
Includes
Cyber Terrorism
Conflict Resolution
SEZ
Kashmir
NE
Naxalism
Communalism
SC/ST, PESA
Public Order
AFSPA, Force deployment

1996 - India proposed Draft Comprehensive Convention on International Terrorism (UN didnt adopt)

Terrorism

Term terrorism originated from the French Revolution - The Reign of Terror

A possible definition-

Criminal Act perpetrated resulting in violence, destruction or disruption of services to create fear by causing confusion, uncertainty in a population, to influence govts or people to conform to particular political, social or ideological agenda

Ethno-national terrorism -

Deliberate violence by a subnational ethnic group to advance its cause

Aims for creation of separate state or elevation of status

Eg Sri Lanka, NE in India

Religious Terrorism -

Motivated in whole or part by religious imperatives, consider violence as a sacramental act

More destructive in nature - embraces different means of legitimation.

Ideology Oriented Terrorism -

Can be any ideology that supports use of violence, terrorism

Generally two types

Left wing -usually peasant classes against ruling elite

Right wing - seek to maintain status quo/past situation.

Can assume ethnic/racist characteristics, or religious. eg ISIS, Nazi, Fascist, KKK

State Sponsored Terrorism-

Existed in ancient times eg Rome, Byzantium and reappeared in 1960s, 70s.

Along with Religious T, has altered nature of T activities around world
Some countries have embraced terrorism as an instrument of foreign policy

Narco-Terrorism

Can be type/mean of terrorism

Eg car bombs, assassinations by drug traffickers in South America - Columbia, Peru

Also groups in Central and SE Asia (eg Philippines)

Despite T being recognized as global phenomenon, efforts have been futile to arrive at common definition

- T in one country may be viewed favourably in another eg Kurds in Turkey
- Some states encourage T clandestinely

In contrast to assassination, the direct victims in T are not the intended targets
Usually chosen randomly or selectively (as symbols) to deliver a message

Means of T

- Conventional - eg bombs, grenades, hijacking
- Environmental - eg Gulf War, 1991 Saddam Hussein ordered detonation of over 1000 oil wells which engulfed Kuwait in smoke
- WoMD
 - Nuclear
 - Chemical
 - Biological

Now

- Cyber Terrorism -
 - Criminal Act perpetrated by use of I&CT capabilities resulting in violence, destruction or disruption of services to create fear by causing confusion, uncertainty in a population, to influence govts or people to conform to particular political, social or ideological agenda

Outcomes of CT

- Loss of Integrity - Unauthorized access can undermine, changes to IT system/data can result in errors, fraud
- Loss of Availability - Attack on critical IT system makes unavailable to users
- Loss of Confidentiality - Unauthorized info disclosure can create loss of pub confidence, national security threats
- Physical Destruction - through IT systems. eg Plane control

Financial Aspects of Terrorism

Drug trafficking, money laundering, counterfeiting can also finance terrorist organizations
Hence tendency internationally to merge anti-money laundering and counter-terrorist finance regimes.

But ML differs from T financing in 2 ways which bears on nature of strategy to adopt for counter T finance regime

Money laundering

- Not always linked to T - T can use clean money. Trail ends when converted to legal assets unlike T when reaches perpetrators
- In ML, effects can be undone while in T only evidence to convict - loss of life, property & public confidence not undone

Strategy to deal with fin aspects of T

- Asset recovery, obstruction powers
- Legal penalties against persons/orgs involved in financing
- Adoption of Customer identification programmes record keeping procedures by fin institutions, agencies eg link Aadhaar
- Authority for reporting suspicious financial activity
- Capacity building, coordination mechanisms b/w agencies involved
- International cooperation

Kashmir

GoI - Multi pronged strategy with holistic approach

- Civilian approach
 - Confidence building measures with J&K and also Pakistan
 - People to people contact b/w J&K and POK, reuniting separated families
 - Relaxations in movements across LOC eg after earthquake in POK
 - Periodic dialogues with groups of differing opinions including separatists

Internal security Procedures

- Unified Command mechanism under CM, with Army, Central and State police representatives
- Banning terrorist orgs in J&k under Unlawful Activities (Prevention) Act, 2004 eg JeM, LeT
- Village Defence Committees set up
- Reimbursement of State's security related expenditure

Way Forward:

Need multi pronged approach

- Socio eco dvlpmt so vulnerable sections do not fall prey to terrorist propaganda of wealth, equity
- Administration , service delivery mechanisms responsive to legitimate grievances and prompt redressal

Necessary elements

- Political consensus on broad contours of strategy
- Good Governance and socio-economic development -Actual implementation of development work on ground through a corruption free and accountable administration
- Respect for rule of law - govt agencies must not be allowed to transgress law even in critical situations like insurgency
- Countering subversive activities through civil rather than military measures - information services, media and intelligence wing
- Appropriate legal framework - Special laws, effective enforcement mechanisms but with sufficient safeguards to prevent misuse
- Holistic capacity building - of intelligence machinery, security agencies, civil admin and society at large for preventive, mitigation, relief and rehabilitation measures

Need for legal framework seen in Rajiv Gandhi assassination case (State vs Nalini and others)

- SC held provisions of Terrorist and Disruptive Activities (Prevention) Act, 1987 not applicable - not terrorist act nor disruptive under the Act

Thus even a specific law to fight against terrorism ineffective in case of a former Prime Minister

Recommended that instead of Unlawful Activities (Prevention) Act,
Address Terrorism under National Security Act, 1980

- UAP Act deals primarily with prevention of certain unlawful activities whereas NSA with prevention of those which are prejudicial to national security and integrity, and has provisions for preventive detention

Terrorism is more ominous than unlawful activities, hence NSA more relevant

- NSA - can detain for 1 yr without trial/framing charges if considered threat to security

Law Commission recommended membership of banned orgs, raising funds for them should be included in "terrorist acts"

Current anti-terrorist law UAP Amendment, 2004 does not consider financing T activities as a T act like POTA - dilution of law

Development, internal security two sides of same coin

Recruits to terrorist groups largely from marginalized groups- lack of improvement provides fertile ground for terrorism

Inter-regional, rural -urban and inter-sectoral divides due to uneven development

US type witness protection program not suited for India

- Individual's identity inextricably linked with social milieu, place of origin almost impossible to relocate with fresh identity somewhere else
- Extremely costly except in rarest cases

Law Comm considered that concealing witness' identity violates accused's right to cross examine - could not take away.

ARC - in light of threat to national security, court may allow identity of witness to be concealed and carry cross examine itself

CONFLICT RESOLUTION

Individual and Societal Tensions -> Latent Conflict -> Escalation -> Eruption

1. I&S Tensions- Indvdl or group feels wronged/left out - can be due to poor governance, historical socio-eco inequalities

2. Latent Conflict - Tensions give rise to discontent manifested in requests to authorities
Most opportune moment for administration to manage/prevent conflict - often overlooked due to preoccupation with firefighting measures

3. Escalation - Overlooked, unattended grievances by admin aggravates discontent.

Parties' stands harden and aggressive methods like demonstrations adopted

4. Eruption - Small spark can lead to eruption of violence due to polarization.

Admin normally swings into action to try to control violence

NAXALISM

SAMADHAN - MHA - tech, guerrilla training, equipment, GIS for armed forces in LWE, intelligence based action, biometrics, UAVs, cut off funding

Roshni, Van Dhan, Van Bandhu Kalyan yojana, Khanji Kshetra

Quote Xaxa committee on tribals. Alienation

Left Extremist outburst, March 1967 in Naxalbari of Darjeeling district in WB

Covers many states now. - Naxal corridor WB, Orissa Jharkhand, Chhattisgarh, MP, UP, Bihar, Andhra, Maha

Features

- Largely agrarian - due to misgovernance, discontent in rural areas
- Greatest challenge to internal security, grown in forest and tribal areas by mobilizing marginalized sections
- Creates conditions for non-functioning of govt, seeks disruption of development activities

Reasons behind

Reasons for deprivation, discontent of deprived sections

- Land related factors
 - Evasion of land ceiling laws, existence of special tenures exempt from them
 - Encroachment, occupation of govt and community lands by powerful sections
 - Lack of title to land cultivated by landless poor,
 - Non regularization of tradnl land rights, Displacement and forced evictions from tradnl lands
 - Large-scale land acquisition for public purposes w/o adequate rehabilitation, compensation
 - Poor implementation of laws prohibiting transfer of tribal land to non tribals in 5th schedule Areas
- Livelihood related causes
 - Lack of food security - corruption, non functioning of PDS

- Disruption of tradnl occupations and lack of alternative opportunities
- Deprivation of tradnl rights in common property resources
- Social exclusion, denial of dignity, and continuation of untouchability in various forms
- Poor implementation of laws on prevention of atrocities, protection of rights, abolition of bonded labour etc
- Governance related factors
 - Corruption, poor provision of essential public services eg primary health care, edu
 - Incompetent, ill trained, poorly motivated public personnel
 - Misuse of powers by police, violations of norms of law
 - Poor responsiveness of local govt institutions

Legislations such as Forest Act, 1927 and Forest Conservation Act, 1980 along with SC orders turned forests into prohibited areas for tribals - affected lives, livelihoods

Way Forward:

Judicious mix of dvlpmt and welfare initiatives together with land reforms, well planned counter-insurgency operations to restore peace and confidence in administration

- Capacity Building to deal with LWE
 - Security Forces
 - Administrative Institutions
 - Govt Personnel
 - Local Bodies
 - Civil Society
 - Cutting source of finances for Naxals
 - Extortion of local ppl, contractors and forest & mine operations
 - Entrust these works to orgs like Border Road Org and govt agencies to execute directly
 - Curbing extensive contractor-transporter-extremist nexus, illegal mining and forest prduce collection
 - Poverty alleviation programmes to cater to needs of poorer farmers
 - SHGs and cooperatives to support small, marginal farmers
 - Transferring informal debt to formal insitutuions
 - Risk coverage - price and demand fluctatuons, vagaries of weather and natural calamities
 - Increased public investment - increase agri productivity, alternatie livelihood opportunities
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Special Economic Zones

SEZ bill - allows trusts/entities notified by govt to set up units in SEZ

- Good - EODB, invest, jobs...
- Bad - no transparency, favouritism

SEZs in China successful necause

- Unique locations
- Large size, improved infra
- Investment friendly attitude
 - Attractive incentive packages for foreign investment
 - Liberal customs procedures
 - Flexible labour laws
- Autonomy for local authorities in administration

Conflicts in India's SEZ policy:

- Displacement
- Loss of agri land
- Real estate speculation - instead of creating manufacturing activities
- Extremely long Tax breaks - revenue loss, diversion of production from other units

Way Forward

- Should have limited number of large SEZs in rural areas for infra creation, employment generation
- Locate in areas with least displacement, and least loss of productive agri land
- Minimize proportion of land for non-processing activities - land use plans with public consultation for optimal use
- SEZs promoted by farmers themselves encouraged
- Allocation of social responsibility of rehabilitation to entrepreneurs establishing SEZ - including water, sanitation, health, training
- Strict adherence to environmental regulations, EIA
- Reduction of extremely liberal tax breaks

Const safeguards interests of weaker sections through 3 pronged strategy for changing status of SCs and Sts baased on traditional social order

- Protection: Legal/regulatory measures
 - Enforce equality, remove disabilities - eliminates customary arrangements against dignity
 - Strong punitive action against violence
 - Prevents economic exploitation
 - Autonomous watch-dog institutions to safeguard interests, rights, benefits
- Compensatory Discrimination: reservation in public services, representative bodies, edu inst
- Development: Bridge gap b/w SCs and others in eco conditions and social status

Weakness:

Time lag in submission of reports of Commissions (on SC, St etc) and placement before Parl - needs to collect comments of all concerned agencies of govt

Reports seldom discussed - shortage of time, low priority, by the time submitted lose their context

Recos:

- Speedy disposal of discrimination cases pending in courts through internal mechanism under HC Administrative Judge
- Need for positive duty on public authorities for prevention of discrimination
- Spread awareness about laws, measures to punish discrimination esp in vulnerable areas
- Sensitization of admin and police, more pro-active role in investigation of crimes through training programmes
- Focus on rehabilitation of victims - support through counselling
- Deployment of police personnel in areas with significant proportion of SCs Sts in proportion to population
- System of incentives to detect, successfully prosecute cases of discrimination
- Active involvement of local govts- municipalities and panchayats- in programmes
- Involvement of corporate sector, NGOs to complement efforts

PESA

- Provisions hihgly diluted in ratification by states - most powers of Gram Sabha given to district admin or Zilla Parishad
- Main objective to enable tribal society to assume control over livelihoods, mgmt of natural resources and protect tradln culture not realized

PESA being misused-local power lobbies depriving tribal groups of resources for personal monetary benefits

Way Forward to make effective:

- GoI should issue specific directions to states not implementing in letter and spirit
- Establishing forum at central level to take corrective action in implementation
- Mandating practice of regular annual reports from Governor, to be placed in public domain
- Task force for harmonization of laws on land, forest use
- Clear national tribal policy for direction of tribal dvlpmt
- Consultation with states, for inclusion, exclusion of tribes in list of STs

Communalism

Allegiance to one's own communal group - religious, linguistic, ethnic over larger society or nation

Extreme form - hatred towards other groups perceived as hostile, leading to violence

Fundamentalist leadership, unscrupulous political operators for electoral gains deliberately engineer communal passions

Way Forward:

1.Community Policing

Working with community for prevention, detection of crime and maintenance of public order

- Community based crime prevention
- proactive assistance for non criminal matters
- mechanisms for grassroots feedback from community

Basic idea- policeman a citizen with uniform, and citizen a policeman w/o uniform -> citizens involved in creating envmt to enhance community safety and security

2.District Peace Committees to address issues that may cause communal disharmony - DM, Superintendent of Police should constitute the committees

3.Need to strengthen existing provisions of IPC and Criminal Procedure Code, no need for new law

-Systemic reforms, admin reforms, post riot management reforms

- Enhance punishment for communal offences
 - Special courts for expeditious trial
 - Powers of remand to magistrate in case of Communal Offences
 - Norms for relief, rehabilitation
-

North East Region

Roots of insurgency embedded in geography, history and socio-eco factors

- Geographical-98% borders of region are international border - tenuous geographical connectivity with rest of India
- Socio-eco:
 - Extensive diversity in tribal popln - over 125 distinct tribal groups, not seen in Jharkhand, Chhattisgarh
 - High popln growth - tripled b/w 1951-2001- stress on livelihood, land fragmentation

Conflicts categorized as

- "National" - Involve concept of distinct 'homeland' as separate nation
- Ethnic - assertion of smaller tribal groups against political, cultural hold of dominant group
- Sub-regional - Seek recognition of subregional aspirations, conflict with state govt and autonomous councils

Contributing Factors for youth to join

- Unemployment
- Corruption in govt machinery and lack of provision of essential public services
- Influx of illegal migrants
- Dominance of non-Assamese in business sector
- Perception of exploitn of Assam's natural resources by Centre
- Alleged human right violation by Security Forces

Decline in support of ULFA after initial popularity due to perception that talks with govt for expulsion of foreigners achieved little

- Large scale criminalization alienated middle classes
- Known links with foreign countries interested in subverting culture, causing unrest
- Repeated volte-face during negotiations with govt affected credibility

- Crackdown by Bhutan army

Unrest simmers - inhabitants claim that for vote bank politics effective steps not taken to deport "trespassers" while foreigners with same religious-linguistic profile claim they are harassed, force to "prove" Indian citizenship

Modes of Conflict resolution:

- Security forces/police action
- More local autonomy eg Sixth Schedule, conferment of statehood, Art 371, PESA,
- Negotiations with insurgent outfits
- Development activities, special economic packages

Reasons for failure:

- Lack of local absorptive capacity - huge popln increase, stress on livelihood, land
- Inappropriate dvlpmnt strategies
- Corruption, diversion of funds eg siphoning of foodgrains of PDS to militants
- Loss of confidence - extortion by militants, feeling of anarchy

Way Forward:

- Capacity Building for Conflict Resolution - in admin, police, local governance, regional institutions, civil society
- Strengthen police forces - comfortable police strength, inter-state movement of personnel, training at Central Police Organizations
- Capacity Building in local governance institutions -
 - NE has wider variety of local self governance inst due to ethnic diversity - Sixth Schedule Councils, Village self governance, Tribe Specific councils in Assam
 - Lack of autonomy - state govt exerts control
 - Codification of customary laws to remove ambiguity
 - Overlap with PRIs - compete for same space, self mgmt duality - cannot implement programmes like roads, irrigation
- Coordinating forum - for movement of supplies, passengers, local taxation policies and border disputes

Developmental, connectivity, educational, health care schemes have enhanced regional cooperation

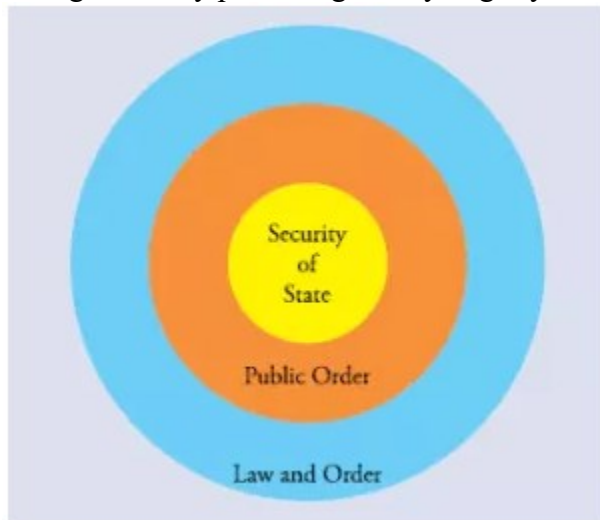
Other issues in NE:

- Industrialization through policy to promote as preferred invstmt destination -

- Primary sector accounts for half income - most backward region industrially due to weak infra
- Rate of unemployment almost double all India figure
- Need to exploit hydroelectric potential, development of natural resources
- Connectivity of all states through broad gauge projects with rest of country

Public Order

Prime function of the state - implies absence of disturbance, lawlessness
Strengthened by protecting liberty, dignity of citizens



Act may affect law and order w/o affecting public order and SoS, and may affect PO w/o SoS
eg minor clashes

Restraint of State while exercising force -

- Do not precipitate crisis
- Ending practices like animal sacrifice- need edu,persuasion and not force
- Resist over-legislation unless necessary - persuasion, education, social mvmt desirable for change

Issues

- Systemic Problems:
 - Ineffective Conflict resolution mechanism
 - Inaccurate,intelligence, not timely and actionable

- Poor personnel mgmt - poor choice of officials, short tenures - inadequate grasp of local conditions
- Administrative
 - Fail to anticipate, read signs of violence and slow to react - wait for instructions of superiors
 - Interference of superiors in local matters - undermines local authority, initiative
 - Often admin, police act in partisan manner
 - Abdication of leadership at times of crisis
- Post riot Management
 - Neglect rehabilitation - creates resentment
 - Officials not held to account for failures- perpetuates slack, incompetence
 - Cases against guilty not pursued seriously

Weakness in legal and admin system

- Delays in criminal justice system
- Unresponsiveness, partisan role of admin, police & indifferent attitude to disadvantaged sections
- Lack of functional autonomy for law enforcement, investigation agencies - political interference
- Lack of effective accountability mechanisms
- Unprofessional, outdated investigation techniques, Inadequate training, infra of police
- Lack of coordination b/w prosecution and investigation
- Neglect of victims rights
- Insufficiency of laws dealing with terrorism - eg Rajiv Gandhi

Alternate Issues classification

- Admin - poor enforcement of laws,, lack of coordination b/w agencies
- Police - political interference, poor infra & organization, lack of motivation at lower lvls, obsolete intelligence gathering/investigating techniques & divorce of authority & responsibility
- Prosecution - best talent not attracted, no coordination b/w prosecution and investigation
- Judicial process - large pendency of cases, low conviction rates, cumbersome process, delays

Way Forward:

Reforms in Criminal Justice System

Comprises police (investigation), prosecutor (prosecution), courts (trial) and prison (punishment, reform)

General perception that crime with impunity - poor enforcement of laws, difficult to get justice and criminals get away -> cynicism, loss of confidence

Police Reform

- Depoliticization
- Increased community accountability, police-community forums
- More visible policing
- Reform of training system, sensitization & integration of backward classes

How to Make Police Accountable?

Use of Technology for efficiency, accountability, transparency

Accountable to Law:

- Registration of FIR, case diaries on computer so no changes possible
- Recording locations of police vehicles through GPS
- Strengthening judicial, media activism, human rights orgs

Accountable to People:

- Publicizing RTI, citizen charter
- Civil police under local govt to enhance accountability
- Independent Constitutional body at centre, states to review functioning
- Community Policing, Police-public forums for feedback, monitoring & GRM
- Public satisfaction rather than cases registered to be index of assessment

Core Principles of Police Reforms

1. Authority, Autonomy and Accountability - enhance efficacy while curbing propensity for abuse of authority

Insert above points here - through tech..!

2. Disaggregation and deconcentration of functions

- Core functions neglected

- Accountability diluted due to ambiguous role, performance cannot be measured
- Lack of competence - skills resources for every function

Instead, 3 categories of functions

- Crime investigation
- Law and Order maintenance - intelligence gathering, prevention and riot control
- Local policing - eg enforcement of civic laws, traffic control, petty crime, patrolling

3. Independence of Crime Investigation - from political, partisan pressures
Will help end criminalization of politics

4. Clear defined career progression
Diminished opportunities for promotion especially for constables affects motivation

5. Professionalism, expertise and infrastructure

6. Ethos of police as a service, not a force

7. Coordination b/w prosecution & investigation

8. Community policing - policeman is citizen with uniform, citizen is policeman w/o uniform
Community based crime prevention, feedback mechanism
eg Maithri in Andhra Pradesh, Friends of Police in TN

9. Representation of women, backward classes

10. Sensitization on gender, caste issues through structured training programmes.

Prosecution

- Victims treated with dignity, rights protected through legislative framework
- Police, prosecution to keep victim updated about progress of case
- Mechanism for victim's views to be heard on bail, parole of accused/prisoner
- Victim compensation fund by State govts

Judicial Reform

1. Expanding infrastructure, number of courts

2. Adopting case management techniques
 1. Specific fast track courts for diff types of cases
 2. Encouraging alternate dispute resolution methods like mediation
 3. Video conferencing
 4. Database, Information system for scheduling, classification, assignment of cases
 3. Facilitating access to justice - local courts
 4. I&CT to modernize courts - eg JuDIS Judgement Information System - online library containing judgments of SC,
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AFSPA and Force Deployment

Law enacted in 1958 to empower union govt to deploy & direct forces for major public order problems in accordance with Art 256, Art 355. Sufficient safeguards too prevent misuse - eg time limit of 3 months till Parl authorizes extension, judicial satisfaction etc.

Initially for Naga insurgency

AFSPA - earlier only Governor/Administrator could issue declaration, 1972 amendment vests similar power with Union Govt - no role of state govt in declaring as Disturbed Area
Parl can enact AFSPA under Entry 2 of list 1, and Article 248 of Const

Features:

- Power to use force, even causing death , destroy structures
- Arrest w/o warrant
- Protection from legal processes for actions under the act

Now, 2018 - Armed forces petitioning SC against dilution of act -> argue militants will motivate locals to file false cases against army, dilute morale

Justice Jeevan Reddy Committee reviewed AFSPA in 2005

- Repeal would remove feeling of discrimination, alienation among people of NE

Said should repeal and instead strengthen Unlawful Activities Protection Act to fight militancy
Act has failed to contain terrorism and restore normalcy in disturbed areas - considered responsible for increasing violence

In 2016, SC said that even in areas under AFSPA armed forces cannot use excessive or retaliatory force - agreed to independent inquiry in cases of extra judicial killing

Tripura withdrew in 2015

In 2018, Centre revoked from Meghalaya

Currently in whole of Nagaland, Assam and most of Manipur, as well as 8 police stations of Nagaland

Union Home Ministry gave up power to impose disturbed area tag on Assam, Manipur - up to state govts to continue or revoke AFSPA

Other Issues (ARC):

Weaknesses in legal framework and admin arrangements for managing Public Order Situations

1. Legal Framework

- Delay in delivery of justice
- Criminal justice system favours rich, manipulated to benefit them
- Evidence Act must be re-examined in context of PO issues
 - Provision of onus of proof on prosecution, guilt beyond all reasonable doubt in case of PO situations difficult to establish - low conviction rate
- Inadequate, ineffective laws to deal with terrorism, organized crime
- Inadequate protection to witnesses, victims
- Withdrawal of cases based on expediency
- No penalties for dereliction of duty to maintain PO

2. Admin Framework

- Lack of autonomy -Political interference, Decisions based on political expediency
- Overlapping jurisdiction of police and magistracy - delays, confusion
- Police responsible to tackle PO problems but no role in conflict resolution, negotiation
- No clear role allocation of stakeholders in conflict resolution
- No centralized information database on criminals
- Lack of coordination b/w Centre and states on PO issues
- Lack of modernization, tech and trained manpower

Should PO and Police be brought under concurrent list w/o diluting federal nature of polity?

In favour

- Need for uniformity of response, and thus uniformity of legal and policy framework

- Serious communal, naxal, terrorist problems need to be addressed with long term perspective
- Interests of state, centre must be in congruence in PO
- Curb parochial, fissiparous tendencies and protect right of citizens
- Neglect of law and order issues can lead to grave internal security situations

Against

- One size fits all approach won't work - Each state has own problems & police has specific role
- Almost impossible to remotely manage PO in vast country
- Better to specify certain areas in internal security in concurrent list rather than whole subject

(
Last Line - Balanced approach ->
Ensure integration and coordination b/w Centre and States while retaining autonomy, flexibility for states to handle specific issues in accordance with holistic long term strategy
)