

Terrorising Act

Anything goes in the ‘war on Terror’ or so it seems. Governments around the world have used it as an excuse to enact repressive Acts and indulge in unchecked human rights violations. The resurrected Congress government at the Centre is now doubly encouraged to implement the notorious Unlawful Activities (Prevention) Act—UAPA—with a view to containing ‘ever growing’ terrorism. But the very definition of terrorism remains as vague as ever. Any voice of dissent challenging the status quo can be described as an terroristic act. Surprisingly, cross-border terrorism with its roots in Pakistan is no longer in the news. Nor does communalism get currency, albeit the submission of the Justice Liberhan Committee report on Babri mosque demolition may be a new area to whip communal passion. Though maoists are the immediate target of UAPA, democrats and liberals who are against undue curtailment of individual rights and liberties won’t be spared.

For all practical purposes UAPA means emergency by the backdoor. Most of the provisions of the earlier scrapped POTA on account of strong reactions triggered by a history of huge misuse against the minorities, other marginalised sections of the society, people struggling against social and political injustices and also known opponents of those in positions of power have been brought back. Only the provision for legal admissibility of a “confession” made in police custody is left out. But there are other areas where its reach has further extended. The most important aspect, however, is that the court has to treat an accused as guilty till proved otherwise and unless the court finds the accused *prima facie* innocent it won’t grant any bail to the accused. In case of a “foreign national”, there is just no provision for any bail, whatever. Maybe, the clause is specifically designed to harass Pakistani and Bangladeshi nationals. But this in reality runs counter to the recent Supreme Court directive that during a trial granting of bail should be the norm and rejection an exception.

The draconian UAPA will certainly tend to turn the high handed, corrupt and lousy police force even more so and thereby further worsen the situation. Instead of offering a considered response to the growth of ‘terrorism’, all state governments armed with UAPA will feel emboldened to resort to questionable methods such as permitting indefinite detention of terror suspects, the use of coercive interrogation techniques and the denial of the right to fair trial.

During the India-China border war in the early sixties communists and a large number of progressives having sympathy for the communist cause were put behind bars without trial for an indefinite period. They were perceived as a threat to national security. It was external emergency then. But now it is the era of internal emergency, rather perennial emergency, without officially promulgating it. And the so-called internal threat as all political parties agree on it, comes from maoists. True, maoists don’t participate in elections. But that doesn’t mean they have no right to mobilise the aggrieved masses against social and economic injustices.

The entire thrust of UAPA is to “tighten the law” to ensure “conviction” of the accused by granting more powers to the law enforcing agencies whose

performance in stalling terrorist attacks amidst repeated claims of bursting the “terror modules” and capturing, and also “neutralising” through encounters, the innumerable “masterminds” remains utterly and increasingly dismal. No doubt government surveillance over citizens and unfair restrictions on immigration will increase. In other words civil liberties movement will face severe obstacles because anybody demanding justice can be described as maoist (or terrorist) and UAPA can be applied against him.

Civil Liberties Movement in the country arose and gained momentum against the backdrop of Indira Gandhi’s internal emergency. Without a concerted and unified voice against draconian laws whatever remains of democratic culture and judicial validity will vanish. The right to fair trial for all individuals, irrespective of how heinous their crimes maybe is a basic right. Any dilution of this right as enshrined in UAPA, will count as a moral loss against those who preach hatred and violence. But the persons in authority refuse to see the ground reality.

The fact remains that any state police force in the country can hardly do anything to avert violent incidents, spontaneous or otherwise unless socio-economic disparity is addressed in earnest.

The saffron brigade has always been in the forefront to have tougher laws on their foundational assumption of some perpetual enmity and a permanent “enemy camp” to tackle “terrorism” (or maoism). And now Congress is executing their agenda—ideological negation and physical liquidation of what they call ‘the biggest democracy of the world’. □□□