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PUBLIC STATEMENT

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A set back for human rights in Tamil Nadu -- The new Prevention of Terrorism bill

The introduction of the *Tamil Nadu Prevention of Terrorist Activities Bill, 1998* (PTA) into the Tamil Nadu Legislative Assembly on Tuesday this week, will have a detrimental effect on human rights in the southern Indian state, Amnesty International said today.

The organisation is calling on the state government immediately to withdraw this bill and is also appealing to the Members of the Legislative Assembly not to support it.

The provisions of the bill -- many of which are similar to the *Terrorist and Disruptive Activities (Prevention) Act, 1985* (TADA) -- suspend many safeguards normally available in India's criminal law. Amnesty International is concerned that the bill includes the following provisions:

- C detention without charge for a period of up to one year, which would allow for arbitrary detention in contravention of the right to liberty and security of the person, and would weaken the safeguards that exist in section 167 of the Code of Criminal Procedure (CrPC)
- C the application of the death penalty for a "terrorist act" -- vaguely defined as an act done "with intent to strike terror"-- which would increase the potential for use of the death penalty in contravention of the Supreme Court of India's direction that the death penalty only be applied in the "rarest of rare" cases
- C the admission of confessions to police officers as evidence contradicts the safeguards in sections 25 and 26 of the *Indian Evidence Act*-- such a provision would increase the likelihood of torture
- C total immunity from prosecution to those acting under this legislation -- a provision similar to those in many of India's criminal laws, all of which reinforce the lack of accountability of law enforcement official
- C special "designated" courts to try "terrorist" offences which would compromise a fair trial by limiting or removing certain rights. These includes: the right to equality before the law; the right to be presumed innocent; the right to be informed promptly of charges; the right to have evidence extracted by force or compulsion excluded from the trial; and the right to a fair and public hearing

Amnesty International believes that such legislation can only increase the violation of human rights and negates the very principles of human rights which India has promised to uphold -- a promise made to its own people and to the international community.

In a press release issued yesterday the Tamil Nadu and Pondicherry branch of the People's Union for Civil Liberties (PUCL) called for withdrawal of the Bill, stating that it would "*result in further custodial violence and abuses and alienate the minorities from the mainstream society*". This fear was reinforced by People's Watch-Tamil Nadu, which considered the safeguards instituted regarding the mechanical recording of confessions, including the use of video recordings, to be inadequate.

The statement of objects and reasons in the bill, signed by the Chief Minister Mr M Karunanidhi -- a previous opponent of TADA -- defines terrorism as a new crime for which stringent action must be taken, basing this decision on the perceived lack of effective provisions in the existing laws.

According to the President of the state branch of the PUCL (a High Court lawyer) the ineffectiveness of the criminal justice system is not because of the lack of effective provisions but because "*the existing system is not put to good use*". She added that the delays in the criminal justice system and the inadequate resourcing of courts were the real cause of the problem -- indeed, the proposed enactment itself contains a provision which specifies that the trial of a case under this Bill, by a designated court, shall take precedence over the trial of any other case.

Background

This new bill undermines the principle of the universality of human rights by limiting the availability of human rights to all persons. Amnesty International considers provisions of the PTA to contravene the minimum safeguards set out in articles of the International Covenant on Civil and Political Rights and other treaties and principles evolved for the protection of all persons. Moreover, this bill would add to the catalogue of legislations that allow for administrative detention in violation of international standards, including the *Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982*, and the India-wide *National Security Act, 1980* which is used regularly in Tamil Nadu.

Two years ago TADA had been allowed to lapse by the central government following a campaign by human rights defenders throughout India who found that its was used in a discriminatory manner, for example against Muslims, and that it was misused for political gain. The National Human Rights Commission had added its voice to the campaign opposing TADA, having found that it violated provisions in the Indian constitution and the international human rights treaties to which India is a party.

As with TADA, which was enacted following bomb attacks alleged to have been perpetrated by Sikh secessionists, the new PTA in Tamil Nadu has been proposed in the aftermath of bomb attacks in the southern city of Coimbatore alleged to have been perpetrated by persons from the minority community of Muslims in the state, and the recovery of explosive materials.
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