

National security mechanism in Bangladesh

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Introduction

11 September bombing of the Twin Tower at New York has brought a radical change in the threat perceptions worldwide. The incident brought home two very vivid lessons for the policy planners around the world:

- Without effective internal security, even the most powerful nation is at the mercy of inimical forces.
- The globalisation of terrorism and its impact on internal threats to security have underlined the importance of an integrated approach to national security.

National security normally has five traditional components; they are- diplomatic, military, internal security, economic potential and strategic intelligence. In recent times some additional sub-components like disaster management, disruption control management have made impact on the national security mechanism. But it is the unconventional threats to national security such as insurgents and terrorists, transnational criminals, narcotic smugglers, counterfeiters etc have forced state actors to reevaluate their national security mechanism. These unpredictable adversaries have brought in a new dimension to the security perception of countries. The old concept of threat analysis has been supplemented by risk analysis and vulnerability analysis. These have further underlined the importance of integrated approach to national security. The speed, with which these threats emanate and are at times executed, necessitates the need of a comprehensive system of national security policy formulation, implementation and coordination.

US System

The US was the first to realise the importance of such an integrated and well-structured approach. This was reflected in the creation of the National Security Council (NSC) with a dedicated national security staff in 1947. With the passage of time the NSC has transformed itself as the apex policymaking body of the USA. In 1953, President Eisenhower revamped the NSC and the NSC staff mechanism and re-designated the head of NSC as the Assistant to the President for National Security Affairs. This post has come to be popularly known as the National Security Adviser (NSA).

At the beginning of his term, every President issues an order specifying the duties of NSA. A perusal of the orders issued by the Presidents since 1953 indicates that the main task of the NSC is to integrate the foreign and defence policies of the USA in such a manner as to protect national security and advance US national interest abroad. The NSA acts as the manager and facilitator of the NSC. In this system the NSA performs two roles, firstly, as adviser to the President on matters concerning national security, secondly as the coordinator of the functioning of the national security mechanism on behalf of the President.

British System

In the UK, the Cabinet Secretary was the linchpin of the national security mechanism. He used to coordinate the functioning of the national security apparatus and had very limited role in the formulation of foreign and defence policies. The respective political and professional heads in their respective offices mainly managed these. After 9/11, the British Government created a

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post of Security and Intelligence Coordinator. He took over from the Cabinet Secretary the day-to-day running of the intelligence and security agencies. There have been two incumbents in this post and both have been specialist on security matters.

Since 9/11, the British Prime Minister has three senior officials assisting him on matters relating to national security. The Cabinet Secretary continues to be the key person on national security as Security and Intelligence Coordinator as well as the Chairman Joint Intelligence Committee reports to him directly and not the Prime Minister.

Indian System

In India, until 1999, the Cabinet Secretary has been the linchpin of the national security mechanism. He performed his roles in national security matters with the help of the Committees of the Secretaries and the J.C. But the Indian Cabinet Secretary did not have operational control over the intelligence agencies. Operational controls used to be divided among ministries/divisions. Important decisions on foreign and national security matters used to be taken by the Prime Minister of the day in consultation with a small group of confidantes, with the Cabinet Secretary playing very little role.

Among those who played a key role in such informal consultations, one could mention V.K.Krishna Menon and B.N. Mullick during the days of Mr. Jawaharlal Nehru; D.P. Dhar, P.N. Haksar, R.N. Kao, T.N. Kaul and G. Parthasarathi during the days of Mrs. Indira Gandhi, and Mr. Gopi Arora, Ronan Sen, G.C. Saxena and M.K. Narayan during the tenure of Mr. Rajiv Gandhi. Except for Mr. Menon all were bureaucrats, some were still serving while others had retired.

In 1982, a post of Senior Adviser to the Prime Minister on national security matters was created. Mr. R.N. Kao and Mr. G.C. Saxena performed this role after they had retired from service. Their roles were limited to national security matters and they did not get involved in foreign policy matters. However, this practice was discontinued from 1990. It was under Rajiv Gandhi and V.P. Singh that a tentative move was taken to organise the national security mechanism in India by adopting certain aspects of the US NSC mechanism suiting the Indian requirements. However, this move did not make much headway.

On assuming office of the Prime Minister of India, Mr. A.B. Vajpayee set up a special Task Force headed by Mr. K.C. Pant and consisting of Mr. Jaswant Singh and Air

Commodore (retd) Jasjit Singh, the then Director of the prestigious Institute of Defence Studies and Analyses (IDSA), to study the national security mechanisms prevalent in other countries and submit recommendations to revamp the Indian national security mechanism. Based on the recommendations of the Task Force, the national security mechanism of India was revamped. The main features of the new set up are:

- A National Security Council (NSC) consisting of a small number of members of the Cabinet to be chaired by the P.M. to discuss national security issues and take decisions. NSC has a secretariat (NSCS) to provide services to National Security Advisory Board (NSAB), Strategic Policy Group (SPG) and NSC and to take over the role of assessment of intelligence and coordination of the functioning of intelligence agencies.
- An SPG headed by the Cabinet Secretary and consisting of the professional heads of the Ministries concerned with national security, the chiefs of the intelligence agencies and the representatives of the Armed Forces to work out

policy options and submit them to the NSC for their approval.

- An NSAB consisting of non-governmental experts, to provide policy inputs to the NSC.

• The creation of a post of National Security Adviser (NSA) to oversee the functioning of the new mechanism and to advise the P.M. and the NSC on security matters.

This system is still in vogue.

Bangladesh Situation

National security mechanism has to address both strategic issues as well as day-to-day affairs of the tactical issues of foreign policy and internal security. The mechanism, to be effective, has to have a good organisational set up, where an integrated system will carry out threat, risk and vulnerability analyses, formulate policies, and then implement and coordinate those policies. The institution has to provide a strategic long-term approach to the policy and decision-making. It should be responsible for:

- Facilitating and coordinating the policy and decision-making in respect of national security.
- Monitoring and coordinating the functioning of the intelligence agencies.
- Maintaining close liaison with foreign ministry, incorporating

inputs from diplomatic channels into the national security policy and keeping the foreign ministry abreast with the national security situations.

How about Bangladesh? We had the first taste of bombing back in 1996 at Jessore. Since then there had been a gradual rise in the bombing incidents. Finally we had the masterpiece on 17 August 2005. Now the question is how our Governments have been reacting to these events. The Government and the opposition parties have laying blame on each other. This had allowed these inimical forces to plan and carry on with their heinous designs.

Does Bangladesh have all the national security mechanism it needs? What are the inherent strengths and weaknesses of the mechanism we have presently? Does the mechanism need any change in view of the existing security scenario? What are the lessons we can learn from the mechanisms in other countries? These are some of the questions we need to debate.

At present we have an adviser on foreign affairs, but he does not have the organisational backup to help him in his job. Our home minister is not even a full cabinet minister, he is a state minister. We have three main intelligence agencies, the National Security Intelligence (NSI), the Special Branch (SB) of Police and the Directorate of Defence Intelligence (DGFI). Do we have any organisation that coordinates their activities? When the responsibility of assessment and follow-up action is entrusted to the same organisation then there is a good possibility of losing objectivity and independence of intelligence assessment.

It is time that the government takes steps to institutionalise the national security mechanism. Whatever form or shape the institution takes, it has to address the national security concerns that is besetting the country at present. It has to examine the following points:

- Problems related to the Islamist terrorism, its origin and after effects.
 - Problems of the outlaws in the southern districts.
 - Movements of arms through Bangladesh territory.
 - Law and order within the country.
 - Expert opinion on foreign policy, especially on relation with India, its impact on security issues.
- After 9/11, it has been accepted by almost all countries of the world that the Government do need a single nodal point to deal with national security issues. We in Bangladesh do need a setup in whatever form or shape it may be to perform the task as mentioned in the above paragraphs. What should we do? Should we follow the US model or the British model or the Indian model? Or should make our own model? Whatever we do, we must act soon.

The author is a freelancer.

Arrest of merchant vessels in our ports

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OVER 90% of world trade is carried by the international shipping industry. Without shipping the import and export of goods on the scale necessary for the modern world would not be possible. Seaborne trade continues to expand, bringing benefits for consumers across the world. Thanks to the growing efficiency of shipping as a mode of transport and increased economic liberalisation, the prospects for the industry's further growth continue to be strong.

It is difficult to quantify the value of volume of world seaborne trade in monetary terms, as shipping trade estimates are usually calculated in tonne-miles - a measurement of tonnes carried, multiplied by the distance traveled, giving over 25 thousand billion tonne-miles of total trade in 2005. However, United Nations Conference on Trade and Development (UNCTAD) estimates that the operation of merchant ships contributes about US\$380 billion in freight rates within the global economy, equivalent to about 5% of total world trade. Throughout the last century the shipping industry has seen a general trend of increases in total trade volume. Increasing industrialisation and the liberalisation of national economies have fuelled free trade and a growing demand for consumer products. Advances in technology have also made shipping an increasingly efficient and swift method of transportation and there has generally been healthy growth in maritime trade since 1993.

But within this envelope of flourishing and booming trade, the arrest of maritime property, ship, cargo or freight but particularly ships is a widely used remedy by maritime claimants worldwide. The Latin words "in rem" simply mean "against the thing" and it is reported that the English courts of Admiralty have allowed a direct action against a ship (the thing) as opposed to just an action against the owner of the ship. Given the highly mobile nature of ships, this was a very practical remedy as it facilitated service of claims and secured the payment of judgments when it was difficult or impossible to realize upon a judgment of a court in the country of origin of the ship. The courts have the jurisdiction to arrest all kinds of ships including fishing vessels, in a broad range of claims so long as there is actual or in some cases presumed personal liability on the part of the owner of the ship. Ships can be arrested to enforce claims to maritime liens for wages, salvage and collision damage. They can also be arrested to enforce claims to statutory liens such as claims for payment for moorage, fuel, and repairs to ships. The 1952 Arrest convention defines seventeen categories of maritime claims including the supply of goods or materials to a ship for her operation or maintenance and claims relating to the use or hire of ships.

Once arrested, a ship cannot be moved from the place of arrest without the authority of the Marshal. To move the ship without such authority, whether to

another place within the jurisdiction or to flee the jurisdiction constitutes contempt of court. As such the arrest of seagoing vessels creates three major problems for ports- regarding the management and maintenance of the arrested vessel. Even recently International convention on Arrest of Ships, 1999 convinced of the necessity for a legal instrument establishing international uniformity in the field of arrest of ships allows a arrest for settling maritime claims on 22 different issues.

A powerful nexus for long been fleeing foreign shipping lines by chartering and then detaining their ships on giving various pretexts for months at our Ports. Under the international agreement ship's charter may include a demise charterer, a time charterer, a voyage charterer, a consecutive voyage

Sometimes ships are also used as godowns, if the market price of some items fall then the cargoes are not unloaded as this will require hiring separate godowns, instead they start selling those from the ship lot by lot. With such arm-twisting becoming a regular phenomenon, the image of Chittagong and Mongla Port abroad has started to sink low. The captain of a foreign ship put it this way, "It's pure blackmailing of foreign ships by a bunch of local crooks." (Daily Star-7.01.06). Previously, a similar racket was active at the country's second seaport, Mongla, where over 100 foreign ships had been detained in the last decade, destroying the port's image completely.

Now, Mongla Port often remains empty of ships, as the ship operators are reluctant to send their vessels to this port

covered by, "The Arrest of Sea-going Ships Convention, Brussels 1952 and the "Arrest of Ships Convention 1999" adopted by the IMO. Maritime Liens and Mortgages are covered by "The Maritime Liens and Mortgages Convention, Brussels 1926 and as amended in 1967" and "The International Convention on Maritime Liens and Mortgages 1993" adopted by the IMO/UNCTAD. Limitation of Shipowner's Liability is again governed by "The Brussels Limitation Convention of 1924, 1957" and "The IMO Limitation Convention of 1976. Finally there is no international convention presently in force with respect to responsibility for cargo before loading and after discharge. Nevertheless, the subject has been addressed by the United Nations Commission on International Trade Law (UNCITRAL) in the United Nations

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charterer, a sub-charterer and even a slot charterer. According to sources, the ships coming in with bulk items like cement, oil, wheat and salt are the prime victims of such coercion. For instance, if a foreign ship is coming with thousands of sacks of bulk cargo to the port and if the importer found some of the sacks rotten in the cargo hold then they demand that the total price of the consignment as compensation from the ship owners. The ship owners obviously turn down the demand and instead wants to arrange for a survey of the cargo.

Usually the importer-shipper-agent-stevedore racket first demands money from the ship owners making cooked-up charges, like delay in shipment or damage to cargo, else, it threatens to hold up the vessels for long spans of time by lodging cases with the admiralty courts. If the ship owners negotiate and settle with the crooks, their ships are let to depart the port on time. Otherwise, the gang carries out the threat by filing lawsuits and harassing the owners for a long time.

In cases, a section of local importers with connivance of suppliers lode rotten wheat onto chartered ships and when the vessels reach Chittagong or Mongla, the importers themselves tip off the local testing authorities to secure the proof of the wheat being rotten. They then claim compensation from the ship owners for the alleged damage to the grains. Once the compensations not paid by the owner, the ship is easily arrested filing a case in the admiralty court. Once the ship is arrested, the owner obviously comes to Bangladesh and then the local importer tells him that it will require minimum 4 to 6 months to settle case in the court.

Only when the ship owner agrees to pay at least half or part of it, the importer withdraws the lawsuit and the cargo is unloaded and the ship is allowed to leave.

for such infamous activities by some unscrupulous importers. One must wonder whether Chittagong Port is heading for the same fate. However, if the ship is dysfunctional and made an unacceptably long delay in unloading the goods, causing much damage to the importers or when contracts are violated or goods are damaged ships can be arrested as per law. On the other hand, incidents of such detention are not uncommon. And such arrests are commercial affairs, where the importers take advantage of the country's legal instruments and system.

The Carriage of Goods by Sea under bills of lading or similar documents of title from a port in Bangladesh to any other port whether in or outside Bangladesh applies to all. The substantive rights recognised by the statute are of equal application to foreign merchant ships as they are to Bangladesh merchant ship. The same principle must hold good for carriage under a charter party. These and other laws, such as the law of contract, tort, crime, mortgage, marine insurance, customs, port operations, etc., as well as the relevant rules of court regulating procedure and practice together constitute the body of substantive and procedural laws governing claims relating to inward and outward cargo, and such claims are enforceable against foreign ships by recourse to arrest and detention when found within jurisdiction.

In the international arena, the carriage of goods by sea is covered by, "The Hague Rules, 1924 Bills of Lading Convention, Brussels", "The Hague/Visby Rules 1968/79", "The United Nations Convention on the Carriage of Goods by Sea, Hamburg Rules 1978", "The United Nations Convention on Multimodal Transport of Goods 1980". However there is no international convention on Bills of lading. The arrest of ships are

Conventions on the Liability of Operators of Transport Terminals in International Trade 1991.

Many of these conventions are already in force and some are not. We are yet to become party to many of such international conventions and not only that hardly we are aware that such conventions if ratified by Bangladesh will help our international trade. Even the Arrest Convention of 1999 warrants one to deposit a certain amount of money before filing any case demanding the arrest of a ship. In spite of our existing state of affairs about the arrest of ships in our ports, we are yet to sign the convention, which would have significantly reduced the scope of such malpractice. The most important point is that we are not even sure how long it will take by our great state machinery to sign the convention or take other appropriate measures to stop such malpractice. Should not we think that we had enough time to wake up from the deep slumber of 35 years and now can have a hard look to all the international conventions to make not only the rights of our importers' ports safe but also ensure untainted international trade and commerce.

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Maoist movement and insurgency in Nepal

BILLY IAHMED

NEPAL is a landlocked country sandwiched between China in the north and India in the south. Its total area is 147,181 sq.km with a population of 26.3 million (UN, 2005). However, the official religion is Hinduism, but Buddhism is practiced widely. The main ethnic races are Brahmin, Chetri, Newar and others. The GDP/PPP (2005 est): US\$ 42.26 billion; per capita US \$1500; inflation 7.8% (2005 est.). It is one of the world's poorest countries, a situation made worse by a continuing and violent Maoist rebellion.

A constitutional democracy that was established following the 1990 People's Movement appears to be on the verge of collapse due to continued success of Maoist guerrilla insurgency or "People's War" that was launched in February of 1996 by the Communist Party of Nepal-Maoist (CPN-Maoist).

The CPN-Maoist first fired its salvo of "People's War" on February 12, 1996 seeking to destroy constitutional monarchy and aiming to prove a Maoist people's democracy. By the end of December of 2000, the insurgency has taken the life of an estimated 1600 persons (officially the figure goes as high as 4,000 dead.)

The insurgency that began from three mid-western mountain districts of Rolpa, Rukum, and Jajarkot, western district of Gorkha and an eastern district of Sindhuli has now spread to 68 of Nepal's 75 districts. The insurgency areas are near to Kathmandu, besides spreading to Terai, close to India.

The most disturbing situation for the counter-insurgency planners is that many well-trained retired Indian and British Army Gorkha soldiers occupy many of the Maoist affected areas. Authorities suspect that some of these are providing training to Maoist guerrillas.

The Maoist insurgency-hit areas cover 165 of the 205 parliamentary electoral constituencies of Nepal. The insurgency has directly affected the lives of roughly two-thirds of the 26 million people of Nepal. The police operations have failed to control guerrillas.

Since the start of insurgency in 1996, different governments of Nepal have treated the Maoist war as a 'law and order' problem. The government has sought to contain Maoists with police operations code-named "Operation Romeo," "Kilo Shera Two," "Jungle Search Operation," and "Search and Destroy."

These police operations have applied the policy of "encircle and kill", a policy similar to China's Chiang Kai-shek's "extermination" of communists campaign in 1930s.

In the process of this "encircle and kill" policy, the police operation has in many places killed more innocent civilians than the guerrillas, a fact noted by several human rights organizations including the Amnesty International.

Despite the killings of hundreds of Maoists, real or imagined, under the policy of "search and destroy," Maoist insurgency does not appear to be dying.

In almost all battles between the police and the Maoist guerrillas, the insurgents have proved their military superiority.

These incidents have shaken the whole country and have proved Maoist insurgency is a living reality and the Communist Party of Nepal (Maoist) is an undeniable political force.

The state has justified authoritarian policies in the name of suppressing the insurgency, but without addressing the basic inequalities that plague Nepali society.

In view of the present-day political uncertainties characterized by competition for office between and among parties of all shades and sizes, split between and among parliamentary royal communists, and Nepal congress continues.

If history is any guide, then the electorate never rejected Nepali communists, no matter how much divided they may be. In 1994, Unified Marxist & Leninist (UML) got an opportunity to form the government. The inexperience in ruling the country, on the one hand, and greed for power, on the other led to not only the exit from the government but also the vertical division of the UML party. The vertical division of UML has brought about qualitative as well as quantitative changes in the political balance of the country. The split has also helped in raising the centrality of Maoist movement.

The successive failures of government's police operations in Maoist insurgency clearly shows the insurgency is taking momentum with large popular support. This is no longer simply a law and order problem. Why are the people in rebel areas providing sanctuaries to insurgents? Why are insurgents finding sanctuaries in areas, which in the past had been strongholds of constitutional parties?

Independent observers argue the government suffers from political instability and rabid corruption. The money earmarked for development of interior areas never reaches there. The economic planners ignored large numbers of villages. There are no schools, no roads, no electricity, and no medical facilities. At the national level, the educated unemployment is increasing at geometrical proportions.

Maoist insurgency may be viewed in the light of Nepal's history of communist movement. The communist movement in Nepal that first appeared in 1949 after the formation of Communist Party of Nepal under the leadership of late Pushpa Lal Shrestha emerged as an intellectual opposition to Nepali Congress's policy of compromise.

The Maoist movement has emerged in the background of this history of Nepal's communist movement in 1949. The Naxalite movement of Jhapa in early 1970s, too, had the same background.

The Jhapa movement evaporated in a few years mainly due to the suppression of Naxalites in India, youthful inexperience of leaders expressed in term of middle class extremism, decline of Maoism in China after Mao's death in 1976, and lack of Jhapa-type militancy in other districts of Nepal.

The leaders of Jhapa movement gradually took to the constitutional path and even took part in Panchayat elections as "pro-people Panchas."

The present-day Maoist movement, however, must not be viewed in light of

Naxalite movement of the early 1970s for several reasons:

First, Maoists unlike Jhapani Naxalites do not have the advantage of geographical continuity from India.

Second, Maoists do not enjoy the ideological support from Radio Beijing. Therefore, the charges of foreign inspiration are a moot point here.

Third, Maoists have learnt many lessons from the mistakes of Jhapa uprising.

Fourth, the communists of all shades and sizes are now available in every village of Nepal.

Broadly speaking, communist movement in Nepal in the past has been left-intellectual movement. The participating intellectuals in this movement had comprised of upper caste (Brahmin-Chhetri-Newar-BCN). In other words, past movements were the movements against BCN ruling elite by the BCN non-ruling elite. That scenario, however, has changed now in view of the broader participation of people from other castes particularly the untouchable castes such as Kami, Sarki, Damai, etc.

Another notable characteristic of Maoist movement is the degree of women's participation in guerrilla ranks. Women's political participation in the past had been limited to electoral areas, especially, in voting and occasional candidacy in elections.

It is a big surprise that Nepali women now have joined guerrilla organization under arms. More than a dozen women have already given their lives while fighting the police operations. According to an estimate, about 30% of Maoist guerrillas comprise of women. This is totally a new phenomenon in Nepal.

Nepali strategic planners have failed to find a way in which people would stop giving sanctuaries to guerrillas. Perhaps, with massive economic development package to people in the early period of insurgency it could be avoided.

Counter-insurgency measures need civil-military coordination in which clean civil administrators are expected to disburse economic development package. Here lies the problem. Nepal's problem is not the Maoist war but an entrenched coalition of corrupt politicians and bureaucrats that profits from Maoist war.

Counter-insurgency measure, if applied and carried out by clean hands, will help reduce the distribution crisis, which in turn, will help to neutralize popular support to guerrillas. Otherwise, it remains a protracted problem and there is no way to contain Maoist revolution.

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