

By ALBERTINA ALMEIDA



What Really is Unlawful or Terrorist Activity?

With the *Unlawful Activities Prevention Act, 1967, (UAPA)*, being invoked yet again, this time against Shoma Sen, head of the post-graduate Department of English at Nagpur University, Surendra Gadling, an advocate, Sudhir Dhawale, the editor of *Vidrohi*, a radical political magazine, Mahesh Raut, a former Prime Minister's Rural Development Fellow, and Rona Wilson, Secretary of the Committee for the Release of Political Prisoners, the issue of what constitutes Terrorist Activity has once again come to the fore. According to State sources the activists have been arrested, in the name of countering "Naxalites" and with a view to breaking down the urban design of the Maoist activists.

The UAPA offers a truly breathless definition of terrorist activity as ranging from any act done with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country, by using explosive or inflammable substances or lethal weapons or any other substances of a hazardous nature or by any other means of whatever nature, which, among other things, may cause or be likely to cause death 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, to an act of overawing by means of criminal force or the show of criminal force or attempting to do so or causing death of any public functionary or attempting to cause death of any public functionary; or the act of detaining, kidnapping or abducting any person and threatening to kill or injure such person or any other act in order to compel the Government of India, any State Government, or the Government of a foreign country, or an international or inter-governmental organisation, or any other person, to do or abstain from doing any act.

Economic security in turn has been defined to include financial, monetary and fiscal stability, security of means of production and distribution, food security, livelihood security, energy security, ecological and environmental security.

The definitions are not only lengthy but as vague as vague can be. It appears that the terms in the definition have been inserted precisely to dispense the executive and the judiciary of

accountability. It might be useful to ask whether according to basic principles of law, someone can be held culpable for acts that are not clearly defined. For what is an unlawful or terrorist act lies in the eyes of the beholder and the definition is completely subjective and arbitrary defying the norm of certainty required to hold a person criminally liable.

This legislation has also been invoked for professing an ideology or certain political beliefs or Maoist sympathies, for political dissension or protest as for instance, speaking out against usurping of mineral resources by corporates, both Indian and multinational, or speaking up for marginalized communities such as Dalits or minorities. The Act has been invoked in the past for being in possession of literature that indicates political dissent or opinion different from Hindutva. Literature such as a pamphlet opposing the Surjagad project or a pamphlet condemning the Khairlanji massacre, CDs—with titles like “Video on Sri Lankan War Crimes,” “A Few Myths & Facts About Salwa Judum Concentration Camps,” “Meeting on Kashmir-4, 21 October 2010 Arundhati Roy Amit Bhattacharaya,” “Mati Ke Lal,” “BBC Documentary on KASHMIR”, which clearly are addressed to issues of justice too, have been persecuted/condemned under this law. Further, possession of an organisation’s literature, or one photograph of a woman with gun, or what was called “jihadi literature” has also been held suspect. The Act has been invoked to arrest those attending meetings of Committee for Release of Political Prisoners (CRPP) and Revolutionary Democratic Front (RDF), both of which are organisations that are not banned. It has also been invoked against journalists conducting interviews that would expose State violations of human rights.

Thus the law and its (mis)use have made a mockery of Articles 19, 21 and 25 of the Constitution of India, which guarantee freedom of speech and expression, right to life, and freedom of conscience and free profession, practice and propagation of religion.

Every political dissenter who is in disagreement with the ideology of the ruling dispensation at the time, becomes a target of the State. Presently, it is political disagreement with the ideology of Hindutva and the Hindutva way of doing politics. It can also be political disagreement with the dominant politics of globalization which requires that the rights of corporates to profit be privileged over the rights of ordinary citizens. As the People’s Union for Civil Liberties has said in its press release condemning the recent vindictive and arbitrary arrests, “any democratic protest is labeled as unlawful activity against the State.”



On the other hand, certain facts which should have invited attention, as possible leads to possible criminal activities, even despite the UAPA, have not merited an inquiry at any level. Lynchings, as a result of which Dalits or Muslims were terrorized, have not, to my knowledge, been considered for registration under UAPA, and in fact cow vigilantes of Jharkhand convicted of lynching have even been garlanded, by none other than a present Union Minister, and that again has escaped the view of the law enforcement machinery.

At another level, given the long and vague definition, just anyone is susceptible to be booked under this law. If, for instance, unlawful activity is about energy security being threatened by one's action, if you interrogate the energy policies and practices of the Government as not encouraging use of renewable energy and advancing energy consumption that is threatening to the environment and in turn threatening to the generation of clean energy, you can be hauled up for threatening energy security. You may think that energy security is threatened by coal mining or import of coal, and in your eyes, the Government's activity or oversight of activity of coal handling may be detrimental to the interests of the nation who according to you is the people who comprise it. But because the Government thinks the energy security is ensured by extensive coal mining or import of coal and coal transportation using Goa as a corridor, your position is threatening to the State's position. This is as vague and weird as it gets.

Therefore such a law where the definitions are vague and which essentially restricts our freedom of speech and expression and poses a threat to our very existence, does not deserve to be on the statute book. We must in fact up the demand for repeal of Unlawful Activities Prevention Act, 1967, lock, stock and barrel.

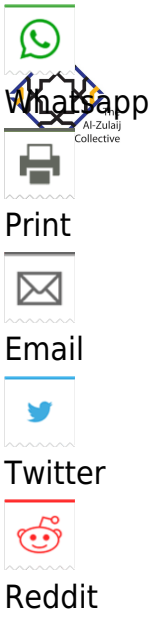
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