

Duplicity is the name of the game!

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Just as when the civil society was getting confident to make space in the newly formed states in the country, especially Chhattisgarh to enjoy people centered policies, the Government has passed a draconian law very quietly on last December 23rd called the Chhattisgarh Special Public Security Act. The grapevine says that the law has been passed to get the NGO's and some of the media personalities and not quiet the insurgents who are operating in and across the state. That NGO's and the media is a nuisance and that they have been subterraneously supporting the naxal movement is the grievance of the State. Yet a legislation which would curtail civil liberties giving scope for large-scale misuse is not acceptable.

Curiously, the UPA government has maintained duplicity in handling the naxal issue. On the one hand the Common Minimum Programme mentioned a holistic policy that "this is not merely a law and order problem, but a far deeper socio-economic issue which will be addressed more meaningfully than has been the case so far". Last year at the Chief Ministers' Conference in April, Dr Manmohan Singh stressed that "a democratic government has to make a distinction between the genuine and legitimate expression of dissent and disaffection and the manifestations of anti-national, anti-social and anti-people threats to our democratic way of life." He too asserted that just as no one had a right to resort to violence, so also the issue of *extremism is not merely a law and order issue.*"_The UPA Chairperson has mentioned on more occasions than one that the situation needs to be looked at more humanely and more urgently through the use of channels of dialogue. But at the state level, the same party has supported the government in its deeds of militarising the whole issue and enacting a draconian legislation.

The legislation has defined unlawful activities in ambiguous terms as "*any act committed by any person or the organization either by committing or by uttering words or in writing form or by indication or by visual representation or otherwise*" thereby curtailing freedom of speech and expression. All those who would voice an opinion which is contrary to government policies may fall within its ambit as media persons, lawyers, NGO's, trade unionists or even teachers and doctors who would be tempted to go on strike, would fall under government scrutiny. Several civil society actors in the state are left oriented and the law of the land has nothing against such politics, yet if the right winged government wants to put a curb to opponent ideologies, this may jeopardize their existence.

The Act provides impunity to the government in various forms that it need not at all for the sake of "public interest" disclose the reasons for declaring an organization unlawful for whatever period it may feel fit. Although there is scope for a yearly review there is no mention that this process will be transparent. While the reference of an *Advisory Board* gives some assurance to the ordinary citizen who maybe falsely implicated, there is no mention anywhere as to where this Advisory Board may be established. Care is also needed to make this Board

as accessible as possible to allow the organizations to place their cases in a free and fair manner without being intimidated by government agencies. Ordinary citizens will have little confidence if the government forwards the representation to the Board. It would be less threatening if the representations could be made directly to the Advisory Board making it more autonomous in nature.

In a state like Chhattisgarh it will be necessary to provide a fair and impartial face to the Board as this will be the only appeal in the whole system. Keeping in mind the democratic aspirations and the civil liberties of the people, it maybe judicious to keep a member from the Human Rights Commission, the Women's Commission or the SC/ST Commission. This should not be seen as a token gesture but as an important voice to protect people from harassment and illegal notifications which maybe served by district magistrates who have often been accused of their inappropriate political leanings and corrupt practices. Presently there is political control by both the petty criminals and political biggies over the system to get at their rivals and this Act should not be the organ to do that.

It is extremely worrisome to read that the Act would penalize all those who would contribute to the "unlawful organization". Experience has shown that often audiences at rallies have been held captive through threat or by use of force to attend meetings, feed the cadres and give protection money making the unsuspecting defenseless citizens to become the informers, sympathizers or even "protectors" in the eyes of the law enforcement making them further vulnerable.

The Act needs to provide scope for the executive to understand the socio-economic milieu which leads people to become sympathizers. Vagueness in the law will provide the police further opportunities to complete unrealistic targets. Of serious concern is the decision of sending an officer under this law to search money transactions or seize and forfeit it only under the directive of the district magistrate leaving scope for threat, corruption and gross misuse. POTA was severely criticized under a similar clause.

It is told that the present Act has been drafted taking similar Acts in MP and AP into consideration. While strategising, with the naxal affected States, the Ministry of Home Affairs, Government of India has gone on record, that there is a need for intelligence operatives to acquire a better understanding of the social, political and ethnic issues prevalent in these regions. However, after availing of funds several of these states have gone and set up guerrilla warfare schools, have militarised communities and plan to use helicopters to track down the insurgents. It is certain that maintenance of law and order is a state subject and MP and Chhattisgarh have expressed that they would continue to deal with naxalism as a law and order issue. But this in no way will further the UPA's own agenda of fulfilling the Common Minimum Programme even on almost completing mid term; yet it is in no hurry to stop giving out funds to the State governments which are following goals which are incongruous. The local Congress party members in Chhattisgarh have not been able to understand the full gravity of the Chhattisgarh Special Public Security Act especially since it

was demonstrating on some other insignificant issue when the Vidhan Sabha was passing it.

No one is arguing that violence of any form both by state and non state actors needs to be condemned but dealing with any voice of opposition to government policies need not be curtailed through draconian legislations. The Act is loosely drafted and it is unfortunate that it was passed by the legislators without even a murmur in the house. That the legislators of both the ruling and the opposition have not seen a copy of the Act or even bothered to understand the seriousness of the implications to democracy should be reason enough for the President to not to give his approval.

The present piece of legislation of Chhattisgarh needs to be immediately reviewed by the UPA government since it holds the responsibility through the various central schemes it has given to give to the state. The fact that civil liberties of the ordinary citizen will be curtailed and the rule of law subverted should be reason enough for the Central government to dialogue with the Raman Singh government if it at all wants to fulfil the promises it has made to its constituents. It is definite that violence in any form needs to be stopped but by drafting poor legislations with no in built accountability and grievance redressal mechanisms is a challenge to democratic processes. Any such terror legislation needs to make the concerned officers also liable for damages and losses that may be caused by them; but blanket impunity will lead to loss of public faith in governance and the justice system.