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COMPARATIVE ANALYSIS OF TERRORIST ACT DEFINITIONS UNDER THE BHARATIYA NYAY SANHITA (BNS), THE UNLAWFUL ACTIVITIES (PREVENTION) ACT (UAPA), AND THE CHHATTISGARH SPECIAL PUBLIC SECURITY ACT (CGSPSA)

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Abstract

The definition of “terrorist act” forms the backbone of counter-terrorism legislation, shaping the scope of criminal liability, investigative powers, and judicial interpretation. India’s counter-terrorism framework is not governed by a single statute but by a combination of central and state legislations, each addressing internal security concerns from distinct perspectives. The recent enactment of the Bharatiya Nyay Sanhita, 2023 (BNS), replacing the Indian Penal Code, has reintroduced terrorism-related offences within the general criminal law framework, alongside the existing Unlawful Activities (Prevention) Act, 1967 (UAPA), and state-specific legislations such as the Chhattisgarh Special Public Security Act, 2005 (CGSPSA).

This paper undertakes a comparative analysis of the definitions of “terrorist act” and related unlawful activities under these three legislations. It critically examines the conceptual scope, constituent elements, intent requirements, and consequences attached to such definitions. The study highlights overlaps, divergences, and ambiguities among the statutes, particularly in relation to civil liberties, federal balance, and proportionality. By analyzing judicial interpretations and legislative intent, the paper argues that while these laws aim to safeguard national security, the absence of definitional clarity and uniform standards risks misuse and over-criminalization. The study concludes by recommending harmonization, clearer statutory thresholds, and stronger safeguards to balance security imperatives with constitutional rights.

Keywords: Terrorism; Bharatiya Nyay Sanhita; UAPA; CGSPSA; National security; Criminal law; Civil liberties

1. Introduction

Terrorism poses one of the most complex and persistent threats to national security, public order, and democratic governance. Modern states have responded to this threat by enacting stringent counter-terrorism laws that expand the scope of criminal liability and empower law enforcement agencies with extraordinary powers. In India, the legal response to terrorism has evolved over time, shaped by internal insurgencies, cross-border

militancy, and global counter-terrorism commitments.

Historically, India relied on special legislations such as the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) and the Prevention of Terrorism Act, 2002 (POTA), both of which were repealed due to widespread allegations of misuse and human rights violations. Following their repeal, the Unlawful Activities (Prevention) Act, 1967 (UAPA) emerged as the primary anti-terror legislation at the

central level, progressively expanded through amendments to include comprehensive definitions of terrorist acts, organizations, and individuals.

Parallely, several states enacted special security laws to address region-specific threats. One such legislation is the Chhattisgarh Special Public Security Act, 2005 (CGSPSA), designed to combat left-wing extremism and unlawful activities threatening state security. These state laws often operate alongside central statutes, raising questions of overlap, federal competence, and uniformity in criminal definitions.

The enactment of the Bharatiya Nyay Sanhita, 2023 (BNS), replacing the Indian Penal Code, marks a significant shift in India's criminal law landscape. By incorporating terrorism-related offences into the general penal code, the BNS seeks to mainstream national security concerns within ordinary criminal law. However, this development has also revived debates about duplication, definitional ambiguity, and potential conflict with existing special legislations such as UAPA and CGSPSA.

This paper undertakes a comparative examination of how "terrorist acts" and related unlawful activities are defined and conceptualized under these three statutes, assessing their legal coherence, constitutional implications, and practical consequences.

2. Literature Review

Scholarly discourse on anti-terrorism laws in India has largely focused on the tension between national security and civil liberties. Upendra Baxi has argued that anti-terror laws often operate in a "state of exception," where ordinary constitutional safeguards are diluted in the name of security. Similarly, Ujjwal Kumar Singh's analysis of TADA and POTA highlights how vague definitions and broad discretionary powers resulted in systemic misuse.

Several legal scholars have critically examined UAPA, noting that its definition of "terrorist act" under Section 15 is expansive and elastic.

Studies published in journals such as the Economic and Political Weekly and Indian Journal of Constitutional Law emphasize that UAPA's low threshold for intent and its focus on potential threats rather than actual harm create risks of preventive criminalization. Judicial commentary has also reflected concern, particularly regarding prolonged incarceration without trial under stringent bail provisions.

State security legislations such as the CGSPSA have received comparatively less academic attention. However, human rights reports and empirical studies indicate that such laws are often used against political dissenters, tribal populations, and civil society activists in conflict-affected regions. Scholars argue that these laws blur the distinction between violent extremism and ideological opposition.

With respect to the Bharatiya Nyay Sanhita, existing literature is still emerging. Preliminary commentaries suggest that reintroducing terrorism-related offences into the general penal code could either streamline prosecution or further complicate the legal landscape by overlapping with special laws. There remains a notable gap in comparative studies that examine BNS alongside UAPA and state legislations like CGSPSA, particularly in relation to definitional consistency and constitutional safeguards.

3. Research Gap

While substantial scholarship exists on UAPA and earlier anti-terror laws, limited academic work has examined the implications of the Bharatiya Nyay Sanhita in the context of existing counter-terror frameworks. Moreover, state-specific legislations such as the CGSPSA remain under-researched, especially in comparative doctrinal studies.

There is a clear gap in analyzing how multiple statutes simultaneously define and regulate "terrorist acts," leading to overlapping jurisdictions, inconsistent enforcement standards, and potential arbitrariness. This

paper seeks to fill this gap by offering a structured comparative analysis of the definitional frameworks under BNS, UAPA, and CGSPSA.

4. Research Design and Methodology

The study adopts a doctrinal and comparative legal research methodology. Primary sources include statutory provisions of the Bharatiya Nyay Sanhita, 2023, the Unlawful Activities (Prevention) Act, 1967, and the Chhattisgarh Special Public Security Act, 2005. Judicial decisions interpreting these laws have been analyzed to understand their practical application.

Secondary sources include books, peer-reviewed journal articles, law commission reports, parliamentary debates, and human rights documentation. The research is analytical and critical in nature, focusing on statutory interpretation, constitutional compatibility, and policy implications.

5. Interpretation and Findings

5.1 Definition under Bharatiya Nyay Sanhita (BNS)

The Bharatiya Nyay Sanhita introduces terrorism-related offences within the general criminal law framework. The definition emphasizes acts intended to threaten the unity, integrity, security, or sovereignty of India, or to strike terror in the people. Unlike UAPA, the BNS situates terrorism alongside other serious offences, reflecting an intent to normalize counter-terrorism within ordinary criminal jurisprudence.

However, the BNS definition remains broad, relying heavily on subjective elements such as “intent to threaten” or “likely to strike terror,” which may vary in interpretation across jurisdictions.

5.2 Definition under Unlawful Activities (Prevention) Act (UAPA)

Section 15 of UAPA provides an expansive definition of a terrorist act, covering acts

that threaten the economic security, sovereignty, or integrity of India, or are intended to strike terror among people. The inclusion of economic security and potential threats significantly broadens the scope of criminalization.

UAPA further distinguishes itself by attaching severe procedural consequences, including stringent bail conditions and extended detention periods. The findings indicate that UAPA prioritizes preventive security over post-offence adjudication.

5.3 Definition under Chhattisgarh Special Public Security Act (CGSPSA)

The CGSPSA does not explicitly use the term “terrorist act” but criminalizes “unlawful activities” threatening public order and state security. The Act focuses on organizations and associations deemed unlawful, often targeting ideological and political movements.

The study finds that CGSPSA’s definitions are particularly vague, allowing criminal liability to attach to indirect support, membership, or ideological sympathy, raising serious constitutional concerns.

5.4 Comparative Findings

Overlap: All three laws criminalize acts threatening sovereignty and public security, leading to concurrent applicability.

Divergence: UAPA and CGSPSA emphasize preventive detention and association-based liability, while BNS adopts a more offence-centric approach.

Civil Liberties Impact: CGSPSA and UAPA pose greater risks to freedom of speech and association due to their expansive definitions.

Federal Tension: State laws like CGSPSA operating alongside central laws create enforcement inconsistencies.

6. Limitations

The study relies on doctrinal analysis and does not include empirical fieldwork or statistical evaluation of prosecutions. Judicial interpretations of the BNS are still evolving, limiting predictive analysis. Regional variations in enforcement practices are also beyond the scope of this paper.

7. Suggestions

1. Harmonize definitions of terrorist acts across statutes to avoid duplication.
2. Introduce clearer intent and harm thresholds to prevent over-criminalization.
3. Strengthen judicial oversight in cases invoking special security laws.
4. Periodically review state security legislations for constitutional compliance.
5. Incorporate human rights impact assessments in counter-terror law reforms.

8. Future Scope

Future research may involve empirical analysis of arrest, conviction, and acquittal rates under these laws. Comparative studies with international counter-terror frameworks can further inform reform. The impact of these laws on marginalized communities also warrants detailed sociological research.

9. Conclusion

The comparative analysis reveals that India's counter-terrorism legal framework is characterized by multiplicity, overlap, and definitional ambiguity. While the Bharatiya Nyay Sanhita represents an attempt to integrate terrorism offences into mainstream criminal law, its coexistence with UAPA and state laws like CGSPSA creates legal complexity.

Effective counter-terrorism requires not only robust security measures but also clarity, proportionality, and constitutional fidelity. Without harmonization and safeguards, expansive definitions risk undermining the rule of law. A balanced approach that secures

national security while preserving fundamental rights remains the need of the hour.

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