

Leader, but the news which is appearing in the last few days. This House discussed that yesterday. Because of the strategic importance you have allowed this House to deliberate on this. This, in the background of the plutonium smuggling which Shri Ramesh explained just now, together is posing a very dangerous threat to the security of this country; not only this country, but the whole world.

It is our responsibility and duty to discuss this issue and make this a universal issue in the world fora and to declare Pakistan a terrorist State. It is evident now that even the small terrorist groups can get this lethal fission material. It is most unfortunate. It is very revealing also. Yesterday, the TV has televised a very important news that in the capital of Kazakhstan, Alma-Ata, a totally deserted plant is having surplus plutonium and it is being smuggled out. Any terrorist group with money can have this material. This dangerous situation has come to assume alarming proportions. This whole question is to be discussed and it is responsibility of this country. Any terrorist group or even small countries with money can possess this. This is the dangerous situation. We have to see this issue in this background also.

This is really a threat to our security and the security of all the nations. This House should discuss this issue. The people should be made aware of the dangerous aspects of this question. If it is discussed in this House, I think, it will be useful. Thank you.

MR. SPEAKER: Any response from the Government?

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): Sir, I have

carefully followed the observations made by hon. Members. I think, it requires very deep consideration and some consultation. If you would permit me, I will have a word with the Prime Minister and with you and then we can decide the modalities with which we can handle this matter. This is a very sensitive and important matter and certainly the House and the Leaders will be taken into confidence on this issue. What is the mode of doing it and in what manner it should be done, we will consider it sitting with you in your Chamber.

MR. SPEAKER: Let me also make a suggestion. We should distinguish the matters which are of great importance from those which are of not equal importance and discuss them. That does not happen because issues of lesser importance are forced forward for discussion. We may avoid that situation if possible.

A decision about the discussion would be taken after due deliberations in that respect. An announcement, if necessary would be made later on.

12.38 hrs.

ALLEGED MISUSE OF TERRORIST
AND DISRUPTIVE ACTIVITIES
(PREVENTION) ACT BY VARIOUS
STATES

[Translation]

SHRI MOHAMMAD ALI ASHRAF FATMI (Darbhanga): Mr. Speaker, Sir, I would like to draw your attention to a very important matter. The TADA Act was enacted in 1987. It was enacted particularly to check increasing terrorism

[Shri Mohammad Ali Ashraf]

in Punjab. Gradually, it was also applied to the common man everywhere in the country. This Act was misused in the aftermath of the demolition of Babri Masjid. Today, about 52,000 people are detained in the jails all over country under TADA. These detainees are not allowed to move the courts. You would be sad to know that out of these 52,000 detainees, about 40,000 belong to minority communities. The situation is worst in Maharashtra and Gujarat. The students of Aligarh Muslim University are staging dharna for the last two days. They have been demanding that TADA is inhumane and it should be repealed because it is against human rights. Today, the police uses it as a weapon to pressurise people. This has resulted in increase in corruption. Many hon. Ministers have given statements outside the House that they are in favour of repealing TADA. Recently, Shri Rajesh Pilot had made a statement in Bombay that the Government is contemplating to withdraw this Act. Mr. Speaker, Sir, through you, I demand that the Government should make a categorical statement in this regard and tell us what are the reasons for keeping it still in vogue? This Act should be used against the criminals. The persons responsible for the demolition of Babri Mosque have not been arrested so far but those opposing this action have been put into jails under this Act. However, no action has been taken against the criminals. Today, this Act is not a means of stamping out terrorism but is being used for creating more terrorists. The innocent people are in the jails and if they are not let off, a feeling of resentment against the nation and the law will grip their mind. Therefore, I would request the Government that such an Act should be withdrawn. The common man, detained without any substantial reasons under

the Act should be released because it is an inhumane Act. The Government should say as to when it is going to scrap TADA.

SHRI RAM VILAS PASWAN (Roseera): Mr. Speaker, Sir, I thank you for giving an opportunity to my colleague to raise this issue. This issue is widely being discussed all over the country for the last two weeks. The Chairman of the Human Rights Commission had also made some observations in this regard, a few days back. He has prepared a questionnaire after consulting the secretaries of various State Governments. If one looks at it, it is heart rending. When TADA Bill was introduced in this House to check the activities of terrorists in a particular State, a lot of discussion had taken place. All the Members had expressed the apprehension that it can also be used for political rivalry. However, the Government had stated at that time that it would be used against subversive elements only. But, today we see that it is being used against the common man also. To cite an example, the case of Sanjay Dutt, the son of our colleague Shri Sunil Dutt, is pending in the Supreme Court.

If there is a demand for Khalistan in Punjab and this Act is used against the terrorists there, we can say that it is needed there. If one looks at the figures, Gujarat tops the list with nineteen thousand people in the jails under TADA. Similarly, sixteen thousand people in Punjab have been arrested under this Act. It is a matter of great concern that the people of a particular community are arrested and put into the jails. In Punjab, Sikhs are detained while at other places, Muslims are arrested. Some people are arrested on the basis of their allegiance to a particular party. Shri Antulay is sitting here. In his constituency at Balwati, some people were arrested on the charge of possessing rocket launcher,

whereas it was a splinter. The people are put in the jails for four to five years but there are only one per cent such people who are awarded punishment by the court. Have the other 99 per cent people no right to live? This right to live and the fundamental freedom are being curbed by using this Act. In a murder case, there is a provision for an appeal, whereas there is no such provision in this Act. The arrested person is let off after five years without any litigation. Who will be responsible for spoiling his life and the torture he had to suffer during these five years? We talk about human rights here. When a report appears against Pakistan, we feel very happy but, when a report appears against India, it is termed as politically motivated. I agree with the views of Shri Chandra Shekhar that the problems cannot be resolved by breaking the hearts. It can be resolved by joining the hearts. If we keep on talking of two countries or two parties or two communities, this problem will remain unresolved. Recently, Shri Rajesh Pilot had stated in Bombay that, if need be, this Act will be repealed. I would not like to refer to the other House but the Members of that House are also agitated over this issue. While giving due respect to you and the House, I am expressing my feelings before you in a sober language. I urge the Government to repeal TADA. The Government can take action against a person possessing AK-47 under any ordinary law and delegate such powers to the police so that there is no misuse of TADA. As one of our hon. Members has said that by using TADA, we will not be able to check terrorism but on the contrary, it would increase terrorism. I also endorse his views and we must put an end to its misuse.

MR. SPEAKER: That is why we cannot discuss several issues at one time.

SHRI LAL K. ADVANI (Gandhinagar): Sir, TADA is not an ordinary law. It is contrary to the spirit of democracy. When TADA Bill was introduced here, several Members had opposed it. Most of the Members had apprehended that whenever such privileges are given to the executive or the police they are generally misused. However, an assurance was given at that time that terrorism is a peculiar and extraordinary problem and there is a need of a law like TADA to combat this problem. It was only then that the Bill was passed by the House. Since then the laws has been misused so flagrantly, that the hon. Minister had to urge the State Governments to check the misuse of TADA. Later on, the hon. Minister of State for Home Affairs stated in Bombay that if need be, the Government will repeal TADA next year. At that time, myself and Vajpayeeji were in Bangalore. The Chief Minister of Karnataka had said then, that they would use TADA against BJP. If the hon. Minister of Home Affairs or the Minister of State for Home Affairs had been present here, they would have been able to give correct figures about the number of persons in each State against whom TADA was used and the reasons therefor.

I feel sorry that issue is being given the communal colour. There is no question of communalism at all therein. If police is given such power, then it will certainly misuse this power. You might be aware that TADA has been used against peasants in Gujarat. And as per official records, there are 19000 detainees under TADA. It is not a recent development. Our party had to organise an Anti-TADA Conference. Then many people were arrested. This law is meant for extraordinary situation. But there is no situation like extremism or terrorism in Gujarat. However TADA is enforced in the staff

[Shri Lal K. Advani]

because the police feels that in ordinary circumstance if some is arrested he would approach the court and in the process will get a bail. The arrangement should be made in such a way that one should not get bail on every situation. But to ensure it we resort to TADA. Vajpayeeji was telling that the city head of the BJP of Lucknow was arrested under TADA. This is the situation that even the Chief Minister singles out that name of particular political party and therefore to have the political activists arrested under TADA. This is a gross misuse of TADA and also the violation of the assurance given to the Parliament. That is why I want that the Home Minister should clear the Government's position in this regard.

Somebody told me that Shri Rajesh Pilot though issued a statement in Bombay but the very next day said that his statement was not reported correctly and he did not say like that. We want to know the Government's view in this regard. So far as our party's stand is concerned, we would like that the TADA should be restricted only to that place where there is extremism and if it cannot be restricted to the limited area then it is better to revoke it. At least, the harsh provisions of the Act should be eliminated.

[English]

SHRI SOMNATH CHATTERJEE (Bolpur): Mr. Speaker, Sir, this has been the unfortunate experience in our country and whenever wide powers are given, they are misused. We have had the experience of MISA, National Securities Act in the past also. Thousands and Thousands of political persons had been detained without even trial in the past. Therefore, whenever such wide draconian powers were given, we have opposed it. And law like TADA is really misuse of

the rule of law. There is no doubt about it, because it inhabits the judicial process in exercising or protecting the fundamental rights of the people of this country.

Sir, 65,000 people have been, so far, understood to have been detained under this law to whom ordinary processes are not open. We have been seeing how political persons are also being detained in the name of controlling terrorism. This is a law. I agree with Shri Advaniji. I would be happy if there was no such law. But if there is any such law in any part of the country it is felt that without such a law, terrorism cannot be controlled. It has to be exercised with greatest care, not for any purpose other than controlling or containing terrorism; even then for very limited purposes and the persons should be brought to trial immediately. With the TADA, of course, some sorts of trial is there but that trial comes with greatest difficulty for the people and that is time consuming also. It takes a lot of time.

Therefore, I would be happy and I would demand that this law should be withdrawn. When this law was enacted, we had expressed our reservations. We find that there is a tendency in this country that whenever there is power, that power is misused. Many Governments are there; many States are there. It is better that the police people do not forget the ordinary method of investigation, ordinary method of trial. This is what is happening. The police are forgetting and the mischief was started with the MISA. I know that maintenance of internal security there were PD Act, MISA and other series of legislations. So many people had been detained on the plea of anti-social activity. Even Shri A.K. Gopalan had been detained under PD Act. So many other persons had also been detained. Therefore, Sir, I demand

that it should be withdrawn. The Government must ensure its greatest scrutiny about its applicability.

But I would demand that this should be withdrawn. Let the ordinary laws of the land be applied for the purpose, even dealing with the situation of some difficulties like terrorism. But now the misuse being so clear, the Government owes an explanation to the country that what they propose to do.

[*Translation*]

SHRI SHARAD YADAV (Madhepura): Mr. Speaker, Sir, I would not go into the detail. The views expressed by all the Members of the House that it should be limited to the disturbed area only, is correct. Many a times, we had spoken that it is grossly misused. After much precaution and as a matter of last resort, the Government in the nation's interest brought this law but now for it is misused, is clear from the views expressed by honourable Members.

We are deadly against this law I was in jail for four and a half years under MISA. There is no provision to challenge this law. It may be possible that Shri Sunil Dutt's son might have committed a crime. I am not defending him. But when Punjab was burning, Shri Dutt walked on foot from Bombay for the sake of national integration. Shri Antule Saheb told me yesterday that the persons arrested under TADA... (*Interruptions*)... not inside the House but outside it, he told me, it might be his helplessness that he cannot tell here but I felt that this law is being misused on a bigger scale. I would like to support the views of Advanijee that this is not a question of a community but this law should not be used against people belonging to a

particular category. Today this law is used against those people, who are in minority either in Punjab or elsewhere.

I would like to add one more thing; this is not a cursory remark but in two states where we have formed the government, I have directed them on behalf the party not to misuse TADA. In Bihar, this law has not been used and also not a single person is detained in Orissa. In that last meeting of the Human Rights Commission, these two States were not named. Except these two States, some people are booked under TADA in every State. I humbly submit that this law was brought for 'disturbed areas'. And for that area alone this law may be used.

SHRI BHOGENDRA JHA (Madhubani): Mr. Speaker, Sir, almost every Speaker has expressed the identical views. I myself was booked under Defence of India Rule which was brought forward to safeguard the British rule. I was arrested on 21-22 August, 1947. In those days in Bihar there was BMPO Act. We sat on hunger-strike at that time.

MR. SPEAKER: That is why I used to say that it is always better to limit oneself to the subject. If we start covering the whole world under a subject it will not be proper.

SHRI BHOGENDRA JHA: I want to say that for those fundamental rights we fought against the British rule, we were on hunger strike and after that we demanded the fair and open trial, but today they are being suppressed. I do not want to say who are the sufferers. I understand that this should not be given a communal turn, the question of minority-majority should not be brought. If a particular law exists, it will be used whenever a crime takes place. It is

[Shri Bhogendra Jha]

immaterial if it is used against a particular caste or community. It should not be publicised. But this is certain that innocent people belonging to the different sections will be its victim.

It is hightime that this law should be repealed and very soon it should be abolished completely. We have enough provisions under I.P.C. and Cr. P.C. I do not contend that since I am a patriot, therefore, my son can do no wrong. This kind of argument cannot be made in the House. But I have firm view and people are happy to know that even the son of a big shot is not above law. I am telling this because it is a question of national security and there should be not compromise thereon. Simultaneously, the 'freedom' on which we take pride should not be shattered. At the same time, this law must be repealed.

We can deal with these things under the existing laws of the land. Terrorists and people involved in secessionist activities should be dealt with under appropriate law. With these words I conclude my speech.

[English]

SHRI E. AHAMED (Manjeri): Mr. Speaker, Sir, when I raised this point in this House, the hon. Home Minister had admitted that there was gross misuse of the TADA in several States. He had assured the House that he would be writing to the Chief Ministers in this regard. I had specially pointed out the experience of innocent people who were arrested and were being harassed under the TADA, in the States of Gujarat, Maharashtra and Rajasthan and the hon. Minister had assured that he would take appropriate action. But Sir, so far, no action has been taken. I am given to

understand from one of the reports that out of 50,000 people who were arrested under the TADA, not even five per cent have been charged-sheeted before the designated court.

13.00 hrs.

It is such a draconian law that innocent people cannot go to the Court, they will not get their bail granted and have no other legal relief and are thus subjected to great harassment and difficulty.

Sir, why in a democratic country like India, are we resorting to such a draconian law? Therefore, it is appropriate as well as in the fitness of things for the Government to withdraw this draconian law and resort to some other legal provisions which could take care of such offenders and the crimes they commit. I hope, the Government will come forward and make a statement on it.

SHRI YAIMA SINGH YUMNAM (Inner Manipur): I rise to register my strong support for the withdrawal of the TADA. I would also like to inform the House that the State of Manipur is the worst hit under the TADA.

Sir, there are many cases registered under TADA which could have been dealt with under an ordinary law. There is a Police Raj in the name of TADA, in the State of Manipur. Many people are in custody under TADA. Some innocent persons who were arrested under this Act have even died in custody. Students who are demanding to redress their grievances and agitating are also harassed under TADA. Persons involved in kidnapping cases are also arrested under TADA. It is very terrible. I would like to state before this House that it has

created a terrific situation in the State of Manipur.

Sir, lastly I would request you to kindly direct the Home Minister to make a Statement on Manipur. I once again, strongly support the withdrawal of the TADA.

MR. SPEAKER: He is making a statement at 4 P.M. today.

Mr. Ansari what is it that you want to add?

DR. MUMTAZ ANSARI (Kodarma): Mr. Speaker, Sir, this TADA was enacted for a specific purpose and for a particular State. But, TADA has now become TA/DA for the police department. This is the reason why, in every nook and corner of the country, there is a blatant and gross misuse of the TADA. Police is going to different houses, knocking at the door, arresting the innocent people, sometimes brutally beating them up and parading them naked on the streets. This is a gross and blatant misuse of the Act.

After the bomb blasts in Bombay, from where you come Sir, thousands of people had been arrested and some of those who were arrested have been killed in the police station itself. So, this sort of law... (*Interruptions*)

MR. SPEAKER: I hope you are not blaming me.

SHRI SOMNATH CHATTERJEE: You are bound to prove you innocent!

DR. MUMTAZ ANSARI: Sir, Section 15 of the TADA says that nothing short of a confession before the Magistrate is

valid. In general rule a confession before the police is no confession. But now confession before the police is taken as an evidence and is also needed by the Court. People are being arrested on flimsy grounds are thrown behind the bars.

That is why, this is our appeal that such type of a draconian and most harassing piece of law must be withdrawn, scrapped and thrown out. Thank you.

SHRI D. VENKATESWARA RAO (Bapatla): Mr. Speaker, Sir, it is true that the TADA is being misused very heavily. This is mainly for two reasons. One is to gain political ends by certain Parties and secondly by the police, for whom it has become TA/DA as my friend said, to get some lumpsum from the people whom they are booking under TADA.

Sir, in Hyderabad city many Muslim youths are being harassed and also in the Telengana and Rayeelsema many youths are being booked under TADA and kept behind the bars without any trial. It is high time that the Government take appropriate action and repeal this Law.

[*Translation*]

SHRI HARI KISHORE SINGH (Sheohar): Mr. Speaker, Sir, the law like TADA is condemnable for any civilized society. It is really unfortunate that the situation is worsening as a result of the use of TADA. Especially I would like to point out that due to TADA, even our good record in the field of human rights is being sullied during the discussions on human rights violation at the international level. Misuse of TADA has compelled the former Chief Justice of the Supreme Court and Chairman of the Human Rights

[Shri Hari Kishore Singh]

Commission to criticise it. The whole matter is so painful that he is preparing to move the Supreme Court. I request the Government to repeal this law so that Human Rights Commission is not compelled to move the Supreme Court.

[English]

MR. SPEAKER: Will the Government like to respond?

(Interruptions)

SHRI CHITTA BASU (Barasat): Sir, I would like to say that...

MR. SPEAKER: This is exactly why we have not been able to discuss the Five Year Plan, Unemployment Problem, Agriculture Policy, Housing Policy and such other policies. When a point is made, it is not necessary for everybody to repeat it.

SHRI CHITTA BASU: I am not responsible for that.

MR. SPEAKER: You are one of the persons who shall be sharing this responsibility.

SHRI CHITTA BASU: Sir, it is a matter of civil liberty. It concerns the trade union movement. It concerns the democratic movement outside and we represent that section of people in this House.

MR. SPEAKER: All right. Do you want to add anything new?

SHRI CHITTA BASU: I want to add that this is nothing but extension of the earlier anti-people and anti-democratic Acts like Defence of India Act.

MR. SPEAKER: What is new in it?

SHRI CHITTA BASU: It reflects the same Act as the Preventive Detention Act. It also spells out the negative aspects of MISA and other draconian laws. While passing all these laws the Government had been assuring that these laws will not be used against the democratic or political personalities. In this case also, TADA is being used deliberately against the political parties and in some cases against the democratic movement. It is an assault on the civil liberties of the country, therefore, it should be repealed as soon as possible.

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): As the hon. Members themselves are saying, there is a serious situation in the country. Some of the neighbouring countries are trying to subvert our internal law and order situation. For controlling it effectively we do need a law in our hands. We are repeatedly assured the House and I would like to repeat that assurance once again, that this law will never be used against... (Interruptions)

Sir, I should be allowed to complete... (Interruptions)

SHRI RAM VILAS PASWAN: How can he say that? TADA is being used by the State Government... (Interruptions)

[Translation]

MR. SPEAKER: What is this? You raise the questions but you do not listen to their replies... (Interruptions)

[English]

MR. SPEAKER: In substance I agree with what you are saying. Yet, this matter has been raised in such a fashion here that the Members appeared to be concerned about it. It will be better if a considered statement is made so that if there is any misapprehension, it is removed.

SHRI VIDYACHARAN SHUKLA: Yes, Sir.

[Translation]

SHRI RAM VILAS PASWAN: Sir, the orders should also be executed. Time and again, you give directions but no Minister has come forward with the Statement.

[English]

SHRI SOMNATH CHATTERJEE: Mr. Speaker, Sir, you have been kind enough to allow the Members to speak on this important issue. But, one of the things decided to be allowed was the price rise and we had given notice on that.

MR. SPEAKER: We will try to see if we can take it up tomorrow in one fashion or the other.

SHRI SOMNATH CHATTERJEE: Thank you, Sir.

13.10½ hrs.

[English]

PAPERS LAID ON THE TABLE

Annual Reports and Statements of Review on the working of National Institute of Urban Affairs, New Delhi for the years from 1976 to 1984-85 and Statement showing reasons for delay in laying these papers etc.

THE MINISTER OF URBAN DEVELOPMENT (SHRIMATI SHEILA KAUL): Sir, I beg to lay on the Table:—

(1)(a)(i) A copy of the First Annual Report (Hindi and English versions) of the National Institute of Urban Affairs, New Delhi, for the year 1976, alongwith Audited Accounts.

[Placed in Library. See No. LT 6330/94]

(ii) A copy of the Second Annual Report (Hindi and English versions) of the National Institute of Urban Affairs, New Delhi, for the year 1977, alongwith Audited Accounts.

[Placed in Library. See No. LT 6331/94]

(iii) A copy of the Third Annual Report (Hindi and English versions) of the National Institute of Urban Affairs, New Delhi, for the year 1978, alongwith Audited Accounts.

[Placed in Library. See No. LT 6332/94]

(iv) A copy of the Fourth Annual Report (Hindi and English