Gujarat Control of Terrorism and Organised Crime Act (GCTOCA)

Why in News?

The Gujarat Control of Terrorism and Organised Crime (GCTOC) Act received President Ram Nath Kovind's assent recently.

What is the GCTOC Act?

- The GCTOC Act, the first version of its bill was passed in the Assembly 16 years ago comes into effect on December 1, 2019.
- It draws heavily from The Maharashtra Control of Organised Crime Act (MCOCA), 1999.
- But, the GCTOCA has two significant differences from that of MCOCA:
    1. The checks on interception of communication that are part of the Maharashtra law are missing in the Gujarat law;
    2. The definition of "terrorist act" in the Gujarat law also covers "intention to disturb public order".
- These differences make the GCTOCA tougher and broader in scope than MCOCA.

How MCOCA intercepts communication?

- **Extension** - It states that the interception, if approved by the competent authority, cannot be for more than 60 days.
- Any extension would require permission and the application for this must include a statement of the results of the interception thus far, or a reasonable explanation for the failure to obtain results.
- Extension cannot be for more than 60 days.
- The law stipulates a prison term of up to one year for unauthorised interception or violation of the rules of interception.
- **Investigation** - A police officer of the rank of SP or above is required to supervise the investigation.
- They should submit the application seeking authorisation for the interception of electronic or oral communication.
- The law specifies various details that the application must mention.
- Interception is allowed only if the investigating agency states that other modes of intelligence gathering have been tried, and have failed.

- **Authority** - The law provides for a panel to review the orders of the competent authority.
- The competent authority shall be an officer of the state Home department, not below the rank of Secretary to the government.

How GCTOCA intercepts communication?

- **Evidence collection** - GCTOCA deals with the admissibility of evidence collected through interception.
- But it does not mention the procedure for intercepting communication.
- A section in GCTOCA adds that the evidence collection should be done notwithstanding anything contained in the Code (CrPC, 1973) or in any other law for the time being in force.
- These evidences are collected through the interception of wire, electronic or oral communication under the provisions of any other law shall be admissible as evidence against accused in the court during trial.
- "Any other law" is not defined.
- **No annual report** - It has no provision similar to the annual report mandated in the MCOCA, giving a full account of requests for interception, numbers of applications approved/rejected, etc.
- This analysis of the utility of the interceptions must be submitted to the Maharashtra Assembly within 3 months of the end of the calendar year.

What is the definition of 'terrorist act' in GCTOCA?

- **Definition** - An act committed with the intention to disturb public order or threaten the unity, integrity and security of the State or to strike terror in the minds of the people or any section of the people.
- Its definition of a "terrorist act" is similar to the one in the repealed Prevention of Terrorism Act (POTA), 2002, but includes "an act committed with the intention to disturb public order".
- **Widened definition** - The widening of the definition allows, say, the Patidar agitation to be described as an act of terrorism, allowing stricter punishment.
- The Unlawful Activities (Prevention) Act (UAPA), 1967 doesn't allow an agitation of such form or scale to be called 'terrorism'.
- It is instead covered under IPC sections and the law of sedition, which isn't effective enough for stringent punishment".

What is the argument for GCTOCA?

- The government could, while framing the Rules, introduce the checks and balances that are absent in GCTOCA.

- In case this is not done, there is also the provision where the court can ask the state government to frame Rules to this effect.
- The constitutional validity of the law can be challenged on a case-specific basis.
- With respect to GCTOCA, there is a competing interest of law and order versus privacy.
- However, only time will tell how communication interception is used and interpreted.
- The definition of "terrorist act" was very wide, however, there were mechanisms built into the law to limit it.
    1. The registration of FIR is done by an officer of rank SP or above so that this power cannot be misused.
    2. Assuming that the FIR is registered with a political motive, there is the provision that after submission of charge sheet, sanction from the state government is required before the court takes cognisance.
    3. The court is the interpreter.
- The GCTOCA does grant power to the executive with respect to the investigation process.
- There were similar provisions under previous laws TADA and POTA, both now repealed.

Source: The Indian Express

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