

**Anniversary of a hijacking**
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December 31, 1999, will be remembered by all in India for the highly televised hijack drama of IC-814 from Kathmandu to Amritsar to Lahore to Dubai and finally to Kandahar, carried out by terrorists from abroad. While we were able to save all the passengers on board except one, it came at a great cost—releasing five hardened terrorists from Indian prisons, some of whom were instrumental in the 2001 attack on our Parliament. We need to introspect on what we have learnt since then. We need to compare September 9, 2001, when five aircraft were hijacked by terrorists and used as weapons of mass destruction, killing over 3,000 people in New York, besides damaging the Pentagon.

After 9/11, the US took many steps to enhance its security apparatus to ensure that such terrorist attacks do not take place on its soil. Besides the inherent powers of the President in declaring war against terrorism, the President was unanimously authorised by the Senate and 420 to 1 by the Congress “to use all necessary and appropriate force against those nations, organisations or persons he determines planned, authorised, committed or aided the terrorist attacks”. A homeland security Bill was passed, bringing together 22 uncoordinated agencies under one unified authority. Then came the Anthrax scare, which lead to improved intelligence coordination and passing of the Patriot Act. This is a draconian Act but led to the breaking up of many terrorist cells within the US and was renewed again in 2005.

The Patriot Act allowed better intelligence through methods like wire-tapping. The US also introduced finger printing and photo examination of all incoming persons into the country. Further, they have introduced the controversial full body scanners.

Let’s compare this with India. After the IC-814 hijack, which kept the nation hooked to its TVs for a whole week, we revamped our aviation security. We moved to a unified security system across all our airports by inducting Central Industrial Security Force (CISF) into airport security on an all-India basis, with control vested in the Bureau of Civil Aviation Security under the Ministry of Civil Aviation. The result was that, although the terrorists had earlier targeted the Delhi airport, they decided to attack our Parliament instead as it was a softer target.

We need to look at our existing legislation to meet the demands of the security scenario. The Terrorist and Disruptive Activities Prevention Act (TADA,1987), an existing Act in India declared lawful by Supreme Court, was allowed to lapse in 1995 due to widespread complaint of its misuse. We had no enabling legislation to deal with a terrorist situation in December 1999 or 2001 except for the National Security Act (NSA) of 1980 and the Unlawful Activities (Protection) Act (UAPA) of 1967, both considered inadequate to meet the emerging threats. It was only in March, 2002 that the Prevention of Terrorist Activities (POTA) Act was passed amid widespread opposition. POTA, which provided strict liability, i.e., the burden of proof was on the accused to prove their innocence, was repealed by an ordinance in 2004 and replaced by the milder features of UAPA by yet another ordinance. Thus, the punch was taken out of powers given to the police, which restricted release on bail and allowed longer periods of remand. Our flip-flop on legislation and dealing with terrorism goes with our reluctance to enforce the law. When a law exists, it is the duty of the state to implement it. A recent seminar in Delhi in which the state did not want to book people talking openly about secession reminds us of the time when neither Bhindranwala nor Shahi Imam were charged, in spite of evidence against them. It was only on the direction of the Supreme Court that the police was made to book the crime.

The dilution of powers provided in legislation, instead of checking their misuse, has hampered the prevention of terrorist activities. While airport security has been improved through the induction of CISF, the same cannot be said of general security. The lapse on part of the various organisations in the Mumbai attack on November 26, 2008, is a stark reminder that we have tightened our security in piece-meal and not comprehensively. Even if our federal set up has put law and order in the state list, the constitution is silent on terrorism and, therefore, it falls in the federal list. What we need is a comprehensive security set up on the lines of the US Homeland Security apparatus, which will bring together all security related organisations, including the coast guard and immigration.

Looking into the past eleven years, one can only say that our reaction to terrorism has been confused and direction-less. The former Home Minister personified this image. Except for the National Investigative Agency, there has been little improvement in security-related legislation, or organisation and implementation except in aviation.

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