

nt>

12.07 hrs.

Title: Statement regarding prevention of Terrorism Act.

THE DEPUTY PRIME MINISTER AND IN CHARGE OF THE MINISTRY OF HOME AFFAIRS AND MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI L.K. ADVANI): Sir, with the intensification of cross border terrorism and the continued offensive agenda of Pak ISI targeted at destabilising India and the post 11th September developments, it became necessary to put in place a special law to deal with terrorist acts. Accordingly, the Prevention of Terrorism Act, 2002 (POTA, 2002) was enacted and notified on 28th March, 2003.

The POTA, 2002 clearly defines the terrorist act and the terrorist in Section 3 and grants special powers to the investigating authorities under the Act. However, in order to ensure that these powers are not misused and the violation of human rights does not take place, specific safeguards have been built into the Act. Some of these are:

No court can take cognisance of any offence under the Act without the previous sanction of the Central Government or, as the case may be, of the State Government.

No officer lower in rank than the Deputy Superintendent of Police can investigate offences under the Act.

Confession made by a person before a police officer not below the rank of Superintendent of Police is admissible as evidence under the Act provided such person is produced within 48 hours before a magistrate along with his confessional statement.

The Act provides for punishment for any officer who exercises powers maliciously or with *mala fide* intentions. It also provides for award of compensation to a person who has been corruptly or maliciously proceeded against under the Act.

The POTA, 2002 is a special law for the prevention of and for dealing with terrorist activities and clearly defines the terrorist act and the terrorist in Section 3, Sub-Section (1) of the Act. The Act provides the legal framework to strengthen the hands of the administration in our fight against the menace of terrorism and can and should be applied against such persons and acts as are covered by the provisions of this law, and it is not meant as a substitute for action under ordinary criminal laws.

Members have raised from time to time an issue that the provisions of this law are invoked even against such persons and acts which do not fall into the ambit of this law. The Government has given careful consideration to their views and it has been decided that the matter is serious enough to warrant the invoking of the powers of the Central Government under Section 60 of the Act which provides for the formation of one or more Review Committees. The Review Committee shall consist of Justice Arun Saharya, former Chief Justice of Punjab High Court as Chairperson. The Review Committee will take a comprehensive view of the use of this legislation in various States and give its findings and suggestions for removing the shortcomings in the implementation of this law with a special reference to ensuring that the provisions of the Act are invoked for the combating of terrorism and are not used against ordinary criminals or those who are not terrorists or whose acts cannot be considered as terrorist acts.

The terms and conditions of the Committee will be worked out separately. Other members of the Review Committee will be named soon.

SHRI SOMNATH CHATTERJEE (BOLPUR): It is welcome because we have our opposition to the Bill. But have you fixed any time for that?

SHRI L.K. ADVANI: I will get it soon...(Interruptions)

MR. SPEAKER: Please sit down. All the hon. Members know the rules and procedure of the House. I have promised you that during 'Zero Hour' I am going to permit you to raise the question which you want to raise now. The 'Zero Hour' has not yet started. The procedure is that first we go to the Calling Attention Motion and thereafter the 'Zero Hour' will start. As soon as the 'Zero Hour' starts, I will permit you to speak on the issue.