

LOK SABHA DEBATES

LOK SABHA

Wednesday, July 15, 1992/Asadha 24,
1914 (Saka)

The Lok Sabha met at
Eleven of the Clock

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

[English]

Judgement of U.S Supreme Court on Abductions

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*101. SHRI CHINMAYANAND
SWAMI:
SHRIMATI BHAVNA
CHIKHLIA:

Will the PRIME MINISTER be pleased to state:

(a) whether the Government are aware of the recent pronouncement by the Supreme Court of the U.S. upholding right of the U.S. Government to carry out abductions abroad and try them in U.S. courts; and

(b) if so, the reaction of the Government thereto?

THE MINISTER OF STATE IN THE
MINISTRY OF EXTERNAL AFFAIRS (SHRI
EDUARDO FALEIRO): (a) Yes Sir.

(b) Government regard the legal implications flowing out of this judgment as

inconsistent with established norms of international law.

[Translation]

SHRI CHINMAYANAND SWAMI: Mr. Speaker, Sir, it is a very important matter and is inconsistent with the international laws. The USA on the basis of this judgment wants to establish its supremacy over the rest of the world. The reply given by the Government in this connection shows that the Government of India is not concerned about it. Through you, I would like to know from the Hon. Prime Minister whether the Government of India has filed a petition in the International Court of Justice against the judgment of the Supreme Court of USA? If not, the reasons therefor?

[English]

SHRI EDUARDO FALEIRO: Sir, we will appreciate that this is a decision of the United States Supreme Court regarding their domestic jurisdiction. I may say here for the information of the hon. Member that regarding this decision, this is not for the first time that the Supreme Court of the United States is deciding on this matter in this manner, namely, that the manner in which the accused is brought before the Court by kidnapping or otherwise. That is irrelevant. Once the Court has jurisdiction to try the particular offence. This has been the jurisprudence of the American Supreme Court for more than a century. The leading case, I recall, is the Kerr Versus Illinois of 1886. At least, since 1886, that is, for more than a century, in a series of decisions, the Supreme Court of the United States has been taking the view that kidnapping, however abhorrent this decision may be is in conformity with the domestic law. Chief Justice REHNQUIST of the

Supreme Court mentioned in this particular case of *Dr. Humberto Alvarez-Machín Versus United States* that however this decision may be abhorrent to the international law, as far as the domestic law is concerned, it is in conformity with the domestic law. That is where the matter ends. I may like to add here to just take away the concerns of the hon. Member that it is reported in the *Washington Post* that soon after the decision, President *Bash* got in touch with the Mexican President to say that the United States Administration will not, in any manner, connive or abet in such kidnappings. I would also like to add that by about the same time, that is the beginning of July, Mr. *Baker*, Secretary of State, got in touch with this counterpart in Mexico and now they are working on amendments to the U.S. Mexican Extradition Treaty to make such kidnapping itself extradited.

[*Translation*]

SHRI CHINMAYANAND SWAMI: Mr. Speaker, Sir, through you, I would like to know whether the Government of India has lodged a protest against such a verdict at the diplomatic level? If not, it is very unfortunate. The law came into effect from 1986 and they can abduct anybody from anywhere in the world including India. Under the circumstances, has the Government of India lodged any protest and if not, the reasons for the delay?

[*English*]

SHRI EDUARDO FALEIRO: Our position is clear that this decision, as far as our law is concerned, violates the territorial sovereignty of Mexico, violates the individual freedom of the accused *Alvarez* and it is not in accordance with the international law where a person can be taken from a country to another for trial only in the specific term of existing extradition law for such arrangements.

[*Translation*]

SHRIMATI BHAVNA CHIKHLIA: Mr. Speaker, Sir, I would like to know from the hon. Minister:

(a) the names of the countries, which in the knowledge of the Government, have such laws?

(b) whether there is any extradition treaty between the Governments of India and the USA? If so, what will be the impact of US Supreme Court's Verdict on it?

[*English*]

SHRI EDUARDO FALEIRO: There is an Extradition Treaty between us and the United States. It is, in fact, a Treaty which is a reiteration of the British Treaty which existed in 1931 in the U.K. and the U.S. This was applied to India before India's Independence and ratified after Independence by us.

[*Translation*]

SHRIMATI BHAVNA CHIKHLIA: Mr. Speaker, Sir, the hon. Minister has not replied to part (a) of my question.

[*English*]

MR. SPEAKER: You can get it in writing. He has to check it up.

[*Translation*]

SHRI HARI KISHORE SINGH: Mr. Speaker, Sir, it is not an ordinary question. The point is what will be the impact of the stand being taken by the USA on the world. A few days back the President of Panama was kidnapped and taken to USA and sentenced to 40 years imprisonment there. Will the Government of India make efforts at the international level to challenge the concept of new world order of the USA.

[*English*]

SHRI EDUARDO FALEIRO: We have already said about kidnapping while dealing with this question. The hon. Member can take whatever implications he can like. But kidnapping in our view is against the international law. (*Interruptions*)

SHRI HARI KISHORE SINGH: Will you raise this matter in the international forum?

SHRI EDUARDO FALEIRO: If the question arises.

to terrorism, what are the consequence of such a pronouncement by the US Supreme Court?

SHRI E. AHAMED: Mr. Speaker, Sir, the ruling of the Supreme Court of the United States is an outrageous one which interferes with the sovereignty of other countries. I would like to know from the hon. Minister whether the Government of India have any Extradition Treaty with the United States under which.

SHRI EDUARDO FALEIRO: I have said, whether in reply to this question or any other question, that we are very firm on our view that this position of the Supreme Court of the United States is not in conformity with the international law, is not in conformity with the Indian law. Therefore, it is not accepted.

MR. SPEAKER: He has already replied to that question.

SHRI SUDHIR GIRI: Sir, in view of the decision of the Supreme Court of the USA which will influence the international law, may I know from the hon. Minister whether the Minister will take up the matter with the NAM or in the UNO so that the matter can be discussed there full-fledgedly?

(*Interruptions*)

SHRI E. AHAMED: I am coming to that. The United States extradites a person who commits a crime in that country. I would like to know whether the Government of India could also extradite a person, a citizen of America when he commits such a crime in India. What happened in the matter of Bhopal gas tragedy where the Indian court has already issued a summon and also the extradition proper to bring the man who is responsible and accused in this regard. I would like to know what is the position of the Government of India in the light of the Supreme Court order in the United States.

MR. SPEAKER: He has already answered that question.

[*Translation*]

SHRI GUMAN MAL LODHA: Mr. Speaker, Sir, I would like to know whether the verdict of the USA Supreme Court is not a violation of the civil rights enumerated in the United Nations Charter. If it is a violation, then whether...(*Interruptions*)

SHRI EDUARDO FALEIRO: With due respect, I may say that it has no relevance to this question. We are dealing with a specific case.

[*English*]

MR. SPEAKER: We will not ask the Minister for a judgment or an opinion. It is there.

(*Interruptions*)

SHRI JASWANT SINGH: Mr. Speaker, Sir, the hon. Minister of State suggested that this is a domestic matter of the United States of America inasmuch as it is an enunciation of the philosophy of jurisprudence of that country. Of course, it is a domestic matter. But its ramifications are international and not merely domestic. Would, therefore, the hon. Minister of State be so good as to answer how he considers this a domestic matter when the ramifications of kidnapping themselves are international? Secondly, now a question about the Extradition Treaty is asked and my point is. As there exists an Extradition Treaty between the United States of America and India particularly in reference

SHRI GUMAN MAL LODHA: I would like to know whether the Government of India would like to take up this matter in the United Nations for the purpose of getting the rights. (*Interruptions*)

MR. SPEAKER: He has already replied.

SHRI GUMAN MAL LODHA: One important question has remained unanswered. I would like to know whether in order to arrest Mr. Anderson in the Case of

Bhopal gas tragedy we would also send our commandos to America to get him here.

MR. SPEAKER: That is not the view of the House.

Fertiliser Subsidy

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*102. SHRI ATAL BIHARI
VAJPAYEE:
SHRIGAYAPRASAD KORI:

Will the PRIME MINISTER be pleased to state:

(a) the fertiliser subsidy policy of the Government during the last one year;

(b) its impact on various categories of farmers; and

(c) the details of the present policy of the Government in this regard?

THE MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS (DR. CHINTA MOHAN): (a) to (c). A statement is laid on the Table of the House.

STATEMENT

(a) During the last one year controlled fertilizers continued to be sold at subsidised prices to farmers. However, the consumer prices of fertilizers were increased by 40 per cent on an average w.e.f. 25.7.1991, but the increase was reduced to 30 per cent on an average w.e.f. 14.8. 1991. Some low analysis fertilizers were also de-controlled w.e.f. 25.7.1991. Further, on subsidy payable per tonne of Single Superphosphate (SSP) fertilizer, a ceiling was imposed w.e.f. 25.7.1991.

(b). While farmers continued to get fertilizers (excepting low analysis fertilizers) below cost, they had to pay higher prices in 1991-92 than in the previous year. However, a separate subsidy scheme

for the small and marginal farmers to compensate them for the price increase was implemented during the year 1991-92.

The consumption of fertilizers in 1991-92 showed an increase over the consumption in 1990-91 despite the increase in price.

(c) No changes have been made in the subsidy policy in the current year (1992-93). A Parliamentary Committee is currently looking into various aspects of fertilizer pricing and subsidy.

[Translation]

SHRI ATAL BIHARI VAJPAYEE: Mr. Speaker, Sir, the statement laid on the Table of the House does not present the complete picture before us. The question was about eliciting information about the impact of concessions given as subsidy on fertilizers on various categories of farmers, the small and the marginal farmers, in the last Budget?

It is not enough to say that fertiliser consumption has increased in the country. It must also be made clear as to what has been the impact of subsidy concession on production.

Mr. Speaker, Sir, as per the reply a case for further reduction in subsidy is being considered by the Government. However, it will be difficult for the House to arrive at a conclusion till the figures of production and detailed report of the impact the subsidy concession had on small and the marginal farmers are not available.

[English]

DR. CHINTA MOHAN: Sir, the production of fertilisers has gone up by 8 per cent and the consumption of fertilisers has also gone up by 3.5 per cent. With regard to small and marginal farmers, we had given about Rs. 405 crores last year. It was distributed to different States. The States like Uttar Pradesh, they have distributed this money, per head Rs. 200/- to small and