

Coordination of Democratic Rights Organizations (CDRO)

All India Convention against the Unlawful Activities (Prevention) Act

RESOLUTION

In the wake of the widespread use of the Unlawful Activities (Prevention) Act [UAPA], the Coordination of Democratic Rights Organizations (CDRO) organized a day-long convention on 24 July 2010 at Delhi. Representatives of civil liberties and democratic rights organizations from Rajasthan, West Bengal, Gujarat, Maharashtra, Delhi, Haryana, Andhra Pradesh, Chhattisgarh, Manipur and Jharkhand shared the facts about the implementation of the Unlawful Activities (Prevention) Act (UAPA) in their respective states.

The convention ended with the adoption of the following resolution:

The UAPA is a piece of legislation whose purpose is far removed from any notion of justice. This law is designed to give the state limitless power to choose the group, the section, the political opinion that it wishes to describe as criminal and to attack it with legislated violence. Hence the UAPA is merely a weapon in the hands of governments masquerading as a statute of the judicial system. Through this law governments have obtained the power to label whatever organisation they find uncomfortable as unlawful and terrorist.

The UAPA overturns every tenet of a democracy, violates the fundamental rights enshrined in the Constitution, violates every provision in the criminal justice system meant to safeguard the innocent, and every international covenant and declaration concerning rights of the individual.

It is an especially miserable juncture of our history that such legislation finds no opposition from parliamentary political parties. The support of the Left Front government to the UAPA amendment marks this consensus. That such an undemocratic and hated legislation finds total support in legislatures, speaks volumes about the state of our political establishment.

The continued operation of the UAPA and its predecessors like the TADA, POTA and similar state laws over the last 25 years has slowly and silently eroded legal procedures and constrained democratic spaces through provisions which curb the formation of associations, collective expression of dissent, and finally attack the life and liberty of the individual and their right to free expression. Its logical outcome is to silence people at large when government policies threaten their land, resources, and livelihood.

The UAPA defines "Unlawful Activities" and "Terrorist acts" in such vague manner as to make its application wholly dependent on the discretion of the government. A glaring example of this is the recent omnibus FIR by the Gujarat police. The FIR does not describe the commission of any offence. Its vague language has already led to arrests of unconnected persons from different states and this threatens to clamp down on all kinds of peoples movements throughout the state.

The impact of the UAPA thus extends to every part of the country. The non-existence of an armed opposition in a state does not prevent its use. There are numerous instances of the use of the UAPA and arrest of people under the Act from regions that have no violent activity. These include many cases being filed and arrests made under this Act in Punjab, Uttarakhand, Gujarat and Haryana.

The provision of banning organizations and provisions that criminalize all forms of association with a banned organization cast the net so wide that every form of political opposition to the government can be proscribed and such persons prosecuted under the Act. Once banned, an organization is denied the right to engage in legitimate mass organization activities, leaving it no option but to carry on its struggles

through violent and armed means. Activities of organisations such as the PCAPA were limited to mass protests against police atrocities. Police claims that PCAPA is associated with a banned organization has today forced its activists to be on the run. The Vanvasi Chetna Ashram, and Mathangini Mahila Samiti and many civil rights organizations are being targeted in this manner. Thus UAPA defeats its own stated purpose – it encourages the expression of dissent in the same form that it ostensibly set out to contain.

The impact of UAPA goes well beyond the text of the law. Propaganda machinery of the governments project those charged under this Act as an especially dangerous category of criminals, based on half-truths and outright lies. The public misinformation then feeds the judicial mind and vice versa. So that independent of the UAPA provisions and the untenable charges, bail can be routinely refused and torture and illegal detention of the accused by the police can be conveniently overlooked. The BKU President in Punjab faced brutal torture while on police remand. Glaring wounds on his head and doctor's reports could not get the court to take action against the errant police officials. This kind of brazen behavior of the police and the apathy of the courts is an outcome of the UAPA. Most dangerously, in West Bengal the prosecution has begun demanding that trials in such cases be held within the jail.

Such illegal behaviour by the law enforcing agencies extends to frustrating the will of the court. In the rare instance that the court decides to set an accused free, the police re-arrests by fabricating another case. And this continues repeatedly, till the sheer number of such fake charges prevents the judge from setting the accused free. UAPA, in this manner, not only ensures the admissibility of lies, but forces the court to uphold them.

Long periods of police remand are routinely provided to people charged under the UAPA. Police remand being a euphemism for torture, threats and confessions under duress, policemen are interested in increasing this period to bolster the fake charges. The courts have been a willing ally and such examples abound. Repeated registration of the same FIR in different districts in Punjab leading to repeated police remand, and the police remand to Seema Azad beyond the legally permitted period are cases in point.

Denial of medical help to those arrested under the UAPA is becoming a norm. Police use the specious argument claiming inability to reach the accused to the hospital, while the courts stand by watching their orders being flouted. The death of Swapan Dasgupta, editor of the *Bengali People's March*, is directly the result of the callous approach of the executive and the courts towards those accused under this Act.

The arbitrariness built into the UAPA permits the governments to use the law to suit their vested interests. This leads to a targeting of those sections which are most vulnerable. Banning of Muslim organizations that have no recorded history of violent activity is a case in point. Similarly, the overwhelming majority of the arrested in Haryana are dalits protesting against upper caste oppression and forcible denial of access to community resources. In many instances the use of UAPA is directly related to pushing through anti people development policies by the government and to quell people's opposition to it. In this fashion, the UAPA has become a weapon in the hands of the elite to forcibly dispossess the weak.

The CDRO resolves to intensify the struggle for the repeal of the UAPA and to decriminalize legitimate democratic activity. It resolves to organize protests against the law throughout the country. The CDRO shall also collect and disseminate the truth about the operations of UAPA.

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