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Impact of Counter-Terrorist Laws on Political Justice:

Structure of Paper (Thus Far):

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I. Introduction:

A paper on Political Justice and Anti- Terrorist Laws is fraught with the possibility of turning into a ballad about the demise of liberty. So in a bid to move beyond the rhetoric, the papers starts by interrogating the legal conception of ‘terrorism’ both domestically within nation States and at the International level.

Terrorism as has been pointed out, is not merely an act of violence, but it is propaganda by deed.¹ Nonetheless, the term terrorism is now expanded to include all sorts of threats and is ‘overused’.² The continuous expansion of the definition of the word exaggerates the threat posed by terrorism and influences public reaction, and therefore government policy.³ The focus of this paper, is therefore the result of this over use of the term terrorism to attack all kinds of dissent, and often simply the very existence of certain classes of people, and while doing so, shrinking the space in democracies for such dissent to exist.

This paper accepts that there are very real and legitimate terrorist threats, and terrorists. And that there is a need to meet this by the State, through the use of the law and often the armed forces. But, that there are also illegitimate uses of State power by use of anti terrorist legislation against people who dissent against the policies of the state, or the status quo. As U.N. Secretary-General Kofi Annan has consistently stressed since September 11, 2001, there must be no tradeoff between human rights and fighting terrorism. In the very first paragraph of his latest report on the Work of the Organization, he states: “I firmly believe that the terrorist menace must be suppressed, but States must ensure that counter-terrorist measures do not violate human rights.”

The Origins of the Term ‘Terrorism’:

*The search for a legal definition of terrorism in some ways resembles the quest for the Holy Grail: periodically, eager souls set out, full of purpose, energy and self-confidence, to succeed where so many others before have tried and failed.*⁴

¹ Arunabha Bhoumik, Democratic Responses to Terrorism; A Comparative Study of the United States, Israel and India, 33 Denv. J. Int’L. Pol’y 285, citing L. Paul Bremer III, The West’s Counter Terrorism Strategy, in Western Responses to Terrorism (Alex P. Schmid and Ronald D. eds. 1993) at 256

² Id

³ Id

⁴ Geoffrey Levitt, Is "Terrorism" Worth Defining?, 13 OHIO N.U. L. REV. 97, 97 (1986) cited by Reuven Young, Defining Terrorism: The Evolution Of Terrorism As A Legal Concept In International Law And Its Influence On Definitions In Domestic Legislation, 29 B.C. Int'l & Comp. L. Rev. 23 (2006).

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Linguistically, 'terrorism' comes from the root word "terror" (from the Latin "terrere" -- "to frighten"). A young Harvard law student in an essay on the evolution of the terrorism in International Law, explores the origins of the terrorism and state politics. She writes that the word terrorism entered Western European languages' lexicons through French in the fourteenth century and was first used in English in 1528.⁵

"Terrorism" gained its political connotations from its use during the French Revolution. The French legislature led by Maximilien Robespierre, concerned about the aristocratic threat to the revolutionary government, ordered the public execution of 17,000 people ("regime de la terreur ") to educate the citizenry of the necessity of virtue.⁶ Robespierre's supporters who turned against him, having supported the use of terror in the first instance, accused him of using terrorism in an attempt to identify the illegitimate use of terror.⁷ Terrorism, initially associated with state-perpetrated violence, shifted to describing non-state actors following its application to the French and Russian anarchists of the 1880s and 1890s.

A definition of terrorism under International Law is imperative, since this would be one safeguard against the abuse of domestic anti- terrorist laws by States. For instance, it would enable the use of the definition, to question the classification of trade unionist, or women's activist as a terrorist, as has been the case in India while it had Anti-Terrorist Legislations.

II. The Impact of Sept. 11, 2001 on International Law:

September 11, illustrating that terrorism crosses national and ethnic boundaries, changed the prevailing attitude to terrorism and certainly the attitude of the most influential states.⁸ One school of thought suggests that before the post-September 11 paradigm shift, however, the United Nations viewed terrorism as a social phenomenon and generally exhibited an ambivalent attitude towards it.⁹ However, it is also true that one reason why the United Nations has been reticent on terrorism is due to the legacy of self determination and freedom struggles that were wages against colonization.¹⁰ This duality that existed within the UN body resulted in, in a failure to agree to a comprehensive definition. September 11, however, converted terrorism from an "issue of ongoing concern" for the General Assembly to an issue sufficiently threatening to international peace and security to engage the Security Council.

Prior to the September 11, 2001 attacks on the Twin Towers in New York, the Pentagon in Washington DC and in Pennsylvania, a host of instruments existed.

⁵ n15

⁶ n16

⁷ n17 at p. 28

⁸ Reuven Young at 29

⁹ Reuven Young n50

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International Convention for the Suppression of the Financing of Terrorism,¹¹

International Convention for the Suppression of Terrorist Bombings,¹²
Convention on the Marking of Plastic Explosives for the Purpose of Detection,¹³

Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf,¹⁴

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation,¹⁵

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation¹⁶

Convention on the Physical Protection of Nuclear Material,¹⁷

International Convention Against the Taking of Hostages,¹⁸
Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents,¹⁹

Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation,²⁰

Convention for the Suppression of Unlawful Seizure of Aircraft,²¹;

Convention on Offences and Certain Other Acts Committed on Board Aircraft.²²

¹¹ Dec. 9, 1999, S. Treaty Doc. No. 106-49, G.A. Res. 54/109, U.N. GAOR, 54th Sess., Supp. No. 49, U.N. Doc. A/54/49 [hereinafter Financing Convention];

¹² Dec. 15,

1997, S. Treaty Doc. No. 106-6, 37 I.L.M. 249 [hereinafter Bombings Convention];

¹³ Mar. 1, 1991, U.S. Treaty Doc. No. 103-8, 2122 U.N.T.S. 359 [hereinafter Plastic Explosives Convention]

¹⁴ Mar. 10, 1988, 27 I.L.M. 685 [hereinafter Fixed Platforms Convention];

¹⁵ Mar. 10, 1988, S. Treaty Doc. No. 101-1, 27 I.L.M. 668 [hereinafter Maritime Convention];

¹⁶ [supplement to the Montreal Convention], Feb. 24, 1988, S. Treaty Doc. No. 100-19, 1589 U.N.T.S. 474 [hereinafter Montreal Airports Protocol];

¹⁷ Mar. 3, 1980, T.I.A.S. No. 11080, 1456 U.N.T.S. 101 [hereinafter Nuclear Materials Convention];

¹⁸ Dec. 17, 1979, T.I.A.S. No. 11081, 1316 U.N.T.S. 205 [hereinafter Hostages Convention];

¹⁹ Dec. 14, 1973, 28 U.S.T. 1975, 1035 U.N.T.S. 167 [hereinafter Internationally Protected Persons Convention];

²⁰ Sept. 23, 1971, 24 U.S.T. 546565, 974 U.N.T.S. 178 (Jan. 26, 1973) [hereinafter Montreal Convention];

²¹ Dec. 16, 1970, 22 U.S.T. 1641, 860 U.N.T.S. 105 [hereinafter The Hague Convention]

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Till present, the most significant response of the General Assembly to the issue of terrorism is the Declaration on Measures to Eliminate International Terrorism of 1994 (Elimination Declaration), which states that:

“Acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society”

“Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them”

Resolution 1373, adopted on September 28, 2001, is the first use of Chapter VII powers to order states to take or refrain from specific actions other than when disciplining a specific country.²³ For Resolution 1373, the Security Council largely adopted existing obligations from the Convention for the Suppression of the Financing of Terrorism (Financing Convention) and the General Assembly's Elimination Declaration of 1994.²⁴ Indeed, working from a blank slate would have been slower and would have denied the Security Council the advantage of capturing the legitimacy of obligations that many states had already accepted by signing the Financing Convention.²⁵

Resolution 1373 does expect States to ‘suppress terrorism’, but it also more stridently mandates that States must enact legislation ‘by criminalizing’ the willfull provision or collection of funds for acts of terrorism. It further demands that the assets of those who participate in, facilitate or commit terrorist acts should be frozen. The Resolution also compels States to prohibit persons from either directly or indirectly financing those who commit terrorist acts. Paragraph 2 of Resolution 1373 ‘*decides also* that all States shall refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists. It further warrants that States shall take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information, not allowing the use of the State’s territory as a safe haven for those who finance or plan terrorist acts. Also that States must ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to

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²³ Young n109

²⁴ Young n110 at 43

²⁵ Young

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justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts.

States must also afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings. Finally, States must prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

This rather strong language was a departure for the Security Council. Commentators note that 'Resolution 1373 departs from the normal language of "calls upon" and "urges" and instead issues mandatory directions in a style characteristic of legislation, such as "all States shall. . . ."²⁶ Resolution 1373 also established the Counter-Terrorism Committee (C.T.C.), which monitors the implementation of the obligations under Resolution 1373 and provides assistance to states as required.²⁷

Resolution 1566, unanimously approved by the Security Council in October 2004, remedies the absence of a definition in Resolution 1373 to some extent.²⁸ Like previous Security Council and General Assembly Resolutions, Resolution 1566 condemns terrorism in all its forms, irrespective of its motivation, and urges states to cooperate fully in the "fight against terrorism." But paragraph 3 of Resolution 1566:

Recalls that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature. . . . n122

On its face, this appears to be a definition of terrorism. According to a Security Council press release, Ambassador Ronaldo Mota Sardenberg of Brazil stated to the Security Council during its debate of Resolution 1566 that operative paragraph 3 was not an attempt to define the concept of terrorism but rather a compromise among the Member States that contained a clear political message.²⁹

(section to be completed)

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²⁸ Young

²⁹ n123 Young

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III. Global Abuse of Anti- Terrorist Laws

The world over governments, democracies and dictatorships have often abused anti terrorist laws to clamp down on those to who have challenged them. Human Rights Watch and many others have documented that since the terrible 9/11 attacks on the US, other countries have used the ensuing war of international terrorism to legitimize persecution of amongst other political opposition, minority groups, groups seeking self determination or autonomy through peaceful means.

Human Rights Watch notes that “true security is ultimately about ensuring an environment in which all human rights are fulfilled, respected and protected – and that this will not be achieved when basic freedoms are undermined and democratic space is closed and alienation and discontent are channeled into politically motivated violence.”³⁰

According to this report, since the September 11 attacks, China has sought to blur the distinctions between terrorism and calls for independence by the ethnic Uighur community in the Xinjiang-Uighur Autonomous Region (XUAR) in order to enlist international cooperation for its own campaign, begun years earlier, to eliminate “separatism.”³¹ Chinese authorities have used the global counter-terrorism effort as a justification for deepening crackdown in Xinjiang. In the same vein, Tibetan monks were sentenced to death for ‘crimes of terror’ and ‘incitement to separatism’

In Eqypt, the report alleges that hundreds of suspected government opponents have been arrested for alleged membership in groups that had been banned despite being non violent, under anti terrorism laws, that were strengthened after September 11, 2001.³² In Georgia, Human Rights Watch states that US supported anti-terror measures have focused on the Pankasi Gorge and on the Chechen population in the country. Disappearances, summary extraditions, arbitrary detentions have been alleged.³³ Similarly, Russia has linked its anti Chechen campaign that led to over three thousand civilians being killed to the global campaign against terror.³⁴

Likewise the same report alleges that the climate created by the International Campaign against terrorism provided Spanish authorities with a further pretext to crackdown on Basque separatists and also to put in place stricter control on immigration, asylum and

³⁰ In the Name of Counter Terrorism, Human Rights Abuses Worldwide, (A Human Rights Watch Briefing Paper for the 59th Session of the United Nations Commission on Human Rights, March 25, 2003. (website www.hrw.org) at 3

³¹ Id at 10-11

³² Id at 12

³³ Id at 13

³⁴ Id at 18

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refugees.³⁵ In this same context in November 2002, the UN Committee Against Torture expressed serious concern about incommunicado detention under Spain's criminal laws. Similarly, in the United Kingdom, the UK Government, political parties and the media have according to the organization, exploited insecurities arising from the September 11 attacks to call for greater restrictions on the right to seek asylum.³⁶

IV. Successful Abolition of Draconian Anti Terrorist Legislation: Case Study of India

India like many erstwhile colonized countries, has a tradition of the imposition of Anti-Terrorist or Anti-Insurgent or Anti- Mutiny laws put in place by the former colonial power. Now these laws may have been called differently, but in sum and substance they made rebelling against the ruling power grounds for criminal action and in many cases treason against the State itself. This next section, will use India as an example to trace the evolution of such laws, the more contemporary forms of the laws and finally, discuss the successful strategies that civil society and courts used to compel the abolition of the more contemporary draconian Anti Terrorist laws.

The section very significantly details the use of Anti Terrorist laws by the State to persecute modern day activists, trade unions, 'dalits', women fighting against patriarchy and even children in traditionally disempowered sections of society.³⁷ The section makes an important point- that whereas in present times there is legitimately need for legal measures that focus on addressing terrorism – both domestic and international in nature, at the same time there is a tendency by the state to behave almost in a colonial manner, to use these very same laws to silence dissent. Therefore the laws in questions need to have safe guards against abuse built into the system that sustains them. And that civil society plays a very critical role in ensuring that these safeguards are in place, and when they are not, in taking down the law itself.

British colonizers in their relatively early days in India, passed numerous 'preventive detention' laws, ie laws designed to the prevent trouble by detaining the individual in question. These preventive detention laws were justified on grounds of threats to public order and national security, and were almost always applied arbitrarily.³⁸ The earliest enactment that provided for such preventive detention in India has been traced to the the East India Company Act of 1784.³⁹ The British East India Company was the trading company that initially came to India, established relations with Princely States, before through a variety of tactics overthrew or subdued these rulers to establish their control

³⁵ Id at 19

³⁶ Id at 22

³⁷ See also, Human Rights Watch World Report 2003: India (www.hrw.org)

³⁸ C. Raj Kumar n 16

³⁹ Id

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over the resources and raw materials of the areas in question. As any school student in India knows, trade inspired the advent of colonization, and unequal terms of trade the birth of preventive detention, which eventually proved the conceptual basis for the Prevention of Terrorism Act. In any case, the East Indian Company Act provided for the "detention of any person who was suspected of participating in any correspondence or activities prejudicial or dangerous to the peace and safety of British possessions and settlements in India."⁴⁰

During British rule in India, preventive detention was authorized by the Defence of India Acts of 1915 and 1939, the Government of India Act of 1919, the Rowlatt Act of 1919, and the Bengal Criminal Law Amendment Act of 1925.⁴¹ These laws had provisions enabling the State to detain a person for six months without informing the detainee of the grounds of detention. These laws were subject to enormous abuse in the hands of colonial rulers. They provided very few safeguards while granting discretionary powers to government officials.

Independent India has a tradition of using a matrix of Anti Terrorist and Preventative Detention Laws, many of which can be traced back to the very colonial era laws briefly discussed above. In contemporary times, the National Security Act (NSA) of 1980, the Terrorist and Disruptive Activities Act (TADA), 1987 and the more recent Prevention of Terrorism Act, 2002 (POTA) are three major pieces of legislation passed to deal with terrorism. TADA was in fact replaced by POTA, which was thought to be a less draconian law.

POTA was initially promulgated as an ordinance, six weeks after the September 11th attacks in the United States. And eventually, the Indian Parliament passed the Act in March 2002. A few salient features of the Statute include; POTA definition of terrorism was similar to that of the earlier TADA. A terrorist act have been defined to be 'intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by doing any act or thing' using weapons or 'by any other means whatsoever'.⁴² Such terrorist acts when resulting in the death of a person shall be punishable with death or life imprisonment.

POTA further rather broadly states that any person who is a member an association declared unlawful under the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), or voluntarily does an act aiding or 'promoting in any manner' the objects of such association and in either case is in possession of any unlicensed arms, and commits any act resulting in loss of human life or grievous injury or damage to any property, commits a terrorist act.

⁴⁰ n17

⁴¹ n18

⁴² Section 3(1) (a) of POTA

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The Act further states that any person who conspires or attempts to commit, advocates, abets, advises or incites a terrorist act shall be punishable with imprisonment for a term of a minimum of five years but which may extend to imprisonment for life.

POTA establishes Special Courts with exclusive jurisdiction to try terrorist offenses and supplemental jurisdiction to try other offenses. POTA Courts also have the authority to try certain offenses in a summary fashion if the punishment does not exceed three years.

The Case by Civil Society against the Prevention of Terrorism Act, 2002:

Criticism against POTA was wide spread. Part of the critique of POTA was that the regular and pre-existing criminal law provisions could be used to process cases that apparently needed POTA. So for instance, on December 13, 2001 the Indian Parliament was attacked by terrorists, and brought India and Pakistan, two nuclear power states on the brink of war. A million troops were deployed on both sides of the border. The Special Cell of the Delhi Police which was handling the investigation filed the initial First Information report (FIR), under the Indian Penal Code, the basic criminal law of the country and not POTA.

POTA and TADA have been used against tribal women⁴³, in many cases where allegedly they were involved in movements against traditional power holders like money lenders, landlords etc. They are also part of movements in the North east states of India, like Manipur and Nagaland. It is alleged that tribal women protesting their exploitation by landlords, money-lenders, the State and others including traditional elites within their communities, in different parts of the country- like Manipur, Nagaland, the Narmada Valley, Orissa, Andhra Pradesh etc have has POTA used against them. In 2003, a team of human rights activist and lawyers undertook a fact finding mission in to document cases of POTA misuse in the State of Jharkhand in India. Their study revealed that there are more than 3200 cases of POTA registered. The indicted include only illiterate and poor *dalit* and *adivasi* men and women.

A blatant abuse of POTA was the use of it by the Hindu Nationalist State government in Gujarat against members of the Muslim community. This abuse of the enactment, served a catalyst for a movement against this Anti-Terrorist Legislation. Amnesty Internationals' report documents the events leading up to the application of POTA against Gujarati Muslims, who ironically by being the victims of the genocide that played out in Gujarat, should have been the very people that POTA should have been protecting. Toward the end of 2002 and early 2003, in response to wide spread riots in Gujarat, the local police arrested over 242 Gujarati Muslims under POTA.

This is an extract from Amnesty International's Report:

⁴³ <http://www.humanrightskerala.com/index.php>, see statement from Sangharshrat Adivasi Mahila Manch

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“The context in which these arrests have been taking place is one of heightened communal tension, with allegations that the ruling Bharatiya Janata Party (BJP) government of the state actively connived in violence against Muslims perpetrated in the aftermath of the killing of Hindus in Godhra in February 2002.⁴⁴ More than 2,000 people, predominantly Muslims, were killed, and thousands more were displaced from their homes between the end of February and May 2002 in Gujarat. Sporadic incidents of communal violence continue to this day. Allegations of state connivance in the violence against Muslims have been given strength by the failure of the criminal justice system to bring those responsible to justice – a fact highlighted by the Supreme Court in a recent order which reportedly referred to “connivance” between the government and prosecution service. All those formally arrested and charged in relation to these conspiracies are Muslims and almost all have been charged under provisions of the Prevention of Terrorism Act, 2002 (POTA).⁴⁵ Many of these spent periods of time in illegal detention prior to their “formal” arrest. Others reportedly continue to be held indefinitely in illegal detention.”

Amnesty International like numerous other organizations, international and domestic in nature, was concerned about the ‘exclusive application of the Act’ against the Muslim minority in the State.⁴⁶ The report further states,

“The organization is concerned about the exclusive application of the Act against the minority community under definitions of “terrorist acts” which are extremely vague, and criminalization of conspiracy, abetment, advocacy and incitement (Section 3(3)) which are extremely broad. There are indications that the Act is being used arbitrarily and punitively against Muslims (as referred to earlier, the Act has been used only against Muslims and one Sikh in the state): reports indicate that police regularly threaten those illegally detained and their relatives that they will be charged under POTA if they fail to cooperate or make complaints about their treatment to the courts or human rights organisations. Such threats seriously call into question the legal and evidential basis on which individuals are being detained and subsequently charged under POTA and reinforce concerns expressed by Amnesty International and other human rights organizations at the time of the enactment of the Act that it would lead to an increase in human rights violations.”

The first visible sign of the beginnings of “an organized resistance” for the repeal of POTA was the People’s Tribunal that was held in India’s capital New Delhi.⁴⁷

On 13th and 14th March 2004, a People’s Tribunal was held to focus on the gross misuse of POTA and other security legislations in the country.⁴⁸ More than 55 ‘victims’ deposed

⁴⁴ India: Abuse of the law in Gujarat: Muslims detained illegally in Ahmedabad, Amnesty International, (2003) *AI Index: ASA 20/029/2003* (report on file with the author)

⁴⁵ According to press reports, all but one of 240 people charged under POTA in Gujarat are Muslims (240 Pota cases, all against minorities, Times of India, 15 September 2003).

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⁴⁷ Henri Tiphange, Director, People's Watch, Tamil Nadu “the Tribunal is the first sign of organized resistance in the country for the repeal of POTA. The next step surely is that all human rights movements, activists and the media come under a common banner and reiterate what the National Human Rights Commission had said - that POTO and POTA are not required in the country”.

⁴⁸ POTA, A Movement for Repeal, http://www.combatlaw.org/print.php?article_id=406&issue_id=16

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before a panel of eminent jurists, academicians, journalists and activists.⁴⁹ The tribunal was jointly organized by human rights activists, lawyers and rights-based groups from across the country. Amongst the people who deposed before the Tribunal included farmers, juveniles, the disabled, women, the elderly, poets, journalists and human rights workers.

These are some extracts from the report compiled by the members of the People's Tribunal, that establish a pattern of wrongful application of POTA against the sections of society- who are usually historically the most disempowered.

Roma, a human rights activist who works with civil society groups in the Sonbhadra district of Uttar Pradesh made a presentation on the manner in which poverty and terrorism collude in the state. "In the eastern part of the state, cases of misuse of security legislations have been the result of the government's inability to undertake land reforms," she said. "Tribals and dalits who are engaged in movements against land reforms, bondedness and industrialization, are being booked under POTA and other security legislations. They earn the label of Naxalites." "The police do not file FIRs in cases that revolve around the land and forest rights of the tribal and dalit communities. No lawyer in the region is willing to file a petition for the violations of the fundamental rights of these poor people."

Ten-year old Om Prakash was studying in the fifth standard when he was picked up by the local police and charged in three criminal cases of murder and blasting a landmine. The police refer to him as a "dreaded naxalite." Om Prakash's family earns daily wages of less than Rs. 40. Deposing before the panel, Om Prakash said, "The police accused my 25-year-old brother of being a naxalite and a conspirator in the killing of the local raja. They killed him in an encounter. They then filed cases against me. Another brother of mine has run away fearing police torture. "They kept me in a local hotel for two days and beat me with chappals. They told me they would give me electric shocks if I did not admit to being a naxalite. I do not know what the word Naxalite means."

The pattern repeats itself in Jharkhand, the heart of the country's indigenous population. "POTA is used on the weakest, and the most marginalized sections of the populations," said Nitai Rawani, advocate and member of the People's Union for Civil Liberties. "Typically, communities that are booked under POTA are poor farmers. Whenever there is an upsurge of violence in the region, the police come in large numbers and raid villages. On seeing them, villagers run away into the jungles. Anyone found by the police in a village is detained and booked under POTA."

Similarly, 16-year old Roopni Khari was arrested under POTA in the Gumla district in Jharkhand Her crime? She organized the women of her village against patriarchal oppression.

⁴⁹ Participating Organizations of the Tribunal: Asian Centre for Human Rights, Action Aid (Gujarat), Amnesty International (India), Communalism Combat, Janhit, Human Rights Law Network, India Centre for Human Rights and Law, Indian Social Institute, Lawyers for Human Rights International (Punjab), People's Watch-Tamil Nadu, POTA Virodhi Jan Morcha, PUCL Ranchi Unit, People's Union for Democratic Rights (PUDR), Thanthai Periyar Dravidar Kazhagam, UP Agrarian Reform & Labour Rights Campaign Committee. Panel comprised Ram Jethmalani (former law minister) Arundhati Roy (writer), Mohini Giri (former head of the Women's Commission), Sayeda Hamid (Former member, National Commission for Women), Prafull Bidwai (journalist), Justice D.K. Basu (Former Justice of the Calcutta High Court), Justice Suresh (Retired judge, Mumbai High Court) and K. G. Kannabiran, President, People's Union for Civil Liberties

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