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National Security Laws in India and terrorism in Present Scenario: A Socio-Legal Study

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KEYWORDS

National Security, Law Related to National Security, Reduce the Terrorism, Causes of Terrorism, Enforcement System of Law, Protection of Society from the Terrorism.

ABSTRACT

A sovereign state's inhabitants, economy, and institutions are all subject to national obligations, which are known as national security or national defence. National security, which was initially intended to defend against military attacks, now encompasses non-military elements including security from terrorism, crime prevention, economic security, energy security, environmental security, food security, and cybersecurity. Are also frequently mentioned. Similar to how other governments can act, violent non-state actors, drug cartels, multinational businesses, and natural disasters can all pose a threat to national security. To maintain national security, governments use a variety of political, economic, military, and diplomatic tools. They can also act to create regional and international conditions of security by reducing transnational sources of insecurity such as climate change, economic inequality, political exclusion and nuclear proliferation. In this research article I will discuss related to terrorism impact on the society, how to stop terrorism and various ways of National security.

Introduction

National security or national defence is the term used to describe the protection and defence of a sovereign state, including its citizens, economy, and institutions, and is seen as the responsibility of the executive branch of government. It is now widely acknowledged that national security, which was originally meant to be a defence against military attack, also includes non-military elements like security from terrorism, lowering crime, economic security, energy security, environmental security, food security, and cyber security. Drug cartels, multinational corporations, and even the effects of natural disasters can act violently, much like other nation-states, and represent a threat to national security.

Need of National Security Laws:

Since gaining its independence, India has had a number of issues managing both its internal and external security. There has been an increase in domestic and international terrorism as well as insurgency groups around the nation. Today's terrorism is a global phenomenon and a problem on a global scale. The tactics and tools used by terrorist groups make use of modern communication tools and technology by using high-tech resources including communication systems, transportation, advanced weapons, and several other means.

Types of National Security:

Different types of National Security are existing:

1. Social Security

2. Economic Security
3. Cyber Security
4. Ecological security
5. Natural Resources Security
6. Infrastructure of the nation

Various Law Related to National Security:

Every country needs to make different types of laws for its safety and to run the system smoothly. In this context, India has also made many types of laws. Which is as follows:

Preventive Detention Laws in India

Detention without charge or trial for the purpose of preventing a crime is known as preventive detention. This is a crucial legal subject frequently discussed in the daily news. Many types of the Law relating to preventing detention have been passed by the Parliament of India. One is The Preventive Detention Act (PDA), 1950, and The Maintenance of Internal Security Act (MISA), 1971 and National Security Act of 1980 (NSA).

Martial Law in India

In India, martial law is not governed by law; rather, it is governed by the Indian constitution. Article 34 of the constitution restricts citizens' basic rights when martial law is in effect.¹

In contrast to a normal citizen government, martial law is a set of laws administered by the military. In a crisis or in response to an emergency, martial law may be declared in order to maintain control over the

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situation. When the civil authority is deemed unable to function during a crisis, martial law is a temporary directive issued by martial authorities to a designated zone. The legitimate effects of a declaration of martial law vary according to the location, but they typically involve the suspension of regular social equality and the expansion of the population of ordinary citizens. Either martial law or martial equity.²

Anti-terrorism Laws

The laws currently in force in India to prevent terrorism are the Unlawful Activities (Prevention) Act of 1967 and the National Security Act of 1980. The main piece of legislation prohibiting terrorist activity in India has been the UAPA. Some more laws related to anti-terrorism details given below:

1. TADA

The TADA Act, also known as the Terrorist and Disruptive Activities (Prevention) Act, was passed by Indian legislators in order to combat terrorism and create a process for handling instances involving terrorist attacks. A sort of religious terrorism prevalent in Punjab, the Khalistani Movement, was to be stopped by the action. Later, the statute expanded its purview to include additional states. The illegal use of violence against the general populace to establish political dominance is referred to as terrorism. There isn't a single definition for the term "terrorism." As a result, it has many definitions associated with it.³

2. POTA

Due to the rise in cross-border terrorism, the Pakistani ISI's ongoing offensive program aimed at destabilizing India, and the developments after the September 11 terrorist attacks, it was imperative to adopt a unique law to deal with terrorist acts. As a result, the Prevention of Terrorism Act, 2002 (POTA, 2002) was passed and made public. A similar challenge to TADA was filed against POTA in PUCL v. Union of India, and the Court also rejected it for identical reasons. Numerous complaints of flagrant violations of the law surfaced after the Act became law. There have been claims that the POTA legislation made the Indian police and court systems more corrupt. It was opposed by organizations fighting for civil freedoms and human rights.

Role of Judiciary

India has an independent judiciary that has been upheld, which is one of the most important aspects of good administration. And playing a key role to protect the national security in India. Some important case law in India details given below:

State Of U.P. And Anr vs Johri⁴

Despite being severely constrained, judicial review is nonetheless a justiciable subject. It has also been asserted that the authority granted by the royal prerogative is intrinsically impeachable, but this is debatable in light of the House of Lords' comments in the case of Council of Civil Service Unions v. Minister for the Civil Service. Lords Diplock, Scaman, and Roskill seemed to concur that there is no broad distinction between powers depending on whether their source is statutory or prerogative but that judicial scrutiny can be constrained by the subject matter of a particular authority, in this case, national security. In reality, many prerogative powers deal with delicate, non-justiciable matters,

such as foreign affairs, although some are in theory subject to scrutiny, including situations where there is no threat to national security.

Vijay Narain Singh vs State of Bihar & Ors,⁵

justice The following quote from A.P. Sen is accurate: "The detention of persons without trial for any period of time, however brief, is wholly inconsistent with the fundamental principles of our government and the gravity of the evil to the community resulting from anti-social activities can never furnish an adequate reason for invading the personal liberty of the citizens except in accordance with the procedure established by law."

National Security Breach Cause:

There are some causes for the national security breach details given below:

- **Corruption**

Government dysfunction is encouraged by corruption, which also causes economic inefficiency and poses a major risk to national security.

- **Internal & External threats**

Since gaining its independence, India has fought five wars: four with Pakistan and one with China. Due in great part to historical legacies, India's land borders are still open to external threats. Along with defending its land borders, the nation must also defend its extensive coastline and island holdings.

- **To steal intelligence data**

- Any incident that allows unauthorized access to secret information and computer data, applications, networks, or devices is referred to as a security breach of the nation. As a result, unapproved access to information occurs. Usually, it happens when a burglar is able to get past security measures.

- **To cause economic loss to the country**

Economic damage for the country: A few sociopathic individuals desire to cause economic harm for that nation.

- **For the Unwanted benefits:** People compromise national security in order to obtain the Unwanted Benefits.

- **To cause military harm**

Conclusion

Through this product or attempted to go that if any data is stolen from your country by terrorist activities or by individuals from an outside country or if any information is taken from which government and the army also attempt to breach the security system. The country must enact strict laws so that by closely monitoring such individuals, efforts can be made to put an end to them permanently. By stealing the information of the people of the country, they get involved in withdrawing money from their bank accounts and other types of activities. They even try to make money in the country by stealing their personal information.

Suggestions:

There are some suggestion:

1. National Security controls and practices should be strong
2. Security awareness training camps should be organized by the governments at the grounds level.
3. Need to modify Monitoring network systems for suspicious activities at every movement.

4. Keep your operating system and software up to date by authorized companies and follow the security majors.
5. Use good quality equipments and software.

Endnotes:

¹ Article 34: the Constitution of India

² Yashika Jain: <https://www.legalserviceindia.com/legal/article-3475-martial-law.html>,
Last seen 25th March 2022.

³ Deeksha: TADA Act: Anti Terrorism Laws In India: <https://getlegalindia.com/tada-act/> Last seen 20th March 2022.

⁴ SSC 714

⁵ 1984 AIR 1334, 1984 SCR (3) 435