

The Role of NIA in the War on Terror: An Appraisal of National Investigation Act, 2008

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Abstract

The National Investigation Act, 2008 (NIA ACT) has been enacted and notified on 31 December 2008 and the National Investigation Agency (NIA) only exclusive counterterrorism agency has been constituted to investigate terrorism and related offences. The NIA is mandated to investigate and prosecute offences under the Acts mentioned in the Schedule which includes offences under the Unlawful Activities (Prevention) Act, 1967 that have inter-state and/or international linkages, which are assigned to it by the Government. Although the NIA Act provide for a comparatively straightforward procedure for investigation of terrorism and related activities, not given the necessary powers to prevent the enumerated offences.

Introduction

By virtue of Indian Constitution public order is in 'State List' and criminal law is in the 'Concurrent list [1].' Even though criminal law is in the concurrent list of the constitution, the investigation of major crimes is in the purview of the state police since public order is a subject on the State List. The overstressed police of Indian states with its restricted territorial jurisdiction and limited resources and expertise are not able to combat terrorism and its related offences properly. An agency like the Central Bureau of Investigation (CBI) [2] can investigate certain crimes only with the consent of the appropriate state government or by a court order [3]. Therefore, a federal agency that has the authority to look into terrorist cases throughout the country and one that is endowed with greater resources and greater expertise would be better positioned to handle terrorism-related cases. Such idea of a federal agency to investigate terrorism and related offences has been mooted by many committees and experts [4]. The 26/11 Mumbai attacks in 2008, the reports of committees stimulated India to create a federal agency to investigate terrorism and related offences. The National Investigation Agency Bill 2008 to form the agency was approved by the Cabinet on 16 December 2008 [5] and the National Investigation Act, 2008 (NIA ACT) has been enacted and notified on 31 December 2008 and the National Investigation Agency (NIA) only exclusive counterterrorism agency has been constituted.

This paper seeks to map out provisions of the NIA Act concerning the role of NIA three year old India's first counterterrorism agency and argues that NIA be required to have robust leadership, use of sober investigative methods, apposite coordination with other agencies and need to have its own intelligence unit. It must adopt technologies that promote communication, coordination and emergency response.

The Role

The agency can take such measures which are necessary for speedy and effective implementation to combat terrorism and other terror related offences. The NIA has to, 'at the national level, investigate



and prosecute offences affecting sovereignty, security and integrity of India, security of states, friendly relation with foreign states and offences under NIA Act enacted to implement international treaties, agreements, conventions and resolutions of the united nations and other international organizations and for matters connected therewith or incidental thereto'[6].

The NIA with all the powers invested in it by the NIA Act and the procedure and punishment prescribed in the Unlawful Activities (Prevention) Act, 1967, as amended in 2008, are supposed to be able to assist the Federal and the State Governments to control terrorism and other terror related activities in India and prevent a replication of the Mumbai attack. NIA operates closely with others in seeking to counter threats to national security. The operational methods of NIA are investigation, prosecution, coordination and prevention.

Executive Authority

The executive authority of NIA is the Director General (DG) [7]. DG is responsible for NIA's corporate direction, leadership and accountability. It is obvious that the operational authority of the NIA is under the control of the Director General (DG). However, the superintendence of the NIA vests in the Government of India and the administration will vest in the officer designated on this behalf by it [8]. But by the rules of National Investigation Agency (Manner of Constitution) Rules, 2008 the officer designated for the administration of the agency is the DG [9]. Therefore it is evident that DG is the supreme of the agency under the superintendence of Government of India.

The interpretation of the Section 4(1) of the NIA Act, which states that, "the superintendence of the Agency shall vest in the Central Government," reveals that the Act fails to define "the superintendence." The Act leaves unclear the extent to which the supervision of Agency is done. It is traceable that the decisions are made by political leader rather than the DG. The Act fails to acknowledge the unique place of the DG to craft key organizational and investigative decisions rather than a political executive. To turn up as a successful organization NIA needs tough leadership in a single, fully empowered executive to direct and coordinate counter terrorism efforts.

Jurisdiction

The NIA is being established in a 'concurrent jurisdiction'[10] framework to envisage as an agency that can both take care of the interests of the states as well as have the powers to *suo motu* take up cases related to terrorist acts. NIA's jurisdiction will be applicable to the whole of India, citizens of India, outside India, in service of the Government, wherever they may be and for persons on ships and aircrafts registered in India wherever they may be [11].

It is evident from the provisions of the NIA Act that it allows the exercise of extraterritorial jurisdiction on the basis of nationality. The NIA Act permits the punishment of offences committed beyond, but which by law may be tried within India. Accordingly, any person liable, by NIA Act to be tried for terrorist activities committed beyond India shall be dealt with according to the provisions of NIA Act for any terrorist act committed beyond India in the same manner as if such act had been committed within India. It seems that terrorist activities and offences in connection with terrorism committed by Indian nationals, or by foreign nationals on ships and aircraft registered in India can be tried in India.



Investigation

Investigation, as defined in Section 2 (h) of the Code Criminal Procedure, 1973 (Cr.P.C) is mainly police work and 'policing' is an item confined to the State List in the Constitution. For that reason Section 6 of the Delhi Special Police Act that administers the operation of the CBI prohibits its jurisdiction in a state without the consent of its government. Unlike the CBI that needs the consensus of the state government, the NIA Act gives the Federal government powers to take over any terrorism-related case from the state police. Officers of the NIA will have all powers, privileges and liabilities which the local police officers have in connection with cases related to terror. Elaborating on the provisions, though law and order being the state subject, officers of the NIA above the rank of sub inspector will have special powers to pursue and investigate any offence related to terror across the country [12]. The police officer in charge of the police station on receipt of the report of the offence forwards it to the state government which in turn will forward the same to the Federal Government. If the Indian Government is of the opinion that the offence is a Scheduled Offence, [13] it shall direct the NIA for investigation of such offence [14]. A state government has to extend complete support to NIA for investigation of terror related offences [15]. Consequently the State Governments are bound down and cannot put any hurdles in the path of the NIA. However, the provisions of the NIA Act with regard to investigation shall not affect powers of the state government to investigate and prosecute any terror crime or other offences [16]. It is promising that no jurisdictional clashes would arise in future as the vision of NIA indicates that it wants to maintain 'professional and cordial relations with the governments of states and union territories and other law enforcement agencies in compliance of the legal provisions of the NIA Act [17].'

The first information as to the commission of the offence will be registered in the police station under section 154 of Cr.P.C [18] and then forwarded to the State government [19]. The State government immediately forwards it to the Federal government, which may, in view of the gravity of the offence and other relevant factors, direct that the case be taken up with the NIA [20]. Otherwise, the case remains with the State agency. The NIA may associate the State agency with the investigation, if it is expedient to do so. The NIA may also return the case to the State for investigation [21].

The NIA has power to investigate nine categories of serious offences including seven under the special legislations and two under the Indian Penal Code (IPC) [22]. They include terrorism and offences related to atomic energy, unlawful activities, anti hijacking, aviation, maritime transport, weapons of mass destruction, obligations of the SAARC Convention and offences against the State, including conspiring or waging war against the Government of India [23] and counterfeiting currency notes under the Indian Penal Code [24]. The NIA may also investigate other offences connected with the Scheduled Offence [25]. However, NIA, particularly in view of current emphasis on terrorism and aforesaid offences has to fill the gaps of such acute lack of expertise and advanced methods by adopting highly sophisticated telecommunications interception, Investigative Data Mining (IDM), advanced forensic techniques, use of biometric methods etc. Telecommunications interception can assist in the apprehension and prosecution of those who are responsible for terrorist acts and otherwise threaten the security of India. The approach to IDM



would give particular emphasis in the identification of terror networks, based on available intelligence and other information. Like FBI, NIA has to incorporate an explosives unit to investigate bomb blasts. So that NIA can investigate the remains of various types of explosive and incendiary devices [26].

Prosecution

One of the critical issues in the battle against terrorism is how terrorists will be prosecuted if they surrender or are apprehended. The prosecution has been instrumental in building the campaign against terrorism. Now the perpetrators could be brought to justice on grounds of criminal prosecution granted by the provisions of NIA Act, which permits the formation of Special Courts to prosecute the terrorists and other offenders in connections with terror related activities [27]. These special courts have all powers of the Court of Sessions under Cr.P.C for trial of any offence under the NIA Act [28]. The state has also authority to make rules in the regard and set up one or more Sessions Courts in compliance with the Indian government [29]. The NIA Act gives more power to the Federal Government to avoid delay in terrorism and related grave offences.

The Government of India constitutes Special Courts for the trial of Scheduled Offences [30]. Special Courts have been notified in 25 States and Union Territories [31]. The Special Courts try the offences committed within its confined jurisdiction and follows the special procedural rules for trials of the Scheduled Offences [32]. The Special Court can take cognizance of offences on receiving a complaint of facts that constitute the offence, even without committal proceedings [33]. Special Courts may sit at any place for any of its proceedings [34]. For speedy and fair trial, the Supreme Court may transfer any case pending with the Special Court to another Special Court in the same state or any other state, and the High Court may transfer such cases to any other special court within the state [35]. Offences punishable with imprisonment for less than three years may be tried summarily [36]. The Chief Justice of the High Court will nominate the special judge, and the case is to be tried on a day-to-day basis. Appeals against the orders of the special court will lie with the Division Bench of the High Court and the appeals should be disposed of within three months [37].

The protection of the concerned witnesses has been taken into consideration. Since media coverage of such trials adversely affects the witnesses as well the procedure of trial, empowering the Special Court to decide whether it should be made public or not can be considered as a precautionary move. The NIA Act authorizes the court to hold all or any proceedings in camera [38].

Coordination

The NIA Act permits NIA's assistance to other intelligence agencies of the Federal and State governments and it can seek assistance from these agencies [39]. It means the coordination between various federal and state intelligence agencies including Intelligence Bureau (IB), [40] the Research and Analysis Wing (RAW) [41] Defence Intelligence Agency (DIA), [42] Department of Revenue Intelligence (DRI), [43] the National Technical Research Organization (NTRO), [44] and intelligence outfits of State and Union Territories is in the minds of the framers of the statute [45]. On the other hand, the NIA Act is not clear on relationship between agencies and information



sharing between them. The Act is silent on information sharing, the method of acquiring information and intelligence, and on the NIA's relationship with the aforesaid agencies that right now collect information.

Coordination within and between intelligence agencies and security forces is key to counter terrorism, terror threat and terror offences. But bureaucratic rivalry and institutional rivalry hold back such coordination. However, success is dependent not only on type and quality of information collected but its timely decision. It would be achieved by only centralized, cooperative and integrative organization. Such centralized intelligence would allow for efficient and expeditious collection, analysis and dissemination of information regarding terrorist and terror activities. For this purpose the Multi Agency Centre (MAC) is tasked with collecting intelligence in real time, to optimize intelligence flow and to coordinate between different agencies, [46] and the NIA will be linked to the MAC for information sharing among various intelligence agencies [47]. By this the relevant intelligence in connection with terror activities emanating at various police stations in any part of the country would be available to NIA.

The MAC, nodal intelligence cell relating to terrorism became operational, [48] yet it has not been able to fully achieve its objectives. Hence, Indian government decided that a legal color be given to the order establishing MAC [49]. All the information collected by different agencies would be accomplishing the national intelligence grid (NATGRID) [50] and saved in national memory bank. By this way sensitive intelligence about terrorist suspects could be shared NIA with central and state intelligence cells.

The NIA generally is responsible for pursuing counterterrorism investigations by collecting evidence for introduction into a legal proceeding in which the desired end is criminal prosecution. Officers work closely with law enforcement authorities to ensure that intelligence information gathered in a terrorism case may be used as evidence in court. NIA officers, working closely with members of other law enforcement agencies, ensure that operations are properly coordinated with a view to the possible use of the resulting intelligence as evidence in court.

Prevention

Indisputably, terrorists operating from the bordering countries are capable of do a good deal of destruction in India without continuous local support in form of money, material and manpower. The care to prevent such activities could be derived from the Unlawful Activities (Prevention) Act, 1967 as amended in 2008 (UAPA) and other acts mentioned in the schedule. The UAPA included 'terrorist activities' alongside 'unlawful activities', specifying different procedures to deal with each. Use of bombs, dynamite, poisons or noxious gases, biological, radioactive, nuclear substances is included in UAPA [51]. It also includes punishments and penalties for 'terrorist activities', specific procedures including the banning of 'terrorist organizations and interception of telephone and electronic communications were provided under UAPA [52].

With a view to prevent terroristic activities through precautionary measures, NIA can get cooperation from SAARC countries to the extent permitted by their national laws, through consultations between appropriate agencies, exchange of information, intelligence and expertise and



such other cooperative measures as may be appropriate [53]. Whoever attempts to commit, or abets the commission of offences like committing violence on board an aircraft in flight, etc. [54] offence at airport[55], and destruction of, or damage to, air navigation facilities[56] are punished. UAPA provides for punishing the aiding as well as abetting of a terrorist [57], funding terrorist activities [58], organizing training camps [59] and recruiting persons for committing such acts [60]. For instance, NIA filed a charge sheet before the special court at Kochi, Kerala against 37 Students Islamic Movement of India (SIMI) activists who allegedly organized a secret training camp with an intention to train the participants to advocate, incite and abet unlawful and terrorist activities, disrupt communal harmony and cause threat to sovereignty and integrity of the country, there by waging war against lawfully established government [61].

Indian 'Parliament has mandated that the NIA to be not merely a post-incident investigating agency, but also a pre-incident disruption agency' [62]. However, the NIA Act does not address intelligence lapses; by this means NIA has not been given the necessary powers to prevent the enumerated offences mentioned in the Act. The development of an advanced intelligence system is crucial if NIA desires to come out as a pre-incident disruption agency to properly prevent terrorism and terror related activities. This requires not only mere powers of investigation and enforcement but also the provisions for the collection, analysis, sharing, and dissemination of intelligence. Although other intelligences agencies are operating NIA has to develop its own intelligence unit. It has to use their own intelligence officers, both in India or by posting them overseas. Overseas, a foreign intelligence officer may operate under cover as a diplomat, trade official, businessman, journalist or member of a delegation. Alternatively, they can recruit agents who have direct access to the required information, or to the means of acquiring it.

The major challenge lies in developing intelligence to disrupt an attack before it becomes an event. For instance, the Mumbai attacks stand for a failure of intelligence gathering to prevent such attacks. For that reason, in its approach to its work NIA has to aims to achieve a strategic advantage over the 'targets' of its investigations. The NIA has to give attention to its targets like Lashkar-e-Toiba (LeT), Jaish-e-Mohammad (JeM) and Hizb-ul-Mujahiddeen (HuM), Al Qaeda and its affiliates, other international terrorist groups, usually concerned with their own local causes, continue to act in the Indian subcontinent. NIA must also monitor the terror groups of North East, Punjab, other extremist groups and homegrown terrorists who still pose a threat to India. Over time, NIA seeks to build up a detailed body of knowledge about these target organizations, their key personalities, infrastructure, plans and capabilities. This enables NIA to assess the level and nature of the threat they pose which, in turn, informs the further deployment of intelligence resources to counter their activities. This is a cyclical process involving adjustments being made continually on the basis of new intelligence or events. In carrying out these functions NIA must undertake human, technical, electronic intelligence, as well modernization of data processing and dissemination. The principal tactics of secret intelligence including 'Cover Human intelligence Resources' (Agents), 'Directed Surveillance' (following and observing), 'Interception of Communications and 'Intrusive surveillance' could help NIA more rapidly to uncover terrorist plots of any type and aimed at any target[63]. Human intelligence resources i.e. agent operations are to be undertaken by NIA by specially trained officers and can continue for long periods, sometimes for many years. The

operations of NIA by directed surveillance (following and observing) can do the covert monitoring of movements, conversations and other activities of LeT, JeM, HuM and other groups. By interception of communications i.e. by listening to the calls made on a particular telephone or opening and reading the contents of a target's letters or e-mails, NIA can handle the preventive action successfully. Intrusive surveillance may perhaps be done by means of the eavesdropping, which involves covertly monitoring the speech of targets under investigation. However, use of such methods is subject to a strict control and with permission of Indian Government.

It was accepted that prevention is best served by the acquisition of information and then acting on that information. For that reason NIA has to put off procurement by proliferating terrorist outfits of material, technology or expertise relating to weapons of mass destruction and watch out for new or re-emerging types of threat. The most important thing is to assist the intelligence agencies and security agencies and to build service capability and resilience.

Protection of Human Rights

Human rights are extremely important in the context of the operations of NIA. Proper investigation without throbbing the innocents and their families and a fair trial provided with a competent and qualified lawyer to look for fair dealing and dignity are imperative. An unfair and prejudiced investigation and prosecution gives an insecure environment to people, which would show the way to proliferation of new terrorists. If NIA fails to provide security of Muslims or other people active in North Eastern part of India, in a particular investigation or prosecution, they are much more likely to seek alternative security guarantees from terror group, which anticipate such state of affairs. Majority of the Muslims in India are more resistant to terror activities and terror groups. Even though some major conflicts like incidents of Gujarat and the demolition of Babri Masjid occurred, still majority of the Muslims are in the main stream of the nation. Former Additional Secretary of RAW, B. Raman observes, "The Indian Muslim community, despite feeling hurt because of the large-scale anti-Muslim violence in Gujarat, has remained fiercely loyal, law-abiding and forward-looking. It has kept its distance from Al Qaeda and the International Islamic Front (IIF) and repulsed the approaches of Pakistani *jihadi* organizations aligned with Al Qaeda [64]." Hence, it is the duty of NIA not to disturb such frame of mind in its investigation or prosecution.

After an assessment of NIA Act, it is noticeable that as the NIA as it stands, does not exactly meet those requirements, because gathering and analyzing the intelligence; coordinating the different intelligence and other security agencies and carrying out operations are also important steps for combating terror groups. To fill such gaps Indian government has planned to launch the National Counter Terrorism Centre (NCTC), which will incorporate and survey the intelligence pertaining to terrorism; follow or direct other agencies to pursue the different leads; and coordinate with the existing agencies for a successful feedback [65]. NCTC would therefore have to perform functions relating to intelligence, investigation and operations. As far as investigation is concerned, NIA would have to be brought under the overall control of NCTC. Although, NCTC has not come into existence due to the disagreement of some state governments, the Federal governments is determined to commence NCTC as soon as possible.



Conclusion

The NIA Act has equipped ample power to the investigating officers as well to the Indian government so that no undue hindrances occur in the investigation of terrorism and related offences. It has avoided chaos and given a unanimous approach to the State and the Federal Government to work coherently with the help of judiciary. The NIA is empowered to take over investigation of nine specifically mentioned terror related crimes including hijacking, any terror attack, any violation of the Atomic Energy Act and anything against the law on weapons of mass destruction. UAPA has taken care of punishing the aiding as well as abetting of a terrorist, funding terrorist activities, organizing training camps and recruiting persons for committing such acts. While the NIA Act endows with a reasonably straightforward procedure for investigation of terrorism and related activities, it has not specified the necessary powers to prevent the listed offences. Plugging the loopholes of the NIA is indispensable.

Indian Government has to develop NIA in such a way that balance must be struck between preserving human rights and enabling NIA to operate effectively, and notably NIA must be apolitical.

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Notes

[1] Criminal procedure for prosecution is in the concurrent list under Entry 2. VII Schedule of the Indian Constitution provides for three lists Union List, State List and Concurrent List. Union List consists of 97 items on which the Parliament has exclusive power to legislate. The State List consists of 66 items and individual states have exclusive authority to legislate on items included in this list. Concurrent List consists of 47 subjects of common interest to both the Union and State. The text of the Indian Constitution, Available at: <http://aptel.gov.in/pdf/constitutionof%20india%20acts.pdf>. Accessed 22 May 2012. For details on Indian Constitution see Basu, D.D. (2008) *Introduction to the Constitution of India*, (Nagpur) Wadhwa Sales Corporation

[2] CBI is the premier investigating police agency and also the nodal police agency which coordinates investigation on behalf of Interpol Member countries. The broad categories of criminal cases handled by the CBI are cases of corruption and fraud committed by public servants of all Central Govt. Departments, Central Public Sector Undertakings and Central Financial Institutions; Economic crimes, including bank frauds, financial frauds, Import Export & Foreign Exchange violations, large-scale smuggling of narcotics, antiques, cultural property and smuggling of other contraband items etc.; Special Crimes, such as cases of terrorism, bomb blasts, sensational homicides, kidnapping for ransom and crimes committed by the mafia/the underworld. More details on the organization available at: <http://cbi.nic.in/aboutus/cbiroles.php>. Accessed 22 May 2012



[3] Entry 8 of the Constitution's Union List permits CBI

[4] The Draft Bill for a Separate Law for the Central Bureau of Investigation (CBI) enabling it to investigate Federal Crimes, the Padmanabhaiah Committee on Police Reforms in 2000, Justice V. S. Malimath Committee on Reforms of Criminal Justice System. In 2003, Justice V. S. Malimath Committee on Reforms of Criminal Justice System has advocated for an independent federal organization. Bu most of the Commissions like the Second Administrative Reforms Commission, the Padmanabhaiah Committee, the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, etc., had advocated the establishment of a specialized wing in the CBI to deal with federal crimes. Department of Administrative Reforms & Grievances, '5th report of Administrative Reforms Commission on Public Order,' Available at: <http://arc.gov.in/5th%20REPORT.pdf>. Accessed 22 January 2011

[5] Vinay Kumar, Approval for National Investigation Agency, *The Hindu*, 16 December 2008. Available at: <http://www.hindu.com/2008/12/16/stories/2008121657430100.htm>. Accessed 22 May 2012

[6] Preamble of the NIA Act, (2008). (NIA Act) Available at: http://nia.gov.in/acts/The_National_Investigation_Agency_Act_2008.pdf 9. Accessed 11 April 2012

[7] The power of DG is equivalent to powers exercisable by a Director-General of Police in respect of the police force in a State. See Section 4, NIA Act

[8] Ibid. Section 4(1)

[9] Section 5, National Investigation Agency (Manner of Constitution) Rules, 2008

[10] Criminal procedure for prosecution is in the Concurrent List, Entry 2 of Indian Constitution

[11] Section 1, NIA Act

[12] Ibid. Section. 3(2)

[13] "Scheduled Offence" means an offence specified in the Schedule. Ibid. Section 2 (10) (g) Section 2 (1) (f) clarifies that "Schedule" means schedule to the of NIA Act

[14] Ibid. Section 6

[15] Ibid. Section 9

[16] Ibid. Section 10

[17] Mission & Vision of NIA. Available at: <http://nia.gov.in/mission.aspx>. Accessed 6 February 2012

[18] Section 154 of the Criminal Procedure, 1973 states: (1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informants and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf;

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant;

(3) Any person, aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer Subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence



[19] Section 6 (1), NIA Act

[20] Ibid. Section 6 (3)

[21] Ibid. Section 7

[22] The “Schedule” of the NIA Act provides for them. They are – the Atomic Energy Act, 1962; the Unlawful Activities (Prevention) Act, 1967; the Anti-Hijacking Act, 1982; the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982; the SAARC Convention (Suppression of Terrorism) Act, 1993; the Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002; the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 and offences against the State, including conspiring or waging war against the Government of India and counterfeiting currency notes under the Indian Penal Code (IPC)

[23] Sections 121 to 130 of IPC

[24] Ibid. Section 489A to E

[25] Section 8, NIA Act

[26] FBI, About Us. Available at: <http://www.fbi.gov/about-us/lab/eu>. Accessed 7 February 2012

[27] The Special Court will have all the powers of the Court of Sessions under the Code of Criminal Procedure, 1973 for the purpose of trial of any offence under NIA Act. The trial under this Act by the Special Court shall be held on a day-to-day basis on all working days and shall have precedence over the trial of other offences. For complete details on Special Courts see Sections 11 to 14 of Chapter IV, NIA Act

[28] Ibid. Section 16(3)

[29] Ibid. Section 22

[30] Ibid. Section 11(1)

[31] Ministry of Home Affairs, Government of India, *Annual Report 2010-2011*, Chapter –II, p. 33. Available at: [http://mha.nic.in/pdfs/AR\(E\)1011.pdf](http://mha.nic.in/pdfs/AR(E)1011.pdf). Accessed 24 June 2012

[32] Section 16, NIA Act

[33] Ibid. Section 16 (1)

[34] Ibid. Section 12

[35] Ibid, Section 13(2)

[36] Ibid. Section 16 (2)

[37] Ibid. Section 21

[38] The Special Court authorized to hold in camera proceeding if it deems it is necessary or on an application made by a witness or Public prosecutor. Ibid. Section 17

[39] Section 7 (b), National Investigation Agency (Manner of Constitution) Rules, 2008

[40] IB has offices all over the country and representatives abroad and collects information on terrorist activities

[41] RAW is concerned with India’s external intelligence and gets valuable terror related information. Besides, Aviation Research Centre (ARC) attached to RAW is useful for collection and dissemination of data received from the satellites and other installations in space



- [42] DIA collects inputs received from the Army, Air Force and Navy and supplies the filtered intelligence to the services.
- [43] The DRI gathers intelligence mainly on infringements of economic laws
- [44] NTRO is useful for collection and dissemination of data received from the satellites and other installations in space
- [45] These State intelligence units could be prolific information collectors since they are close to the people and work in every village, town and city
- [46] The Group of Ministers (GoM) had recommended the setting up of MAC as an immediate answer to charges of intelligence failure during the 1999 Kargil conflict. According to the GoM's recommendations, for wider and faster accessibility of intelligence information, it was necessary to set up a National Intelligence Grid along with a National Memory Bank. See Bisheshwar Mishra, 'Multi-agency Centre a dream for North Block,' *The Times of India*, 3 October 2005. Available at: <http://timesofindia.indiatimes.com/india/Multi-agency-centre-a-dream-for-North-Block/articleshow/1250055.cms>. Accessed 26 April 2012
- [47] Vishwa Mohan, 'Ace Investigator Raju Appointed First NIA Boss,' *The Times of India*, 16 January 2009. Available at: http://timesofindia.indiatimes.com/India/Ace_investigator_Raju_appointed_first_NIA_boss_/. Accessed 8 February 2012
- [48] MAC in the Intelligence Bureau (IB) has been functioning on 24X7 basis. An executive order has been issued on December 31, 2008 under which MAC, under the IB, has been obliged to share intelligence with all other agencies, including agencies of the State Governments/Union Territories. Likewise, all other agencies have been obliged to share intelligence with MAC. Ministry of Home Affairs, Government of India, *Annual Report 2009-2010*, Chapter –II, p. 26. Available at: [http://www.mha.nic.in/pdfs/AR\(E\)0910.pdf](http://www.mha.nic.in/pdfs/AR(E)0910.pdf). Accessed 30 April 2012
- [49] 'Thai Indian News, "Chidambaram Chairs First Meeting of Nodal Intelligence Cell.' Available at: http://www.thaindian.com/newsportal/politics/chidambaram-chairs-first-meeting-of-nodal-intelligence-cell_100137332.html. Accessed 28 May 2012
- [50] The NATGRID (National Intelligence Grid) has been set up as an attached office of the Ministry of Home Affairs in April, 2010. NATGRID will link data bases for constructing actionable intelligence to combat terrorism. As such, NATGRID has been set up to create a facility that improves India's capability to counter internal security threats. Ministry of Home Affairs, Government of India, *Annual Report 2010-2011*, Chapter –II, p. 32. Available at: [http://mha.nic.in/pdfs/AR\(E\)1011.pdf](http://mha.nic.in/pdfs/AR(E)1011.pdf). Accessed 24 June 2012
- [51] Section 15, UAPA
- [52] Ibid. Chapter III and Chapter IV
- [53] Article VIII of the Schedule to the SAARC Convention (Suppression of Terrorism) Act, 1993
- [54] Section 3, the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982
- [55] Ibid. Section 3A
- [56] Ibid. Section 4
- [57] Aiding, abetting or committing a terrorist act shall be punishable with imprisonment up to ten years under Section 23, UAPA
- [58] Funding terror activities shall be punishable with at least five years' imprisonment. Ibid. Section 17
- [59] Ibid. Section 18 A. By virtue of this provision organizing training camps and recruiting persons for committing terror acts shall be punishable with at least five years' imprisonment
- [60] Ibid. Section 18B. It provides with at least five years' imprisonment for this act
- [61] Press Information Bureau, 'NIA Files Charge-Sheet against SIMI Activists,' 14 January 2011. Available at: <http://pib.nic.in/release/release.asp?relid=69065>. Accessed 11 February 2012

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