

**GOVERNMENT OF INDIA  
HOME AFFAIRS  
LOK SABHA**

STARRED QUESTION NO:89  
ANSWERED ON:01.03.2011  
TREATMENT OF ALLEGED CRIMINALS  
Owaisi Shri Asaduddin

**Will the Minister of HOME AFFAIRS be pleased to state:**

- (a) whether the Supreme Court has ruled that mere membership of a banned organisation is not a sufficient basis to treat a person as criminal unless he or she resorts/incites people to violence;
- (b) if so, the reaction of the Government thereto;
- (c) whether the Government proposes to amend the Unlawful Activities (Prevention) Act (UAPA) in the light of above and also review the third degree methods used by the police for extracting confessions from the alleged accused; and
- (d) if so, the details thereof?

**Answer**

MINISTER OF THE STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI GURUDAS KAMAT)

(a) to (d): A statement is laid on the Table of the House.

STATEMENT IN REPLY TO PARTS (a) TO (d) OF THE LOK SABHA STARRED QUESTION NO. 89 FOR 01.03.2011

(a): In two matters pertaining to convictions under the Terrorist & Disruptive Activities (Prevention) Act, 1987 (TADA) (Criminal Appeal No. 889 of 2007 and 1383 of 2007) – the apex Court vide its judgement of 3.2.2011 and 10.2.2011 has, inter-alia, observed that mere membership of a banned organization will not incriminate a person unless he resorts to violence or incites people to violence or does an act intended to create disorder or disturbance of public peace by resorting to violence.

(b): As per available information, the State Government of Assam have decided to file a Review Petition in both the cases, as the judgement was passed in the matters pertaining to action taken by the State Government of Assam. As the Hon'ble Supreme Court has also extended its observation in one of the cases to Section 10 of the Unlawful Activities (Prevention) Act (UAPA), the Union of India would also implead itself as a party to the said petition (s) for review.

(c) & (d): There is no proposal to amend the Unlawful Activities (Prevention) Act, at this juncture, in light of the observations of the Hon'ble Supreme Court in the above mentioned two judgements.

The Government follows a policy of zero tolerance towards Human Rights violations. The Central Government has also been issuing guidelines to the State Governments from time to time advising them to ensure that adequate steps are taken to check instances of custodial torture and deaths.

A Bill titled 'The Prevention of Torture Bill, 2010' was introduced in the Lok Sabha on 26.4.2010 and passed on 6.5.2010, and has since been considered by a Rajya Sabha Select Committee. The Bill, inter-alia, provides for punishment to those involved in the offence of torture.