

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **India: President must reject new amendments to anti-terror legislation which fail to meet international human rights standards**

New amendments to India's principal anti-terror legislation passed today by the country's parliament do not meet international human rights standards and are likely to lead to further human rights violations. Amnesty International urges the President of India to therefore reject these amendments; and Parliament, to amend the law to remove or revise existing provisions which have allowed the authorities to violate human rights with impunity.

The latest amendments to the Unlawful Activities (Prevention) Act, 1967 (UAPA) were proposed without wide-ranging consultations with civil society and passed without much debate by the lower and upper houses of India's parliament on 30 November and 20 December respectively. The UAPA was last amended in December 2008 after the November Mumbai attacks in which 170 people were killed and hundreds of others injured.<sup>1</sup> Amnesty International acknowledges that India's authorities have duty to take effective measures to ensure the security of the population, including against attacks such as the one which occurred at Mumbai. However, security concerns should never be used to jeopardize people's human rights as established in international law and standards. As India has emphasized, "terrorism cannot be countered by law enforcement means alone [and] effective responses will necessarily include other aspects of legal and social policy. Among these ... rule of law and respect for human rights are among the key components of such responses".<sup>2</sup>

Human rights organizations have highlighted instances where the UAPA has sometimes been used, with fabricated evidence and on false charges, to detain and try persons defending the rights of *Adivasi* (Indigenous) and *Dalit* communities and the poor and peacefully exercising their rights to freedom of speech and freedom of association.<sup>3</sup> With the latest amendments, it is likely the UAPA would be further used to curb such dissent.

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<sup>1</sup> Amnesty International, *India: New anti-terror laws must meet international human rights standards*, AI Index: ASA 20/031/2008, 18 December 2008, <http://www.amnesty.org/ar/library/asset/ASA20/031/2008/ar/ff1155d6-cdba-11dd-b0c5-1f8db3691f48/asa200312008en.pdf>

<sup>2</sup> Statement by H.E. Mr. Hardeep Singh Puri, Permanent Representative, *Briefing on Threats to peace and security by terrorist acts, at the UN Security Council*, 4 May, 2012, <http://www.un.int/india/2012/ind2019.pdf> (accessed 17 December 2012)

<sup>3</sup> Amnesty International, *Indian doctor Binayak Sen's conviction and life sentence mock justice*, 25 December 2010, <http://www.amnesty.org/en/news-and-updates/indian-doctor-binayak-sens-conviction-and-life-sentence-mock-justice-2010-12-25>, People's Union for Civil Liberties, *A flawed judgment: Travesty of Justice in the Seema Azad and the Vishwa Vijay case*, October 2012, [http://www.pucl.org/Topics/Media/2012/seema\\_azad\\_critique.pdf](http://www.pucl.org/Topics/Media/2012/seema_azad_critique.pdf). Dr Sen, Seema and Vijay are now out on bail on the orders of higher courts.

Amnesty International is also concerned that the new amendment which increases the period of the ban on specific “unlawful” organizations from two to five years, could lead to further abuses, since an initial determination of what is “unlawful” can be made, and the ban applied, well before any confirmation by a tribunal. This move could further restrict freedom of association and the freedom of speech as guaranteed under India’s Constitution and the International Covenant on Civil and Political Rights (ICCPR) which India has ratified.

Previous amendments to the UAPA in 2008, apart from resorting to sweeping and overbroad definitions of “acts of terrorism” and “membership” of “unlawful” organizations, had extended the minimum period of detention of suspects from 15 to 30 days and the maximum period of such detention from 90 to 180 days, avoided adequate pre-trial safeguards against torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) of detainees and reversed certain evidential burdens of grave crimes and required, in certain circumstances, the accused persons to prove their innocence.

India’s earlier anti-terror legislations, the POTA, 2002 and the Terrorist and Disruptive Activities (Prevention) Act 1985 (TADA), were repealed respectively in 2004 and 1996 after criticism that they were widely abused leading to serious human rights violations including arbitrary detention, torture and fabrication of evidence.

In the light of such concerns, Amnesty International calls upon the President of India to reject the latest, amendments to the UAPA. The organisation also urges the Government and Parliament to amend the UAPA to ensure compliance with India’s obligations under international human rights law, in particular the International Covenant on Civil and Political Rights. Such amendments should:

- narrow the definition of “terrorist acts” and in particular repeal the criminalisation, in certain instances, of the exercise of freedom of expression and peaceful assembly and association;
- ensure that the provision for the offence of “unlawful association” is clear and restricted to the commission of recognisable criminal offences;
- repeal provisions allowing for lengthy detention for the purpose of investigation, and put in place safeguards against torture and other ill-treatment including prompt access to courts, mandatory review of detention, access to counsel and family and monitoring of all interrogations;
- repeal provisions shifting the burden of proof (through court “assumptions”) onto the accused;
- repeal or revise provisions compelling persons being questioned to supply information to investigators which currently forces suspects to self-incriminate and journalists to reveal their sources.