

Terrorist and Disruptive Activities (Prevention) ACT (TADA), 1987

Dr. Paromita Chakraborty, Surendranath College

This act extends to the whole of India, and it applies also to citizens of India outside India. The Act came into force on the 24<sup>th</sup> May, 1987 for initially a period of eight years.

The act punishes those who have:

1. communication or association with any person or class of persons who is engaged in assisting in any manner terrorists or disruptionists;
2. the passing on, or publication of, without any lawful authority, and information likely to assist the terrorists and the passing on, or publication of, or distribution of, any document or matter obtained from terrorists;
3. the rendering of any assistance, whether financial or otherwise, the terrorists;

The act also punishes anyone who tries 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 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,

- 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,

Whoever commits a terrorist act, shall, -

(i) if such act has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to fine;

(ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

(3) Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to a terrorist

act, shall also be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

(4) Whoever harbours or conceals, or attempts to harbour or conceal, any terrorist shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

(5) Any person who is a member of a terrorists gang or a terrorist organisation, which is involved in terrorist acts, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

(6) Whoever holds any property derived or obtained from commission of any terrorist act or has been acquired through the terrorist funds shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

#### Punishment for disruptive activities:

(1) Whoever commits or conspires or attempts to commit or abets, advocates, advises, or knowingly facilitates the commission of, any disruptive activity or any act preparatory to a disruptive activity shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

("disruptive activity" here means any action taken, whether by act or by speech or through any other media or in any other manner whatsoever, which questions, disrupts or is intended to disrupt, whether directly or indirectly, the sovereignty and territorial integrity of India)

Habeas Corpus – In habeas corpus proceedings if the detention is legal at the time of the disposal of the petition the Court cannot order release of the person detained by issuing a writ of habeas corpus.

#### Public Prosecutor

A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

### Certain confessions made to police officers and regarding witness protection

A confession made by a person before a police officer not lower in rank than a Superintendent of Police and recorded by such police officer either in writing or on any mechanical device like cassettes, tapes or sound tracks from out of which sounds or images can be reproduced, shall be admissible in the trial of such person.

The police officer shall, before recording any confession shall explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him.

A Designated Court may, on an application made by a witness in any proceedings before it or by the Public Prosecutor can take such measures as it deems fit for keeping the identity and address of any witness secret.

### Regarding bail plea

No person accused of an offence punishable under this Act or any rule made thereunder shall, if in custody, be released on bail or on his own bond unless:

1. the Public Prosecutor has been given an opportunity to oppose the application for such release, and
2. where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.