

14.19 hrs.

Title: Introduction of the Prevention of Terrorism Bill, 2002.

THE MINISTER OF HOME AFFAIRS (SHRI L.K. ADVANI): I beg to move for leave to introduce a Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith.

MR. DEPUTY-SPEAKER: Motion moved:

"That leave be granted to introduce a Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith. "

Shri Varkala Radhakrishnan, Shri G.M. Banatwalla, Shri Suresh Kurup, Shri Ramjilal Suman and Shri Basudeb Acharia have all given notices to oppose the introduction of this Bill.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I strongly oppose the introduction of this Bill. Just now, he had an opportunity of withdrawing the very same Bill. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: No, you are wrong. The Bill was not introduced and only the motion was there. That is exactly what I read out the rule.

SHRI VARKALA RADHAKRISHNAN : There is no difference between the one introduced and one that is now before the House. When this Ordinance was first promulgated, this is a Bill to replace an Ordinance. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: What subject are you talking about?

SHRI VARKALA RADHAKRISHNAN : I am referring to this Bill. This is a Bill to replace an Ordinance. That is why, I referred to the Ordinance....(*Interruptions*)

SHRI SONTOSH MOHAN DEV (SILCHAR): Sir, he is correct.

MR. DEPUTY-SPEAKER: He was not correct earlier and he is now correct.

* Published in Gazette of India, Extraordinary, Part-II, Section-2, dated 8.3.2002.

SHRI VARKALA RADHAKRISHNAN : Sir, I am not doing well. Please do not interrupt always.

MR. DEPUTY-SPEAKER: I cannot interrupt all of you together.

SHRI VARKALA RADHAKRISHNAN : Sir, the Minister must realise that this Ordinance was issued long before. And it is in the expectation that terrorist activities should be prevented. We were not having enough criminal preventive Acts and on that understanding this Ordinance was issued. When this Ordinance was in promulgation or when it was in force, we had the bitterest experience of the December 13th attack on this House. The Ordinance did not help us in preventing that attack. So, for prevention of terrorist attacks, the Ordinance is of no avail to the Government in preventing the attack. If the Ordinance could save the country, definitely it would have been welcomed but it was not so preventive in any manner. It took place as usual. Due to the courage shown by our security staff, some of our lives could be saved. So, Ordinance is not the only effective order or effective step.

Sir, I would tell you that MISA could not prevent the occurrence of criminal acts in India. I remember I was also handling cases under the Defence of India Rules during Emergency. That also did not save the country. We remember the Maintenance of Internal Security Act. That also did not help us in preventing the criminal acts in India. On a perusal of the criminal records in our criminal jurisdiction, we could find out that most of the cases ended on acquittal. There is some inference....(*Interruptions*)

SHRI KHARABELA SWAIN (BALASORE): Sir, I have a point of order.

THE MINISTER OF URBAN DEVELOPMENT AND POVERTY ALLEVIATION (SHRI ANANTH KUMAR): Has discussion on merit been allowed?

SHRI SU. THIRUNAVUKKARASAR (PUDUKKOTTAI): He can only oppose the Bill.

SHRI KHARABELA SWAIN : I have a point of order under rule 72. There is a point of order. Rule 72 says:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, brief

MR. DEPUTY-SPEAKER: Please do not interrupt him. He is concluding now.

SHRI VARKALA RADHAKRISHNAN : Could I be compelled to give evidence against myself? Section 7 of the Evidence Act clearly states that a confession before a police officer, however great he may be, should not be treated in evidence. So, here is a violation of that fundamental principle.

MR. DEPUTY-SPEAKER: You are giving the details now. Please wind up without repeating whatever has been already said.

SHRI VARKALA RADHAKRISHNAN : A police officer can record a confession of a person in custody and that could be treated as evidence against him. This is a clear violation of the fundamental law. The Supreme Court has never said that anybody could be brought before a police officer and evidence given before a District Superintendent of Police is admissible. It cannot be accepted. Even the right to produce before a court of law has been done away with in this particular statute. This shows that it is a violation of the Fundamental Rights enshrined or guaranteed under the Constitution.

I am not going into the other details. I would do that at a later stage. So, there are three violations: (i) evidence before a police officer; (ii) not to produce before a court of law; and (iii) compelling a person to give evidence against him.

MR. DEPUTY-SPEAKER: Please do not repeat the same points.

SHRI VARKALA RADHAKRISHNAN: There are sufficient safeguards in our criminal law. There are sufficient safeguards even in our statute books to prevent such crimes. So, I submit with all my strength that this is a flagrant and a gross violation of the Fundamental Rights guaranteed under the Constitution that would go a long way in protecting human dignity. Ours is a nation having established a Human Rights Commission. For what purpose was that established? It was to safeguard human rights.

The Human Rights Commission itself have examined this statute and they have declared that this law is a flagrant violation of human rights.

With these words, I strongly oppose the introduction of this Bill.

श्री रामजीलाल सुमन (फिरोजाबाद) : उपाध्यक्ष महोदय, कुछ संशोधनों के साथ गृह मंत्री जी ने आतंकवाद निवारण विधेयक, 2002 प्रस्तुत किया है। समाजवादी पार्टी इस विधेयक का किसी भी शकल में पेश किए जाने के खिलाफ है। दुर्भाग्य यह है कि दो बार राष्ट्रपति जी के यहां से अध्यादेश हुए - एक, 24 अक्टूबर, 2001 को और दूसरा, 2 जनवरी, 2002 को। ये अध्यादेश उस समय हुए, जब कुछ क्षणों के बाद लोकसभा का सत्र होने वाला था। मैं समझता हूँ कि संसदीय जनतन्त्र में यह कोई अच्छी परम्परा नहीं है। मैं श्री वरकला राधाकृष्णन जी की तरह से लम्बी बात नहीं कहना चाहूँगा, लेकिन एक बात जरूर कहना चाहूँगा कि हमें अपने पुराने अनुभवों से सीख लेनी चाहिए। टाडा कानून इस देश में था और लगभग 76 हजार लोगों को टाडा कानून के अन्दर बन्द किया गया था। इनमें से सिर्फ 800 लोगों पर ही आरोप सिद्ध हो पाए। अर्थात्, 76 हजार लोगों में से दो प्रतिशत लोगों पर ही आरोप सिद्ध हुए। हजारों बेगुनाह लोग जेल में बन्द रहे, जिनका कोई अपराध नहीं था, कोई पाप नहीं था। इसलिए न सिर्फ अन्य संगठनों ने, बल्कि राष्ट्रीय मानवाधिकार आयोग के अध्यक्ष, जस्टिस वर्मा, ने भी इस विधेयक का विरोध किया है और कहा है कि यह लोकतन्त्र और नागरिक अधिकारों के खिलाफ है।

जहां तक इस सरकार के पक्ष का सवाल है, सरकार आतंकवाद से नहीं लड़ना चाहती है। इनके नेताओं के बयान छपते रहे हैं कि अगर पोटो कानून पास हो जाएगा, तो सरकार जीत जाएगी और पोटो कानून पास नहीं होगा, तो भाजपा को लाभ होगा। उत्तर प्रदेश के चुनाव में भी प्रधान मंत्री जी का भाण आतंकवाद के इर्द-गिर्द घूमता रहा और वह पूरे देश में बराबर यह मैसेज देने की कोशिश करते रहे कि पोटो कानून में, जो हमारे साथ हैं, वे आतंकवाद से निपटना चाहते हैं और जो पोटो कानून के सवाल पर हमारा विरोध कर रहे हैं, उनकी हमदर्दी आतंकवादियों के साथ है। इसलिए मैं बड़ी विनम्रता से निवेदन करना चाहता हूँ कि आतंकवाद से सिर्फ सरकार ही नहीं लड़ेगी, बल्कि पूरा देश लड़ेगा।

इन शब्दों के साथ मैं आतंकवाद निवारण विधेयक का पुरजोर विरोध करता हूँ और गृह मंत्री जी से निवेदन करना चाहता हूँ कि वे इस विधेयक को वापिस ले लें।

SHRI BASU DEB ACHARIA (BANKURA): Sir, I rise to oppose the introduction of the Prevention of Terrorism Bill, 2002.

The Ordinance was promulgated in the month of October but the Bill was not introduced because the entire Opposition was against the promulgation of the Prevention of Terrorism Ordinance. Then again, when that Bill could not be introduced in the House, not because the House was adjourned *sine die* but because there was no consensus in the House as the entire Opposition was against the introduction of that Bill, the Opposition was not taken into confidence and the Ordinance was re-promulgated on 30th of December.

The law is still there. The law is there since the month of October. In spite of having POTO, several incidents have taken place. Our apprehension is that the main purpose to pass this Draconian Bill is to take away the Fundamental Rights of the people of our country.

We have the experience in the past about TADA. Seventy thousand people were arrested and only a few hundred were convicted under that Act. A similar thing will be done and with similar purpose now. This Government wants to bring an undemocratic and a draconian Bill. That is why we oppose the Bill and we want that this draconian Bill

should not be introduced. Before the introduction of the Bill the Government should take the entire Opposition into confidence and then they should act if there is a necessity. We think that there is no necessity for such a law. Even with that law, the type of incidents that are taking place in our country cannot be prevented unless the Government has the political will to prevent such incidents.

That is why the entire Opposition is opposing this Bill and we want that the Government should not introduce this draconian Bill today.

SHRI L.K. ADVANI: Mr. Deputy-Speaker, Sir, this is the first stage of the Bill which is the introduction and, therefore, I expected those who gave notice for opposing the Bill either to deal with how it is beyond the competence of Parliament to enact this Bill or ..

SHRI BASU DEB ACHARIA : It is against the fundamental rights of the people of our country. It is against the Constitution of the country.

MR. DEPUTY-SPEAKER: Shri Basu Deb Acharia, please allow the hon. Minister to complete.

SHRI SUDIP BANDYOPADHYAY (CALCUTTA NORTH WEST): Sir, the Left Front Government in West Bengal is going to bring such a Bill in the State. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : Do not mention West Bengal here.

SHRI SUDIP BANDYOPADHYAY : Let us not re-start. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : We are in Parliament and not in the Assembly. ...(*Interruptions*) Do not mention the Assembly here.

SHRI SUDIP BANDYOPADHYAY : I am aware of it.

श्री मोहन रावले (मुम्बई दक्षिण मध्य) : आपकी वहां की पालिसी और यहां की पालिसी क्या अलग है?

MR. DEPUTY-SPEAKER: Shri Basu Deb Acharia, the hon. Minister is speaking. Please hear the hon. Minister.

SHRI L.K. ADVANI: Sir, the TADA was enacted in 1985.

SHRI BASU DEB ACHARIA : You opposed it then and we also opposed it. ...(*Interruptions*)

SHRI L.K. ADVANI: I know that.

MR. DEPUTY-SPEAKER: Shri Basu Deb Acharia, why do you make running commentaries? Let the hon. Minister say whatever he wants to say.

SHRI VILAS MUTTEMWAR (NAGPUR): Sir, he is reminding the hon. Minister. That is very important. ...(*Interruptions*)

SHRI L.K. ADVANI: Yes, it is important. Therefore, if I oppose a certain enactment, you have every right to remind me just as he has every right to remind you that your own State Government is enacting a law. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : No, it is different. Mr. Home Minister, it is quite different. ...(*Interruptions*)

SHRI HANNAN MOLLAH (ULUBERIA): There is no parallel to this. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : You cannot compare POTO with POCA. You are the Home Minister. Please do not compare it. ...(*Interruptions*)

SHRI L.K. ADVANI: When there is a full debate, when we have a full debate we will consider all aspects. After all there are several States which, because there is no TADA

SHRI BASU DEB ACHARIA : Why can you not take the Opposition into confidence? ...(*Interruptions*)

SHRI L.K. ADVANI: Therefore, they needed that. They said – how do we deal with a certain situation?

SHRI BASU DEB ACHARIA : You want to run the Government in this fashion. ...(*Interruptions*)

SHRI L.K. ADVANI: I have been in this office since 1998 and I remember how many State Governments, how many police officials of the States have been coming to me telling me that after the lapse of TADA there is no law which deals with particular parts of crime. Now, it was said by hon. Member Shri Radhakrishnan that it did not prevent the attack on Parliament. He is very right. ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : My simple question is one. ...(*Interruptions*) It is a legislation with excessive restrictions.

SHRI L.K. ADVANI: Please let me complete. इतनी पेशंस तो होनी चाहिए। You are very right that POTO and the Ordinance did not prevent the attack on Parliament.

SHRI VARKALA RADHAKRISHNAN : It did not go into details. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Shri Radhakrishnan, let the hon. Minister complete.

SHRI L.K. ADVANI: It did not prevent the attack on Parliament. It did not prevent other things. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : It is already imposed.

SHRI L.K. ADVANI: There is a law against murder. There is a law against rape. Does that prevent murder? Does that prevent rape? It does not. So, laws are intended for different purposes. They are intended to see that those who commit a crime are brought to book. Today, there are no laws. The present criminal system and the structure does not have adequate laws to deal with crimes of this kind. It is not a preventive law. Preventive detention is a different law. TADA also was intended to bring to book certain kinds of criminals, terrorist acts and disruptive acts. It failed. He is right when he says that so many thousands were arrested and only a few hundred were booked. One reason was that very many thousands were arrested who were not terrorists. I have known of it in Gujarat. I was perhaps among the first to oppose, to preside over a conference against TADA in Gujarat because TADA was being used against farmers. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : I was detained under MISA. ...(*Interruptions*)

SHRI L.K. ADVANI: Shri Acharia, please listen to me.

I would appeal to you that today the world over suddenly after 11th September, even the democracies, which are committed to human rights and which have a system which was far more lenient than ours, have come to the conclusion that the present laws are inadequate. So, America, U.K. and very many countries of Europe, which are democracies, have adopted far more stringent laws than the one that I propose to introduce today, not because they have abandoned, not because they have suddenly felt that democracy is meaningless and there must be an authoritarian rule. No. It is because terrorism and terrorist crimes are a threat of a nature for which the present laws were not formulated and it is therefore that today, I would like to appeal to the House, appeal to the political parties, particularly the principal opposition party, that if you have suggestions to make, we are willing to amend it. The Prime Minister had already convened a meeting of all the Opposition Parties in which he had said to kindly give us suggestions. The shortcomings of TADA had been removed from this. Very many other suggestions have been incorporated in this. Therefore, I see no reason why the House should not unanimously adopt this when we discuss the matter. If you have any suggestions to offer, I would still welcome them.

Sir, I think, at this point of time, I have nothing more to add except to say that terrorism is a serious challenge for this country and let us not think that the criminal laws are adequate. We need more stringent laws and we need laws. ...(*Interruptions*)

SHRI SONTOSH MOHAN DEV (SILCHAR): How many people have been arrested under this Act in Gujarat?

SHRI L.K. ADVANI: Under this Act, we have not arrested people. Even in Jammu and Kashmir, we are using it very sparingly. We are not using it very casually. Otherwise, this would also suffer the fate that TADA suffered. Therefore, we are determined to see that this new Act is used only against terrorists and sparingly, not casually.

With these words, I once again commend introduction of this Bill in the House.

SHRI BASU DEB ACHARIA : Since this is the most draconian law, we are walking out.

14.44 hrs.

(Shri Basu Deb Acharia and some other hon. Members then left the House.)

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Sir, we are also walking out.

14.44 hrs.

(Shri Priya Ranjan Dasmunsi, Shri Ramji Lal Suman and some other hon. Members then left the House.)

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill to make provisions for the prevention of, and for dealing with, terrorist activities and for matters connected therewith. "

The motion was adopted.

SHRI L.K. ADVANI: Sir, I introduce the Bill.

14.44 ½ hrs.

STATEMENT RE : PREVENTION OF TERRORISM (SECOND) ORDINANCE - LAID

THE MINISTER OF HOME AFFAIRS (SHRI L.K. ADVANI): Sir, I beg to lay on the Table an explanatory statement (Hindi and English versions) showing reasons for immediate legislation by the Prevention of Terrorism (Second) Ordinance, 2001.

(Placed in Library. See No. LT 5091/2002)
