  3. Enhancing the role of local police stations in operations.
  4. Making efforts to infiltrate the Maoist hierarchy.
  5. Effective surrender and rehabilitation policy.
  6. Victim reassurance policy including civil and police rehabilitation.
2. Political response
  1. The political leadership was initially not sensitive enough to the impending Naxalite challenge. This changed and a consensus had emerged among the political formations by about 1996-97 that the rebels had to be taken headlong, in all possible ways.
  2. Thus a consensus was evolved over the counter naxalism strategy.
3. Developmental response
  1. Twice development programmes have been launched in the State with the particular objective of bringing in rapid socio-economic development in Naxalite-affected areas. The first initiative was known as Remote Areas Development Programme; and the second is known as Remote and Interior Areas Development Programme.

#### *The Greyhounds*

1. They are an elite commando force in Andhra Pradesh created to combat left wing extremists. Only the best policemen make it to the Greyhound squad, which is one of the highest paid in the country.
2. The force, which numbers around 2,000 in the state, moves around in small bands of 15-25 commandos. They are specially trained for deep forest pursuit and combat.
3. Greyhounds is maintained as a youthful force by drawing personnel from various departments of AP police for a fixed tenure

#### Roshni

1. A new skill development scheme for rural youth from 24 most critical LWE affected districts. It aims at skilling and placement of 50,000 youth from these districts. It will be implemented at a cost of Rs 100 crore over the next three years. At least 50% of the candidates shall be women and special efforts will be made to proactively cover tribals.
2. Projects shall be funded jointly by the central and state governments in the ratio of 75:25. Training will be imparted through public-private and public-public partnerships.
3. National level agencies shall be designated to act as monitoring and coordinating agencies.

#### Factors Behind Worsening of the Situation

1. Fear instilled by Naxalite violence
  1. They want to make security situation bad so that no developmental activity takes place, no teacher or doctor works in that area and the villagers will continue to remain backward. They are not interested in improving the situation as it suits their ends. They will blame their backwardness on the government and get popular sympathy.
  2. They are driving the political parties out. They kill the government officials and politicians. They did it in AP and are doing it in Chattisgarh, Jharkhand and Odisha.
  3. They also kill the tribals on the presumption they were police informers. Thus a situation has emerged that people don't come

out against them out of fear of being killed and intelligence gathering suffers.

2. Harassment of tribals by the state
  1. Issue of land rights and forest rights of the tribals. It is very important to properly implement PESA in tribal areas. They must be given rights over minor forest produce.
  2. The retaliatory cases registered by the forest department and the police against the tribals to harass them. Orders passed from the top to drop such cases are not implemented.
  3. Groups such as Salwa Judum.
3. Policing and Security challenges
  1. Originally, the Bastar district was much larger than Kerala and still had only 1,000 odd policemen. Even today entire Chattisgarh has only 48,000 policemen compared to Delhi's 95,000. The silver lining is the rapid increase in the deployment of central forces in LWE areas. It takes a lot of time (over a decade) and money to raise and train a large police force.
  2. Whatever little police presence is there is demoralized. In other parts of the country, the role of the beat constable is to look into petty crimes. However, the policemen in places like Bastar are required to be like commandos.

### Genuine Grievances of Tribals

#### *Land Related Factors*

1. Evasion of land ceiling laws.
2. Existence of special land tenures (enjoying exemptions under ceiling laws).
3. Encroachment and occupation of Government and Community lands (even the water-bodies) by powerful sections of society.
4. Lack of title to public land cultivated by the landless poor.
5. Poor implementation of laws prohibiting transfer of tribal land to non-tribals in the Fifth Schedule areas.
6. Non-regularization of traditional land rights.

#### *Displacement and Forced Evictions*

1. The Forest Act, 1927 and the Forest Conservation Act, 1980 along with stringent Supreme Court orders have turned forests into prohibited areas for the tribals.
2. Eviction from lands traditionally used by tribals.
3. Displacements caused by irrigation and power projects without adequate arrangements for rehabilitation.
4. Large scale land acquisition for 'public purposes' without appropriate compensation or rehabilitation. Compensation, if paid, is a pity as the 'official' land values are hopelessly out of touch with reality.

#### *Livelihood Related Causes*

1. Lack of food security – corruption in the Public Distribution System (which are often non-functional).
2. Disruption of traditional occupations and lack of alternative work opportunities.
3. Deprivation of traditional rights in common property resources.

#### *Social Exclusion*

1. Denial of dignity.
2. Continued practice, in some areas, of untouchability in various forms.
3. Poor implementation of special laws on prevention of atrocities, protection of civil rights and abolition of bonded labor.

#### *Governance Related Factors*

1. Corruption and poor provision/non-provision of essential public services including primary health care and education.
2. Incompetent, ill trained and poorly motivated public personnel who are mostly absent from their place of posting.
3. Misuse of powers by the police and violations of the norms of law.
4. Perversion of electoral politics and unsatisfactory working of local government institutions.

### What Needs to be Done

1. Police action vs Negotiations
  1. They are alienated sections of society rather than perpetrators of 'high treason' – they have to be treated as such.
  2. Police action over a long period is counter-productive.
  3. Negotiations have a definite positive role, this is the experience the world over.
  4. But negotiations alone can't succeed. Negotiations are likely to succeed when the good intentions of the State are visible along with its will to restore order. Thus security forces have an essential role in handling the situation.
  5. Security forces also have a role in protecting the development infrastructure in these areas.
2. Police action vs Human Rights
  1. Even in the most difficult situations, the operation of security forces must be strictly within the framework of the law. It is necessary that SoPs and protocols are laid down in specific terms and detail.
  2. Training including sensitizing police and paramilitary personnel to the root causes are needed.
  3. Police force comprising primarily of local people is of inestimable value. Local police forces have a huge advantage in intelligence gathering capacity. Local police force is far more cost effective and more viable in the long run than inducting central forces. Scrupulously enforcing the prescribed reservations from the relevant areas, launching special recruitment drives and raising tribal battalions of the Police are some of the measures that require urgent attention.
3. Developmental Response
  1. Faithful, fair and just implementation of laws and programmes for social justice like MGNREGS.

2. Sustained, professionally sound and sincere development initiatives suitable to local conditions along with democratic methods are needed.
3. Personal safety of senior functionalities needs to be assured so that they can go into the disturbed areas and government machinery returns.

### *Role of Civil Society*

1. Opinions vary about the role of civil society organisations in cases of left extremism because many such organisations are alleged to have a leftist ideological orientation and, in some cases, the NGO may even be a 'front' for the extremists themselves.
2. Votaries of the 'law and order approach' hold that such associations are no better than proxies for militant extremists with demoralisation of security forces as their primary aim and that they shift the focus from the violence, killing and extortion by the extremists by highlighting the police violence only.
3. On the other hand, there is a growing realisation that such organisations have a major role to play as interlocutors, and act as a bulwark against abuse of power by the police and other state functionaries – in other words their activities strengthen the rule of law.
4. While there may be some 'black sheep' among these organisations, there is little doubt that they have the potential to act as a bridge and in educating the people and preventing aggravation of the situation by ventilating public grievances within the legal-democratic framework.

### *Cutting the Source of Finances for Naxalites*

1. One way to ensure that development funds do not reach the extremists is by entrusting developmental works temporarily to organisations like BRO and other governmental agencies which can execute these works directly instead of going via contractors who then pay extortion money to the naxalites.
2. Activities such as illegal mining and collection of forest produce yield a huge volume of funds for the extremists. This needs to be checked.

### The 5th Schedule (Art 244)

#### *SC/ST schedules*

1. He may amend the schedules of notified STs in union or any state. If the state list is amended, he has to consult the governor of the state.

#### *Administration*

1. Presidential powers: He can declare / modify / delete the list of scheduled areas (5th schedule) subject to laws made by parliament. He can give directions to the respective states regarding the administration of scheduled areas. All regulations made by the governor of state for the scheduled areas have to be submitted to the president and failing his assent shall not have any effect. He may ask the governor to submit an annual report on the administration of scheduled areas and instruct him on administrative manners.
2. Governor's powers: Tribal advisory councils may be constituted by him in scheduled areas to give advice to the governor on such matters as may be referred to them by the governor. The governor can direct that a particular act (central or state) or a part thereof is not applicable to the scheduled area or only applicable with certain modifications. The governor can also regulate the transfer of land by or among STs and regulate the business of money lending in scheduled areas.
3. Parliament's powers: Parliament can amend any provisions in schedule 5 with an ordinary majority.

### The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

1. It vests land rights to each tribal family provided they have been the 'user' of forest land for 3 generations or 75 years. This right is heritable but not alienable and transferable. Vested land can be used only for livelihood purposes.
2. Rights under this also include access to minor forest produce, community rights to intellectual property and traditional knowledge related to forest biodiversity and cultural diversity.
3. The dwellers are duty bound to protect the forests, biodiversity and wildlife in the area.

The Act holds promise of realising claims of tribal and other forest dwellers<sup>2</sup> over the dwelling and cultivation lands under their occupation. They are also to benefit from complete ownership rights on non-timber forest produce (NTFP)/minor forest produce (MFP), and management and protection rights over forest resources, including community rights.

#### *Implementation Process*

The process of implementation of this Act begins right from the gram sabha (GS) level, where Forest Rights Committees (FRCs)<sup>3</sup> are constituted and authorised to assist the GS collate, verify and approve claims to rights as required. As per the Act, the GS in the scheduled areas (SAs)<sup>4</sup> must be convened at the hamlet level, while in the traditional villages it has to be at the village level. As per the Act, the FDs have only a negligent role in the implementation process of the FRA. They are required merely to be present with the FRCs during the verification stage. Even this presence is not mandatory according to the rules, and will not imply on the decision of the FRC.

However, in total disregard to the Act, the FD is seen to be functioning as "veto" in denying rights to the people, and by rejecting their claims at the screening stage itself (CSD 2010; Gol 2010; Writ Petition 2011). Hence, it could be said that though, ostensibly, this Act appears to be people-oriented, the final shots are called by committees of bureaucrats, elected representatives, and the FD, which

incidentally was never in favour of this Act.

With regard to representation of women in the FRCs, there appears to be complete overlooking of their share in most of the states, the usual story being inadequate or complete absence of women. Moreover, the GSs are also being convened without their attendance (Gol 2010). All this is happening when the fact is now well-established that women (about 60-70% (Gera 2002)) are the main contributors to the tribal economy through MFP collection and sale

Community rights were expected to be equally in demand as individual rights because these rights would provide secure livelihood avenues to the FDP through forest resources (Kothari 2011). However, the ground reports suggest otherwise because people failed to take advantage of this provision to the fullest, besides their fallacy of seeing "land first" before other rights. The reasons for the poor implementation were: the FD threatened the communities with losing out on Joint Forest Management (JFM) funds if they claimed rights on forest resources; the FD's indifferent approach in facilitating community claims. More glaringly, the "community" also appeared to not own the responsibility for community resources because, in many cases, they have open access to it. Moreover, they saw management of community resources as the government's responsibility and not theirs

The laws most often overlap with the objectives of the FRA when the national and the state governments use their authority to issue lands for development projects, overlooking the possible claims on such lands (Kothari 2011). Such overriding authority gains strength because the Act remains subject to the state's eminent domain in the acquisition of lands in the name of development projects (Bose 2010).

Lack of awareness among the main stakeholders of the FRA is now a well-acknowledged fact, especially in the wildlife protection areas where the extremely poor implementation was obvious because of the vulnerability and poor awareness levels.

In the case of Other Traditional Forest Dwellers, having to prove their residency for three generations, or their using the forest for 75 years, appears to discourage them from their rights through this pungent criterion.

#### *Amendment to ST (Recognition of Rights) Rules, 2012*

1. Lay down a procedure for identification of hamlets or settlements and process of consolidation of their lists.
2. Increase the mandatory tribal membership of Forest Rights Committees from the present one-thirds to two-thirds.
3. Reduce the present requirement of quorum of two-thirds in the gram sabha meetings to one-half.
4. Clarify that the term 'sustenance' includes fulfillment of livelihood needs of self and family, including the sale of any produce.
5. Allow transportation of minor forest produce within and outside forest area.
6. Lay down process for recognition of rights, including community rights.

#### *Niyamgiri*

Affirming the decision-making power of the village councils of Rayagada and Kalahandi under the Forest Rights Act (FRA), the court directed these gram sabhas to "take a decision...within three months" on any claims of cultural, religious, community and individual rights that the forest dwellers of the region may have. The question whether STs [Scheduled Tribes] and other TFDs [traditional forest dwellers], like Dongria Kondh, Kutia Kandha and others, have got any religious rights i.e. rights of worship over the Niyamgiri hills, known as Niyamgiri, near Hundaljali, which is the hill top known as Niyam-Raja, have to be considered by the Gram Sabha. Gram Sabha can also examine whether the proposed mining area Niyama Danger, 10 km away from the peak, would in any way affect the abode of Niyam-Raja. Needless to say, if the BMP [bauxite mining project], in any way, affects their religious rights...that right has to be preserved and protected. Once the gram sabhas have made their decision, the court gave the Ministry of Environment and Forests (MoEF) a further two months to take a final decision on granting a forest clearance for the bauxite mining project.

In particular, by sending the matter back to the gram sabha because a key matter has 'not been placed before it for its active consideration' the court is treating the gram sabha as a statutory, legal authority at the same rank as, say, the forest advisory committee or MoEF. The Bench also made it clear that the FRA "protects a wide range of rights of forest dwellers and STs including the customary rights to use forest land as a community forest resource and not restricted merely to property rights or to areas of habitation."

The Supreme Court's decision to let gram sabhas decide the fate of Vedanta's Niyamgiri mining project will make it difficult for the government to divert forest land for industry without the consent of tribals and local population. The apex court's ruling on Thursday puts gram sabhas or village assemblies virtually at par with statutory and regulatory bodies, and gives a broader prism of rights to indigenous communities by defining the Forest Rights Act as more than just heritable property rights.

This will make it difficult for the government to move ahead with its plans to limit the say of gram sabhas in diversion of forestland for industrial use. In an effort to speed up industrial projects, a panel headed by the Prime Minister's Office in December last year had recommended that the rights of gram sabhas under the Forest Rights Act, making their prior consent mandatory, should be watered down to operate only in cases of exception.

The ruling linked the constitutional provision for the protection of Scheduled Tribes as enshrined in Article 224 with protection of religious rights under Articles 25 and 26 and the Forest Rights Act.

#### The Panchayats (Extension to the Scheduled Area) Act, 1996

1. It is very important because it seeks to strengthen local self-governing institutions. It brings the Gram Sabha at the centre-stage.
2. Gram Sabha has the power to manage community assets like water bodies, wastelands, and minor forest produce.

3. It vests with the Gram Sabha the power to approve implementation of development plans and to verify their implementation. It gives the Gram Sabhas the power to ratify the decisions of the Panchayats. The Gram Sabha will have control over institutions and functionaries connected with local area planning.
4. The Gram Sabha is made the custodian of traditions, culture, identity and customary mode of dispute resolution.
5. Reservation for the STs shall not be less than 50% and that all seats of Chairpersons of Panchayats at all levels will be reserved.
6. The powers of the Gram Sabha could be divided into the following three categories:-
  1. Functions and responsibilities where the approval of the Village Gram Sabha is compulsory: (i) Approval of plans, programmes and projects for social and economic development (before they are taken up for implementation). (ii) Identification/selection of beneficiaries under anti-poverty/other programmes. (iii) Grant of certification of utilization of funds to Panchayats.
  2. Functions and responsibilities which require compulsory consultation with the Gram Sabha: (i) acquisition of land for development projects, (ii) resettlement/rehabilitation of displaced persons.
  3. Functions where prior recommendation of the Gram Sabha is necessary: (i) grant of exploration license and mining lease for minor minerals, (ii) grant of concession for the exploitation of minor minerals by auction.
7. Gram Sabha has powers with regard to enforcement of prohibition, ownership of minor forest produce, preventing land alienation, management of village markets, money lending.
8. Provision of any law relating to Panchayats which is inconsistent with PESA will cease to operate after one year of its enactment.
9. The higher level Panchayats in Scheduled Areas in no case should marginalize the Gram Sabhas by assuming their power and authority

#### *Issues with PESA*

1. PESA is an indicative legislation.
  1. It lays down certain guidelines whose implementation depends on the States which has been generally tardy.
  2. The provisions of PESA have been highly diluted in the process of ratification by the States and most of the powers of the Gram Sabha have been given to the district administration or to the Zilla Parishad.
  3. It may be useful to link performance in this regard with allocation of untied grants to the states.
  4. If any State does not implement the provisions of PESA in letter and spirit, the GoI should issue specific directions to it under the constitution.
2. Poor awareness.
  1. The tribal population is not aware of the provisions of the Act. If they are made aware of the provisions of PESA, it would result in greater participation.
3. Land related provisions.
  1. PESA had specifically provided for prevention of alienation of land. It asked the State Legislatures not to make any law which is inconsistent with the objective of preventing alienation of tribal land.
  2. It had empowered every Gram Sabha to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of the Scheduled Tribe.
  3. Paradoxically it has been indiscriminately used to promote industrial development at the expense of tribals via fraudulent gram sabha hearings and manipulation by local power lobbies.
  4. A forum should be established at the central level to monitor its implementation at the ground level.
4. The 5th Schedule requires the Governor of every State to send an annual report, but this requirement is not being met regularly. This should be given due importance. Such reports should be published and placed in the public domain.
5. PESA required all conflicting laws to become invalid after 1 year of its notification. But in practice these laws are being still followed by the state government machinery. Similarly there are large number of union legislations and schemes which need to be harmonised with the provision of PESA.
6. In tribal areas, though, the society and economy is closely woven around womenfolk, their involvement at the Gram Sabha level is minimal. There is need to make suitable provisions in the Rules making it mandatory that the quorum of a Gram Sabha meeting would be acceptable only when out of the members present, at least 33% are women.

#### *The Tribal Sub-plan (TSP)*

1. TSP has been around for many decades but its planning and implementation have been weak.
2. A major reason is that qualified personnel are reluctant to work in tribal areas. For government employees, a posting in these areas is considered to be a punishment.
3. The situation is further compounded by lack of data; there has been little attempt in the past to have an impact assessment made.
4. Then there is the issue of extremism.

#### Rehabilitation Issues

##### *New National Rehabilitation and Resettlement (R&R) Policy, 2007*

1. Land-for-land, to the extent Government land would be available in the resettlement areas. Preference in land-for-land for STs followed by SCs.
2. Preference for employment in the project to at least one person from each nuclear family, subject to the availability of vacancies and suitability of the affected persons.
3. Training and capacity building for self-employment.
4. Scholarships for education of eligible persons.
5. Preference to groups of the affected persons in the allotment of contracts and other economic opportunities in or around the project site.
6. Wage employment to the willing in the construction work in the project.

7. Housing benefits.
8. Tribal Development Plan will include a programme for development for alternate fuel and also for minor forest produce resources.
9. Consultations with Gram Sabhas and Tribal Councils.
10. A grievance redressal mechanism to be established.
11. Land acquired for a public purpose cannot be transferred to any other purpose but a public purpose.

#### *Recommendations for Improvement in Rehabilitation in India*

1. There is a need to introduce the concept of benefit-sharing in India.
2. The Land Acquisition Act is still based on the concept of cash compensation. The old concept of paying compensation based on the market value of land should be replaced with assessing the true value of land for all those who depend on it and then compensating them adequately.
3. A new legislation must be brought that apart from laying down norms of fair compensation also incorporates the principles of income-sharing and creation of a resettlement development fund.
4. Compensation should not be confined only to the title holders of land but should include all those who derived sustenance from the land.

#### *Special Economic Zones*

1. SEZs are land grabs only.
  1. SEZ policy in India has led to displacement, loss of agricultural land and real estate speculation. It has led to a scramble among developers to grab cheap agricultural land and little attention has been paid to achieving the real objective of promoting industrial activities.
  2. While China had permitted a limited number of very large sized SEZs, in India hundreds of SEZs have been approved including some that are only 10 hectares in size. These are essentially for real estate speculation only.
  3. The 25% requirement on processing activity in SEZs has also been criticised as too little since it would lead to speculative real estate activity rather than job creating manufacturing activities.
  4. The tax breaks in SEZs which can continue for 15 years will lead to revenue loss and not create much extra capacity as the existing industries will simply relocate to the SEZs.
  5. Acquiring land for SEZs cannot be termed as a public purpose.
  6. Compensation must follow income sharing approach.

#### **Linkages Between Organized Crime and Terrorism Various Security Forces and Agencies**

##### The Defence Procurement Policy, 2013

1. Lays down the preferred order for defence procurement
  1. Buy (Indian): The buy (Indian) mode is the one in which procurement is done directly from a domestic firm and is expected to boost local production.
  2. Buy and make (Indian): Make means making in the public sector. Its procedures have been simplified and cases would be cleared quickly.
  3. Make.
  4. Buy, make with transfer of technology.
  5. Buy (global): This is the hitherto prevalent mode and means purchasing in entirety from a global original equipment manufacturer. It would now be the least preferred.
2. Level playing field between DPSUs and the private defense companies
  1. An advantage that DPSUs have over private sector has been the MoD's nomination of selected DPSUs as the recipients of Maintenance Transfer of Technology from foreign vendors in major acquisitions.
  2. Now this system of nomination will be done away with and the winning vendor will have a free choice to tie up with a firm of its own choice — private or public — for the MTO.
3. Clear definition of Indigenous Content: The 'Indigenous Content' has now been defined in more specific terms, providing requisite clarity. Self certification by vendors will be accepted.
4. Expediting defence procurements: The proposed amendments now stipulate that the SQR will be frozen before the AON has been granted — the stage at which the government gives a service the go ahead to start a procurement project. Further, the validity period of AON has also been reduced from two years to one year. This has been done to reduce the time gap that large defense procurements generally suffer from. Together, these measures are expected to expedite the acquisition process and increase transparency.
5. Enhanced delegation of financial powers: The financial powers of the service chiefs and the defence procurement board have been increased.
6. Advance consultations with the industry: Indian defense companies will get access to the military's long-term equipment road map, providing them with the time needed for developing the equipment that the military needs in the future. Military's 15-year Long-Term Integrated Perspective Plan (LTIPP) will be shared with them.
7. It explicitly defines items which need a defense items. Dual use items will not require license.

##### *SWOT Analysis for Indian Private Sector*

The Indian private sector needs to work a lot to achieve the desirable quality and scale. But there exist many obstacles for it.

1. Adverse policy and regulatory environment.
2. Lack of level playing field with DPSUs.
3. Lack of a manufacturing ecosystem.
4. Distorted monopsonistic defence market.
5. An ambiguous defence offset policy.
6. Poor investment in R&D.
7. Large capex requirements coupled with long gestation periods.

A positive for the private sector is the large market size available to it.

#### *Next Steps for Government*

1. Encouraging defence production ecosystems within the upcoming NIMZ, especially for dual use technologies.
2. Using the defence offset policy to encourage joint ventures by offering additional multipliers on their discharge of offset obligations.

#### FDI in Defence

1. Opposing the FDI
  1. Defence sector must be the monopoly of the defence public sector undertakings.
  2. Relaxing the ceiling would make the Indian defence sector hostage to foreign companies, jeopardising our national security.
2. Supporting the FDI
  1. No large nation is so dependent on imports as India is. The so called indigenous defence industry is non-existent, has been non-existent for the past 60 years. Any continuation of the same policies based on above arguments given by FDI opposition will keep our country perpetually dependent on imports.
  2. Higher imports hurt our security more than higher foreign equity of some defence companies may.
  3. To develop even the indigenous private sector capabilities an ecosystem needs to be created. The technology and competition accompanying the higher FDI will only help in creating such ecosystem. The JVs will give requisite experience to the domestic players to develop their own capabilities as well. Brazil has done this successfully through liberalization of its defence sector.
  4. 26% FDI is too small to attract major players. 26% equity holding only lets them block special resolutions. It does not give them the freedom to appoint directors. It also limits the profit of such companies. Why then should a company transfer technology and create competition for the parent companies?
3. What needs to be done?
  1. Have no limit on FDI. Vary the limit on a case-to-case basis depending on what a company may be proposing to establish in India. If the technology is necessary to fill critical gaps in Indian technology, allow even 100% and impose conditions such as the hiring of Indian engineers and sourcing components indigenously. This would help the development of ancillary industries.
  2. Assure continuing orders for a decade or so in the form of repeat orders. Impose conditions necessitating technology upgradation when they are available with the parent company.
  3. Encourage the firms to gradually transfer their holdings to Indian firms.

#### Aircraft Carriers Launch Technologies

##### *Short Take Off and Vertical Landing (STOVL)*

1. It uses aircrafts which are capable of landing and taking off just like helicopters. Currently being used in INS Virat and an old technology.

##### *Short Take Off But Arrested Recovery (STOBAR)*

1. Used in Admiral Gorshkov and INS Vikrant (planned 1st indigenous aircraft carrier). Aircrafts will fly off an inclined ramp and land with the help of arrestor wires like a hook on the fighter's tail.

##### *Catapult Assisted Take Off But Arrested Recovery (CATOBAR)*

1. To be used in INS Vishal (which will follow the Vikrant). This has a steam-driven piston system catapulting the aircraft to get airborne. With greater steam pressure, significantly heavier aircraft can be launched.

##### *Electro-Magnetic Aircraft Launch System (EMALS)*

1. It uses a new-generation catapult which has a powerful electro-magnetic field instead of steam. It can launch still heavier aircrafts, AEWs and drones. EMALS causes less wear and tear on carrier-launched aircraft since electric power can be delivered more

accurately than steam.

2. It also launches aircraft quicker; requires less personnel to operate; and its high acceleration allows launches in still conditions, when STOBAR aircraft carriers must sail at 20-30 knots to generate "wind-over-deck," needed to create the lift required for take off.

### *Cabinet Committee on Security*

1. It is chaired by the PM and the members are ministers of defence, home, finance and external affairs.

### *National Security Council (created in 1998)*

1. It is the highest body that deals with country's political, economic, energy and strategic security.
2. It has the National Security Advisor (NSA) who is its functional head. He directly reports to the PM and advises on internal and external security issues.
3. RAW and IB give their reports to the NSA who then briefs the PM.
4. Its other members are defence minister, external affairs minister, internal affairs minister, finance minister, deputy chairman of PC and any other minister as per the requirement is called.
5. It is divided into 3 parts
  1. Strategic Policy Group: It has a large number of members and is the main nucleus of those who deliberate and develop the policies on security matters. Cabinet Secretary, Chairman of CDBT, chief of the 3 forces, home secretary, defence secretary, governor RBI, heads of all intelligence agencies are all members of it.
  2. National Security Advisory Board: These are the people who are experts in various fields. They may not be government servants but can analyze various threats and provide input to the NSA.
  3. Joint Intelligence Committee: It receives all information inputs from IB, RAW and the 3 armed forces intelligence.

### *Army Structure*

1. Command (based on geographical regions) --> Corps --> Division --> Brigade --> Battalion --> Company --> Platoon (30 soldiers) --> Sections.

### *Naval Structure*

1. Vizag is an important naval base because our submarines are located there.

### *Strategic Force Command*

1. Nuclear assets and delivery mechanisms are managed by the Nuclear Command Authority under which the Strategic Force Command comes under.
2. Nuclear Command Authority is the policy directive arm (civil authorities) of the SFC.
3. SFC is headed by an Airforce officer but may come under rotation system.

### *Space Command*

### *Cyber Command*

### *Special Force Command*

### *Civilian Control on Defence Forces*

1. Top structure is civilian.
2. All the ordnance depots are manned and controlled by the civilians.
3. DRDO is controlled by civilians.
4. Defence production is also headed by civilian authorities.
5. Defence budget is also decided by the civilian authorities. Defence accounts are also headed by the civilian authorities. Defence land is also controlled by the civilian authorities (Defence Forces Estates Services). Armed Forces Headquarters Service is also a civilian bureaucracy.
6. The highest level where the 3 defence chiefs meet without any civilian representation is the CoSC level. Beyond this all committees have civilian representation.
7. Power of the civil authorities to call defence forces for help under certain circumstances.

### *Role of Defence Forces in Aid to Civil Power*

1. This is a statutory power given to civilian authorities (to call defence forces for help). But once called in, all operations are commanded by the defence forces only.
2. Civilian authority can seek any help from the troops under following circumstances:
  1. To maintain law and order.
  2. To maintain essential services.
  3. To assist the civilian authority during natural calamities.
  4. Any other assistance that may be asked for by the competent civilian authority.
3. Principles governing calling the defence forces by the civilian authorities:
  1. Principle of necessity. The necessity should be such that it demands calling of the armed forces.
  2. Principle of minimal force. In case there is a threat and a force has to be applied, then minimum sufficient force should be used.
  3. Principle of impartiality. When the troops are called in, they shall function in an impartial manner. Can't be called to quell political protests as

the Egyptian army demonstrated.

4. Principle of good faith. No mala fide intention in calling the defence forces.

#### *Role of Defence Forces in UN Peace Keeping Force*

#### *Role of Defence Forces in Internal Security*

### AFSPA, 1958

#### *Provisions*

1. AFSPA provides armed forces extensive powers including:
  1. Shooting to kill merely on grounds of suspicion and search and arrest without warrant on suspicion only.
  2. Destroying the arms stores, hideouts, shelters, training camps on suspicion only.
  3. Any person arrested and taken into custody shall be handed over to the officer in-charge of the nearest police station at the soonest.
2. It was intended to give immunity to armed forces during their operations against any genuine mistakes. However it has been misused extensively in Kashmir even outside their duty.
3. Criminal proceedings against Armed Forces personnel can only be carried out on the permission of Defence Ministry and that against the para-military personnel can be carried out on the permission of the Home Ministry.

#### *Disturbed Areas Act (DAA)*

1. Only the parliament has the power to declare any territory as "disturbed" though in Kashmir both the Governor and the President have this power. The constitutionality of the act was challenged before the SC in a Nagaland case. SC rejected the contention of arbitrariness by saying that for declaring any area as "disturbed area", there must exist a grave situation of law and order. The other conditions under which it is invoked are:
  1. The scale of unrest is to big and the local administration and the police force must have failed to tackle the issue.
  2. A withdrawal of the central forces from the disturbed area will lead to the return of the miscreants.
2. Disturbed Areas Act (DAA) was enacted in 1990 was initially extended to Kashmir valley. AFSPA was also extended to fight militancy. Later various districts of Jammu were brought under it to o.
3. The extension of this Act is subject to judicial review. But the acts done by Army under the AFSPA remain immune even if DAA is revoked.

#### *Proposed Amendments*

1. Establishing a proper grievance redressal mechanism to investigate genuine complaints.
2. Power to arrest without warrant to be taken away.
3. Immunity can't be invoked if death was due to armed forces opening fire first.

#### *SC Judgement on AFSPA*

1. It addressed the issue of need for sanction to prosecute Army officers under AFSPA. CBI claimed that the people who were killed were indeed victims of fake encounters. The CBI moved the court to initiate prosecution against the accused Army officers. The officers claimed that they could only be prosecuted with the prior sanction (permission) of the central government. It must be noted that Army officers can be tried either before criminal courts or through court-martial. The Army officers had appealed that both procedures require prior sanction of the government.
2. The judgment reiterated an earlier ruling. It held that sanction would not be required in 'all' cases to prosecute an official. The officer only enjoys immunity from prosecution in cases when he has 'acted in exercise of powers conferred under the Act'. There should be 'reasonable nexus' between the action and the duties of the official. The Court cited the following example to highlight this point: If in a raid, an officer is attacked and he retaliates, his actions can be linked to a 'lawful discharge of duty'. Even if there were some miscalculations in the retaliation, his actions cannot be labeled to have some personal motive. The Court held that the AFSPA empowers the central government to ascertain if an action is 'reasonably connected with the discharge of official duty' and is not a misuse of authority.
3. At what stage is sanction required? The Court ruled that under the AFSPA sanction is mandatory. But, the need to seek sanction would only arise at the time of cognizance of the offence. Cognizance is the stage when the prosecution begins. Sanction is therefore not required during investigation.
4. The Court ruled that there is no requirement of sanction for court-martial. If the Army decides on proceedings before the criminal court, the government will have three months to determine to grant or withhold sanction.

### Para-military Forces

#### *The Assam Rifles*

1. It is under the MoIA but functionally it is under the Indian Army. Its headquarters is in Shillong.
2. Their mandate is to manage the border in Myanmar, anti - drug trafficking and intelligence gathering.

#### *Special Frontier Force*

1. It was created after the Chinese aggression in 1962. It is a special force based in Uttarakhand (HQ at Chakrata). It was earlier under IB and later on shifted under RAW. For day to day functioning, it is a part of the army.
2. The complete SFF is specialized in para-trooping activities. Their area of specialization is parachutes, jungle warfare, unconventional warfare, mountain and arctic warfare, amphibious warfare. The entire force is airborne.
3. Its mandate is:
  1. Spatial reconnaissance i.e. going deep behind the enemy lines to gather intelligence.
  2. They can fight directly against aggression.
  3. They are trained in rescue operations and hostage situations.
  4. Counter terrorism.

### *Indian Coast Guard*

1. Although it falls under MIA, it functions under the Indian Navy. It is tasked with safety of the coasts, guarding our EEZ, controlling marine pollution, illegal immigration, human and narcotics trafficking, controlling illegal movement of foreign vessels. It is commanded by a naval officer.

### Central Police Forces

NSA

Few Terms

Few Current Topics

Mandate

Issues