

Anti Terror Laws : Meaning

Anti-terrorism legislation are laws with the purpose of fighting terrorism. They usually, if not always, follow specific bombings or assassinations.

(**Terrorism is the unlawful use of force or violence against persons or property to intimidate or coerce a government or its citizens to further certain political or social objectives.)*

(Assassination** is the act of deliberately killing a prominent person, such as a head of state or head of government)*

Anti-terrorism legislation usually includes specific amendments allowing the state to bypass its own legislation when fighting terrorism-related crimes, under alleged grounds of necessity. Because of this, suspension of regular procedure, such legislation is sometimes criticized as a form of "villainous laws" which may unjustly repress all kinds of popular protests. Critics often allege that anti-terrorism legislation endangers democracy by creating a state of exception that allows authoritarian style of government.

TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) ACT, 1987

Commonly known as TADA, the act was the first anti-terrorism law legislated by the Union government to define and counter terrorist activities. It was formulated in the back drop of growing terrorist violence in Punjab which had its violent effects in other parts of the country too, including capital New Delhi. The Act, which was criticised on various counts by human rights organisations and political parties was permitted to lapse in May 1995 though cases initiated while it was in force continue to hold legal validity.

Act came into effect on 23rd May 1985. It was modified in 1989, 1991 and 1993 and finally it was lapsed in 1995 because of its increasing unpopularity and allegations of abuse of power.

It was assented to on 3rd Sept 1987 and commenced from 24th Sept 1987.

The Act's third paragraph gives a very thorough definition of "terrorism":

"Whoever with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or 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 as is 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, or detains any person and threatens to kill or injure such person in order to compel the Government or any other person to do or abstain from doing any act, commits a terrorist act."

Powers

The law gave wide powers to law enforcement agencies for dealing with national terrorist and 'socially disruptive' activities. The police were not obliged to produce a detainee before a judicial magistrate within 24 hours. The accused person could be detained up to 1 year. Confessions

made to police officers was admissible as evidence in the court of law, with the burden of proof being on the accused to prove his innocence. Courts were set up exclusively to hear the cases and deliver judgements pertaining to the persons accused under this Act. The trials could be held in camera with the identities of the witnesses kept hidden. Under 7A of the Act, Police officers were also empowered to attach the properties of the accused under this Act. Under this act police have no rights to give third degree or harassed anyone to speak as mentioned in the act.

Impact

The problem with TADA was that it gave exceptional powers to law enforcement officials, which subsequently resulted in widespread torture, arbitrary detention and harassment of mostly innocent citizens. According to the United Nation Human Right Committee, the safeguards provided under the Act (TADA) are insufficient and they are not in consistent with international human rights law.

The number of people arrested under the act had exceeded 76,000, by 30 June 1994. Twenty-five percent of these cases were dropped by the police without any charges being framed. Only 35 percent of the cases were brought to trial, of which 95 percent resulted in acquittals. Less than 2 percent of those arrested were convicted. The TADA act was ultimately repealed and succeeded by the Prevention of Terrorist Activities Act (2002-2004) and this act was subsequently repealed after much controversy as well. Yet many continue to be held under TADA.

Prevention of Terrorism Act, 2002

The **Prevention of Terrorism Act, 2002 (POTA)** was an Act passed by the Parliament of India in 2002, with the objective of strengthening anti-terrorism operations. The Act was enacted due to several terrorist attacks that were being carried out in India and especially in response to the attack on the Parliament. The Central Government claimed that its action was a response to "An upsurge of terrorist activities, intensification of cross border terrorism and insurgent groups in different parts of country. "The ordinance granted state law enforcement authorities sweeping powers to investigate detain and prosecute for a wide range of terrorist related offenses. The Act replaced the Prevention of Terrorism Ordinance (POTO) of 2001 and the Terrorist and Disruptive Activities (Prevention) Act (TADA) (1985–95), and was supported by the governing National Democratic Alliance. The Act was repealed in 2004 by the United Progressive Alliance coalition.

It was assented to on 28th March 2002, and was repealed on 21st Sept 2004.

The Act defined what constituted a "terrorist act" and who a "terrorist" was, and granted special powers to the investigating authorities described under the Act. In order to ensure that discretionary powers granted to the investigating agencies were not misused and human rights violations were not committed, specific safeguards were built into the Act.

Provisions compared to TADA

Similar to the provisions contained in TADA, the law provided that a suspect could be detained for up to 180 days without the filing of a chargesheet in court. However, a very major change was introduced, in that unlike TADA, this act had no provision to allow preventive detention. Secondly, the matter of confessions made by the accused to the police. The general law in India does not recognise confessions made to police as evidence admissible in court, and permits a person to deny such confessions in court, but under POTA, confessions made to a police officer were admissible as evidence in court. POTA also allowed law enforcement agencies to withhold the identity of witnesses.

However, the POTA law did have some safeguards. Any decision on bail petitions or the verdict of the special courts constituted under this Act

could be appealed against, and the appeal would be heard by a division bench of the relevant High Court.

Impact and repeal

Once the Act came into force, many reports surfaced of the law being grossly abused. POTA was alleged to have been arbitrarily used to target political opponents. Only four months after its enactment, state law enforcement officers had arrested 250 people nationwide under the Act, and the number was steadily increasing. A mere eight months later, seven states where POTA was in force, had arrested over 940 people, at least 560 of whom were languishing in jail.

On 7 October 2004, the Union Cabinet under UPA government approved the repeal of the act. The Act was repealed by passing Prevention of Terrorism (Repeal) Act, 2004. NDA asked UPA to introduce the Act again, but Congress criticized it and did not pass the Act.