

POTA and Mr Vaigo
(POTA an instrument of political suppression)

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The arrest of the MDMK leader Vaigo under POTA is an indication simultaneously of the intention of those who wanted to have that law, and the nature of that law: it was meant to be used as a political instrument, and it is shaped ideally for such use. It cannot be said too often that no terrorist to date has invented any new offence that was not imagined by the framers of the Indian Penal Code. All that has been achieved is newer and more brutally effective ways of committing the same old offences. And even this was first discovered, not by any terrorist, but by the legitimate forces of the law-making State. This is not meant as a justification of arbitrary acts of violence against common people that are universally abhorred as acts of terrorism, but to put things in right perspective: the terrorists have learnt the brutal trade they practice from the forces of law and order.

A new law to deal with 'terrorist offences' was therefore not required, since there are no new offences invented by terrorists. A new law was needed for a reason that springs, not from any novelty in the offences called terrorist, but from the fact that terrorism is not just another offence, but a *political offence*, or more precisely an offence arising from politics unpalatable to the current rulers.

If the offence is all that is to be controlled or suppressed, the existing penal law is about as sufficient as any penal law can ever be. It can never be fully successful, because the law can never be fully successful in eliminating crime. But penal law as we know it is about as successful as law can be. But in dealing with *political* offences, the view of the Establishments the world over is that the *politics* must be suppressed if the offences are to be controlled. But this suppression must be done in the name of controlling crime and not politics, since democracy as understood in the civilised world does not permit straight forward suppression of politics. This is why POTA was needed. And once this is understood, all hypocrisy must cease.

Journalists made much of Sec 3(8) of the first ordinance preceding POTA, and got it deleted in the second ordinance and the Act. There is a feeling in the Press that journalists are no longer vulnerable. How much of an illusion this could turn out to be would depend on how the police are going to interpret and use the other dubious provisions of the Act which may well substitute for Sec 3(8), namely Secs 3(3) and 3(4). But Sec 21, under which Vaigo has been booked, can be used with ease against not only serious ideological support but even mere intellectual dalliance with what the Act defines as terrorist organisations. And this is no less bad than booking journalists under POTA for doing their job. To invite support for a terrorist organisation, to arrange or manage a meeting to support or to further the activities of a terrorist organisation, or a

meeting to be addressed by a person who professes to belong to a terrorist organisation, or to oneself address such a meeting is an offence punishable with ten years imprisonment under Sec 21. Here, it is not support for an act of violence that is being penalised, but support for a 'terrorist organisation', which may well be merely political support or sympathy.

Public pronouncements in support of the politics of unfavoured militancy, even if there is no immediate or even long distance nexus with acts of violence, are proscribed on pain of a ten year punishment under Sec 21. This is a clear assault of the freedom of political belief (and let us remember before anyone works up a blood pressure about this comment, that freedom of political belief includes the freedom of wrong belief, for the simple reason that all of us will never agree on what is right political belief).

Vaigo, it is said, expressed appreciation of the LTTE in a public meeting held in Tirumangalam in Tamil Nadu. He himself explained that he had said that: (i) the Tamils were facing serious problems of discrimination in Sri Lanka, and (ii) that the LTTE was putting up a just fight for their rights. It is not Jayalalitha's case that Vaigo killed someone, or blew up a Bank, or committed dacoity, while saying this. He merely said this. Can any civilised nation punish a person for merely expressing such a view? It appears that this nation can.

Apart from the right to say wrong things, there are many in Tamil Nadu as well as outside who do not care much for the brutal character of the LTTE and its authoritarian ways, but would nevertheless agree with these two points. Jayalalitha may disagree with them. And so may her good friends of the Sangh Parivar in Delhi. But that is surely a matter of a point of view? But points of view are precisely what Sec 21 aims at, and so Jayalalitha has not misused POTA, she has merely used it. If Sec 21 is used with the same consistency in Tamil Nadu, a large number of the citizens resident in that State will have to go to jail, because that view is quite commonly held in that State. Though, to clarify once again, no more than a minority support the LTTE in all its brutality.

Vaigo may not be a worthy icon in the struggle against POTA, for if one remembers rightly he was one of that Act's most vociferous supporters in Parliament, and he believes that using it against him is wrong but using it in Kashmir is alright. But his arrest affords a good opportunity to debate the nature of that piece of legislation. And unworthy symbols are some times preferable because one can then avoid the distracting glare that a worthy symbol would throw on the debate. One can comfortably discuss the issue on principles, ignoring the individual. Would India really benefit from a law that suppresses political points of view at the margin of acceptability to the rulers? The views may be umbilically linked to strategies of violence, but is that not all the more reason for wanting an open debate on them? The best way of showing up the futility of violence is to exhibit the strength of the human powers of reason, which cannot be done if one side to the debate is suppressed. If laws such as POTA occupy the terrain, the politics

of dissident violence will be met exclusively by State violence minus politics. And that can never answer militancy because it is morally not only not superior but in fact inferior to it, being the violence in defence of status quo, as against violence in the cause of change. And moreover, the AK-47 is no answer to any politics.

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