

1	2	3	4
Meghalaya	0	0	0
Mizoram	0	0	0
Nagaland	0	0	0
Orissa	159	41	76
Pondicherry	0	0	0
Punjab	1	0	0
Rajasthan	26	4	88
Sikkim	0	0	0
Tamil Nadu	28	2	71
Tripura	1	0	0
Uttaranchal	1	0	14
Uttar Pradesh	78	11	314
West Bengal	9	0	63
TOTAL	695	116	1680

* Tentative figures

ARC recommendations regarding terror and federal agency

525. SHRIMATI SHOBHANA BHARTIA:

SHRI VIJAY JAWAHARLAL DARDA:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Second Administrative Reforms Commission has recently favoured enactment of a comprehensive and effective legal framework to deal with all aspects of terror and a federal agency to investigate terrorists offences;

(b) if so, the details of the report submitted to Government in this regard;

(c) whether Government proposes to enact tougher law than POTA to check the acts of terrorists; and

(d) if so, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI SHRIPRAKASH JAISWAL): (a) to (d) The Second Administrative Reforms Commission (ARC) in its Eighth Report on Combating Terrorism has made certain recommendations, which, *inter-alia*, relate to the legal framework for dealing with various aspects of terrorism. Copy of the summary of recommendations made in the report is enclosed as statement (*see* below).

The recommendations of the ARC are under examination.

Statement

Copy of the Summary of Recommendations made in the Report of ARC

1. (Para 4.1.6.9) Need for a Comprehensive anti Terrorist Legislation

A comprehensive and effective legal framework to deal with all aspects of terrorism needs to be enacted. The law should have adequate safeguards to prevent its misuse. The legal provisions to deal with terrorism could be incorporated in a separate chapter in the National Security Act, 1980.

2. (Para 4.2.9) Definition of Terrorism

There is need to define more clearly those criminal acts which can be construed as being terrorist in nature. The salient features of this definition should inter alia include the following:

- (i.) use of firearms, explosives or any other lethal substance to cause or likely to cause damage to life and property and essential infrastructure including installations/establishments having military significance.
- (ii.) assassination of (including attempt thereof) public functionaries. The intent should be to threaten the integrity, security and sovereignty of India or overawe public functionaries or to terrorise people or sections of people.
- (iii.) Detention of any person or threat to kill or injure any person to force the government to set or abstain from acting in a particular manner.
- (iv.) Providing/facilitating material support, including finances, for the aforesaid activities.
- (v.) Commission of certain acts or possession or possession of certain arms etc. by members or supporters of terrorist organisations which cause or are likely to cause loss of life, injury to a person or damage to any property.

3. (Para 4.3.8) Bail Provisions

Regarding grant of bail, the law should provide that;

- (i.) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless the Court gives the Public Prosecutor an opportunity of being heard;
- (ii.) Where the Public Prosecutor opposes the bail application of accused to release on bail, no person accused of an offence punishable under this Act or any rule made there under shall be released on bail until the Court is satisfied that there are grounds for believing that the accused is not guilty of committing such offence.

Provided that after the expiry of a period of one year from the date of detention of the accused for an offence under this Act, the provisions of sub-section (i) of this section shall apply.

- (iii.) A Review committee should review the case of all detenus periodically and advise the prosecution about the release or the accused on bail and the prosecution shall be bound by such advice.

4. (Para 4.4.5) Period of detention (Remand) during Investigation

For terrorist and other related offences, it should be provided that Section 167 of the CrPC shall apply subject to the modification that in sub-section (2), the references to "fifteen days", "ninety

days" and "sixty days", wherever they occur shall be construed as references to "thirty days", "ninety days" and "ninety days" respectively.

5. (Para 4.5.10) Confession before a Police Officer

Confession before the police should be made admissible as recommended in the Report on Public Order. But this should be done only if comprehensive police reforms as suggested by the Commission are carried out. Till such time, confessions should continue to be made before Judicial magistrates under Section 164 CrPC.

6. (Para 4.6.5) Presumptions under the Law

The following legal provisions should be included regarding presumptions: If it is proved -

(i.) that the arms or explosives or any other dangerous substance were recovered from the possession of the accused and there is reason to believe that such arms or explosives or other substances of similar nature, were used in the commission of such offence; or that by the evidence of an expert the fingerprints of the accused, or any other definitive evidence were found at the site of the offence or on anything including arms vehicles used in connection with the commission of such offence the Court shall draw adverse inference against the accused.

(ii.) if it is proved that the accused rendered any financial assistance to a person accused of, or reasonably suspected of, an offence of terrorism, the Court shall draw adverse inference against the accused.

7. (Para 4.7.10) Review Committee

A statutory Review Committee should be constituted to examine cash case registered, within 30 days of its registration. The Review Committee should satisfy itself that a prima facie case has been made out by the investigation agency. This Committee should review each case every quarter.

8. (Pars 4.9.5) Special Courts

Provisions for constitution of Special Fast Track Courts exclusively for trial terrorism related cases may be incorporated in the law on terrorism. Other specific provisions related to such Special Courts may also be incorporated. Such Courts may be up as and when required.

9. (Para 4.10.3) Possession of Arms etc.

Provision for penalizing unauthorized possession of certain specified arms and ammunition in notified areas and unauthorized explosive substances, weapons of mass destruction and biological or chemical substances of warfare in notified as well as non-notified areas, may be incorporated in the law on terrorism.

10. (Para 4.11.4) A federal agency to Investigate Terrorist Offences

The Commission would like to reiterate the recommendations made in its Report on 'Public Order' (paragraph 8.3.14) on the creation of a specialized Division in the CBI to investigate terror offences.

b. It should be ensured that this Division of the CBI is staffed by personnel of proven integrity and who are professionally competent and have developed the required expertise in investigation of terrorism related offences. The autonomy and independence of this agency may be ensured through a laid down procedure of appointment and assured fixed tenure for its personnel.

11. (Para 5.2.4) Measures against Financing of Terrorism - Anti-money Laundering Measures

a. The Prevention of Money-laundering Act (PMLA) may be suitably amended at an early date to expand the list of predicate offences to widen its scope and outreach.

b. The state at which search and seizure action may be taken under the PMLA may be advanced in cases involving wider ramifications. Adequate safeguards may also be put in place in such cases.

c. It may be examined whether institutional coordination mechanisms between the Directorate of Enforcement and other intelligence collecting and investigating agencies, could be strengthened and some provisions of the PMLA delegated to them by the Enforcement directorate.

d. The financial transaction reporting regime under the Financial Intelligence Unit (FIU-IND) may be extended to cover high risk sectors such as real estate. There is also need to strengthen the capacity of FIU-IND to enable it to meet future challenges.

e. It would be useful to utilize the platform provided by the Regional Economic Intelligence Councils (REICs) for increased coordination among various investigation agencies in cases which are suspected to be linked with money laundering. Further, owing to the complexity of cases involved, the FIU-EUD, apart from disseminating agency specific information, should furnish overall region-centric information to the Central Economic Intelligence Bureau (CEIB) for disseminating it to the respective REICs with a view to expanding the information regime.

12. (Para 5.3.4) Measures against Financing of Terrorism - Measures to Block the flow of Funds for Financing Terrorist Activities

a. The new legal framework on terrorism may incorporate provisions regarding freezing of assets, funds, bank accounts, deposits, cash etc. when there is reasonable suspicion of their intended use in terrorist activities. Such actions may be undertaken by the investigating officer with the prior approval of a designated authority, subject to adequate safeguards. These provisions may be incorporated in a separate chapter in the national Security Act, 1980 as recommended in paragraph 4.1.6.9.

b. A specialized cell may be created in the proposed National Counter-terrorism Centre drawing upon expertise from the Union Ministries of Finance and Home Affairs and the Cabinet secretariat for taking concerted action on the financial leads provided from information gathered by various sources. Further, different investigation agencies dealing with financial transactions may set up anti-terrorist finance cells within their organizations to augment the efforts of intelligence agencies involved in counter terrorism activities.

c. For speedy investigation into the financial aspects of specific cases/group of cases related to terrorist activities, dedicated teams may be formed within, the agencies charged with the

responsibility of investigating into offences related to terrorism. This may be accomplished by inducting officers having specialization in different aspects of financial investigation for short periods, say three to six months. A protocol for achieving this may be arrived at between the concerned Union state Ministries/Departments to facilitate such capacity building and strengthening the effectiveness of the counter-terrorist measures.

13. (Para 7.2.6) Role of Citizens, Civil Society and Media in Combatting Terrorism

- Education

- a. NCERT has proposed a scheme to encourage and support institutions, voluntary agencies and NGOs etc. engaged with school education for promotion of Education for Peace within the country. These initiatives need to be encouraged with necessary funds and other material support.
- b. The feasibility of extending the scheme to religious schools also needs to be examined.

18. (Para 7.4.7) Role of Citizens, Civil Society and Media in Combatting Terrorism

- Media

- a. The potential of media in spreading education and awareness needs to be tapped to build the capacity of citizens in dealing with any public disorder, particularly terrorist violence.
- b. Media should be encouraged to evolve a self regulating code of conduct to ensure that publicity arising out of terrorist attacks does not help terrorist in their anti-national designs.

Surrender and Rehabilitation Policy for Extremists

†526.SHRI LALIT KISHORE CHATURVEDI: Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether funding scheme for "surrender and rehabilitation policy" to the extremists has been implemented by Government;
- (b) if so, the details of the above scheme and the States where it has been implemented;
- (c) the details of number of surrendering extremists and the amount incurred on these under the above scheme in last three years including the current year, year-wise and State-wise;
- (d) the details regarding peacefully living after surrender; and
- (e) whether it is a fact that extremists are surrendering under a strategy so that they may continue to provide money and information to their old group?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI SHRIPRAKASH JAISWAL): (a) and (b) A policy for surrender cum rehabilitation of militants is being implemented in

†Original notice of the question was received in Hindi