

**(viii) Need to bring a comprehensive Bill to amend SC/ST order of 1950.**

SHRI BHADRESWAR TANTI (Kaliabor): The tea and ex-tea tribes population in Assam constitute 25 per cent of the total population. These people were taken by the British tea planters to Assam in 18th century from Orissa, Bihar, Madhya Pradesh, Andhra Pradesh and West Bengal with a view to engage them in tea plantation as labourers. The original character of the said people is tribal. In their State of Origin, most of these people have been recognised as SC/ST *vide* SC/ST order of 1950 and they are getting all the benefits under the Schemes in their respective States but not in the State of Assam. In the State of Assam, they have been recognised as 'Most Other Backward Community' and the benefits rendered under these schemes are very limited. It may be stated here that less than .01 per cent educated persons are there even after 40 years of independence. The people through their social organisations like Assam Adivasi Council, Tea Tribes Youth Association, Purbanchaliya Chah Mazdoor Sangha, Assam, Tea and Ex-Tea Tribes Yuva Chatra Parishad, Assam, Tea and Ex-Tea Tribes Student Association and many other organisations have been demanding from the State Government as well as union Government since 1958 for inclusion of the said communities in SC/ST Order. The Government of India constituted Lokur Commission and A.K. Chanda Commission. These Commissions have given a conscious view that the said communities be included in the Scheduled Caste Order.

Taking all the matters into consideration, the Government of Assam in 1978 had recommended only 9 tribes out of the Tea and Ex-Tea garden tribes of Assam to the Central Government and the matter is hanging in the balance till now. I, therefore, humbly request the Union Government to bring a

comprehensive Bill for amending of the SC/ST Order of 1950 under the Constitution and include all the genuine and deserving castes and communities in the purview of the Scheduled Castes Order.

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THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE PRIME MINISTERS OFFICE (SHRIMATI SHEILA DIKSHIT): Mr. Deputy-Speaker, Sir, may I propose that we adjourn for Lunch after the Minister's reply on the Terrorist and Disruptive Activities (Prevention) Amendment Bill and the Chandigarh Disturbed areas (Amendment) Bill?

SHRI C. MADAV REDDI (Adilabad): After Lunch let us take up the reply.

SHRIMATI SHEILA DIKSHIT: The Minister has to go to the other House.

SHRI C. MADAV REDDI: If it is a short reply, then I have no objection.

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13.03 hrs.

TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION AMENDMENT BILL-

*Contd.*

AND

CHANDIGARH DISTURBED AREAS (AMENDMENT) BILL - *Contd.*

[*English*]

MR. DEPUTY-SPEAKER: Now the House will take up item nos. 19 and 20. Shri P. Chidambaram.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Mr. Deputy-Speaker, Sir, I am grate-

ful to the hon. Members who have participated in his brief debate on the amendment to the Terrorist and Disruptive Activities (Prevention) Amendment Act, which would have the effect of extending the life of the Act for another two years. I am particularly grateful to Mr. Ayyapu Reddy, Mr. Thampan Thomas and Mr. Amal Datta, who have made valuable points.

Sir, when this Bill was made two years ago in 1987, we candidly admitted that we were introducing certain provisions in the Act keeping in view the rather difficult situation in Punjab and perhaps difficulties which may arise in some other States. Although there was severe criticism of certain provisions of this Bill, I tried my best to explain that these provisions were not novel or unusual provisions and such provisions are found in the laws of some other countries. Similar provisions are available in Indian laws and what we were trying to do is only to tighten some of these provisions so that they can be used for controlling terrorists. Sir, I also assured the House that we would not be content with merely making the Act or the rules but we would issue detailed instructions to the State Governments on the manner in which the Act should be used. We issued such instructions on the 9th of September, 1987. After recapitulating the provisions and explaining the significance and scope, we said and I wish to quote only two paragraphs of those instructions:

"The provisions of this Act like those of the Terrorist and Disruptive Activities (Prevention) Act, 1985 and the Terrorist and Disruption Activities (Prevention) Ordinance, 1987, bestow wide ranging powers to law enforcement authorities to deal with terrorist menace effectively. While effective use of the new provisions to tackle terrorism is imperative, at the same time care should be taken to ensure that there is no misuse or abuse

of those provisions resulting an harassment of innocent of innocent persons. These provisions should not be made use of for dealing with legitimate political and trade union activities. It is once again reiterated that it may be desirable to provide for a mechanism whereby available information against any individual proposed to be proceeded against under the Act is carefully scrutinised at a fairly senior level and an objective assessment of the material against him is made. It is needless to emphasise that the progress of investigation and trial of cases registered under the Act would require monitoring on a continuing basis. A proper machinery may be set up for the purpose."

Mr. Ayyapu Reddy and some other hon. Members desired to have information about the number of cases which have been registered in various States and the number of convictions obtained. In fact, I do not know if the plea made by Mr. Ayyapu Reddy is quite consistent with the way in which, say, for example, the State of Andhra Pradesh is applying the Act. While the States seem to want this Act, seem to be using this Act, I am surprised that hon. Members representing those very States are pleading against the extension of the Act.

SHRI E. AYYAPU REDDY (Kurnool): The police are the same. They are the IPS people. Their mentality and tendency is the same. It does not matter which is the ruling party. This has been our experience this side or that side.

SHRI P. CHIDAMBARAM: All I am pointing out is that the Government of Andhra Pradesh seems to welcome the Act. I can give examples. The Government of Haryana welcomes the Act. The Government of West Bengal has welcomed the Act and is using it.

**SHRI E. AYYAPUREDDY:** Every State agency would like to arm itself with greater power.

**SHRI P. CHIDAMBARAM:** It is very difficult to believe that the ruling party in Andhra Pradesh does not want this Act and yet the Government of Andhra Pradesh wants this Act.

**SHRI E. AYYAPU REDDY:** It is not a question of my representing the ruling party. I am speaking here on the rights of a citizen. It is not as if we speak the views and policies of a ruling party.

**SHRI P. CHIDAMBARAM:** I appreciate that. But what I wish to say is that each one of us belongs to a party. It is the political party which is to take a policy decision. It is the political party's policies that we expose in Parliament. Parliament is a political body. If the ruling party in Andhra Pradesh has no quarrel with this Act, I am surprised that an hon. Member belonging to that ruling party takes exception to the extension of the Act. That is all the point I am making. If my party did not believe in this Act, the Government of this party cannot bring this Act. If my party in a State does not believe in this Act, the Government of that party cannot apply the Act. Take for example the designated courts. The highest number of designated courts are in Andhra Pradesh i.e. 46 courts. 840 cases have been registered by the police, 268 have been challenged, 191 are pending trial and 19 persons have been convicted by the courts and 216 have been acquitted.

**SHRI E. AYYAPU REDDY:** The hon. Minister must really find out from this whether there is any terrorist and disruptive activity in Andhra Pradesh. According to your information do you really think that there is terrorist and disruptive activity in Andhra Pradesh?

**SHRI P. CHIDAMBARAM:** 19 people have been convicted under this Act. How

can I turn round and say that there is no terrorist and disruptive activity?

**SHRI E. AYYAPU REDDY:** It is all on account of section 5 which has nothing to do with terrorist and disruptive activities.

**SHRI P. CHIDAMBARAM:** Obviously there is a difference of opinion within the ruling party in Andhra Pradesh.

They wanted figures. I will read figures of major States only. Gujarat, of which some criticism has been made, has 18 designated courts. 693 cases have been registered by the police, 412 were challenged, 297 are pending trial and 15 persons have been convicted. Haryana has four designated courts. 127 cases have been registered by the police, 96 challenged, 76 are pending trial and 14 persons have been convicted. In Punjab, there are four designated courts—for each Range we have got one—6,659 cases were registered by the police. 2,443 cases were challenged, 1,930 cases are pending trial and forty one persons have been convicted. There was some criticism that Gujarat is misusing this Act. In 1987 I had occasion to review the matter. I also felt that Gujarat was perhaps being a little overzealous in applying this Act. I went to Ahmedabad. We had a long discussion with the Chief Minister and his officers. Based on that discussion, Gujarat reviewed 84 cases and agreed to drop 59 cases involving 593 persons. I believe—I may be wrong—that after this review was done in 1987, there has been no criticism that the Gujarat Government is misusing the provisions of this Act.

It is true that the appeal lies only to the Supreme Court. That is the provision contained in Section 19. It is also true that confessions to police officers in certain circumstances are admissible. That is the provision contained in section 15. It is also true that in certain circumstances, the confession by a co-accused would shift the

burden of proof to the accused. That is contained in section 21, sub-section (1), clause (c). But these are provisions which I had already explained two years ago. We had a very animated debate on this. I read parallels in other systems of law, I showed other provisions in our Evidence Act, and I was at pains to explain that these provisions, seemingly harsh, are not novel or unusual provisions but these are very necessary in our fight against terrorism. Sir, I have really nothing to add to what I said. These provisions are there. These provisions are necessary. If there is any particular case of abuse of a provision, certainly we will look into it. Our instructions are comprehensive and our instructions are intended to ensure that the Act is not misused...*(Interruptions)*.

SHRI K. RAMACHANDRA REDDY (Hindupur): Sir, when the Minister had piloted the Bill last time, he had given an assurance that the provisions of this Bill will be made applicable only for two years. Now again he has come forward with the proposal that it should be made applicable for two more years. When he had made a promise, then why should he go back from that promise?

SHRI P. CHIDAMBARAM: Sir, I wish the Hon. Member reads my speech. It is true that we said that we hope that this Bill would not be required to be extended beyond two years and we would be able to contain and control terrorism within two years. It was a hope which was expressed and I continue to express the hope that it would not be necessary to continue this Bill for very long. Take, for example, the National Security Act, section 14A, which is specially made for Punjab. Even before its period expired on the 8th of June, we have come to this House and said that we do not propose to invoke section 14A. Take, for example, the Armed Forces (Special Powers) Act. It applies to the whole of Punjab. But we have voluntarily come and said it will now apply only in three districts of

Punjab; it will not be applied in nine districts. Take, for example, the Foreigners Act, under which restrictions are placed. We placed restrictions. But today we are confident that we can come before this House and say that all restrictions on foreigners are removed. We have to constantly review the situation. If we feel confident that these laws are not necessary, certainly we will withdraw these laws. Today we have withdrawn many laws, many restrictions which applied only to Punjab. TADA is not an Act which applies to Punjab alone, TADA applies to the whole country. States have told us that they find this an effective instrument in containing extremist violence. No State has told us that TADA is not necessary. No State has told us that TADA should come to an end. On the contrary, the figures that I have read, indicate that the TADA is a useful instrument in the hands of States, if it is sparingly used. Therefore, while the States welcome TADA, it would not be correct for us in Parliament to say that the States may welcome TADA but we are going to withdraw from TADA. So, when we reach a situation where more States are confident that they can contain extremist violence or terrorism without TADA, certainly we shall withdraw from TADA. When we are confident that in Punjab we can contain terrorism or the remnants of terrorism with ordinary laws, we shall certainly withdraw the special provisions which can be applied to an area which is declared as disturbed.....*(Interruptions)*.

SHRI K. RAMACHANDRA REDDY: What is the present position of the success of this Act in Punjab. You have used it for two years. Are you able to contain terrorism?

SHRI P. CHIDAMBARAM: I have just told you that we have got 41 persons convicted in Punjab. If you know the way in which the criminal justice system works in Punjab, I think getting convictions for 41 persons is a tremendous achievement. I can only ask you to look into what is happening



[Sh. P. Chidambaram]

there. I monitor personally on a weekly basis the most various terrorists cases about 25 or 30 cases. It is a heart-breaking experience. For one reason or the other, the trail is delayed. I do not wish to go into the reasons because it would be rather harsh on people involved. It is an extremely difficult proposition in Punjab today to go to trial and get a conviction. Recently a delegation from Ireland was here. I was speaking to the MPs of Ireland. We were sharing our experiences on how to contain terrorism. They also have a terrorist problem. They said that every single case in Ireland went to trial and they got convictions. Such a law exists in Ireland. This is according to the MPs of Ireland. If the Superintendent of Police went to the court and gave evidence that he had information that 'X' was a terrorist, 'X' belongs to terrorist group, then the case would be tried under that Act and severe restrictions are there and they try such offences under that law, only on the oral evidence of an SP in Ireland. We do not have such provision here. Therefore, containing terrorism through the judicial process is a very difficult job. But we are committed to the principle that every terrorist who is apprehended will face trial. 41 persons have been convicted. In fact, you should compliment the administration in Punjab for trying to bring more and more people within the judicial process and trying to get convictions within the judicial process. Let me tell you if the judicial processes are not available for convicting the terrorists, what will happen is only extrajudicial methods will rule the roost in Punjab or anywhere in the country. In any State this will happen. Once upon a time, it was happening in Bengal. To some extent, it is happening in some other States. Therefore, we must have faith in the judicial system and try to bring as many of the crimes as possible within the judicial system. 41 persons have been convicted after this Act has been passed and I think, this is a tremendous achievement given the very difficult

conditions under which the Courts function in Punjab. Sir, I will be done after pointing out to this House one of the promises which the Prime Minister made while announcing the package. He said that we will issue detailed instructions for TADA being sparingly used. Such detailed guidelines are being provided. They are in the process of issue. I only wish to highlight one or two aspects of these guidelines. We are now instructing the Police in Punjab that no case will initially be registered under TADA. The initial F.I.R. will only be registered under ordinary laws including the I.P.C. If the facts of the case attract TADA, a proposal would have to be made by the Investigating Officer, by the concerned Police Officer to a higher authority and TADA provision can be added to the F.I.R. only after obtaining written permission of the SSP. We are also providing that the D.I.G. of the Range will have the special responsibility to review every case registered under TADA once in three months and if he is satisfied that the case should not be investigated under TADA or there is no basis for continuing the case under TADA, he will direct that the TADA provision be dropped and the case be reverted to the ordinary laws. We are also providing mechanism where the D.M. can also, if he has a complaint, refer it to the Home Secretary. We are also providing a mechanism at the State level to monitor the progress of cases registered under TADA, Sir, I sincerely hope that with this very material change that we are making in the process of registration of cases, the few complaints that TADA is being misused in Punjab will also vanish and TADA will become an effective instrument to contain terrorism which continues to plague Punjab. As long as we have terrorism in Punjab, as long as we have extremist violence in parts of the country, I am afraid, Sir, much as I regret it, we have to live with this Act for a little more time. With these words, I would request the hon. Members to pass this Bill.

Sir, about the Chandigarh Disturbed areas Amendment Bill, I would submit that it is a very simple amendment which provides that prosecution and other legal proceedings against the para-military forces must be done with sanction. The Act provides for sanction of the Administrator. We think that the sanction powers should be with the Central Government. This will bring the Chandigarh Disturbed Areas Act on par with the Armed Forces (Punjab and Chandigarh) Special Powers Act, where the power of sanction is granted to the Central Government. We think that this should be available to the Central Government and not to the Administrator. These laws must be, more or less, on par with each other. I, therefore, request that hon. Members may also pass the minor amendment we are bringing through the Chandigarh Disturbed Areas (Amendment) Bill. So, with these words, Sir, I commend the two Bills to this House.

MR. DEPUTY SPEAKER: The question is:

"That the Bill to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987, be taken into consideration "

*The motion was adopted.*

MR. DEPUTY SPEAKER: The House will now take up clause by clause consideration of the Bill.

*Clause 2 - Amendment of Section 1 of Act  
28 of 1987*

SHRI E. AYYAPU REDDY (Kurnool): I beg to move:

Page 1, line 7,

for "four years" substitute-

"two years and six months" (1)

MR. DEPUTY SPEAKER: Shri Syed Sahabuddin—not present.

SHRI E. AYYAPU REDDY: Sir, just now, the hon. Minister gave us the factual data. This Act was passed two years ago. Its life was to expire on 24th May, 1989. When I opened the debate yesterday on this Bill, I did not have the information required for. In fact, even in the Statement of Objects and Reasons, this information was not there. But the broad and general impression was that this Act as being misused or rather improperly used for dealing with ordinary cases. Yesterday, the hon. Minister was not here. This is illustrated by the judgement of the Supreme Court in the case coming from Gujarat where the learned Judge has said, simply because the case is registered under the TADA and the matter is before the designated court he should not apply the stringent provisions of the TADA Act and refuse bail, but he must see whether it is attracted by the provisions of the TADA Act or not and then remit back the case. Fortunately, after this judgement of the Supreme Court, many many ordinary citizens who would have been tried only under the ordinary provision of the Arms Act, got bail. Otherwise, most of them in other States would have been suffering in jails.

Sir, the figures given shows that Andhra Pradesh has got the biggest number of designated courts, 49 he said, whereas in Punjab there are four designated courts. The argument of the hon. Minister is that my State Government has welcomed this Act. Every State Government is welcoming the Act and therefore why should I have any objection to this extension of this Act. Every State Government and every prosecuting agency will welcome to be armed with more and more powers, but for the Constitution. That is why the founding fathers of our constitution have laid down in Part III certain fundamental rights. We are fully aware that the tendency of every State is to crush these

[Sh. E. Ayyapu Reddy]

fundamental rights of the citizens. Whenever you arm any State Government with these powers, they will definitely try to make use of it. Now, there is one reason why these State Governments, where there is no terrorist or disruptive activity, are making use of this Act. The hon. Minister may kindly see that provisions under Section 3, 4 and 6 of this Bill. Section 3, 4 and 6 are directly related to terrorism and disruptive activity, but unfortunately Section 5 does not require that ingredient of terrorism and disruptive activity. Mere possession of arms which are prohibited, in a notified area, will make it an offence under the TADA Act. This section 5 is invoked by the States of Andhra, Gujarat and others also. Once section 5 is attracted, naturally all the other ordinary offences like rioting, grievous hurt, attempt to murder and murder, unlawful assembly where fire arms are used come under the TADA Act. The police officers have been booking cases under TADA by invoking section 5, which does not require disruption or terrorism as a necessary ingredient. They merely say, section 5 read with so and so. It only says, possession of any arm within the notified areas becomes an offence under section 5. That is why a number of cases are being registered and tried under these designated courts. This clearly illustrates how this Act has been misused or improperly used. The police officers themselves say, section 5 is there, though it has nothing to do with the disruptive activities. The Preamble says, that is a special provision for meeting the menace of terrorism and disruptive activities. Section 5 does not refer to that. Of course, section 5 has to be read along with sections 3, 4 and 6 and harmonious interpretation has to be given. In fact, the judge will say, there is no reference to terrorism or disruptive activities and therefore section 5 does not apply. It is in that view, some of the judges have been releasing the accused on bail. This is the position.

If you give these powers to the police officers, in whatever State they may be, they will try to make use of those powers because that gives them enormous power of arresting the accused person and not filing the charge-sheet within three months, as required under the Criminal Procedure Code, and preventing any person from obtaining bail. Once the designated court refuses to grant bail, the unfortunate accused has to come only to the Supreme Court. He cannot even invoke the High Court jurisdiction for getting bail. This is the situation. The facts are justified by my arguments that this Act is more abused or misused than used.

So far as Punjab is concerned, it has not been effective. Of course, there may be some difficulties, as stated by the hon. Minister. But there, this Act has ceased to be a deterrent. The terrorists do not care for such Act. They are not deterred by a trial by a designated court. The utility of this court has been marginal so far as Punjab is concerned. Any-how, as the hon. Minister has stated, the Prime Minister has given direction that this Act must be sparingly used and that if that is the intention and spirit, my amendment may be made use of and accepted, as it should be extended only for 6 months.

SHRI P. CHIDAMBARAM: Sir, I accept the spirit of Mr. Ayyapu Reddy's submission on this amendment and I am willing to do two things. I believe, they will satisfy him. Firstly, I am willing to call for information from the State Governments about the areas they have notified for the purpose of section 5 and if we find that they have notified too many areas in a State which are really not affected by terrorist or disruptive activities, I am willing to advise the State Governments to withdraw those notifications. I will do that for Punjab also. But I wish to point out that notified area under section 5, read with section 2(1) (f) is:

"The notified area means, such area as the State Government may by notification in the official Gazette specify."

The power is with the State Government. But I am willing to call for information. I am willing to look at this State by State. If I find that a State has declared the whole of the State as notified area, then I certainly intend to take it up with the State Government because this should be confined to a pocket which is really affected by terrorism.

The second thing I am willing to do is that whatever new instructions we are in the process of issuing to Punjab which will spell out that no case should be initially registered under TADA, it should be registered only with the previous permission of the SSP and it should be reviewed by the DIG, I am willing to commend these instructions to all the State Governments and request them to apply these instructions in their own States.

I think these two things should satisfy Shri Ayyapur Reddy fears about Section 5 and I hope he will not press his amendment.

I oppose the amendment.

SHRI E. AYYAPU REDDY: In view of the assurance given, I am not pressing my amendment.

MR. DEPUTY SPEAKER: Is it the pleasure of the House that the amendment moved by Shri E. Ayyapu Reddy be withdrawn?

HON. MEMBER: Yes

*Amendment No. 1 was, by leave, withdrawn*

MR. DEPUTY SPEAKER: The question is:

*"That Clause 2 stand part of the Bill."*

*The motion was adopted*

*Clause 2 was added to the Bill.*

MR. DEPUTY SPEAKER The question is "That Clause 1, enacting formula and the long title stand part of the Bill"

*The motion was adopted*

*Clause 1, Enacting formula and the long Title were added to the Bill*

SHRI P. CHIDAMBARAM: I beg to move:

"That the Bill be passed."

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

*The motion was adopted*

MR. DEPUTY SPEAKER: The question is:

"That the Bill to amend the Chandigarh Disturbed Areas Act, 1983, be taken into consideration."

*The motion was adopted*

MR. DEPUTY SPEAKER: The House will now take up clause by clause consideration of the Bill.

MR. DEPUTY SPEAKER: The question is:

"That Clause 2 stand part of the Bill."

*The motion was adopted  
Clause 2 was added to the Bill.*

MR. DEPUTY SPEAKER: The question is:



"That Clause 1, Enacting Formula and the long Title stand part of the Bill"

[MR. DEPUTY-SPEAKER *in the Chair*]

*The motion was adopted*

DEMANDS FOR EXCESS GRANTS  
 (GENERAL), 1986-87

*Clause 1, Enacting formula and the long title were added to the Bill.*

[*English*]

SHRI P. CHIDAMBARAM: I beg to move:

MR. DEPUTY-SPEAKER: Now we shall take up Item No. 21 relating to Discussion and voting on Demands for Excess Grants (General) for 1986-87.

"That the Bill be passed."

MR. DEPUTY SPEAKER: The question is:

Motion moved:

"That the Bill be passed."

*The motion was adopted*

"That the respective excess sums not exceeding the amounts shown in the third column of the Order Paper be granted to the President out of the Consolidated Fund of India to make good the excess on the respective grants during the year ended 31st March, 1987, in respect of the following demands entered in the second column thereof-

13.32 hrs.

*The Lok Sabha then adjourned for Lunch till thirty -five minutes past Fourteen of the Clock.*

*The Lck Sabha re-assembled after Lunch at thirty eight minutes past Fourteen of the Clock*

Demand No. 11, 18, 19, 20, 21, 22, 54, 56, 56A, 74, 83, 93, and 97"

*Demands for Excess Grants (General) for 1986-87 submitted to the Vote of Lok Sabha*

<i>No. of Demand</i>	<i>Name of Demand</i>	<i>Amount of Demand to be submitted to the Vote of the House</i>
<i>1</i>	<i>2</i>	<i>3</i>

Rs.

I. *Expenditure met from Revenue*

18	Defence Pensions	1,35,94,989
19.	Defence Services-Army	100,35,85,223
20.	Defence Services-Navy	37,74,07,521