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Building Trust and Collaboration between Central Government and State Governments in India's Counterterrorism Efforts: Need of the Hour

Surekha Naresh^a

^aTamil Nadu National Law University, Tiruchirappalli, India

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*Building Trust and Collaboration between the Central Government and State Governments in India's Counterterrorism Efforts is the topic of my research study. We already know that Article 1 of the Indian Constitution talks on calls for the union of all states, including Union Territories.¹ The Indian Constitution's Articles 3 and 4² imply that the national government (center) may modify or adjust the state-level territories. Article 360,³ which addresses financial emergencies, has the power to alter the whole federal government. Understanding the breadth of Article 355⁴ and how the center protects the state from foreign aggression and methods to interfere with state authorities, which is how autonomy is gained, is now the most crucial component of my research. According to the *Kuldip Nayar v UOI* decision⁵, federalism is the separation of authority between the federal government and the states, not a territorial nexus. Article 245⁶ of the Indian Constitution states that the parliament may enact laws for extraterritorial activities as well as legislation for the entire country or any specific region. The state legislature has the power to pass laws that apply to the whole state or just a certain area. In this section of my research, the Mumbai Terror Attacks will be covered. Despite getting alerts from the federal government, the state did not take them seriously, according to a High-Level Enquiry Committee*

¹ Constitution of India 1950, art 1

² Constitution of India 1950, art 3-4

³ Constitution of India 1950, art 360

⁴ Constitution of India 1950, art 355

⁵ *Kuldip Nayar v Union of India* (2006) SC 3127

⁶ Constitution of India 1950, art 245

(HLEC) report that was sent to the Maharashtra government but was not made public with the Maharashtra Home Department Report. It has just been delivered to the DGP and the anti-terrorist unit. It is unclear if the Mumbai Police and Indian Navy have marine authority. What then is needed? Federalism explained: The federal government and the states frequently disagree with one another. How can we fix the marine issue? I believe in adopting appropriate rules and tightening limits. The function of the state must be specified. States shouldn't feel as though the federal government is invading their territory. The court struck down the IMDT legislation in Sarbananda Sonowal v UOI.⁷ According to the Foreigners Act,⁸ the state had the burden of proving that a person was an illegal immigrant, and this requirement applied to all of India. If Article 355 ensures that the federal government protects the states, how can they switch roles? The court determined the general power of the facility, but this decision drew criticism and was criticized for saying there was nothing in place to enforce accountability. The National Counter Terrorism Centre was founded by the Centre after the 2008 Mumbai terrorist attacks, giving it tremendous authority. NIA⁹ now has the same authority as the state's police, according to the National Investigation Agency (Amendment) Act of 2019. The main focus of my research will be on how difficult it is to outfit each of these states and UTs to combat terrorism without relying on the NIA.

Keywords: *federalism, terrorism, nia.*

THE CONCEPT OF UNITARY BIAS

The Government of India Act of 1935 introduced the concept of Federalism to India. Federation does not have a universal definition. For instance, the Royal Commission on Australian Commission says “Federation is a form of Government in which sovereignty or political power is divided between central and local governments so that each of them is within its sphere is independent of the other”¹⁰. Freeman, the federation is nothing more than the center and the states realizing their respective powers and cooperating within their respective ranges without necessarily interfering with one another. Technically speaking, India is a union of states, and the Union has the power and obligation of representing the nation as a whole and maintain peace.¹¹ It is through the Indian Constitution that we are aware of the provisions empowering the Union

⁷ Sarbananda Sonowal v Union of India (2005) SC 2920

⁸ The Foreigners Act 1948

⁹ National Investigation Agency (Amendment) Act 2019

¹⁰ S C Dash, 'Emergency Provisions and Union-State Relations in India' (1961) 22(1/2) The Indian Journal of Political Science <<https://www.jstor.org/stable/41853870>> accessed 04 May 2023

¹¹ *Ibid*

Government to issue orders and directives to the states. However, as the Union is charged with the management of the entire country, it has a right under the Constitution to anticipate the states to operate effectively and, if any state indicates unwillingness or stubbornness to act in line with Union instructions, to supplant that government and operate directly within the state. This relates predominantly to Article 356 of the Indian Constitution.¹² Here, we will still have a question? Is the state gradually losing its power to the Union? In the instance of *SR Bommai*,¹³ the court sought a Judicial Review of the president's rule. Justices K. Jayachandra Reddy, Justice Rajesh Kumar Agarwal, and Justices P.B Sawant and Kamal Narain Singh stated, "In our constitution, the Centre is granted greater authority, but this does not imply that the states are merely its subordinates. Within their respective spheres, states reign paramount. The Centre cannot interfere with their authority."¹⁴

In the case of *Kuldip Nayar's* case, a court with a unitary bias ruled that federalism included just the distribution of authority between the Centre and the states and did not include territorial nexus. It additionally argued that India has a unitary bias since it maintains a keeping-together federalist framework. Further, it was claimed that the Rajya Sabha solely represented the interests of parties and not the states themselves. India's federal system is seen as centrist because of this.¹⁵

ARTICLE 355 - THE BATTLE BETWEEN CENTRE AND STATE

Article 355 of the Indian Constitution requires the federal government to defend individual states from both internal and foreign threats. The Constitution not only empowers the federal government to infringe on state authority but also makes it legally required to do so. The Supreme Court has likewise unanimously ruled in favor of this.¹⁶

¹² Constitution of India 1950, art 365

¹³ *S.R Bommai v Union of India* (1994) SC 1918

¹⁴ Manish Tewari and Rekha Saxena, 'The Supreme Court of India: The Rise of Judicial Power and the Protection of Federalism' (2017) *Courts in Federal Countries: Federalists or Unitarists*
<<https://doi.org/10.3138/9781487511470-011>> accessed 07 May 2023

¹⁵ *Kuldip Nayar v Union of India* (2006) SC 3127

¹⁶ H.M Rajashekar, 'The Nature of Indian Federalism: A Critique' (1997) 37(3) *Asian Survey*
<<https://doi.org/10.2307/2645661>> accessed 07 May 2023

ACTIONS UNDER ARTICLE 355

The constitution is a federal constitution and states have been given sovereignty within their bodies. Consequently, it is important to stipulate that any invasions of state territory, which are authorized by Article 356 of the Constitution, must be carried out following a duty placed on the Union by the Constitution; otherwise, such an invasion would be a random, and unlawful conduct. The placement of Article 355 within Part XVIII, which outlines 'Emergency Provisions', suggests that this provision serves a particular purpose.

In the case of the *State of Rajasthan v Union of India*,¹⁷ the Chief Justice of India, Beg, observed the provisions related to the proclamation of emergency under Article 352. Art. 355 has been deliberately included in Part XVIII, which outlines 'Emergency Provisions', due to this very rationale, which is to safeguard the States from external aggression and internal issues. The additional obligation, which is to make certain that the government of every State is functioning in compliance with the Constitution, is addressed through a proclamation under Article 356. The legal implications of this stance suggest that while Article 355 imposes an obligation on the Union towards the States, this obligation is to be construed as a rationale for resorting to emergency measures under Articles 352 and 356, and therefore does not envisage any alternative course of action instead of this obligation¹⁸.

The case of *Naga People's Movement of Human Rights v Union of India*¹⁹ presented the Apex Court with the task of determining the validity of the Armed Forces (Special Powers) Act, of 1958.²⁰ This act grants the Union the authority to deploy its armed forces to assist the civil power of states in any region that is deemed to be a disturbed location. Upon verifying the legislative jurisdiction of the Union through Entry 2A of List I of the VI Schedule, the enactment was deemed valid with the acknowledgment that its provisions were established to facilitate the

¹⁷ *State of Rajasthan v Union of India* (1977) 3 SCC 592

¹⁸ Jaideep Reddy, 'Duty of the Union under Article 355 of the Constitution - Remembering the Constitutional Ideal of Co-Operative Federalism' (2011) 4 NUJS Law Review <<http://nujlawreview.org/2016/12/04/duty-of-the-union-under-article-355-of-the-constitution-remembering-the-constitutional-ideal-of-co-operative-federalism/>> accessed 08 May 2023

¹⁹ *Naga People's Movement of Human Rights v Union of India* (1998) SC 465

²⁰ The Armed Forces (Special Powers) Act 1958

Union in fulfilling its responsibility as mandated by Article 355 of the Constitution. This responsibility involves safeguarding States from severe instances of domestic unrest and preventing situations like this from increasing to a degree that necessitates the implementation of extreme steps under Article 356.

But Art. 355's expanded reach goes beyond state hostility and domestic unrest. *In H. S. Jain v Union of India*,²¹ while evaluating the need for a proclamation concerning the State of Uttar Pradesh restoring the President's action under Art. 356, on the basis that there had been no possible way of developing a democratic government after the Legislative Assembly elections, it was held that by Art. 355, a constitutional responsibility was tossed on the Union to guarantee that the Government of every State continues to operate on in compliance with According to the facts, few or no different possibilities were considered before the Art. 356 announcement, despite the legal and constitutional need to do so. Thus, the Art. 356 proclamation was overturned, and the Art. 355 obligation to guarantee that the State's government was carried out in conformity with the Constitution was violated. Thus, the second part of Art. 355, which requires the Union to ensure that the States' governments follow the Constitution, is no longer justification for action under Art. 356 but gives rise to independent powers and obligations.²²

THE MUMBAI TERROR ATTACK

The Mumbai Terror Attack is an important event that forced people to think about the state's incompetency which resulted in a planning fallacy. Terrorists entered the city through Colaba and carried out assaults at numerous sites during the 2008 Mumbai terror attacks, wreaking devastation across the city. To investigate the events that occurred, a report was produced by the High-Level Enquiry Committee (HLEC) which was sent to the Maharashtra government but kept confidential. The Marathi report was successfully translated into English It was translated by Commonwealth Human Rights Initiative (CHRI). They also submitted a Right to Information

²¹ *H.S Jain v Union of India* (1997) 1 UPLBEC 594

²² *State of Rajasthan v Union of India* (1977) 3 SCC 592

request to the Maharashtra Home Department.²³ The report claims that the state intelligence agencies got several intelligence warnings from the center, but that none of them were treated effectively. Instead, they were routinely transmitted to the DGP's Office and the Anti-Terrorism Squad (ATS) by the central agencies. The report noted that the Quick Response Team (QRT) of the Mumbai Police was ill-equipped to manage terrorist attacks, as their operations were limited to the police station. Furthermore, the allocation of maritime security jurisdiction to the Indian Navy did not provide clarity on the Mumbai Police's responsibilities, resulting in a state of ambiguity.²⁴

This is the reason why the concept of effective federalism assumes significance. The resolution of issues such as built-in skepticism and hassle within central and government entities, as well as misunderstandings about jurisdictions, particularly in the context of maritime security, necessitates the reinforcement of boundaries and the establishment of unambiguous limits on jurisdictions. The elimination of lack of confidence can only be achieved if the state does not necessarily perceive encroachment by the center. To prevent this, it is imperative to have cooperation between the central and state governments. Therefore, had there been effective collaboration, it is possible that the number of casualties could have been reduced or the entire attack could have been prevented, provided that the reports were given due consideration.

IMPOSITON OF ARTICLE 355 IN MANIPUR

Articles 355 and 356 of the Constitution are emergency measures and may only be used in cases of extreme urgency. As a result of this recognition, constitutional protections have been included in Part XVIII of the constitution to prevent arbitrary misuse by authoritarian activities emanating from New Delhi. When these protections are not followed, people may go to court to have the government's activities evaluated for compliance with constitutional standards. The Constitution of India guarantees India's continued federal structure. Keep in mind that long-

²³ 'Read Reports on the 26/11 Mumbai Attacks accessed from the Maharashtra Legislature under the RTI act, while the union home ministry denies access' (CHRI) <<https://www.humanrightsinitiative.org/blog/read-reports-on-the-2611-mumbai-attacks-accessed-from-the-maharashtra-legislature-under-the-rti-act-while-the-union-home-ministry-denies-access>> accessed 08 May 2023

²⁴ *Ibid*

term federalism health is at risk if the Union government is allowed to use Article 355 to invade the territories of state governments. The announcement of Article 355 in Manipur was handled ominously. One member of the state legislature from the ruling party even went so far as to say that Article 355 had been implemented in the state. During a press conference, the state police head suggested that Article 355 be put into effect. The Union government has not issued Article 355 in Manipur as of late Saturday night. You have two choices. There was either deceit on the part of the two responsible public officials or a covert application of Article 355 by the Union administration. If the latter is correct, making such a choice without first formally notifying the public might be against the law. The outcome of this case has far-reaching implications for our liberal democracy.

SARBANDA SONOWAL CASE: AN ANALYSIS

To understand Article 355, Sarbanda Sonowal's case,²⁵ Mathur J., wrote on IMDT Act in the context of the Sarbanda Sonowal case to define the reach of Article 355 and its accompanying laws, which also addressed illegal immigration in the State of Assam. The primary issue with Section 6A of the Citizenship Act pertains to the persistent inadequacy of current legislation in safeguarding the state against the unfavorable outcomes of large-scale migration. After giving the word 'external aggression' a careful interpretation, it became clear that illegal immigration fit under its purview. The court cited the fact that the Foreigner's Act applied statewide across India, but the IMDT Act put the burden of proof on the state. Since it is the responsibility of the Centre to protect in such circumstances, this is a violation of Article 355. As a result, the Supreme Court affirmed the Centre's apex position; nevertheless, the judgment has since been criticized for fueling a climate of widespread distrust without providing a legal basis for responsibility.²⁶

The central inquiry pertains to how the IMDT Act was deemed unconstitutional. Article 13²⁷ of the Indian Constitution can be utilized as a benchmark to evaluate the legal status of the IMDT Act. Consequently, this gives rise to the topic of constitutional examination. To guarantee laws

²⁵ Constitution of India 1950, art 245

²⁶ Manash Firaq Bhattacharjee, 'Decades of Discord: Assam Against Itself' (*The Wire*, 23 April 2023) <<https://thewire.in/rights/assam-nrc-anti-foreigner-bengali-assamese>> accessed 08 May 2023

²⁷ Constitution of India 1950, art 13

or laws in force which violate constitutional requirements as unlawful, Article 13 was added to the Constitution. This clause applies to both current statutes and legislation passed after the Constitution. The subject of this Article's scope, and whether it may be applied to Article 355, is pertinent to this article. The Article's pertinent clauses are:

“(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.”

The language employed in Articles 13(1) and (2) is unambiguous and explicit, as it pertains solely to Part III. Applying the rule of literal interpretation and reading this clause in conjunction, it is evident that ‘laws’ or ‘laws in force’ can only be declared unconstitutional as a result of the application of this Article if they violate the rules of Part III, and not the Constitution as a whole. Mathur J. did not possess the ability to declare the IMDT Act unlawful under Article 13.²⁸

COUNTER-TERRORISM EFFORTS

The function of central investigating agencies in counter-terrorism may be generalized from this instance. After the 2008 Mumbai terror attacks, the Centre created institutions like the National Counter Terrorism Centre (NCTC) and National Investigation Agency (NIA) to improve counterterrorism. These organizations were given enormous powers. The National Investigation Agency (Amendment) Act of 2019 conferred upon the National Investigation Agency (NIA) commensurate powers as those of the State's police department. In contrast to the Central Bureau of Investigation (CBI), the National Investigation Agency operates without requiring the consent of the respective state to conduct investigations, and the state is not

²⁸ Gautam Bhatia, ‘The Section 6A Challenge: “Illegal Migration” as “External Aggression”’ (*Indian Constitutional Law and Philosophy*, 23 April 2023) <<https://indconlawphil.wordpress.com/tag/article-355/>> accessed 10 May 2023

authorized to raise objections to such investigations. The amendment additionally permits the Union to establish specialized courts to address cases related to the National Investigation Agency (NIA).²⁹

DOES THE UNION HAVE AN OVERARCHING POWER?

The opposition from States was an expected reaction to the broad or overarching power granted to the Centre through Article 355. The Bombay High Court was presented with a difficult situation to the legislative competence of the Centre in implementing the National Investigation Agency, Act in the case of Pragyasingh Chandrapalsingh.³⁰ The argument was put forth that the Centre's assumption of the States' functions, in the absence of Article 355, constituted an infringement upon the State's authority to exercise authority over matters with relation to the Police as stipulated in List II. Therefore, the petitioners strongly recommended that the Act be declared to violate the Constitution. The validity of the Act was affirmed by the Bombay High Court, with the reasoning that the Parliament had the legislative power to enact it. The lists were not made to conflict with each other by the constituent assembly. But in reality, they do conflict with each other because some matters are very wide while some are very narrow. In the case of the union list and state list running with each other, the union list will prevail. However, this would affect the concept of federalism. This is where the court uses the concept of harmonious construction. In simple words, the state power is not curtailed. The need for a construction that is harmonious with Entry 8 of List I and Entries 1 and 2 of List III, which accordingly relate to the establishment of a central bureau of investigation and the formulation of rulings related to criminal rules and processes, was emphasized. The court ruled that Police under List II was merely what stayed after additional powers under Lists I and III had been included, so subjects like state safety concerning the Navy, Military, and Air Force would fall just according to the union's jurisdiction.

²⁹ 'Explained: What is National Investigation Agency Act, and why is Chhattisgarh challenging it?' (*The Indian Express*, 17 January 2020) <<https://indianexpress.com/article/explained/explained-what-is-the-nia-act-and-why-is-chhattisgarh-challenging-it-6219106/>> accessed 10 May 2023

³⁰ *Pragyasingh Thakur v State of Maharashtra* (2012) WP 4049/2012

The court opined that the National Investigation Agency would not encroach upon the authority of the States and was intended solely to complement them. In addition, the establishment of the NIA wouldn't necessarily entail the complete sending of all cases to its jurisdiction. Rather, a just and thorough evaluation of the severity of each case would be conducted before any transfer.³¹ Terrorism, from the court's point of view, undermines the fundamental principles of the nation and therefore requires intervention from the Parliament to implement efficacious measures, presenting several noteworthy inquiries. Given the deeply entrenched nature of terrorism, would it not be prudent to enhance the capabilities of state agencies to effectively address this issue? The establishment of individual counter-terrorism apparatuses in each state would likely result in improved efficiency, as it would eliminate the need for central government dependence. This, in turn, could mitigate the risk of interaction deficiencies and failures.

Furthermore, the assumption that the Centre will exercise scrupulousness in determining the disposal of cases, as posited by the high court, is a highly idealistic notion. There have been reported cases where the utilization of authority by the Centre through the National Investigation Agency has been contested by States on grounds of political exploitation and suppression of opposing views.³² The apprehension regarding the Centre exceeding its jurisdiction was also evident during the Union government's attempt to establish the National Counter Terrorism Centre as an umbrella organization responsible for organizing with central and state investigation agencies. Similar to the National Investigation Agency, objections were raised by the states regarding its establishment, citing concerns that it may undermine the principles of federalism. Similar to the National Investigation Agency, the National Counter Terrorism Centre was endowed with powers, such as the ability to make arrests that are comparable to those of state police forces. Furthermore, the NCTC was not mandated to obtain prior permission or acceptance from the states. Liberal democracies agree that intelligence organizations should not have arrest powers.³³ The potential integration of NCTC into the

³¹ *Ibid*

³² Constitution of India 1950, art 245

³³ Vinay Kaura, 'India's Counter-Terrorism Policy against Jihadist Terror: Challenges and Prospects' (2017) 16(4) *Connections- The Quarterly Journal* <<https://www.jstor.org/stable/26867926>> accessed 10 May 2023

Intelligence Bureau raises concerns regarding³⁴ the potential for abuse of powers granted under the Unlawful Activities (Prevention) Act. Considering Intelligence Bureau's relative immunity from parliamentary scrutiny and transparency, the incorporation of NCTC into IB might even maintain this lack of transparency.³⁵

Hence, it is unsurprising that the National Counter Terrorism Centre established in 2012, has yet to be operationalized due to apprehensions from state governments regarding its jurisdictional authority. G. Kishan Reddy, Union Minister of State for Home, responded in writing to a Lok Sabha question in 2020, indicating that there were no plans to implement the initiative on the ground. The Minister cited the successful collaboration among agencies in collecting and disseminating intelligence, conducting investigations, and taking preventive measures against terrorism as the reason for this decision.

The legitimate concern regarding the potential infringement of state jurisdiction by central agencies must be considered within the framework of counter-terrorism. It remains to be determined whether states possess the necessary resources to effectively obtain and safeguard private data amidst the challenges inherent in such operations. The viability of empowering the state is a pertinent question, despite the argument in favor of such an approach. The challenge of providing adequate counter-terrorism measures to all 28 States and eight Union Territories is formidable, particularly in light of the potential limitations on resources and expertise. Dependence on the NIA may be necessary to address this issue. Although feasible, this measure requires a gradual implementation and should be executed in the upcoming period.

CONCEPT OF COOPERATIVE FEDERALISM

In the current context, India must implement the concept of 'Cooperative Federalism' as articulated by Granville Austin. There is a lack of confidence and collaboration between the Central government and the individual states, notwithstanding India's federal system.³⁶ The

³⁴ *Ibid*

³⁵ Josy Joseph, 'Locating NCTC within Intelligence Bureau or not: The debate continues' (*The Times of India*, 17 July 2012) <<https://timesofindia.indiatimes.com/india/locating-nctc-within-intelligence-bureau-or-not-the-debate-continues/articleshow/15011283.cms>> accessed 10 May 2023

³⁶ Granville Austin, *The Indian Constitution cornerstone of a nation* (Oxford University Press 2018)

central agencies possess the ability to obtain highly classified data that may not be accessible to individual states, owing to the Centre's greater authority and capacity to address terrorism at a national level. Simultaneously, it is plausible that states could possess knowledge about regional, site-specific matters of significance. Collaborative federalism, which entails effective collaboration and information exchange between the central and state governments, may serve as a remedy for terrorism.

To prevent the central government from exerting excessive control over individual states or assuming a guiding role, the central government must uphold the constitutional rights and autonomy of each state. The enhancement of institutional mechanisms aimed at fostering trust and cooperation is imperative within states. Enhancing the technical and financial resources allocated to states would facilitate the enhancement of their capabilities. This strategy would enable the states to assume a more assertive stance in combating terrorism, while simultaneously enhancing their ability to address other security challenges.

The state governments must approve every investigation the CBI conducts under Section 6 of the Delhi Special Police Establishment Act, 1946 (DSPE). To prevent such demands, several nations agreed to this in the form of general consent.³⁷ However, nine states have revoked general permission because of concerns that the CBI may have abused its authority for political purposes.³⁸ The most prominent dispute arose when the CBI took over the probe and the State of West Bengal withdrew its general assent or consent after the riots that occurred during the state's assembly election in 2021.³⁹ Other non-BJP opposition-ruled states, including Maharashtra, did the same. But now that the BJP is back in charge of Maharashtra's new alliance administration, the state government has reinstated the original approval provided to the CBI.⁴⁰

³⁷ 'Nine states withdraw general consent to the CBI: What does this mean?' (*First Post*, 24 March 2023) <<https://www.firstpost.com/india/nine-states-withdraw-general-consent-to-the-cbi-what-does-this-mean-10485221.html>> accessed 10 May 2023

³⁸ *Ibid*

³⁹ K Venkateshwarlu, 'A.P., West Bengal withdraw 'general consent' for CBI investigations' (*The Hindu*, 17 November 2018) <<https://www.thehindu.com/news/national/ap-west-bengal-withdraw-general-consent-for-cbi-investigations/article25521073.ece>> accessed 10 May 2023

⁴⁰ 'Maharashtra govt restores general consent to CBI, reverses MVA's decision' (*The Times of India*, 21 October 2021) <<https://timesofindia.indiatimes.com/india/maharashtra-govt-restores-general-consent-to-cbi-reverses-mvas-decision/articleshow/95010336.cms>> accessed 10 May 2023

Due to a significant lack of confidence between the Centre and the States, the experience of India with collaborative federalism in the context of an investigation by the CBI and the NIA has not been entirely effective. However, any policy in this direction will only be successful if the Centre can assuage States' concerns about the potential loss of their authority and win their confidence. The Indian reaction to terrorism has mostly been haphazard. As a consequence, new agencies, meta-institutional innovations, and over-centralization have often occurred. It has also often resulted in an appearance of power fostered by technical advances and nations abdicating their responsibilities to preserve law and order. This was amply shown in the current car explosion case in Coimbatore, where the Tamil Nadu government ordered the NIA to take over the investigation after the Tamil Nadu police withdrew their initial investigation. Because it requires sharing information with other agencies, the state government's rapid renunciation of its duty to investigate a crime might negatively affect the effectiveness of its police force.⁴¹ Therefore, there arise worries related to the Cooperation, Coordination, and Collaboration, to develop a successful approach to combating terrorism, and its ability to succeed would depend upon if the responses to those fears are true, given India's tests with comparable attempts in previous years.

CONCLUSION

The issue of central versus state authority in matters of counter-terrorism and the establishment of agencies like the National Investigation Agency (NIA) and the National Counter Terrorism Centre (NCTC) raises important questions about the balance between federalism and effective security measures. While the Bombay High Court affirmed the validity of the NIA and its complementary role to state agencies, concerns regarding potential encroachment on state jurisdiction and the abuse of powers by the central government cannot be ignored. The concept of harmonious construction, as employed by the court, aims to strike a balance between the union and state lists, ensuring that state powers are not curtailed while enabling the central government to address terrorism effectively. However, the practical implementation and careful evaluation of cases transferred to the NIA remain crucial to maintaining trust and transparency

⁴¹ *Ibid*

in the system. The establishment of individual counter-terrorism apparatuses in each state could potentially enhance efficiency and mitigate the risks of coordination failures. However, resource constraints and variations in expertise across states present challenges to this decentralized approach. Dependence on the NIA may be necessary, at least in the initial stages, to effectively combat terrorism nationwide. Nevertheless, it is essential to address the legitimate concerns raised by state governments about potential encroachments on their jurisdiction and the need to protect civil liberties. The experience with the NCTC, which has yet to be operationalized due to apprehensions from states, underscores the importance of striking a delicate balance between centralized counter-terrorism efforts and respect for federal principles. Moving forward, a gradual and cautious implementation of measures to enhance state capabilities while maintaining the complementary role of central agencies seems prudent. Transparency, accountability, and parliamentary scrutiny should be integral to the functioning of these agencies to prevent any potential abuse of powers and ensure the protection of citizens' rights. Ultimately, the fight against terrorism requires a collaborative approach, with close coordination between the central and state governments, intelligence agencies, and law enforcement bodies. Balancing federalism, the need for effective security measures, and respect for civil liberties will continue to be a complex and evolving challenge for the Indian government.

In conclusion, India's federal system has encountered numerous difficulties in effectively combating terrorism. The concept of Cooperative Federalism, as proposed by Granville Austin, may be an effective strategy for addressing these issues. However, its success is dependent on the Centre's ability to assuage states' concerns about the potential loss of their authority and win their confidence. Enhancing institutional mechanisms aimed at fostering trust and collaboration between the Centre and states, as well as providing technical and financial resources to states, may be necessary to achieve this goal. Furthermore, it is critical to address concerns related to Cooperation, Coordination, and Collaboration, which have been significant barriers to the effective implementation of anti-terrorism policies in India. Overall, a comprehensive and collaborative approach that values the autonomy of each state while promoting cooperation and coordination is necessary to combat terrorism effectively in India