

BIMSTEC @ 20

Building a BIMSTEC Agenda for Counterterrorism

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ABSTRACT Member states of the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) continue to grapple with a host of security issues, including the burgeoning ISIS threat and the humanitarian crisis in Myanmar. In the recent months, the region has witnessed the immense social, political, economic and geo-strategic implications of terrorism and displacement. BIMSTEC's counterterrorism initiatives must therefore be scrutinised. Key stakeholders are eager to formulate effective measures to tackle threats emanating from the region. While the BIMSTEC countries have taken significant initiatives to deal with terrorism, there is plenty of room for improving subregional cooperation.

INTRODUCTION: THE ROLE OF BIMSTEC

The Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC)—comprising Bangladesh, India, Myanmar, Sri Lanka, Thailand, Nepal and Bhutan—was established in 1997 as a forum to stimulate cooperation in 14 priority sectors.¹ It is based on the principles of

sovereign equality; territorial integrity and political independence; non-interference in internal affairs; and peaceful co-existence and mutual benefit. Since its inception, BIMSTEC has made considerable progress in various domains but remains hobbled in formulating sustainable approaches to combating terrorism and crime, both domestic and transnational.

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India intends to marshal BIMSTEC towards these goals. It takes the lead in four priority areas, namely: transportation and communication; environment and disaster management; tourism; and counterterrorism and transnational crime. In October 2016, India hosted the BIMSTEC members in the sidelines of the BRICS Outreach Summit held in Goa.² Prime Minister Narendra Modi, speaking during the anniversary of BIMSTEC's establishment, described the subregional grouping as a "natural platform" to fulfill India's "key foreign policy priorities" of 'Neighborhood First' and 'Act East'.³ India then organised the first meeting of BIMSTEC national security chiefs in New Delhi in March 2017, emphasising cooperative stances to combat terrorism on all fronts. In that meeting, BIMSTEC officials acknowledged the need for urgent measures to prevent the "spread of terrorism, violent extremism and radicalization". They vowed to take "concrete measures to enhance cooperation and coordination among their law enforcement, intelligence and security organizations and enhance capacity building."⁴

Yet terrorist threats have taken on far more layers from when BIMSTEC was first conceived two decades ago. The concern for national and international policymakers has been to formulate ways to cope. In 2004, BIMSTEC adopted the convention, Countering Terrorism and Transnational Crime (CTTC), following the 1st BIMSTEC summit held in Bangkok. The convention has been a crucial aspect of countering terrorism amongst BIMSTEC member states and has been ratified by all except Nepal and Bhutan. In this regard, there has also been a push to ratify the 2009 Convention on Cooperation in Combating

International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking, as well as to secure members' support for the BIMSTEC Convention on Mutual Legal Assistance in Criminal Matters.

The first section of this brief examines the intricacies of the counterterrorism initiatives undertaken by each of the BIMSTEC countries. The second section then describes the initiatives taken by BIMSTEC as an institution. The third section ponders the challenges that hinder subregional cooperation, and explores future possibilities. The brief closes with policy recommendations.

COUNTER-TERROR LAWS IN MEMBER STATES

States suffering from terrorism, including BIMSTEC nations, have rolled out various initiatives to address the threats and mitigate their consequences. This section will briefly consider the different counterterrorism initiatives undertaken by the BIMSTEC countries.

Bangladesh

Bangladesh has taken the lead in the region in incorporating the United Nations Global Counter Terrorism Strategy with its domestic mechanisms that include the Counter-Terrorism Implementation Taskforce (CTITF). It has twice amended its Anti-Terrorism Act of 2009, making it more responsive to evolving terrorist threats.⁵ For example, the amendments prescribe capital punishment, and impose stiff financial penalties for terrorist and subversive activities, depending on their gravity. Further, to control the flow of funding for terrorist activities, Bangladesh

enacted the Money Laundering Prevention Act of 2012. Following the passage of this law, the Financial Intelligence Unit of the Bangladesh Bank has taken several steps to curb terrorism financing.⁶

Bangladesh is also party to some 14 UN Anti-Terrorism Conventions and Protocols, the UN Convention against Transnational Crime, and the UN Global Counter-Terrorism Strategy signed in 2006. It has been actively pursuing cooperation with other states, including India.⁷ In February 2017, on the sidelines of the second Gateway of India Geoeconomic Dialogue, the state ministers for foreign affairs of Bangladesh and India committed themselves to “constant engagements” to tackle emerging threats, including terrorism and radicalisation. It can be gleaned from these activities that Bangladesh has taken significant steps to strengthen its counterterrorism infrastructure and forge stronger partnerships with its fellow BIMSTEC states.

Nepal

Being landlocked, Nepal faces security threats that may differ from those suffered by other BIMSTEC states. Amongst the specific vulnerabilities of Nepal is the use of its territory as a breeding ground for terrorists. Nepal has instituted specialised units to respond to terrorist incidents, while its police officers continue to participate in the US Department of State’s Anti-Terrorism Assistance (ATA) program. Nepal has also acceded to the Asia Pacific Group on Money Laundering, a regional body in the manner of the Financial Action Task Force (FATF), a G7 initiative created in 1989.⁸

The Nepal Rastra Bank (NRB), the country’s central bank, issues licences and monitors business services that receive remittances.⁹ Only banks can legally transfer money out of Nepal. While money transfer services may receive inbound remittances, funds must be distributed to recipients through banks, which are required to collect data on the source.

The NRB issues directives to banks and other financial institutions to ensure that their systems are attuned to extant security mechanisms. Also, in 2014, the Nepal Parliament passed a statute that makes it a responsibility of not only banks and financial institutions, but also individuals, to follow the website of the Ministry of Home Affairs and Ministry of Foreign Affairs,¹⁰ which in turn is linked to the UN website and auto-updated.

Myanmar

For its part, Myanmar has adopted the comprehensive counterterrorism training package and plan developed by the UN Office on Drugs and Crime (UNODC), emphasising its commitment to implementing a “whole-of-nation” approach to counterterrorism.¹¹ The programme will be integrated into the training curriculum of the Myanmar Police Force (MPF), and will provide essential knowledge and skills to police and other officials across the country. Then in 2014, the Central Committee for Counter Terrorism was created to identify the best pathways in implementing the “whole-of-nation” approach to counterterrorism that the country made a commitment to with the UN. The training course established a pool of national trainers

who, in turn, provided training to national officials working in the field.

Sri Lanka

Counterterrorism in Sri Lanka has historically been focused on eliminating the Liberation Tigers of Tamil Eelam (LTTE or the Tamil Tigers).¹² Sri Lanka is also a member of the Asia-Pacific Group on Money Laundering and its financial intelligence unit is a member of the Egmont Group. The Sri Lankan government continues to use the Prevention of Terrorism Act (PTA) enacted in 1982 as a wartime measure, which gives security forces sweeping powers to search, arrest, and detain individuals.¹³ In April 2017, the Cabinet also approved a framework for new counterterrorism laws that will replace the Prevention of Terrorism Act (PTA), which was controversial as its enforcement reportedly resulted in human rights violations.¹⁴

Thailand

It may be said that amongst the BIMSTEC member states, it is Thailand that has taken a unique stance to counterterrorism, according more importance to socio-economic development and education especially in the country's rural and underdeveloped areas.¹⁵ Thailand has established Special Economic Development Zones in certain conflict-prone areas, where measures such as tax incentives, fee reduction, insurance premium subsidies and low-interest loans have been introduced.

Moreover, Thailand has established a number of Joint Working Groups (JWGs) on security cooperation with several countries to collaborate on security issues, including

counterterrorism. To facilitate law enforcement cooperation in the region, Thailand acceded to the ASEAN Mutual Legal Assistance Treaty in January 2006. Thailand also strictly controls the import and export of munitions and all military weapons, in accordance with its domestic laws, by licensing import and exports permits so that these are not transferred or re-exported to other countries.

Bhutan

The smallest country in the South Asia region, Bhutan too, has actively sought to tackle terrorism. The Royal Government of Bhutan strives to eliminate terror threats, especially via establishing a strong link between terrorism and illegal trafficking in drugs and, specifically, psychotropic substances. In an effort to engage internationally with the evolving threat of terrorism, Bhutan is a signatory to a number of mechanisms including UN treaties on terrorism. In 1991, Bhutan enacted legislation to enable the UN International Convention for the Suppression of Terrorist Bombings, Convention on Terrorism, and the South Asian Association for Regional Cooperation (SAARC) Convention of Terrorism and the Protocol. Recently, Bhutan formulated a specialised unit under the 'Special Reserve Police Force' in the Police Bill, to tackle terror threats emanating specifically from the Nepal-based Maoist rebels.

India

India has taken strides in forging bilateral ties and developing domestic policy to counter terrorism. In 2002, India passed the Prevention of Terrorism Act (POTA), widening the government's powers to combat terrorism.

However, after a series of reports regarding the misuse of POTA, the government repealed the act in 2004.¹⁶ The Armed Forces Special Powers Act (AFSPA), passed in 1958 supposedly for a limited time period, remains in place. Another act with a similar goal is the Unlawful Activities Prevention Act (UAPA), which accords the central government the power to declare as a terrorist “any association that engages in activities that support any secessionist claims” or that “disclaims, questions, disrupts” the sovereignty and territorial integrity of India.¹⁷

At the level of individual states, some such as Karnataka and Maharashtra have passed their own anti-terror laws. The Maharashtra Control of Organized Crime Act (MCOCA) and the Karnataka Control of Organized Crime Act are examples of such laws directed at individuals and groups suspected of being engaged in terrorist activities.¹⁸

BIMSTEC ON COUNTERTERRORISM

In July 2004 the BIMSTEC Summit declaration in New Delhi gave renewed importance to combating international terror. The member states vowed to not allow their territory to be used by terrorist groups for launching attacks against friendly governments.

In the summit held in November 2008, the member states further emphasised the need for close cooperation to combat all forms of terrorism and transnational crimes.¹⁹ During the summit, the members finalised the BIMSTEC Convention on Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking. In lieu of the convention on combating international terrorism, the member states

agreed to take concrete measures to step up cooperation and coordination among their law enforcement, intelligence and security organisations.

BIMSTEC is working to strengthen subregional cooperation on combating terrorism and transnational crime, while the member states are attempting to implement the convention on anti-terrorism. In the recent meeting of the countries’ national security chiefs, they discussed strengthening cooperation to counter security challenges. At the BRICS-BIMSTEC Outreach Summit in Goa in October last year, participating leaders discussed major priority areas for cooperation, including Counter-Terrorism and Transnational Crime. India has taken the leadership role in this area.²⁰

CHALLENGES AHEAD; SCOPE FOR COOPERATION

BIMSTEC countries face many challenges as they curb terrorism not only within their own territories but in the region as well. Yet the same obstacles should be viewed as avenues to foster greater collaboration. Firstly, one of the key hindrances in the implementation of policy by BIMSTEC has been lack of leadership and of a robust institutional set-up, necessary to undertake major reforms across various sectors. This has been exacerbated by regional disputes between member states– for instance, the antagonism between Bangladesh and Myanmar over the Rohingya exodus has sparked major difficulties in multilateral consultations, even on counterterrorism.

Secondly, BIMSTEC’s approach towards key problems has been top-down rather than bottom-up.

Lastly, it is also noteworthy that long-held prejudices between certain BIMSTEC states tend to surface during cooperation efforts, hampering such collaboration. For instance, the role of India has been of huge concern to the smaller BIMSTEC states like Nepal. This enduring mistrust between India and Nepal has even been stated as a reason for growing closeness between Nepal and China.²¹

This brief offers the following policy recommendations to improve the existing counterterrorism framework in BIMSTEC.

- Formulate a bottom-up model of policymaking, where concerns from the grassroots are incorporated adequately. For BIMSTEC to survive as an enabler of regional cooperation, it needs to foster more vibrant people-to-people contact.
- Understand the intricate interlinkages between the cause and consequence of terrorism with other compelling issues such as the refugee crisis and drug trafficking. An example is the relationship between Myanmar's refugee crisis and the radical extremism that is growing in its territory.
- Undertake more structured, forward-looking studies to better inform policymaking.
- Engage in regular updates of a BIMSTEC-wide, cross-sectoral terrorist threat assessment.
- Enforce stricter monitoring and evaluation of policy impacts to improve their efficacy. 

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ENDNOTES

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