



## In this Issue

Prospects and challenges for Indo-Pak intelligence sharing & counterterror cooperation after Pathankot

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## Working to Counter Terrorism: Prospects for Pakistan-India Intelligence & Security Cooperation

### Introduction

Pakistan and India share one of the most crisis- and risk-prone relationships in contemporary international politics. While the challenge posed to this relationship by the spectre of transnational terrorism is well documented, prospects for security and intelligence cooperation between Pakistan and India to combat militancy and terrorism are significantly less researched. In the aftermath of the terrorist attack on Pathankot Airbase on January 2, 2016, discussions on the feasibility of a joint probe into the attack have once again thrown into sharp relief the difficulties of counterterrorism collaboration in South Asia.

Until now, 67 years of bruising conflict and unrealised peace initiatives have meant that prospects for Pakistan-India intelligence-sharing and joint cooperation to combat transnational crime and terrorism remain largely unrealized. This is despite the evolution and increasing sophistication of post-9/11 international legal mechanisms to address transnational terrorism and criminal activity in other parts of the world, such as the European Union and Latin America. Past attempts by governments in Islamabad and New Delhi to work together to address terrorism have been crippled by an unfortunate combination of mistrust, short-term foreign policy objectives, and the chronic absence of necessary anti-terror mechanisms and legal instruments. The attack on Pathankot, like earlier attacks in 2015 in Karachi, Gurdaspur and Udhampur, is another instance of a “low-intensity trigger” upsetting, or stalling, a budding peace process.

Post-2014 regional transformations have meant that the spread of Al-Qaeda in South Asia, and self-styled Islamic State or Daesh to eastern Afghanistan and major cities in South Asia, together with the added danger of escalatory fallout in an already destabilized Afghanistan, has allowed for increasing Islamabad-New Delhi congruence when it comes

to neighborhood “threat perception”. Early in January 2016 the United States formally designated ISIL-K or Daesh’s Khorasan chapter in Afghanistan and Pakistan as a terrorist organisation. The Safoora bus attack in Karachi in May 2015, and subsequent allegations of Indian involvement, has similarly accented the urgency for greater India-Pakistan cooperation to combat terrorist permutations in South Asia.

Uniquely, the Pathankot attack marks the first instance of unequivocal and across-the-board condemnation by stakeholders in Pakistan and a government-led pledge to cooperate fully in the security investigation in Indian Punjab. The attack on Pathankot also marks a rare instance in which the strategic interest of both Pakistan and India to cooperate to counter terrorism, dovetails with the availability of political space and capital to do so in both countries. Under the Bangkok Mechanism of December 2015, direct contact between the National Security Advisors of Pakistan and India – Lt. Gen. Naseer Janjua and Ajit Doval – has also created the space for a potential backchannel away from the media spotlight that can pave the way for an intelligence agency dialogue. It is in light of these developments that this Policy Brief traces the challenges that have historically obstructed attempts to foster inter-governmental cooperation on intelligence and counter-terrorism between Islamabad and New Delhi; discuss anti-terror mechanisms and legal instruments that are needed for a joint approach to counter transnational terrorism; and recommends avenues for policy implementation and further research.

## **Space for Counterterror Cooperation**

Prospects for India-Pakistan cooperation to counter terrorism have been discussed at both a number of Track I and II forums, including the Chaophraya Dialogue. The need for tangible cooperation on counterterrorism has its roots in the state of play in South Asia, the frequency and proliferation of activities by non-state actors on either side of the border, and the potential for limited war which could in turn have profoundly destabilising implications for strategic stability in the subcontinent. War fears in South Asia are not unfounded: escalatory tendencies, particularly across the Line of Control (LoC), are notoriously difficult to rein in, and terrorist attacks by non-state actors have derailed the peace process before. Attacks on the Indian Parliament in 2001, and Mumbai in 2008, have prompted Indian politicians and media outlets to urge New Delhi to consider all options, including the launching of military strikes on terrorist targets on Pakistani soil.

The need for counterterror cooperation is amplified by the weakness of counterterror institutions and structures in both Pakistan and India. As a jurisdiction, South Asia remains politically divided, with justice systems burdened by poor resources, weak investigative capacities, and little actual cross-border cooperation. In the run up to the Mumbai attacks, less than a few hundred Indian Intelligence Bureau (IB) officials were said to specialise in counterterrorism. Pakistan’s police-to-population ratio of 200 per 100,000 is only marginally better than India’s 125 per 100,000<sup>i</sup>. On the other hand, both India and Pakistan have faced the negative fallout of terrorist violence on their respective soils: from January to December 2015, Pakistan lost 3,682 lives to terrorism, while India lost 722<sup>ii</sup>. The space for cooperation has increased in recent years, augmented by Pakistan’s own commitment to bringing the 26/11 Mumbai trials to their logical conclusion, and the fact that Pakistan is, at the time of writing, single-handedly engaged in waging the largest inland counterinsurgency operation in its tribal areas.

Pakistan's national resolve to combat terrorism began with a return to civilian democracy in 2008, and in the context of a difficult India-Pakistan relationship, is exemplified by the unobstructed arrests made in Punjab and speedy registration of the First Investigation Report (FIR) in the aftermath of the Mumbai attacks in November 2008. The Anti-Terrorism Court (ATC) conducting proceedings against Zaki-ur-Rahman Lakhvi in Rawalpindi marked the first time in the history of the Pakistani state that an individual was charged for a terrorist attack on foreign soil<sup>iii</sup>. Pakistan's counterterror resolve was further underscored in the PML-N government's National Action Plan (NAP), unveiled in December 2014, days after the Pakistani Taliban attacked Peshawar's Army Public School. Among its 20 points, NAP specifically calls for revamping and reforming Pakistan's criminal justice system, a zero-tolerance for militancy, and the execution of convicted terrorists<sup>iv</sup>. Meanwhile, Prime Minister Narendra Modi's visit to Lahore in 2015 – the first by an Indian head of government in over a decade – indicates that the Indian Prime Minister, unlike his predecessor, is finally investing political capital in engagement with Pakistan, and building stakes in a process that sees both sides jointly address all outstanding issues, including terrorism.

## History of Intelligence Sharing

Under the Commonwealth's Security Liaison Relationship (SLR) arrangement established in 1950, both India and Pakistan are known to have shared intelligence, insights, assessments and expertise on transnational criminal activities such as drug trafficking. The SLR allowed for the sharing of information through security liaison officers (SLOs) posted in each country's diplomatic mission undercover as diplomats<sup>v</sup>.

The extent to which the Intelligence agencies of Pakistan and India have cooperated to investigate cases of cross-border terrorism and crime in recent years, however, is telling of the difficulties associated with such a prospect. In the aftermath of the Mumbai attacks, Pakistan offered to send its top intelligence official to India to help with the investigation, but had to withdraw the offer owing to an inter-agency turf war that quickly developed at home. A month later, Pakistan offered to establish a joint investigation commission, co-chaired by Pakistan and India's National Security Advisors (NSAs); however, an offer by Pakistan to send an investigation team to India ran into difficulties in the way of Indian indecision over the exact Terms of Reference of a potential Islamabad probe<sup>vi</sup>. Since 2008, Pakistan has complained about the level of Indian cooperation extended to its Judicial Commission, and the refusal to allow access to evidence and witness testimony, including from Ajmal Kasab, which in turn has affected both the decipherability and admissibility of information introduced into the Rawalpindi trials.

While cooperation between the Inter-Services Intelligence (ISI), founded in 1947, and Research & Analysis Wing (R&AW), formed in 1968, remains largely undiscussed by academic and policy scholarship, precedents for information-sharing exist: In 1989, India's ambassador and military attachés in Islamabad were informed and observers invited in advance of the Pakistan Army's joint-command field exercise Zarb-E-Momin. Indian security activities in Indian Punjab in 1992 were communicated to Pakistani policymakers in advance so as to "avoid misunderstandings"<sup>vii</sup>. In 2004, according to news reports, a timely tip-off by R&AW helped foil the third assassination attempt on then President General Pervez Musharraf after terrorist communications were intercepted by Indian intelligence<sup>viii</sup>. In the context of a volatile relationship that has been

marred by mistrust and suspicion, the benefits to be had from regular intelligence cooperation are significant: in addition to trust-building, regular contact can also help stave off unintended mobilisation and possible nuclear alerts between the two countries<sup>ix</sup>.

## **Previous Anti-Terror Mechanisms**

At the outset of the Composite Dialogue in January 2004, both Pakistan and India agreed in principle to set up a Joint Anti-Terror Mechanism (JATM). This made sense, given the setbacks to the relationship in the aftermath of the 2001 attack on the Indian Parliament. However it was not until March 2007, following the Samjhauta Express bombings of February, that discussions regarding JATM implementation took place. The JATM was conceived as a joint institutional mechanism that could identify and implement counterterrorism initiatives and investigations<sup>x</sup>. It was agreed by both sides that specific information would be exchanged to help facilitate and expedite investigations on either side related to terrorist acts, and to prevent terrorist violence. It was further agreed that while the anti-terrorism mechanism would meet on a quarterly basis, any information required would be provided on a priority basis, and immediately conveyed to the respective heads of the mechanism.

But it quickly became clear that JATM's effectiveness was curtailed by a critical divergence on how Pakistan and India chose to view and interpret the agreement. Indian detractors vilified the mechanism as ruse to admit New Delhi's complicity in subversive activity in Balochistan. India additionally took exception to Pakistan's insistence that violence in Kashmir be excluded from JATM's purview. Critics of the mechanism on the Pakistani side, meanwhile, felt that the mechanism meant that terrorism would overshadow all other discussions on the bilateral agenda.

A robust anti-terror mechanism that can serve as a bilateral "shock-absorber" remains vital for the health of an India-Pakistan bilateral relationship that often lurches from crisis to crisis. Ultimately, while JATM never moved beyond limited information sharing, the suspension of the dialogue process after the 2008 Mumbai attacks also meant that there was no real opportunity to test the viability and utility of the mechanism in an actual crisis.

## **Entering into a Mutual Legal Assistance Treaty (MLAT)**

Intelligence sharing and attempts to jointly collaborate to combat terrorism in South Asia are additionally complicated by the absence of the necessary legal mechanisms that allow for evidence sharing across borders. Understandably, it takes longer to prosecute transnational crimes than it does ordinary crimes. In the initial follow up to the Pathankot attack, Indian intelligence agencies reported midnight telephone intercepts between terrorists and their handlers, and shared two Pakistani telephone numbers with the Pakistani NSA. In response, Pakistan proposed a Special Investigation Team (SIT) to travel to India to gather evidence, a suggestion agreed to by India.

To help facilitate the exchange of evidence and other material relevant to underway investigations, Mutual Legal Assistance Treaties, or MLATs, crucially serve as a valuable instrument. MLATs are an alternative to "voluntary disclosure" based on pressure and incentives, as has been the standard practice in the context of India-Pakistan engagement in the aftermath of past terrorist incidents<sup>xi</sup>. MLATs and other forms of cross border

cooperation are generally viewed as necessary tools for transnational law enforcement, given that these act as formal mechanisms which allow for the access and exchange of data and information, especially when this data and information is located in different national and territorial jurisdictions.

During Home Secretary-level talks between Pakistan and India held in Islamabad in May 2012, an Indian draft of a proposed MLAT agreement was offered to Pakistan. But the political sensitivities around agreeing to a Pakistan-India MLAT, in the absence of simultaneous progress on other outstanding disputes, prevented this from making any real headway. In August 2014, Indian media reported that Pakistan had “failed to respond” to New Delhi’s proposal for an MLAT which they hoped would obligate Pakistan to provide information on Dawood Ibrahim and other fugitives whose whereabouts were uncertain<sup>xii</sup>.

As of 2014, India had entered into MLAT agreements with 38 other countries including the United States, Australia, and Israel, aimed at expediting transnational criminal cases<sup>xiii</sup>. As such, India can potentially share intelligence data and/or have access to intelligence data within any of these thirty-five countries. India has yet to sign an MLAT with Pakistan. The 16<sup>th</sup> Chaophraya Dialogue, held in the immediate aftermath of the 2015 Gurdaspur attack, recommended that Pakistan and India enter into an MLAT arrangement in criminal matters based on a model treaty available with SAARC. Any proposed MLAT, however, will require parliamentary ratification in both the National Assembly in Pakistan and the Lok Sabha in India before it can come into effect. MLATs are not just important in cases of terrorism: in December 2012, in response to take-down requests from the Pakistani government, Google asked Pakistan to sign an MLAT agreement before they would consider any requests for removal of video clips. An MLAT between India and Pakistan on the smuggling of drugs and narcotics can also help curb drug trafficking originating from Afghanistan. Furthermore, within its immediate neighbourhood, Pakistan has extradition treaties with China (2003) and Iran (2014), but not Afghanistan or India. The absence of an extradition treaty in these two cases makes it impossible for suspects based in Afghanistan and India to be extradited back to Pakistan, or vice versa.

## **The Potential for an Intelligence Liaison**

*“Even in the worst days of the Cold War, the CIA and the KGB never ceased contact, even through open declared officers in each other’s capitals.”<sup>xiv</sup>*

In 2015 former R&AW chief A.S. Dulat went so far as to suggest that one of R&AW’s Islamabad posts be made an “open post” on a reciprocal basis<sup>xv</sup>, i.e. one where the spy does not try to hide undercover, and is posted openly to allow for collaboration and cooperation. Track II forums have echoed this suggestion of “declaring” the two Station Chiefs at the respective Islamabad and New Delhi High Commissions as an agency-to-agency CBM, encouraging them to enter into normal and regular contact with their host services, as is the norm for declared Station Chiefs at all embassies around the world, which in turn could go a long way in shoring up bilateral trust.

As a crisis-management baseline, both India and Pakistan can also think about a direct intelligence liaison modeled along the lines of existing channels of communication between the two states. The Prime Minister Secretariat in Islamabad and Secretariat

Building in New Delhi have been connected by a direct “hotline” since 1971, modeled on the Washington-Moscow hotline of the Cold War. In 2004, the two sides agreed to establish a “nuclear hotline” between the highest representatives in the two foreign ministries<sup>xvi</sup>. In 2011, three years after the Mumbai attack, the two sides set up a “terror hotline” and agreed to mutually share access codes to help facilitate “real-time information sharing with respect to terrorist threats”<sup>xvii</sup>. With respect to the two militaries, the first hotline connecting the Directors General of Military Operations (DGMOs) was set up over the Line of Control (LoC) in Kashmir after the 1971 war. Expert meetings in May 2005 also led to an agreement to establish a hotline between the Indian Coast Guard and the Pakistan Maritime Security Agency.

These instruments of communication play a vital role as “shock-absorbers”, and replicating this format in the form of a direct line between the heads of the two Intelligence Chiefs can go a long way in facilitating contact in the event of a crisis. So far, the absence of institutionalised channels of communication between the two Intelligence Chiefs mean that the two spy agencies remain unnaturally disconnected, surprising given that the Pakistan-India militaries, even in times of hostile deployment, have maintained regular contact with each other.

### **Prospects for Multilateral Cooperation**

There are few instances of regional counterterrorism cooperation in South Asia. In contrast to Central and Southeast Asia, South Asia has yet to develop a regional organisation based on security cooperation. Security cooperation or collaboration in South Asia largely depends on India’s relationship with its neighbours, which explains the difficulties of fostering greater Pakistan-India security cooperation. The SAARC Regional Convention on Suppression of Terrorism was first signed in Kathmandu in 1987 and came into force in 1988 following ratification by all Member States. Article VIII of the SAARC Regional Convention on Suppression of Terrorism calls for member states to exchange information, intelligence, and expertise to prevent terrorism<sup>xviii</sup>. A Terrorist Offences Monitoring Desk was established in 1995 in Colombo to help collect, assess and disseminate information on terrorist offences, tactics, strategies and methods. An Additional Protocol to the SAARC Regional Convention on the Suppression of Terrorism was signed in 2002, and adopted in 2004, with all the seven member states ratifying it to “wage a joint war against terrorism”.

Together, the Convention and the Additional Protocol provide a regional framework for cooperation on counterterrorism in the SAARC region. But these endeavors have remained largely unrealised. Firstly, changes will be needed to be made in the Criminal Procedure Code (CrPC) of respective countries for the Convention to be implemented. SAARC Interior Ministers also met in 2010 to discuss and review prospects for increased police cooperation, intelligence sharing, and recommendations to set up SAARC Police and SAARC Anti-Terrorism Task Forces. This failed to receive support from Member States. A Convention on Mutual Legal Assistance in Criminal Matters (MLAT) was signed in August 2008, but has yet to be ratified by Afghanistan, Nepal and Pakistan. In the South Asian context, the SAARC Convention on Mutual Assistance in Criminal Matters 2008 is still not in force. If implemented, this could be a useful vehicle for greater cooperation between Pakistan and India. While Pakistan acted quickly to detain Hafiz Saeed and freeze Jamaat-ud-Dawa bank accounts after the Mumbai attacks, it was compelled to do so by UN-ordered sanctions rather than Indian directives. In addition to definitional

disputes between Member States over what constitutes terrorism, the absence of adequate implementation has also been attributed to a lack of enabling legislation in individual countries, including Pakistan and India.

### **Box 1.1 International Precedents & Multilateral Models for Cooperation**

There are a number of instances of intelligence sharing by neighbouring states with fraught histories: notably, bilateral U.S.-Mexico cooperation on anti-drug trafficking, the use of INTERPOL as a clearing house for global police cooperation, and intelligence sharing between European countries through EUROPOL. In recent decades, intelligence-sharing between Israeli and Egyptian, and Israeli and Jordanian military intelligence agencies on the Islamic State has increased. In the case of the former, intelligence-sharing has created the necessary trust reservoir for the IDF to allow Egypt to deploy more troops in the Sinai than typically permitted by terms of their 1979 peace treaty.

In terms of models of effective regional cooperation mechanisms, SAARC could also potentially look at a possible regional law-enforcement training center, similar to the Jakarta Centre for Law Enforcement Cooperation and other counterterrorism training centers that have been established in Southeast Asia, in cooperation with countries from outside the region, to provide training for a range of counterterrorism practitioners.

Since 2004, Pakistan, India and Nepal have taken turns to propose the constitution of SAARCPOL, along the lines of INTERPOL, together with a joint task force to control incidents of piracy in the Indian Ocean. So far the idea has remained just that – a proposal. When Pakistan raised the suggestion again in 2010, India responded by suggesting greater direct contact between the policy chiefs of Member States instead, signaling a reluctance to create new sub-organisations under the SAARC umbrella. A number of Police Conferences have been held since 1996 to deliberate networking arrangements among police authorities in the Member States, and discuss the prevention of organised crime, combating corruption, drug abuse, drug-trafficking and money.

In the past, INTERPOL sub-regional bodies in East, West, and southern Africa have proved effective in strengthening practical cooperation among police chiefs, and in building support for the expansion of the organisation's 24/7 communications network beyond respective capitals. Since 1991, Europol (the European law enforcement agency with headquarter in The Hague, Netherlands) has also emerged as a regional hub for crime and terrorism related intelligence.

In July 2015, both Pakistan and India became full member states to the Shanghai Cooperation Organisation (SCO), an international security alliance that includes Russia, China and other Eurasian powers. But it remains to be seen if SCO enlargement can offer the necessary neutral arena for Pakistan and India to find common ground on combating terrorism. Admittedly, anti-terrorism remains a significant point of emphasis for both Moscow and Beijing, and the SCO charter, since its inception in 2001, has included a

comprehensive security component. In 2014 President Xi Jinping said SCO members should set up consultations regarding an eventual “anti-extremism” treaty<sup>xix</sup>, but the terms of reference of this envisioned security architecture remain unclear. Internal strains among the Chinese and Russian blocs have prevented any substantive conversation on terrorism from taking hold so far. That said, the SCO has allowed for intermittent joint counterterrorism training exercises.

This is not to say that the possibility for counterterror cooperation between South Asian states is negligible: India and Bangladesh held their first joint counterterrorism exercise in February 2009<sup>xx</sup>. In November 2015, China indicated that it would be willing to work with both India and Pakistan to jointly counter terrorism<sup>xxi</sup>.

## **Sticking Points & Ways Forward**

Recent events have made it abundantly clear that sustained India-Pakistan engagement will be impossible without bilateral cooperation in the security and intelligence sectors. The absence of credible and impartial investigation mechanisms into any alleged incident of transnational terrorism often works to India’s advantage, as it reverses the burden of innocence on Pakistan. The political controversy surrounding an attempted MoU between the ISI and the Afghan National Directorate of Security (NDS) in May 2015 speaks to the difficulties in operationalising agreements that involve intelligence-sharing, counterterrorism cooperation, and joint investigations of terrorism suspects.

In December 2015, India announced it was ready to resume its bilateral dialogue with Pakistan, and that terrorism would be discussed at the level of the two National Security Advisors, not the Foreign Secretaries. This presents both a risk and an opportunity: the risk is that talks on terrorism may meet the same fate of the JATM which became a victim of the symptomatic mistrust in the wider bilateral relationship. The opportunity here is that terrorism will be discussed by empowered and capable officers in both India and Pakistan with the capacity to deliver on tangibles and not over-promise what cannot realistically be achieved. Both sides can use NSA-level discussions to review prospects for greater inter-agency coordination, and regular discussions between the ISI and R&AW chiefs. The sharing of counterinsurgency and de-radicalisation best practices can concurrently go a long way in addressing the shared challenges of militancy and extremism in different parts of both countries.

Even if negotiations between the Home/Interior Secretaries of Pakistan and India were to result in an MLAT agreement, any agreed upon mechanism will need clear timetables for evidence-sharing and the exchange of information in the aftermath of a terrorist attack. Under a potential MLAT framework in international law, the role of third-party service providers and private companies (such as mobile networks) also remains unclear. Furthermore, even if an MLAT were to be entered into by the governments of Pakistan and India, it would still be possible for both governments to deny assistance to each other (depending on the exact terms of the agreement) for political or security reasons, or if the criminal offence in question is not equally punishable in both countries<sup>xxii</sup>.

For effective counterterror cooperation between India and Pakistan, the issue of prosecution will need to be addressed: post-21<sup>st</sup> Amendment, can those accused in transnational criminal activity and terrorism be tried and convicted in military courts? Pakistan’s low rate of conviction (approximately 5 per cent) in major criminal and



terrorism cases stems largely from poor policing and inadequate investigative and prosecutorial resources, and it would be interesting to see if New Delhi asks for terrorist perpetrators to be tried in a military setup. Ultimately, both India and Pakistan may have to realize that successful counter-terrorism must be led and owned by civilian institutions, thus shifting the onus and responsibility for cooperation onto civilian investigation and prosecution agencies. Even when India and Pakistan did start sharing intelligence post-Mumbai, guided by the offices of the CIA, it was the military's intelligence agencies that controlled the process.

## Conclusion

Given the strategic trust deficit and groundswell of vendetta-driven hyperbole on either side of the border in the aftermath of terrorist incidents, the proposed joint investigation into Pathankot attack is likely to suffer in the absence of agreed-upon mechanisms that can offer clear and conducive parameters for the Special Investigation Team (SIT) from Pakistan, currently headed by an Additional Inspector General of Punjab's Counter-Terrorism Department (CTD). With India once again refusing Pakistan's SIT access to the Airbase crime-scene, the concern in Islamabad is that handicapped investigatory powers, and therein lack of tangible outcomes, will further delay any meeting between the two Foreign Secretaries, and reverse the goodwill generated between the two countries in December 2015. To prevent this from happening, security cooperation will have to be institutionalised at a bilateral or a regional level, before the next crisis hits.

If and when the two NSAs of Pakistan and India meet next, they can turn the page on mutual mistrust by agreeing to make the sharing of intelligence a routine feature. Maintaining shared suspect databases, operationalising the terms of the SAARC Convention, and upgrading the Terrorist Offences Monitoring Desk into a working Counterterrorism Centre within the SAARC Secretariat are just a few other steps that can pave the way for greater counterterror cooperation between the two neighbours. Such moves will complement and reinforce individual counterterrorism capacities. Joint investigations could further mitigate the need for "dossier ping-ponging" which only serves to vitiate the atmosphere and turn public opinion against engagement. These efforts will, however, need to be led and supported by a comprehensive and uninterrupted bilateral dialogue on terrorism, either at the level of the two NSAs, or the Foreign Secretaries. In time, a Joint India-Pakistan Working Group on Counterterrorism consisting of intelligence and security officials from both countries could discuss ways to build up individual and collective technical and legal capacities to try transnational crimes.

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xx “Bangladesh, India to conduct Joint Military Training Exercise in Assam,” *Indian Defense*, (January 14, 2009)

xxi “Willing to work with India, Pakistan on counter-terrorism: China,” *The Indian Express*, (November 2, 2015); also available at: <http://indianexpress.com/article/india/india-news-india/willing-to-work-with-india-pakistan-on-counter-terrorism-china/>

xxii This means that any future effort to carry out joint investigations into terrorist incidents will first require Pakistan and India to formulate a joint, mutually agreed-upon definition of terrorism. Pakistan’s primary law on terrorism, the Anti-Terrorism Act of 1997, defines terrorism as, “the use or threat of action (murder, kidnapping, damage to property, attack on places of worship or government persons etc.) designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; and the use or threat of action is made for the purpose of advancing a religious, sectarian or ethnic cause.” The current Indian definition from The Unlawful Activities (Prevention) Act, 1967, amended in 2004, defines a ‘terrorist act’ as “whosoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances, (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.”