



From TADA to PRAHAAR: Evolution of Counter-Terrorism Law and Policy in India

Anusha Arif

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Issue Brief

From TADA to PRAHAAR: Evolution of Counter-Terrorism Law and Policy in India

II FRAMING INDIA'S COUNTER-TERRORISM STRATEGY

Terrorism has been an unfortunate reality in India for several decades. In India's independent history, the country faced several threats from internal and external terrorism groups, claiming several lives. The leadership of India has strongly opposed and drafted laws against terrorism over the decades to confront these unprompted instances of violence. In a recent move, the Ministry of Home Affairs announced the National Counter-Terrorism Policy & Strategy, aligning with its principled approach of 'Zero Tolerance' against terrorism in the country. The policy, which is also known as 'PRAHAAR', aims to prevent terror attacks to protect Indian citizens and their interests. It also aims to respond with swift and proportionate action against security threats and aggregate internal capacity to achieve synergy in a whole-of-government approach. It will follow the 'Rule of Law' and human rights-based processes for mitigation of threats and align counter-terrorism efforts with international efforts and build resilience through a whole-of-society approach (MoHA, 2026).

The comprehensive counter-terrorism framework has been set up to address the evolving nature of contemporary terrorism. The new policy acknowledges and aims to counter how terrorist groups now threaten India's security on multiple fronts and critical sectors of the economy (Singh, 2026). Although it would be inaccurate to say this is India's first counter-terrorism policy, it can be argued that this is the first such 'Comprehensive and Proactive' policy incorporating the zero-tolerance doctrine against different forms of terror. The central purpose of the PRAHAAR policy appears to be synthesising different aspects of defense against terrorism, including the prevention achieved through intelligence gathering and dissemination by the Intelligence Bureau and the Joint Task Force on Intelligence, and the operationalisation of the Multiple Agency Centre (MoHA, 2026). It further highlights the importance of human rights and the 'Rule of Law', under anti-terrorism laws, stating that India is a signatory to the Universal Declaration of Human Rights. It makes a case against the conditions conducive to terrorism, arguing that terrorist groups make efforts to radicalise Indian youth to violent extremism, highlighting the steps taken by law enforcement agencies to disrupt the designs of terrorist groups and the police response to identified recruited youth.



Source: *The Indian Express*, Nov 28, 2008. 26/11 Mumbai terror attacks.

II DEFINING TERRORISM

The recognition of terrorism comes from its violence against innocent victims; however, there is no set definition for terrorism in international law. However, broad or imprecise definitions of terrorism can create greater scope for inconsistent interpretation and potential misuse. One widely accepted definition of terrorism is by the 2010 UN Special Rapporteur, Martin Scheinin on the promotion and protection of human rights and fundamental freedom which states that “Terrorism means an action or attempted action where: 1) The action: a) Constituted the intentional taking of hostages; or b) is intended to cause death or serious bodily injury to one or more members of the general population or segments of it; or c) involved lethal or serious physical violence against one or more members of the general population or segments of it; 2) The action is done or attempted with the intention of: a) provoking a state of terror in the general public or segment of it; or b) compelling a government or international organisation to do or abstain from doing something; 3) The action corresponds to: a) the definition of a serious offence in national law, enacted for the purpose of complying with international conventions and protocols relating to terrorism or with the resolution of the Security Council relating to terrorism; or b) all elements of a serious crime defined by national law” (UNGA, 2010).

The legal definition of terrorism is found under the [Unlawful Activities \(Prevention\) Act \(UAPA\)](#), which defines it as “Any act with the intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India or with the intent to strike terror or likely to strike terror in the people or any section of the people in India or any foreign country”. However, much like the legal framework to counter it, the definition of terrorism in India has also evolved from the first time it was defined under the [Terrorist and Disruptive Activities \(Prevention\) Act \(TADA\) of 1987](#) in India.

According to the TADA, terrorism was seen as acts done “With intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to affect the harmony amongst different sections of the people adversely” (TADA, 1987). Furthermore, the definition specified methods covering the usage of explosives, bombs, lethal weapons, noxious gases and chemicals, as well as hostage taking (Khanna et al., 2018). Significantly, it focused on the intent of the act by recognising that terrorism was not just about violence but an attempt to intimidate the government, spread fear among people, create division, or disrupt communal harmony (Khanna et al., 2018).

Internationally, terrorism has also been defined in many ways. The Federal Bureau of Investigation (FBI) defines international terrorism as “Violent, criminal acts committed by individuals and/or groups who are inspired by, associated with, or designated as foreign terrorist organisations or nations (state-sponsored)” (FBI, n.d.). It recognises that terrorist threats may also arise from lone individuals who have been radicalised online and mobilise to violence quickly.

In response to these evolving threats, counterterrorism strategies have expanded beyond traditional policing and intelligence to include financial surveillance. India became a member of the Financial Action Task Force (FATF) in 2010, which set global standards to combat money laundering and terrorist financing. The FATF identifies high-risk countries and those under increased monitoring to protect international financial institutions (FAFT, n.d.).

These developments illustrate how counter-terrorism frameworks evolve in response to changing threat patterns, including digital radicalisation. However, at the same time, the developments and implementations of these policies are also shaped by a broader political context, which can influence how counter-terrorism priorities are defined and operationalised.

II HISTORY OF COUNTER-TERRORISM POLICY

The development of anti-terrorism policy in India has been closely intertwined with the country's political and security context. The legislative and policy responses to terrorism have often emerged in the aftermath of major political crises or acts of violence. These committed acts of violence exposed perceived gaps in the state's security framework and created a general feeling of fear for the country. One of the earliest instances of such legislation appeared following the assassination of then Prime Minister Indira Gandhi in 1984.

In response to rising concerns about militancy and internal security, the government introduced TADA. This marked the first major legislative effort specifically designated to address terrorism in India. The 1987 Act defined the punishment for terrorist acts, specifying that any person who has the intent to overawe the government or to strike terror in the people or any section of the people shall be punishable by death if their act has resulted in the death of any person. In other cases of conspiracy or concealment, the punishment ranged from imprisonment for a term of not less than five years, extendable to a life term (TADA, 1987). The act was amended in 1993 and finally lapsed under the sunset¹ clause in 1995, but it remained highly criticised during its ten years of operation.

One major concern that arose was that of the act's wide power to arrest and detain individuals without a trial or a charge for up to 180 days, which was extendable to a period of one year. It strengthened the existing power of the government to ban an organisation on limited evidence, with limited rights to judicial review (Bhuta, 2010). It also limited the transparency of the legal and judicial system by introducing special courts to hold closed hearings with undisclosed witnesses.

In March 1993, a series of 12 coordinated bomb blasts targeted the city of Mumbai, claiming more than 250 lives and injuring even more (BBC, 2015). The blasts invariably changed not just the city but also the way India viewed safety and security. The CBI in 1993 brought a 10,000-page primary charge-sheet filed against 189 accused, infamously also including Bollywood actor Sanjay Dutt (Livemint, 2017). Despite being introduced to enable a strong legal response to terrorism, the TADA also drew significant criticism regarding its implementation. Scholars and rights organisations note that some provisions of the Act granted broad discretionary powers to law enforcement agencies, which, in some cases, led to allegations of misuse.

Reports indicated that the legislation was sometimes employed for purposes beyond counter-terrorism, including the detention of political party workers in Kerala. The National Human Rights Commission of India (NHRC) also raised concerns about the application of the Act in Gujarat, where more than 19,000 cases had been registered under its provisions (Amnesty International, 1994).

In the wake of an international reaction to terrorism after the 2001 World Trade Center attack, coupled with threats of terrorism closer to home, the need for a new bold initiative to curb terrorism was realised.

The Prevention of Terrorism Act (POTA) was introduced in 2002 after the Red Fort attacks in 2000 and the Parliament attacks in 2001. The POTA adopted much of the same legal principles that were set out in the TADA. It also allowed for detention of a person without filing charges for up to 180 days (POTA, 2002). Only four months after its implication, security officials had arrested 250 people nationwide under the Act; this number jumped to over 940 people, with states like Jharkhand having detained a large number of people despite considerably low terrorism threats (Malpani, 2019). After only two years of operation, with a change in government leadership, the act was repealed in 2004 based on concerns over the misuse and human rights violations.

In defining the terrorist act, the UAPA also further widens the scope of its application. It notes under section 15, that ‘Any Act’ with the intent to threaten or likely to threaten the unity, integrity, security [economic, security] or sovereignty of India or with intent to strike terror or likely to strike terror in people or any section of people in India or in any foreign country (UAPA, 2019). Despite criticism towards the UAPA, it has remained in operation, resulting in the creation of a suspicion-based model, where the burden of proof shifts to the accused and the labels overpower trials. This has been reflected in the Supreme Court’s decisions in cases where UAPA charges have been brought. In 2024, the Supreme Court, while dismissing a bail application, held that under the Act, “Jail is the rule and bail is the exception” (Bhalla, 2024).

II CHANGING NATURE OF TERRORIST ACTS

Despite its many definitions, terrorism is often perceived through a narrow lens of religion, even in instances where its roots are buried in regional tensions and political dissent, for instance, in the north eastern states in India. The nature of terrorist activity has evolved significantly over time, shaped by technological advancements, shifting geopolitical dynamics, and changing modes of organisation. The threat may no longer be physical but may arise from decentralised networks and lone-actor attacks, as suggested by the government.

As digital infrastructure has become increasingly central to governance and law enforcement, the threat to these systems has also increased significantly. The use of the internet to conduct attacks and threaten critical infrastructure has grown increasingly over the last decade. This convergence between cybercrime and terrorism ideologies is considered cyberterrorism. It refers to the utilisation of the internet, information media, and communication platforms to conduct terrorist attacks or to promote terrorist causes (Iftikhar, 2024). However, cyberterrorism is not limited to these; in fact, it also encompasses the use of the internet to push the threat of conventional terrorism. Moreover, the global nature of the internet allows malicious actors to act transnationally. For eg., In the late 1990s, extremist groups like Al-Qaida started declaring an ‘Electronic Jihad’ against the United States, calling to attack the critical infrastructure of the country (UNICRI, 2024).

For social media providers, regulatory aspects of this content have also become important. During the [2019 terrorist attack](#) against a mosque in Christchurch, New Zealand, the perpetrator live-streamed his attack online. However, social media companies such as Telegram have faced criticism for continuing to host channels that propagate violence. According to reports, extreme right, white supremacists, and neo-Nazis have also established a presence on Telegram (Gais & Squire, 2021; Yang & Corkery, 2025).

In October 2022, the Counter Extremism Project released a 24-minute video of a celebration of a white supremacist group on committing acts of murder and terrorism (Counter Extremism Project, 2024).

The widespread hate speech and inciting violence have also been on the rise in India. According to a 2022 survey by the Culture-Centered Approach to Research and Evaluation (CARE), nearly 60 per cent of participants had come across content on digital platforms that incites violence against particular religious groups.

The regulation of such content on social media platforms has become increasingly complex. This requires trying to achieve a complex balance between preventing the dissemination of violent

material and safeguarding principles such as free expression and privacy. These tensions point to the need for a clearer, more context-sensitive framework to define and regulate terrorism-related content, yet the question arises: Who should make these rules? In this regard, one can argue for developing definitions of terrorism that are not solely rooted in Western legal and political interests (where these social media platforms grow from) but reflective of regional experiences and security concerns.

II ABUSE OF COUNTER-TERRORISM

The nature of counter-terrorism policy differs from ordinary criminal law due to the grave nature of the crime. The criminal law in India lays down procedural safeguards to ensure that even a person accused of a crime is not stripped of their rights. The procedural safeguards are embedded in the Constitution and the Code of Criminal Procedure (CrPC) 1973, which has now been recodified as the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023. The CrPC and the BNSS have both laid down provisions for the rights of the arrested person to contact a lawyer (S. 41D & S. 38), the right to be informed of the grounds of arrest, and the right of bail (S. 50 and S. 47), and not to be detained for more than twenty-four hours, if arrested without warrant (S. 57 and S. 58). Any person arrested under the criminal code without a warrant must also be taken before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station (BNSS, 2023). However, when it comes to counter-terrorism measures, these procedural safeguards become narrower.

The legal basis and constitutionality of the prior acts have been challenged in courts before. The TADA, which was challenged in the Supreme Court in the case of *Kartar Singh vs. State of Punjab*, was argued to be arbitrary by the petitioners, who not only questioned the legislative competence but also provisions that allowed for confessions to be used as evidence. Subsequently, the POTA was also challenged for the admission of confessions, secret witnesses, and long detentions (Sethi, 2017). However, the Supreme Court upheld the constitutionality of both these acts, stating that the spectre of terrorism overrides concerns about civil liberties (Sethi, 2017). Yet, this recognition of legality did not take away from the widespread abuse of civil liberties resulting from counter-terrorism laws in India. In fact, earlier acts, including the aforementioned TADA and POTA, were repealed, considering the concerns over their misuse.

The Supreme Court had also noted that: “It is true that on many occasions, we have come across cases wherein the prosecution unjustifiably invokes the provisions of TADA with an oblique motive to depriving the accused persons from getting bail and in some occasions when the Courts are inclined to grant bail in cases registered under ordinary criminal law, the investigating officers to circumvent the authority of the courts invoke the provisions of the TADA.” (*Kartar Singh vs. State of Punjab*; Amnesty International, 1994).

In more recent times, the implementation of the UAPA has also given way to concerns. Internationally, the Human Rights Watch (HRW) has also raised concerns about India’s repeated misuse of counterterrorism laws (Bhuta, 2010). The same report highlights the 2008 Amendment of the UAPA, arguing that it gives police officers vast powers, including the discretion to search, seize, and arrest on an extremely low standard of certainty and only on the ‘Personal Knowledge’ of the relevant officer.

As the Public Civil Liberties Union argues in its Repeal UAPA Campaign, the vague definition and the total absence of legal accountability for police officers have resulted in abuse of power and the prosecution of political dissenters. It notes that a large number of cases filed under the UAPA have been brought under the charges under Sections 18 (punishment for conspiracy), Section 20

(Punishment for being a member of a terrorist gang or organisation), as well as under Section 16 (Punishment of terrorist act). They also state their findings that in nearly 64 per cent of cases where Section 18 was invoked, there was no specific incident involving a weapon or causing physical injury or harm (Suresh et al, 2022).

The study finds that the UAPA cases take a minimum of anywhere between 3 and 5 years to conclude, and between 2015 and 2020, the total conviction rate of cases under UAPA remains 27.57 per cent, which is significantly less than criminal convictions (Suresh et al, 2022).

Beyond the abuse of UAPA provisions as an umbrella provision to address conspiracy, public nuisance, and unlawful assembly. The conviction rate data also raises serious concerns about the lives and labels that innocent people accused under the UAPA carry. The PRAHAAR, although it does not raise concerns on its own, as in and of itself it is only meant to reinforce the zero-tolerance policy against terrorism in India, commits to strengthening the rule of law. Yet, a comprehensive look at the counter-terrorism policy in India underscores the need to address the gaps in its implementation.

II CONCLUSION

The concerns regarding terrorism give valid grounds for establishing legal principles for harsh punishments. The governments must prioritise national security concerns by creating safeguards for the people as well as the critical infrastructure. Yet, the reality of gaps and the routine misuse of the discretionary powers given under these provisions cannot be looked away from. While PRAHAAR is another step to integrate intelligence, legal frameworks, and preventive policing practices in a single policy approach, it represents a fragment of India's counterterrorism framework. Yet to understand its significance, therefore, it is required that it is viewed within the broader evolution of India's counter terrorism strategies. It is important to consider the development of these policies over time in response to shifting security threats, their perception, and major terrorist incidents.

International Human Rights Law, including the International Covenant on Civil and Political Rights (ICCPR), establishes principles for the right to life and the right to be free from torture even in the state of a public emergency. The Constitution of India has also guaranteed these rights to its citizens, yet the routine language of 'National Security' and 'Counterterrorism' is often used as a sidestep for increased punishment. As a signatory to the ICCPR, India is not only bound to uphold the right to liberty and freedom of expression, but is also bound by its values for the protection of human rights.

The examination of the counter-terrorism laws in India reveals this troubling paradox, where India as a nation has remained committed to the rule of law and yet, in practice, tensions arise. In these unprecedented times, the threat of external aggression, terrorism, and increasing regional conflict looms large for the nation. However, the measurement of a country's security apparatus cannot only be dictated by its ability to protect its borders but also its citizens from abuse of law.

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1. The sunset clause is a provision in any law or contract that stipulates the automatic termination or expiry of the law unless it becomes formally renewed. A sunset clause was included in the TADA keeping in mind the fears of the long-term misuse of its provisions and ensure Parliamentary review.



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