

Seventeenth Loksabha

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Title : Anti-Maritime Piracy Bill, 2019

THE MINISTER OF EXTERNAL AFFAIRS (DR. SUBRAHMANYAM JAISHANKAR): Hon. Chairperson, Sir, I beg to move:

“That the Bill to make special provisions for repression of piracy on high seas and to provide for punishment for the offence of piracy and for matters connected therewith or incidental thereto be taken into consideration.”

Sir, I will also move in this august House official amendments to the Anti-Maritime Piracy Bill, 2019.

The Bill was introduced in the Lok Sabha on 9th December, 2019 and the hon. Speaker had referred it to the Standing Committee on External Affairs, 2019-2020 for examination and report.

16.00hrs

I thank the Committee for examining the Bill in detail, and making very useful recommendations and observations. To suitably incorporate these recommendations, the Ministry of External Affairs held several rounds of ministerial consultations with Ministries and Departments concerned. The amendments have been drafted and finalized in consultation with and in concurrence of the Ministry of Law and Justice.

Sir, I am happy to note that out of the 18 recommendations of the Committee, 14 have been incorporated suitably. Three recommendations, No.1, 3 and 18, were in the nature of observations which have been noted. One recommendation, No.2, is to define clearcut roles of various departments to be reflected in the rules for an effective coordination mechanism.

This recommendation also calls for SOPs for deportation and extradition of pirates by the Ministry of Home Affairs so that these could be implemented early, and that has been noted and addressed suitably.

Regarding the issues raised by the Committee, the provision of trial *in absentia* has been dropped. Keeping in mind the observations of the Committee regarding the Supreme Court of India's ruling on awarding mandatory death punishment, the provision regarding death punishment has been amended in the Bill to also include imprisonment for life.

Hon. Speaker, Sir, India does not have a specific law or legal provision in the IPC or the CrPC on piracy. This Bill along with the amendments would provide an effective legal instrument to combat piracy not only in territorial waters and the EEZ but also on the high seas.

India's security and economic well-being is inextricably linked to the sea, and maritime security is a prerequisite with more than 90 per cent of our trade with the world taking place through sea routes and more than 80 per cent of our hydrocarbon requirements being seaborne. The security of our sea lanes of communications is critical to our national well-being.

India is also one of the largest providers of seafarers in the world. We are a signatory to the UNCLOS, 1982 which was ratified in 1995. The passing of the Bill fulfils the expectations of this Convention for cooperation and repression of piracy in the high seas.

It may be noted that the hon. Prime Minister had chaired a UN Security Council session in 2021 focussed exclusively on maritime security. He had then outlined five principles for such cooperations. As such, the passing of the Bill today is a logical follow up of our maritime initiative, and will also enhance our maritime security including those of our trade routes, and the welfare of our seafarers in international waters. It, therefore, merits for consideration and passing of the Bill.

HON. CHAIRPERSON: Motion moved:

“that the Bill to make special provisions for repression of piracy on high seas and to provide for punishment for the offence of piracy and for matters connected therewith or incidental thereto be taken into consideration.”

SHRI MANISH TEWARI (ANANDPUR SAHIB): Thank you very much, Mr. Chairperson, Sir. I rise to speak on the Anti-Maritime Piracy Bill, 2019. If I understand correctly, among the official amendments which are sought to be moved by the Government, you plan to amend the title of the Bill to perhaps read ‘the Maritime Anti-Piracy Bill, 2019’, which, of course, would make it sounds better.

As the Minister was explaining, the Bill was introduced in this House on the 9th of December, 2019, was referred to the Standing Committee on 23rd of December, 2019, the Standing Committee reported back on 11th of February, 2021, and official amendments were proposed by the Government on the 22nd of July, 2022. This Bill, Mr. Chairperson, provides us an opportunity not only to discuss the legal architecture or the need for a legal architecture around piracy, but more importantly also India’s strategic interests in the Northern Arabian Sea and the Western Indian Ocean through which a majority of India’s trade passes

I would be at right to say that ungoverned spaces actually create the conditions for pirates to operate.

16.05 hours

(Shri A. Raja *in the Chair*)

Unfortunately, since 2008-2009, Somalia and Yemen have been in a rather disturbed state of affairs. Therefore, the Gulf of Aden, the North Arabian Sea, the coasts of Somalia and Yemen have been piracy-prone now for almost a decade and a half, if not more. For India, as the Minister was correctly pointing out that the sea lanes of commerce, especially the ones which transit through these Seas and also the ones which then transit from the Hormuz to the Malacca, really constitute the lifeblood of our global trade.

It was in the year 2009 when the problem of piracy was really at its zenith that a combined task force was set up. Task Forces 151, 152 and 153 were established and were given a mission mandate in order to combat the problem of piracy. Thirty-four nations and six countries got together to control almost 8.3 million square kilometres of international waters and I must say that this mission has been successful in mitigating the impact of piracy to a great extent.

India, of course, at that point in time, chose not to associate itself with the Task Forces 151, 152 and 153, which were operating out of the combined maritime headquarters in Bahrain, primarily because of the presence of Pakistan on these Task Forces, but I am given to understand, and would be very interested to know from the hon. Minister, and I believe India has changed its mind and now, we have decided to associate ourselves with these Task Forces. So, it would be interesting to understand from the hon. Minister why this change of heart and change of mind has really come about. However, Mr. Chairperson, Sir, something which is of extreme significance to our national security is the growing Chinese presence in these waters. China has operationalised its port in Djibouti. In fact, a recent report, which was given by the Department of Defence to the US Congress on China’s military power, very specifically flagged the question of China’s naval presence and especially that the base in Djibouti would be able to host the Chinese aircraft carriers and other Chinese PLA and Navy assets in this particular region in a rather elevated or enhanced manner. Therefore, under those circumstances, more than piracy, it is

actually the Chinese naval presence in the Northern Arabian Sea and the Western Indian Ocean which is going to become our foremost challenge. Therefore, I would like to ask one thing. Interestingly, the hon. Defence Minister is also here and I had raised this in the Consultative Committee, when we met in Mumbai just a week before, that perhaps India needs to reconsider its forward-basing policy also because you cannot have a secure Northern Arabian Sea and Western Indian Ocean if you do not have bases to be able to forward-deploy. China has very successfully leveraged its debt diplomacy in order to expand its basing presence around the Rim of Africa. So, they are exploring bases in Madagascar in addition to various other countries. I would like to ask the hon. Minister one thing. India had been in talks with Mauritius. I think, we were doing something on the Agalega Islands. We were also doing something with Seychelles on the Assumption Islands. Therefore, it would be interesting if the Minister could throw light on what really India would do. In the light of the changed geopolitical circumstances not only in the Northern Arabian Sea and the Western Indian Ocean but globally also, is India willing to really reconsider its policy of having bases abroad and under those circumstances, if it is willing to reconsider that policy, then how really is the situation with regard to what we had in the works with Mauritius and Seychelles?

Coming to the specific aspects of this Bill, between 2016 and 2020, given that there have been 900 incidents of piracy globally, जो 10 प्रतिशत लोग हैं, क्रूमेन और ऑफिसर्स, जो इस मर्चेट एक्टिविटी में भाग लेते हैं, वे भारतीय मूल के हैं। पिछले 5-7 वर्षों में 500 से ज्यादा भारतीयों को पाइरेट्स द्वारा बंदी बनाया गया है। इस संदर्भ में, यह जो कानून सरकार ले कर आई है, इसकी ज़रूरत तो थी और है, पर इसके कुछ अंश हैं जिनके ऊपर मैं सरकार का ध्यान आकर्षित करना चाहता हूँ। अगर मैंने माननीय मंत्री जी को सही सुना तो उन्होंने यह कहा कि स्थायी समिति ने कुछ अंशों के ऊपर जो सिफारिशें की थीं, उनको उन्होंने संज्ञान में ले कर, उसमें तब्दीली करने की कोशिश की है। But I would still like to point out certain ambiguities which continue to exist in the law and which need to be further refined, which need to be fleshed out or sharpened because they are going to become an impediment with regard to international cooperation which is a *sine qua non* of our entire anti-piracy effort.

Now, Mr. Chairperson, Sir, if you were to direct your attention specifically to Clause 3, it says that whosoever commits any act of piracy shall be punished with imprisonment for life or with death if such person in committing the act of piracy causes death or an attempt thereof. There is an inherent contradiction and an inherent ambiguity in this clause. Let me point out why I am saying so. The Indian jurisprudence and the Supreme Court have been extremely conservative when it comes to handing out death penalty. They have repeatedly reiterated and stressed that only in the rarest of rare cases death penalty should be given. I can understand the Government's intent to try and deal with piracy with a firm hand but even Indian law does not permit a death sentence or does not contemplate a death sentence wherein an attempt has been made which might result in causing death.

Under the Indian Penal Code, attempt to murder – which is Section 307 of the Indian Penal Code – is not punishable by death. Is the Government trying to create new jurisprudence through this law which then can be extrapolated to other criminal laws whereby you are proposing that even the offence of attempting to commit murder is punishable by death? The statistics on people getting acquitted insofar as Section 307 of the Indian Penal Code is concerned is very, very high. I would seriously urge you to look into this. I think either it is a drafting error or it is an inadvertent slip but this needs to be corrected.

Even in terms of soliciting international cooperation on the question of piracy, if you have a law which punishes an attempt which has been made in the course of a piracy on somebody's life as punishable with death, that is not going to really bring the kind of cooperation which you would perhaps look for while operationalising this law.

I will now come to clause 4 in the Bill. I will just read it out:

“Whosoever attempts to commit the offence of piracy or aids or abets or counsels or procures for the commission of such an offence, shall be punishable with imprisonment for a term which may extend to 14 years and shall also be liable to fine.”

Mr. Chairperson, you are a lawyer yourself. We have another eminent lawyer sitting right there who is the Minister of State for External Affairs. I can understand the word ‘aid’; I can understand the word ‘abet’, but the word ‘counsels’, how can

you 'counsel' an act of piracy? I have not been able to wrap my head around the word 'counsel'. If somebody 'aids' in an act of piracy, he 'abets' in an act of piracy, he procures equipment which then is used in operationalizing that act of piracy, whether it is a boat or it is a weapon or it is an ammunition etc.; it is understandable. But for the words 'counsels an act of piracy', I think there needs to be an explanation from the Government. The hon. Minister wants to say something.

DR. SUBRAHMANYAM JAISHANKAR: I just want to clarify that possibly the Member is reading from the earlier version of the Bill because in the official amendment which we have moved, the word 'counsel' is replaced by 'conspire'. So, I just want to point it out.

HON. CHAIRPERSON: Okay.

DR. SUBRAHMANYAM JAISHANKAR: I think there is possibly some misunderstanding.

SHRI MANISH TEWARI: I think possibility the revised version with the amendments has not been circulated because when our office last checked, this was the only version of the Bill, Mr. Chairperson, which was at least available to the Members. You may have moved the amendments separately.

SHRI N. K. PREMACHANDRAN (KOLLAM): It has not been circulated to the Members. It is not to our knowledge. How are we able to discuss it?

HON. CHAIRPERSON: Hon. Minister, please check whether it has been circulated or not.

SHRI P. P. CHAUDHARY (PALI): This Bill was moved for consideration and passing during the last session. At that time, it could not reach, but it was circulated. All the official amendments have been circulated. If I have received it, then you must have also received it.

SHRI MANISH TEWARI: Mr. Chairperson, with due respect to Shri P.P. Chaudhary Ji, there seems to be some special treatment for the Treasury Benches. But as far as Opposition Benches are concerned, when I checked today in the morning, the official amendments were at least not available to us.

DR. SUBRAHMANYAM JAISHANKAR: Sir, my understanding is that it was circulated on 6th of December.

HON. CHAIRPERSON: However, it is corrected now.

HON. CHAIRPERSON: Hon. Minister, the only thing is that..

... (*Interruptions*)

HON. CHAIRPERSON: Prem, one minute please.

... (*Interruptions*)

HON. CHAIRPERSON: Your point is that notwithstanding the correction made in this House, whether the due process has been followed or not. I think that is the question.

... (*Interruptions*)

SHRI N. K. PREMACHANDRAN: No. He is the Chairman of the Standing Committee, but unfortunately, he is misleading the House. All the notices of amendments which were given during the last Session will lapse on the day when the House is adjourned *sine die*.

So, those amendments will not have any effect. The amendments have to be given in this Session after issuance of the summons by the President of India. That is our point. ... *(Interruptions)*

HON. CHAIRPERSON: The hon. Minister is categorical that it has been circulated on 6th of December.

HON. CHAIRPERSON: Do you want to reiterate it?

DR. SUBRAHMANYAM JAISHANKAR: Sir, the official amendments were circulated on 6th of December. What had happened was what the Standing Committee recommended was taken into consideration by the Government. Most of it was drafted into the official amendments, included in the official amendments. The official amendments, as approved by the Government, were circulated on the 6th of December. So, I think there should not be any doubt on it that the official amendments have been circulated.

HON. CHAIRPERSON: Is it available on the portal, hon. Minister?

DR. SUBRAHMANYAM JAISHANKAR: Yes. But I would be very happy to give a copy of it.

HON. CHAIRPERSON: Then hon. Members, it is available in the public domain. Once it is posted on the portal, it is in public domain.

SHRI N. K. PREMACHANDRAN: On 6th December, it is available on portal. How will the hon. Members who are coming on 6th or 7th December be able to go through the amendments? The Bill is being taken up for discussion on 7th December. How will we be able to go through the amendments and have a discussion? It is very unfortunate. The hard copy of the amendments should have been circulated among the Members.

HON. CHAIRPERSON: The point is noted. We will direct the Minister.

... *(Interruptions)*

HON. CHAIRPERSON: I think that we have come to the conclusion that it has been circulated. The time is the crux. Such a delay should not happen in the future please.

... *(Interruptions)*

HON. CHAIRPERSON: That is all. You can continue with the debate.

... *(Interruptions)*

SHRI MANISH TEWARI: No, Mr. Chairperson, I do not think that delay is the crux. What Mr. Premachandran was trying to say and I would like to reiterate is the fact that if the Amendments are circulated on 06 December, 2022 and the discussion is taking place on 07 December, 2022, then it is not a proforma circulation, which is important that we have put it on the portal and we have done our job. I think that it is also a question of propriety that if we are discussing a Bill on the very next day, then you should at least circulate the official Amendments to the Members because not everybody goes on to the portal every day to check what the Government has put on the portal and what has not been put on the portal.

HON. CHAIRPERSON: The point is well taken.

... *(Interruptions)*

HON. CHAIRPERSON: Hon. Minister, please make a note of it.

... (*Interruptions*)

SHRI MANISH TEWARI: Going back to what I was saying, if the Minister has clarified that the word 'counsels' has been replaced by the word 'conspired', then that makes it a full provision.

Let me come to my next point, Mr. Chairperson. Now, the proviso to Clause 9 says :

“Provided that where such offence is committed on board a foreign flag ship, such court shall not have jurisdiction to try such offence unless the law enforcement agency or the public authority of the port or place, where the ship is located, has been requested to intervene by the concerned State whose flag the ship is entitled to fly or by the owner of the ship or its master or any other person on board the ship:”

Now, this has very profound implications. For example, if there is a ship on high seas on which an attempt of piracy has been made and there are Indian crewmen or officers on board that ship and there are unfortunate casualties, and it is the Indian Coast Guard or the Indian Navy, which respond to it and takes them into custody, then is the Government trying to say that just because the ship is flying a foreign flag irrespective of the fact that Indian nationals may have been involved or may have been hurt in the process, the Government or the designated court will not have the authority to try that particular offense? I think that there is a clarity required because if there are Indian nationals and we are actually enacting a law or putting in place a legal architecture with regard to piracy, then it should extend to every ship, which possibly has Indian crewmen or officers on board. My next point, which is important according to me is on the question of presumption. This law shifts the burden of proof and actually turns the principle of jurisprudence on its head that you are innocent until proven guilty. Now, this is not the only law, which does it. Even the Prevention of Corruption Act shifts the burden of proof. However, my concern is that when you are talking about piracy, you are *inter-se* also implicitly talking about cooperation with other countries. Now, if you have a law where the presumption of guilt or the burden of proof has actually been shifted on the accused and the accused has to be extradited from a third country, then that third country is not going to extradite an accused who has already proven to be guilty till the time he does not prove himself to be innocent. This is actually going to become detrimental to your larger international cooperation in order to combat piracy rather than being an enabler. I would request the Minister to really reconsider this particular Clause in the light of its practical implications when it comes to implementing it.

Finally, I would just like to conclude by saying that this particular Bill, when you look at it in its entirety, is a Bill, which India requires, but yes, there are certain specific issues, which I have flagged.

There are a couple of more points. We are running out of time. It requires reconsideration by the Government because as I earlier said, they are going to become a problem when the operationalization of this takes place.

Thank you very much.

SHRI P. P. CHAUDHARY (PALD): Sir, I rise to support the Anti-Maritime Piracy Bill. In fact, this Bill was much needed after the 1982 United Nations Convention on the Law of the Sea. Thereafter, India ratified the Convention in 1995. Almost 166 countries are member states. Before I start, I would like to refer to the speech of the hon. Prime Minister at the High Level Open Debate on Enhancing Maritime Security: A Case for International Cooperation'. I quote:

"The ocean is our joint heritage. Our sea routes are the lifeline of international trade. And, the biggest thing is that these oceans are very important for the future of our planet. But today, our shared maritime heritage is facing many challenges. Sea routes are being misused for piracy and terrorism. There are maritime disputes between many countries. And climate change and natural disasters are also maritime domain related issues. In this broad context, we must create a framework of mutual understanding and cooperation for the preservation and use of our common

maritime heritage. No country can create such a framework alone. It can only be realized through a common effort. It is with this thought that we have brought this important issue before the Security Council. I am confident that today's High Level discussion will guide the world on the issue of maritime security."

Keeping in mind these aspects, I extend my thanks to the hon. Minister for bringing this Bill. It is a critical piece of legislation because the Indian Ocean Region accounts for nearly half of all global sea trade, with over one lakh ships per year passing through it. For a long time, we have witnessed robberies or hijackings for ransom. Not only one particular part of the globe, but also the sea—the Gulf of Guinea, the Gulf of Malacca, the Red Sea of Somalia—all these are shipping routes. After 2008, the Gulf of Aden, the Gulf of Suez, and Mauritius were also subjected to many pirate attacks. From 2009 to 2019, almost 11,773 acts of piracy and robbery were committed.

There is no separate legislation in our country because of jurisdictional problems and so many other problems. In the IPC, and the CrPC, piracy has not been treated as a crime.

A case came up in the jurisdiction of the Indian courts, the Alondra Rainbow case of 1999, where the trial court prosecution was successful but the High Court struck down and overruled on the ground of jurisdiction that piracy is not a crime under the Indian Penal Code and the Indian courts do not have any jurisdiction with respect to any offence committed on the high seas.

Now, the question is – why is this Bill? What is the Government's motivation for introducing this bill? It is for repression of piracy and to arrest, investigate, prosecute, and inflict the punishment. The IPC and the Criminal Procedure Code make no provision for punishment and prosecution. Moreover, the word 'piracy' is not defined under the IPC. Therefore, it had not been treated as an offence.

Indian courts do not have any jurisdiction with respect to piracy committed on the high seas. There is a jurisdictional problem. Apart from this, it is also an obligation of the United Nations because the UN Convention on the Law of the Sea was adopted in 1982 and India ratified it in 1995.

Since then, there has been no law in this area and this area remained unoccupied. For repression of the piracy, this law is needed.

If we go by chronological order, earlier, the Bill was introduced before this House in 2012. It was sent to the Standing Committee. The Standing Committee gave its report with recommendations. It was again redrafted in 2018 after consulting the Ministry of Law & Justice, Ministry of Ports, Shipping and Waterways, Ministry of Home Affairs, Ministry of Defence, Navy and Coast Guard. The legislation has also taken into consideration the laws which are prevalent in countries like Australia, New Zealand and Sri Lanka. We have also taken the guidance from the International Maritime Organisation. If we see the overall objective of the Bill, it is for the repression of piracy on the high sea and empowering the competent authority to arrest, investigate, prosecute and inflict the punishment on the guilty. It is also an obligation on us of the United Nations Convention on the Law of the Sea. The piracy was not criminalised earlier. Now, criminalising piracy is also one of the objectives of this Bill. Apart from this, international support for anti-piracy operations conducted by the Indian Navy will also help them.

Coming to the applicability of the Bill, around the coastline, within territorial water, we have exclusive jurisdiction. We can deal with piracy in territorial water under the Indian Penal Code and CrPC but beyond the territorial water, in Exclusive Economic Zone, we can only utilise the water for the purpose of research etc. We do not have any jurisdiction beyond territorial water and we cannot invoke the provision of Indian Penal Code and CrPC for prosecution and punishment. That is why this law is needed. So far as the territorial jurisdiction is concerned, it goes up to 12 nautical miles which is equivalent to 22 kms. Exclusive Economic Zone covers 200 nautical miles that is equivalent to 370 kms. For 370 kms, we

did not have jurisdiction which is also in the high sea. We have the sovereignty so far as territorial water is concerned. We do not have any sovereignty and we do not have any jurisdiction with respect to the Exclusive Economic Zone and high sea.

If we see the Bill, the definition of 'Piracy' is as defined under the United Nations Convention on Law of the Sea is adopted. There are four mandatory conditions if we bifurcate the whole definition on whether a particular act is a crime or not. First, the crime should be committed for (a) private ends; (b) by any person or by crew or any passenger of private ship; (c) the place can only be the high sea; and (d) against another ship or any person or property on board such ship. Now, the question arises that if the crime is committed on the Government ship, which is a non-commercial ship, and warship, it is not included. A commercial ship may be a Government ship. To my mind, since this is not clear on this issue, on the basis of interpretation, we can say that even if it is a Government ship, if it is involved in commercial operation and if piracy is committed, it also comes under the jurisdiction. Mr. Manish Tewari was referring about committing of piracy under clause 3. So, the punishment of piracy is there. So far as clause 3 is concerned: "Whoever commits any act of piracy shall be punished, since official amendment is there, with imprisonment, for life or with fine or with both, and whoever causes the death or an attempt thereof will be punished with death or life imprisonment". So, I think this as an official amendment is one reason that the mandatory death penalty cannot be inflicted. In one of the cases, the Supreme Court has taken the view that the mandatory death penalty is unconstitutional.

The reason is that it is violative of Articles 14 and 21 of the Constitution of India that no person shall be deprived of life and liberty except in accordance with law.

But law must be reasonable. So, no discretionary power has been given to the court to inflict death penalty. The court should decide if that penalty in the given circumstances is needed or not. Therefore, the discretionary power cannot be taken away from the court in a straightjacket formula. If such type of a crime is committed, then the court must be given discretionary power. I think it is a welcome move by the Government to bring in this official amendment and give that discretion to the courts. Earlier, as per Section 303 of the IPC, where a convict serving prison sentence commits a murder, the penalty can only be death sentence. That provision has been struck down by the court saying that some discretion, some cushioning should be there. In the given circumstances, it is for the court to decide whether the death penalty is needed or not. That is the reason of official amendment.

Apart from this, under the Arms Act, the provision of death penalty for usage of prohibited arms resulting in death is also struck down. Some cases are pending before the Supreme Court with respect to mandatory death penalty under the SC/ST Act of 1989, and Anti Hijacking Act of 2016. These cases are pending, and the Government has brought in an official amendment wherein the word 'or' is used and that discretion has been given to the court.

If we go country-wise, some countries like Singapore, Thailand and Malaysia have made provision for mandatory death penalty if death is caused during the piracy. In America, the punishment is for 20 years. Some more countries where there is no death penalty for piracy are Kenya, Australia, Italy and Sri Lanka.

Here are my suggestions to the hon. Minister as regards some of the provisions. So far as Clause 3 is concerned, after 'whoever commits any act of piracy', an official amendment may be brought in to add the words, 'aids or abets or conspires or procures'. The present formulation refers to the act of piracy but not to the act of aiding, abetting, conspiring or procuring. The act and conspiracy, both should be added. In Clause 3, only the commission is added, not the conspiracy. So, this is missing.

Clause 4 says, 'Whoever attempts to commit the offence of piracy or aids, or abets, or counsels or procures for the commission.' Instead of the word counsels, the word conspires should be used.

And the same formulation should be used in Clause 3 also immediately after 'any act of piracy'. Clause 3 and Clause 4 must have this similarity. Proper formulation is used in Clause 4 but in Clause 3, the conspiracy part is missing.

I now come to the punishment part. Clause 4 says, 'Whoever attempts to commit the offence of piracy or aids or abets or counsels or procures for the commission of such offence shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine'. I fear that if any offence is there, then the use of the word 'or' gives too much discretion to the court that they can just impose only fine and not a sentence.

Now, I come to Clause 5 regarding punishment of 14 years or fine or both for organising, directing others to participate in an act of piracy. I am reading Clause 5. It says: "Whoever participates or organises or directs other person to participate in an act of piracy shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine." Now, it has been reduced to 10 years and the word 'and' has been substituted by the word 'or'. So, the court can also impose the fine in all cases wherever the word 'or' is used. So, we can use the words 'fine or both' immediately after 10 years' punishment.

Finally, I would also like to refer to Clause 7 regarding arrest of persons and seizure of ship. This new Clause has been added. Clause 7 says that the authorised personnel may, either generally or on suspicion that a ship is engaged in piracy on the high sea, board such ship and arrest the person or seize the pirate ship and property on board. I am referring to the official amendment. In the official amendment, the words used are 'either generally or on suspicion'. It is because in the main Act we have not treated suspicion as an offence. So, if suspicion is not an offence, when we define the word 'piracy', then basically we cannot treat it as an offence. That is why, it can also create a problem. Here, the words used are 'arrest the person or seize the pirate ship'. So, we are giving the power to the authority. Either he can arrest the person or seize the pirate ship. If he can only seize the pirate ship and he cannot arrest the person, so this power is given to enable him to do so. We are empowering the authority to either arrest the person or seize the pirate ship. So, arresting the person is not mandatory.

He can only seize the pirate ship and property on the board and finish his job. It is because he can say very well that he is acting in accordance with the provision of the law. Again, basically the word 'suspicion' is not there. It has not been treated as an offence. So, once we are not treating it as an offence under the definition of 'piracy', then it may create some problem. About the authorised persons, there is no problem.

About presumption, because Manish Tewari *ji* has referred about presumption, in some of the laws, on the basis of presumption, a person can be prosecuted. But, no doubt, it differs from country to country. But once the offence is extraditable, then it can be on the basis of reciprocity.

We can bring the accused here and prosecute. But regarding the presumption of committing the crime, unless the contrary is proved, we have given sufficient safeguards under the Bill. But these are mandatory safeguards. Once we recover the arms and ammunitions, then presumption can be drawn. In the absence of recovery of arms and ammunitions, no presumption can be drawn. Therefore, sufficient safeguards have been provided under the Bill that arms and ammunitions have to be recovered or those are used or intended to be used; the evidence of force and threat is there; the evidence of intended threat is there. So, in the Bill, sufficient safeguards have been taken with respect to presumption. There is no doubt that presumption is presumption of the guilt. So, some of the enactments we have in this Bill are like that of the Prevention of Corruption Act. That is a valid enactment. When we are dealing with high sea, in case we do not draw the presumption, then it is very difficult to prosecute that person; it is very difficult to collect evidence. But in the Bill, mandatory conditions have been provided and sufficient safeguards have been given.

A very fine balance has been maintained that unless and until there is recovery, simply on the basis of this provision we cannot presume commission of an offence. Only presumption is there. But to draw the presumption, recovery of arms

and ammunitions should be there.

The presumption can be drawn only if those should either be used or intended to be used, or there is a force or threat. Therefore, there are sufficient safeguards in the Bill.

With regard to the extraditable crime; Bill provides that it is deemed to be any other State. If there is reciprocity with other nations, then we can extradite without any problem. We should keep in mind that every State must have its own legislation. Bilateral treaty is there, and, hence there is no problem in dealing with extraditable crime. Basically, we have treated this crime under the Act as an extraditable crime, and on the basis of reciprocity, we can bring him back. With this, I support the Bill and request that it may be passed. Thank you.

SHRI BHARTRUHARI MAHTAB (CUTTACK): Sir, speaking after two legal luminaries, it is always difficult on my part to put up my case because though I have been elected to frame law, I have not studied Law. Nor have I got any Degree from the Law College or University.

The second point which I would like to mention after hearing two colleagues of mine is, piracy has not been there in the IPC. You yourself know it very well. The Indian Penal Code is just another version of Irish Penal Code. CrPC, of course, was framed in 1948, and then subsequently a number of amendments were brought in. The greatest pirates of this world were the Britishers. Why would they frame a law to apprehend pirates? That is the basic reason, and we have woken up after such a long time, that we felt the need to have a Piracy Law. The Prime Minister has raised an issue about it in the United Nations.

Coming to the Bill, I am really astonished to hear my predecessor, Shri P.P. Chaudhary. Perhaps he was also heading the Standing Committee which went through this Bill. Now, a number of amendments have been accepted by the Government. Still, certain amendments have not been accepted. Anyway, he must have gone through in detail unlike Shri Manish Tewari, who is very much aware about it. There are certain apprehensions and also certain suggestions which I would like to make in a very brief manner.

The Indian Penal Code provisions pertaining to armed robbery have been involved in the past to prosecute pirates apprehended by the Navy and the Coast Guard. But in the absence of a specific law on the offence of maritime piracy in India, problems were being faced to ensure effective prosecutions of pirates. This is the basic reason for which this law has been framed. I would say that under this Bill, if a person while committing an act of piracy causes or attempts to cause death, he will be punished with death or imprisonment. An amendment to that effect has come.

The Supreme Court has in *Dalbir Singh Vs the State of Punjab* in 2006, and *Mithu Vs. the State of Punjab* in 1983, ruled that mandatory death penalty for an offence violates Articles 14 and 21 of the Constitution.

The Court has held that a provision that imposes a mandatory death penalty is arbitrary and unfair. The Supreme Court has in *Bachan Singh Vs. the State of Punjab* also narrowed the application of death penalty to the rarest of rare.

HON. CHAIRPERSON: Please wind up.

डॉ. निशिकांत दुबे (गोड्डा) : महोदय, अभी तो स्टार्ट किया है।... (व्यवधान)

HON. CHAIRPERSON: He has got only three minutes left. I am just ringing the alarm bell.

SHRI BHARTRUHARI MAHTAB: Hon. Chairperson, Sir, this Bill defines piracy and here, certain actions may fall on different offences having differing penalties. There are three or four in that line. I would just mention it briefly -- 'Any illegal act of violence or detention or any act of depredation committed against a ship, aircraft, person or property; inciting or

intentionally facilitating such illegal act; or voluntarily participating in the operation of a pirate ship.’ ‘Any person who commits an act of piracy will be punished with imprisonment for life; or death penalty, if the act of piracy causes or attempts to cause death.’ However, another clause in the Bill provides for imprisonment for up to fourteen years along with a fine if a person aids or assists or participates or organises or directs another person to participate in an act of piracy. The offences in both the clauses seem to be similar. It is unclear which penalties will apply under which circumstances. For instance, person ‘A’ directs person ‘B’ to damage a ship on the high seas. There could be two ways in which person ‘A’ is charged -- for committing an act of piracy by inciting such an act and thus be charged with life imprisonment or death; or for directing another person to participate in an act of piracy and thus be punished with imprisonment for up to fourteen years along with a fine. The next point which I would like to mention is with regard to geographical applicability of the Bill. The hon. Minister has very rightly mentioned about Exclusive Economic Zone. But India has limited rights in the Exclusive Economic Zone such as, the rights to explore, exploit and manage natural resources. Currently, certain acts of piracy such as, acts of violence against a ship and seizure of a ship occurring in the EEZ, are covered under the Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act (SUA Act), 2002.

However, the SUA Act, 2002 does not cover all acts of piracy as defined under UNCLOS. For example, an act of theft that does not endanger the safety of a ship in the EEZ will not be covered under the SUA Act, 2002. But this would qualify as an act of piracy under UNCLOS and this Bill.

Hon. Chairperson, Sir, I would not go into the other aspects. The United Nations Convention on the Law of the Sea (UNCLOS) is the first comprehensive enforceable international environmental law covering all forms of marine pollution, including, land-based, atmospheric, ship-borne, and pollution originating from activities on the sea bed. The UNCLOS of 1982 entered into force on 16th November, 1994. Although, many nations have signed and notified UNCLOS, but their numbers have not been sufficient to bring it into force. Despite the fact that UNCLOS runs into 320 Articles and IX Annexes, there are still important issues that require further work. For example, controversies exist over overlapping jurisdiction of territorial waters, that is, twelve nautical miles and Exclusive Economic Zone, that is, two hundred nautical miles. Therefore, my suggestion is that the Government must review the provision of death penalty for pirates, involved in killing or in attempt to murder cases, in the proposed piracy Bill as the extradition of the accused may be difficult, which my friend Shri Manish Tewari has just now mentioned. The law must provide for legal immunity for acts done in good faith. My previous speaker just now mentioned about, ‘if arms are seized’. But for what purpose arms were carried on a ship? The ship may be carrying arms for the safety so that the security personnel -- duly authorised by the Government to deal with the problem -- get protection. The international cooperation on the issue of maritime piracy at various international platforms should also be brought.

All necessary steps should be taken by the Ministry concerned.

Sir, the Bill, of course, is a landmark move to combat the issue of piracy at sea. However, the proposed law must be reviewed based on international laws. As I have stated earlier, I had moved an amendment in the last session about the provision of death penalty, but I would say it must be reconsidered to ensure better acceptance of the proposed law.

With these words, I conclude.

DR. T. SUMATHY (A) THAMIZHACHI THANGAPANDIAN (CHENNAI SOUTH): Thank you very much Chairperson, Sir, for having given me this opportunity to speak on the Anti-Maritime Piracy Bill, 2019.

At the outset, I would like to associate myself with the hon. Member of Parliament Dr. Manish Tewari to change the nomenclature as Maritime Anti-Piracy Bill.

“My story starts at sea, a perilous voyage to an unknown land. A shipwreck. The wild waters roar and heave. The brave vessel is dashed all to pieces. And all the helpless souls within her drowned.”

Thus, Shakespeare describes the natural calamities and dangers of a sea voyage. But apart from these, the pirates of the sea are the most dangerous threat who seize, destroy any ship at high seas and sometimes even at the harbours. Also, they are involved in many other illegal activities like smuggling and slave trades. So, the sea piracy mafia needs to be dealt with an iron fist and so, I really appreciate our Government’s initiative to bell the cat legally through this Bill.

Sir, according to the International Maritime Bureau of the ICC, piracy attacks on ships were increased by 20 per cent between 2019-2020. India, as the largest stakeholder in maritime trade, having a crew and officers, constitute nearby 10 per cent of the global seafaring community. And, that is high time to have this Bill passed and we have a Union Minister for the External Affairs here right now Dr. S. Jaishankar who has laboured much to bring this Bill to see the light of the day. I appreciate whole-heartedly his efforts and hope this will bring sea changes in the Indian maritime history.

Sir, the Union Government is bringing the law as part of the commitment made by India while signing the United Nations Convention on the Law of the Sea (UNCLOS) in 1982 and the UNCLOS was ratified by India in 1995.

I welcome this Bill but would like to draw the attention of this august House, through you, to some major incidents.

Sir, the introduction of this Bill comes some days after 18 Indians aboard of the crude oil ship carrier who were kidnapped off the Coast of Nigeria. Some time ago also, the House would not have forgotten, an incident had been reported about, our fellow Keralite fisherman being killed by the authorities in an Italian Naval Ship. Since there were lacunae in the legal system, much had been deliberated and spoken about and even when we were waiting for the offenders to be punished, they were just let go which was a very sad thing.

I would like to bring those incidents to the attention of this august House because that is how, this Bill seems to be very important. So, to have a separate domestic legislation on piracy as well as taking care of the fellow fishermen from all the States of India is very important. That is the point I would like to make here. So far, we have to rely on the Indian Penal Code relating to the offence of war time piracy in India and penal codes are only applicable upto territorial waters.

Also, the international naval presence in the Gulf of Eden made the pirate to have a paradigm shift to East and Southwards. So, everybody’s eyes are now upto the Southern part. I appreciate the initiative to pass this Bill after so much mulling over and discussions from 2019 onwards as have been pointed out by my esteemed colleagues. However, during the 15th Lok Sabha, a redrafted Bill was presented and it was lapsed.

17.00hrs

Sir, why I am pointing out the detailed effort is that while so much efforts have been taken by the Union Government and are showing keen interest and evident interest to safeguard Indians, our trade and other sea-faring activities, sheer neglect has been shown to Tamilian fishermen throughout. Are we not the children of our Bharat Mata, as they proudly say? Whenever there is an attack on a Tamilian fisherman by the Sri Lankan Navy, the newspaper headlines will scream --- Tamilian fishermen have been attacked. Whereas, when fishermen in the coast of Gujarat are attacked ... (*Interruptions*) I will not budge ... (*Interruptions*) then the headlines will read – Indian fishermen are attacked. Why is this step-motherly treatment to us? Our hon. Chief minister, *Thalapati* M. K. Stalin has, umpteen number of times, raised this issue and our floor leader of the Lok Sabha, respected Shri T R Baalu also has raised this issue in Parliament, but recently how many such incidents have been listed?

Six hundred fishermen have been killed in the recent times and thousands of their fishing vessels have been seized in the last 30 years, but the Government has not taken any stringent action – other than negotiations, table conferences and diplomatic talks -- through a proper legal framework.

Sir, another important point that I would like to bring to your notice is about Katchatheevu. Katchatheevu was ceded to Sri Lanka under the 1976 Agreement and also without the approval of the two Houses of Parliament. Diplomatic efforts were of no avail so far as the issues of fishermen and others were concerned. India should step into action to reclaim and bring it under our sovereignty. If necessary, the International Court of Justice may also be approached.

I welcome this important piece of legislation whereby the Union Government will be empowered to notify designated courts for the trials of piracy and also increase the scope of maritime navigation beyond the territorial waters to cover EEZ. I would like to request the hon. Minister to kindly set up one or more Sessions Court in the southern part of India, especially in Tamil Nadu. That is our request. As has been pointed out by my respected colleagues here, death penalty, as a punishment, is not at all advisable and as has been very rightly pointed out by the hon. Minister himself also, we hope that it would be abolished. It is because we have had the history of Justice V R Krishna Iyer, a pioneer of judicial activism, who strongly advocated against capital punishment. Our hon. Chief minister also is against it; all of us are against it. Our own Mahatma Gandhi said, 'I cannot, in all conscience, agree to anyone being brought to gallows'. Even countries like USA and Italy have refrained from awarding capital punishment. Sir, apart from this, I have a few suggestions. The Standing Committee has stated that the role of the State Government has to be clearly defined in order to emphasise and an promote effective coordination mechanism. I would request the Government to kindly take that aspect into account. There is no mention of international cooperation for the repression of piracy in this Bill. This point should also be addressed. Our hon. Prime Minister has proudly announced, as head of the G-20 Summit – One Earth, one family, one future. I would like to request the hon. Minister to consider the interest of the fishermen of Tamil Nadu also because local issues are very important and need to be addressed. We are very happy and welcome this piece of legislation. But still the Government has to take into account the plight of our fishermen.

With all these suggestions and requests, I would like to once again request the hon. Minister to take into account the above points before passing the Bill. Thank you.

SHRI N. REDDEPPA (CHITTOOR): I would like to thank the honourable Chair for giving me this opportunity to speak on the Anti-Maritime Piracy Bill, 2019.

Sir, at the outset, I would like to bring out the importance of the Indian Ocean. The sea lanes in the Indian Ocean are considered the most strategically important in the world. More than 80 per cent of the world's sea-borne trade in oil transits through Indian Ocean choke points, with 40 per cent passing through the Strait of Hormuz, 35 per cent through the Strait of Malacca and 8 per cent through the Bab-El-Mandeb Strait. Further, roughly 55 per cent of known oil reserves and 40 per cent of gas reserves are in the Indian Ocean. The increased significance of Indian Ocean Region in the world geopolitics is one of the reasons behind the Pivot to Asia Policy which former US President Barack Obama had initiated. The route between Asia, Europe and East Coast of Africa is used by over 2000 ships each month.

Sir, piracy in the Indian Ocean is not a recent phenomenon. According to the IMB Piracy Reporting Centre, the total number of attacks in the Indian Ocean region that could be attributed to Somali pirates peaked in 2011 when 237 incidents were recorded and it soared to 557 during the five-year period between 2010 and 2014. This number fell dramatically to just fourteen in the six-year period between 2015 and 2020, a drop that is widely regarded as a result of joint efforts to reduce crimes at sea.

I would like to point out a few positives of the proposed Bill. Regarding the applicability of this Bill till the Exclusive Economic Zone, the Indian Penal Code is not valid for foreigners in international waters. Previously, pirates were prosecuted under the Indian Penal Code, 1860. However, India's sovereignty is delimited by the outer boundary of its territorial waters, that is 12 nautical miles from the coast. Acts of piracy committed by a foreigner outside India's territorial waters cannot be an offence under the IPC and those accused in piracy cases have been acquitted due to lack of jurisdiction. However, the said legislation, if once implemented, will extend the scope of our jurisdiction to our Exclusive Economic Zone, that is, beyond 200 nautical miles from India's coastline.

The Bill is a necessity for economic development. India's economic development is crucially dependent on the sea because of the criticality of sea-borne trade in an increasingly inter-linked world as well as the potential of vast economic resources of the Ocean. India's maritime interest involves the safeguarding of our coastline and island territories, as also our interests in our EEZ and maintaining open and secure Sea Lines of Communication.

The third point is on human risk. Last year, 18 Indians aboard a crude oil carrier were kidnapped off the coast of Nigeria. Therefore, the risk attached to the lives of innocent Indians sailing in this region due to piracy incidents needs to be curbed at the earliest.

Finally, Sir, India can become a Vishwa Guru with the implementation of this Bill. The high seas are not under anyone's control. Most pirates captured till now are kept in a jail administered by the UN in Kenya.

Since right now no other country in the world has such laws in place, the implementation of such a law will make India lead the other nations in the collective fight against maritime piracy. Hence, for all these reasons, I express our Party's support for the Bill. Thank you.

श्री विनायक भाऊराव राजूत (रत्नागिरी-सिंधुदुर्ग): सभापति जी, समुद्री व्यापार और व्यवसाय के लिए समुद्री डकैती एक बहुत बड़ी समस्या थी। उसका सही इलाज निकालने के लिए और स्थायी समाधान निकालने के लिए इस बिल के माध्यम से सही कानून बनाने का प्रयास माननीय मंत्री जी ने किया है, इसके लिए मैं उन्हें धन्यवाद देता हूँ। इस विषय पर बोलने के लिए आपने मुझे समय दिया, इसके लिए भी आपको धन्यवाद देता हूँ।

समुद्री डकैती उच्च समुद्रों पर व्यापार और वाणिज्य के लिए प्रमुख खतरों में से एक है। हिंद महासागर विश्व के तेल उत्पादन और वैश्विक समुद्री व्यापार में महत्वपूर्ण भूमिका निभाता है लेकिन समुद्री लुटेरों, तस्करो और आतंकवादियों के कारण हिंद महासागर अत्यधिक असुरक्षित और अस्थिर है। यह पाया गया है कि समुद्री लुटेरों के हमलों में दक्षिण पूर्व एशियाई देश सबसे अधिक प्रभावित क्षेत्र हैं। यह अदन की खाड़ी में बढ़ी हुई नौसैनिक उपस्थिति के परिणामस्वरूप है, जिसने समुद्री डकैती के संचालन को पूर्व और दक्षिण की ओर स्थानांतरित कर दिया है और भारत के पश्चिम तट से उनकी निकटता बढ़ा दी है।

महोदय, 3 दिसम्बर, 2019 को एक कच्चे तेल वाहक पर सवार 18 भारतीयों को नाइजीरिया के तट से अगवा कर लिया गया और कई दिनों की बातचीत के बाद उन्हें रिहा कर दिया गया। नाइजीरिया के तट के पास समुद्री डकैतों के अगवा करने की कई घटनाएं पहले भी हो चुकी थीं। दशकों से भारत को समुद्री डकैती के अपराध से संबंधित किसी विशिष्ट कानून के अभाव में ऐसी कई घटनाओं का सामना करना पड़ा और इसलिए 1995 में United Nations Convention on the Law of the Sea में महत्वपूर्ण संशोधन किया गया और यह बिल उसी प्रतिबद्धता का परिणाम है।

एंटी मैरीटाइम पाइरेसी बिल, 2019 जो समुद्री डकैती से संबंधित अपराधों के लिए व्यक्तियों के खिलाफ मुकदमा चलाने और हमारे जहाजों और चालक दल के सदस्यों की सुरक्षा सहित भारत के समुद्री व्यापार की सुरक्षा को बढ़ावा देने के लिए अंतर्राज्यीय समुद्री डकैती विरोधी कानून को लागू करेगा। पहले समुद्री लुटेरों पर भारतीय दंड संहिता, 1860 के तहत सशस्त्र डकैती से निपटने के लिए प्रावधानों और विशिष्ट अदालतों के नौवहन अधिकार क्षेत्र के तहत मुकदमा चलाया जाता था इसलिए भारत के जल क्षेत्र के बाहर किसी विदेशी द्वारा की गई चोरी का कार्य आईपीसी के तहत अपराध नहीं था। इससे निपटने के लिए यह बिल सरकार को भारत के विशेष आर्थिक क्षेत्र की सीमा से सटे समुद्र के सभी हिस्सों के लिए प्रावधान करने का अधिकार देगा। यह बिल केंद्र सरकार को संबंधित उच्च न्यायालय के मुख्य न्यायाधीश के परामर्श से प्रस्तावित कानून के तहत समुद्री डकैती के अपराधों के त्वरित परीक्षण के लिए कुछ अदालतों को नामित न्यायालयों के रूप में निर्दिष्ट करने में सक्षम करेगा। इसके साथ मैं मंत्री जी से एक विनती और करना चाहूंगा कि एक वैस्ट कोस्ट है और एक ईस्ट कोस्ट है, ऐसे क्षेत्र में भी न्यायालयों के बनाने की आवश्यकता है, क्योंकि हमारे फिशरमैन को भी समुद्री डकैती की वजह से कई समस्याओं का सामना करना पड़ता है।

इस बिल में अधिकार क्षेत्र की सीमा गिरफ्तारी, जब्ती, सजा और दंड मानवाधिकार पहलू के बारे में मुकद्दे के लिए नामित अदालतों और प्रत्यर्पण के प्रावधानों आदि के बारे में भी कई बातें स्पष्ट की गयी हैं। इनमें समय-समय पर संशोधन करने की आवश्यकता भी रहेगी। मुझे पूरी उम्मीद है कि नया प्रस्तावित कानून निश्चित रूप से अधिकारियों को पकड़े गए समुद्री लुटेरों पर मुकदमा चलाने में सक्षम बनाएगा, चाहे उनकी राष्ट्रीयता कुछ भी हो। यह सदन इसे अधिनियम बनाने में मदद करेगा। समुद्री डकैती को समर्पित अंतर्राज्यीय कानून के कार्यान्वयन से भारतीय नौसेना या तट-रक्षक बल को राष्ट्रीयता के आधार पर पकड़े गए समुद्री लुटेरों पर मुकदमा चलाने में जरूर मदद मिलेगी और इससे भारत को समुद्री डकैती से निपटने के लिए अंतर्राष्ट्रीय प्रयासों का हिस्सा बनाने में मदद मिलेगी।

महोदय इसके साथ ही साथ, मैं मंत्री महोदय से यह भी विनती करना चाहता हूँ कि अपने देश के अन्य राज्यों में अंतर्देशीय फिशरमेन हैं। इस पर भी कई जगहों पर समुद्र वॉर चलती है। जैसे कि साउथ के कई राज्यों के फिशरमेन महाराष्ट्र में आते हैं, गुजरात के महाराष्ट्र में आते हैं और महाराष्ट्र के अन्य राज्यों में जाते हैं। फिशिंग करते-करते कभी-कभी वे श्रीलंका भी चले जाते हैं। ऐसे फिशरमेन की मदद करने के लिए तथा उनके मध्य झगड़ा न होने के लिए आप सही रूप में कानून बनाकर उनका भी मार्गदर्शन करेंगे, ऐसी मैं आशा व्यक्त करता हूँ और इस बिल का समर्थन करता हूँ। धन्यवाद।

SHRI KALYAN BANERJEE (SREERAMPUR): Hon. Chairman, Sir, first of all, I convey my thanks to you for giving me a chance to speak on this Anti-Maritime Piracy Bill, 2019. The Anti-Maritime Piracy Bill, 2019 proposes the Indian authorities to take action against piracy in the high seas. The Bill brings into law the UN Convention on the Law of the Sea which applies to the sea beyond the Exclusive Economic Zone (EEZ), i.e., beyond 200 nautical miles from India's coastline. India signed the United Nations Convention on Law of the Sea on 10th December, 1982, and ratified it on 29th June, 1995.

Piracy is an ancient phenomenon, and its history dates to hundreds of years. It was only in the 20th Century that the codification of piracy related customary laws and practices began.

Sir, the marine environment, after the 1972 United Nations Conference on the Human Environment in Stockholm, and the conclusion of significant specific conventions (The London Dumping Convention of 1972, and the MARPOL Convention of 1973) became a broadly accepted objective.

According to the 1982 United Nations Convention on the Law of the Sea, piracy is defined as “any illegal act of violence or detention or any act of depredation committed for private ends by the crew or the passengers of a private ship.”

Sir, in accordance with the UNCLOS, the Bill defines piracy as ‘any illegal act of violence, detention, or destruction committed against a ship, aircraft, person or property for private purposes by the crew or the passengers of a private ship or aircraft.’ Sir, different characteristics of piracy are there and I am not going into the details. I would just make a few important points. The International Maritime Organisation is addressing maritime piracy for some time.

Sir, the Jeddah Amendment to the Djibouti Code of Conduct, 2017 (DCoC) expanded to include human trafficking and other illegal maritime activities in the Western Indian Ocean and the Gulf of Aden area. So many activities are taking place there. Due to paucity of time, I am not going into the details. During the period 2009 to 2019, over 500 Indians were captured by pirates around the world at various points of time.

The United Nations Security Council, in a number of resolutions adopted since 2008, urged the UN Member states to cooperate in investigation and prosecution of all persons responsible for acts of piracy and further called upon states to criminalise piracy under their domestic law and to favourably consider the prosecution of suspected and imprisoned pirates.

Now, the question is whether we can draw a line or can fence on a solid land which is impossible to make a barrier or line on a liquid or on sea. Hence, the system of straight baselines may not be applied by a State in such a manner to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

Sir, I would like to give an information through my speech. The creeks along the coasts of Gujarat and West Bengal's Sundarbans are the most preferred routes for infiltration and smuggling. The security in EEZ is also very important for which the State Police has no role to play. It is, therefore, important that imperative and corrective measures are implemented to address the inadequacies to realise the potential of maritime sector. The CAG in its Report has said that manpower shortage proved to be the major hindrance in functioning of marine police stations to guard a long coastline. The surveillance must be strengthened on international border, on high-seas and on the maritime border. There is also a special training to be imparted to coastal police before they get posted in coastal police stations. The problem is this. The coastal police training is very inadequate in our country. This is really inadequate in every State having the coastal line. I would like to request the hon. Minister to give stress on that and see that this maritime police should be well trained. Unless they are well-trained, they cannot detect or capture the problem. There is an arena which I have found. According to me, we are still very weak in that. Sir, as far as punishment for piracy is concerned, a detailed procedure has been stated. I am not going to touch it further. The Supreme Court of India has also held that awarding a mandatory death penalty for an offence violates Articles 14 and 21 of the Indian Constitution. Hence, it is arbitrary and unfair in nature. Even Section 303 of the Indian Penal Code and Section 27, Sub-Section 3 of the Arms Act, 1959, which provided mandatory death penalty for offenders, have been struck down by the Supreme Court.

Kindly take note of this and consider this part. Since the interpretation has been changed, I am suggesting that it should be "life imprisonment till death" instead of "mandatory imposition of death penalty". Kindly consider that part. In England, the penalty for the offence of the piracy was the death penalty but that has been abolished and now the penalty is 'life imprisonment'. That has been done. Our Supreme Court is also saying that mandatory death penalty is offending Articles 14 and 21 of the Constitution. It is mainly offending Article 21 of the Constitution. Therefore, kindly substitute this word with 'imprisonment for life' if such a person is committing piracy which causes death or endangers one's life or destructs a ship or an aircraft or any other means of public transport.

As far as my reading is concerned, I have gone through this Bill. I am a Member of the Home Affairs Consultative Committee also. I got the scope to speak also at different occasions. I will request you to put an emphasis on two or three arenas. We are supporting or accepting the clause of death penalty and it is because of the adoption of various conventions that I have already mentioned in my speech. The first thing is this. What I have observed is that the coastal police is limited even in States.

There, in every State, training is essentially required. Do not compare them with the police of the other areas. So, this has to be given emphasis. You should introduce that centrally. The training has to be essentially given.

Secondly, I come to border areas where the State arena is over. Immediately, after 8NM, the national-level police or any other police concerned has to take the responsibility of that arena. That is nobody's arena. The activities like smuggling and all that are done in that arena. So, kindly take care of this issue. I have already mentioned about the issue of death penalty. Of course, this Bill was required to be introduced much earlier. With these words, I support this Bill. Thank you.

डॉ. आलोक कुमार सुमन (गोपालगंज): सभापति महोदय, मैं आपका आभार व्यक्त करता हूँ कि आपने मुझे The Anti Maritime Piracy Bill, 2019 पर बोलने का मौका दिया।

महोदय, जैसा कि हम सब जानते हैं कि भारत के पास समुद्री डाकुओं की पायरेसी रोकने के लिए कोई कानून नहीं है। इंडियन पीनल कोड, 1860 के तहत सम्प्रभु भारत के क्षेत्रीय जल यानी समुद्री तट से 12 नौटिकल मील तक ही जो समुद्री डाकू कोस्ट गार्ड के द्वारा पकड़े जाते हैं, उनको प्रोसीक्यूट किया जाता है। यह विधेयक लाया गया है कि इंडिया के एक्सक्लूसिव इकोनॉमिक जोन की सीमाओं से सटे या उसके परे सभी हिस्सों यानी हाई सी पर समुद्री डाकुओं द्वारा जो घटना हो और जो पकड़े जाएं, उनको दंडित किया जा सके।

Sir, this legislation is an outcome to the commitment made by India by signing the United Nations Convention on the Law of the Sea (UNCLOS) in the year 1982. भारत ने इस कंवेशन को वर्ष 1995 में रेटिफाई किया। इस विधेयक के पास होने से भारत के समुद्री व्यापार से जुड़े सभी

सेप्टी एंड सिक्योरिटी की जो बात कही गई है, इसे पूरा करना आसान नहीं दिखता है। वर्ष 2009 से 2014 तक की आईएमओ की रिपोर्ट के आधार पर 1173 पायरेसी और आर्म्ड रोबरी बेस्ड अफ्रीका और अपने तटवर्ती क्षेत्रों से रिपोर्ट किया गया है। इस अवधि में 500 भारतीयों को समुद्री डाकुओं द्वारा पकड़ा गया, जिनका अभी तक कुछ पता नहीं है।

महोदय, अगर हम विश्व स्तर पर बात करें और वर्ष 2010 से 2021 के आंकड़े देखें तो वर्ष 2010 में 445 जहाजों पर समुद्री डाकुओं द्वारा अटैक हुआ, वहीं वर्ष 2020 में 195 और वर्ष 2021 में 132 समुद्री जहाजों पर हमला हुआ।

महोदय, युनाइटेड नेशंस ऑफिस ऑन ड्रग्स एंड क्राइम 2018 की रिपोर्ट के अनुसार 6 व्यापारिक समुद्री जहाजों की हाईजैकिंग विश्व स्तर पर हुई, 13 जहाजों पर अटैक के कारण आग लगी, 130 लोगों को बंदी बनाया गया और 78 अधिकारियों को, जो जहाजों पर नौकरी करते थे, उन्हें अगवा किया गया। इन समस्याओं को देखते हुए इस विधेयक में जो प्रावधान किए गए हैं, उनसे निश्चित ही समुद्री रास्ते से होने वाले व्यापार को सुरक्षा मिलेगी। लेकिन यह संदेह है कि यह बिल जान, माल और इकोनॉमिक नुकसान को बचा सकेगी, क्योंकि इसे फाइनेल करने के लिए केवल कुछ ही देशों, यानी चार ही देशों के लेजिस्लेशन को कंसल्ट किया गया है, जबकि समुद्र से सटे हुए देशों से अधिक कंसल्टेशन होना चाहिए था।

महोदय, पायरेसी का जो विषय है, उसमें कई मंत्रालयों का इनवॉल्वमेंट है, जैसे मिनिस्ट्री ऑफ एक्सटरनल अफेयर्स, मिनिस्ट्री ऑफ होम अफेयर्स, डिफेंस, शिपिंग, लॉ एंड जस्टिस है। इसलिए इस विषय में आवश्यक है कि सभी मंत्रालयों या एजेंसीज या डिपार्टमेंट्स का रोल क्लियरली डिफाइंड होना चाहिए, जो कि इस बिल में नहीं दिखता है और इफेक्टिव कोऑर्डिनेशन के लिए आवश्यक है।

महोदय, मेरा इस बिल में यह सुझाव है कि कोलेबोरेटिव इंटरनेशनल काउंटर पायरेसी पर युनाइटेड नेशंस सिक्योरिटी काउंसिल, इंटरनेशनल मेरीटाइम ऑर्गेनाइजेशन एंड कान्टैक्ट ग्रुप ऑन पायरेसी ऑफ द कोस्ट ऑफ सोमालिया के साथ हो तथा इसका प्रावधान भी इस बिल में शामिल किया जाए।

साथ ही साथ मेरा यह भी कहना है कि National Command Control Communication Intelligence Network, Interlinking 51 IN and ICG Stations, Joint Operation Centres, National AIS chain and coastal radar को इस बिल के माध्यम से मज़बूत किया जाए, ताकि समुद्री व्यापार और रास्ते को सेप्टी और सिक्योरिटी मिले।

महोदय, इस बिल के अध्ययन से यह भी महसूस हो रहा है कि इंडियन ओरिजन के जो लोग सरस्पेक्टिड और हाई सी में एक्ट ऑफ पाइरेसी में इनवॉल्व हैं, उनके एक्सट्राडीशन के लिए इंटरनेशनल कोऑपरेशन के प्रावधान में सुधार की आवश्यकता है।

महोदय, ऐसा पाया गया है कि जो एक्यूज्ड डेथ पेनल्टी के लिए हैं, उसको एक्सट्राडीशन करने में काफी परेशानी होती है एवं शर्त के साथ एक्सट्राडीशन होता है कि डेथ पेनल्टी नहीं दी जाएगी। ऐसा कमिटमेंट सरकार के द्वारा किया जाता है। अतः मेरा इस बिल में यह कहना है और यह सुझाव है कि डेथ पेनल्टी की जगह उम्र कैद, 12 साल या 16 साल की सजा हो और ये सब सुधार करते हुए इस बिल को पारित किया जाए।

धन्यवाद।

कुंवर दानिश अली (अमरोहा): सभापति महोदय, आपने मुझे एंटी मेरीटाइम पायरेसी बिल, 2019 पर बोलने का मौका दिया, इसके लिए मैं आपका धन्यवाद करता हूँ।

सर, यह बहुत ही महत्वपूर्ण बिल है। वर्ष 2012 में यह बिल ... (व्यवधान) सर, डिपार्टमेंट का कोई मिनिस्टर यहां पर मौजूद नहीं है। ... (व्यवधान)

HON. CHAIRPERSON: The Minister is in the Speaker's office.

KUNWAR DANISH ALI: Who is noting down? All the Ministers are talking to each other. They are talking to their colleagues.

HON. CHAIRPERSON: You speak. He will come.

... (Interruptions)

कुंवर दानिश अली : सर, इनकी यही सीरियसनेस है। ... (व्यवधान)

HON. CHAIRPERSON: Yes, I know that.

... (Interruptions)

कुंवर दानिश अली: बहरहाल देर आए, दुरुस्त आए। वर्ष 2012 में यह बिल इंट्रोड्यूज हुआ था। वर्ष 2014 से 2019 का समय निकल गया। यह बहुत ही महत्वपूर्ण बिल है। इसकी सीरियसनेस को इस तरीके से खत्म न किया जाए। ... (व्यवधान) सभापति महोदय, मैं आपके माध्यम से सिर्फ इतना ही कहना चाहता हूँ। ... (व्यवधान)

HON. CHAIRPERSON: Please address the Chair. You come to the subject.

... (Interruptions)

कुंवर दानिश अली: सभापति महोदय, ट्रेजरी बेंचिस का यह हाल है कि अपनी गलती मानने को तैयार नहीं हैं और शोर मचा रहे हैं। ... (व्यवधान)

HON. CHAIRPERSON: Let him continue.

... (Interruptions)

कुंवर दानिश अली : मुझे तो अपनी बात करने दीजिए। ... (व्यवधान)

HON. CHAIRPERSON: I have already told you that the Minister is in the Speaker's office.

KUNWAR DANISH ALI: I have already agreed to that. ... (Interruptions)

DR. NISHIKANT DUBEY: This is forming part of this House. ... (Interruptions)

HON. CHAIRPERSON: Please address the Chair.

... (Interruptions)

कुंवर दानिश अली: सभापति महोदय, मैं तो आप ही को एड्रेस कर रहा हूँ। अब ये बार-बार डिस्टर्ब कर रहे हैं। ... (व्यवधान)

HON. CHAIRPERSON: There should be no exchange of words.

... (Interruptions)

कुंवर दानिश अली: मैं तो यह कह रहा हूँ कि यह इतना अच्छा लेजिसलेशन है, बहुत जरूरी लेजिसलेशन है। मैं सरकार को कॉम्प्लीमेंट कर रहा हूँ कि देर आए, दुरुस्त आए, यह बहुत जरूरी है, बहुत जरूरी था। मैं इस बात को मानता हूँ कि पहले जमाने में धरती पर जंग हुआ करती थी। फिर हवाई जंग हुई। अब असली खतरा पानी के अंदर है। आने वाले वक्त में अगर कोई युद्ध होगा तो वह पानी पर ही होगा और पानी के अंदर अगर सिक्योरिटी के लिए हमारी सरकार सीरियस नहीं होगी तो यह बहुत दुख की बात है। इसलिए मैं तो कॉम्प्लीमेंट कर रहा हूँ कि सरकार इस बिल को लाई है, अच्छा बिल है।

सभापति महोदय, मैं सिर्फ इतना ही कहना चाहूंगा कि वर्ष 1982 में यूपन में हमारा जो कमिमेंट था और फिर सन् 1995 में रेक्टिफाई किया गया, उसके तहत यह बिल लाया गया है। The United Nations Convention on Law of Sea was adopted by India in 1982 and ratified in 1995.

सभापति महोदय, मुझ से पहले कुछ क्लीम्स ने यहां प्रश्न उठाए हैं, मैं उन पर भी आना चाहूंगा कि अभी तक जो हमारा 'सी' के अंदर, समुद्र के अंदर इकनॉमिक जोन होता था, उस पर हमारा अख्तियार था। लेकिन समुद्री डकैत जो होते हैं, जिनको हम पाइरेट्स करते हैं, ये किसी से छुपा नहीं है कि सैकड़ों बेगुनाहों को, भारतीय बेगुनाहों को उन्होंने किडनैप किया, कई की हत्याएं भी हुईं।

कई की हत्याएं भी हुईं, लेकिन कानून न होने की वजह से उन पर कोई बड़ी कार्रवाई न हो सकी। कानून लाया जा रहा है, यह अच्छी बात है। लेकिन, बिल ऐसा होना चाहिए, कानून ऐसा लाया जाना चाहिए क्योंकि इसके इंटरनेशनल रिपरकसन्स भी होंगे। मैं, व्यक्तिगत रूप से मानता हूँ और इस सदन में कई सांसदों ने यह बात रखी कि इसमें जो डेथ पेनल्टी की बात है, तो ऑनरेबल सुप्रीम कोर्ट ने भी कहा है कि **death penalty should be given in rarest of the rare cases**. लेकिन, यहां हम अगर मर्डर के अटेम्प्ट को भी डेथ पेनल्टी वाला क्राइम तय कर रहे हैं तो वह वाकई चिंतनीय है। मैं यह चाहूंगा कि जो लॉ बने, क्योंकि इंटरनेशनल लेवल पर भी इसकी स्कूटनी होगी तो हम यह चाहेंगे कि उसमें डेथ पेनल्टी न होकर लाइफ इम्प्रीजनमेंट होनी चाहिए। लाइफ इम्प्रीजनमेंट पूरी लाइफ के लिए होनी चाहिए। इसमें यह क्लॉज भी हो कि इसमें सरकार को कोई रिमीशन देने की इख्तियारात न रहे, जैसे

इटली के दो नागरिक, जो फिशरमेन की डेथ में पकड़े गए, उन्हें छोड़ दिया गया या जैसे गुजरात के अन्दर अभी बिलकिस बानो के केस में सरकार ने लाइफ इम्प्रीजनमेंट को, 14 साल की सज़ा को, रिमीशन किया। इस बिल के अन्दर ऐसा क्लॉज़ डाला जाए कि जिन्हें सज़ा दी जाए, उन्हें लाइफ इम्प्रीजनमेंट किया जाए, उसमें डेथ पेनल्टी न हो, लेकिन सरकार के पास रिमीशन का कोई इख्तियारात नहीं रहना चाहिए।... (व्यवधान)

इन्हीं शब्दों के साथ मैं अपनी बात खत्म करता हूँ। बहुत-बहुत शुक्रिया।

DR. NISHIKANT DUBEY: Sir, I have a point of order.(Interruptions)

HON. CHAIRPERSON: What is it?

डॉ. निशिकांत दुबे: सर, इसमें प्वायंट-ऑफ-ऑर्डर है, रूल-352।

सर, जो मामला सब-ज्यूडिस है, वह डिस्कस नहीं हो सकता। बिलकिस बानो का जो मामला है, वह सब-ज्यूडिस है। इन्होंने जो बात की, उसको एक्सपंज कर दीजिए, आपसे यही रिक्वेस्ट है।

HON. CHAIRPERSON: The Chair will look into it.

डॉ. निशिकांत दुबे: सर, यह मामला सब-ज्यूडिस है।

HON. CHAIRPERSON: You have made your submission. The Chair will look into it. Don't worry.

....(Interruptions)

HON. CHAIRPERSON: Shrimati Supriya Sule.

Nothing will go on record except what Supriya Sule speaks.

SHRIMATI SUPRIYA SADANAND SULE (BARAMATI): Sir, thank you very much. I stand here in support of this very important Bill that we are all discussing today. I appreciate all the points and clarifications the hon. Minister has given. So, there is really very little left in the scope of the Bill.

At the outset, I would like to thank the External Affairs Ministry which is always very indulgent. Whenever there is a crisis of anybody either from my State or my constituency, every time I reach out to them via a tweet, they have been most helpful. So, I would like to put it on record and thank the hon. Minister and entire External Affairs Ministry for all the good work that they do.

But there are a few suggestions.(Interruptions) देखिए, हम अच्छे को अच्छा बोल रहे हैं।... (व्यवधान)

There are a few suggestions and clarifications that I would like to seek from the hon. Minister. Most of the points are already covered, and I would not repeat them. But look at the Russia-Ukraine war. During this war, there has been an incident. A boat which was full of food was attacked. We all know it and many people before me had talked about it. The next wars are not going to be physically attacking each other, these are going to be cyber attacks. In this Bill there is nothing that has really come clearly about cyber attacks or address the cyber attacks in the future. This Bill is not only about today or yesterday. The legislation has to be very futuristic – 25 years, 30 years. Of course, we can change it, and we evolve while the journey goes on. But in today's day and age, the only disappointment for me is that there is no mention of any cyber attack or how we are going to handle a situation like that. I am saying it because still nobody knows who has taken that boat with food, how it is gone, where it is gone. Millions of people are hungry because of this gap or disruption that has come.

The other point that I would like to talk about is extradition. Also, a lot of people did talk about extradition. That means, if we arrest somebody or we want to arrest somebody who is in some other country, how we are going to bring him back in a timebound manner. I did not want to make it political but I would just like to give a small example. I would like to put it on record. I am just drawing parallels for laws that we have made, and I would like to give two examples.

I would like to give two examples. It is like the Nirav Modi case. Have you been able to extradite and bring him back? The answer is 'not yet'. This is not a political point, but if you have not been able to bring somebody back, who has created such a big fraud – this is what we hear from the Government for so many years - how are you going to implement this law? That is my first question. That is the parallel I am drawing. Now, I would like to draw the second parallel. My colleague and friend, Mr. P.P. Chaudhary as well as Mr. Manish Tewari talked about it. They were drawing a parallel of this law, when they talked about clause 11 and they talked about presumption. Both of them took the example of PMLA. I am just broadening the scope; this is not a political point. I am just trying to draw a parallel; I am not making an allegation. In PMLA, again, it goes the same way is what I understand from what Shri P.P. Chaudhary and Mr. Manish Tewari have spoken. They are lawyers; I am not a lawyer. So, I do not understand law as well as these two lawyers understand or interpret it. I am just a novice at all this. My question to the hon. Minister is that under PMLA, as both the hon. Members rightly drew parity, you have to prove that you are innocent. Now, I will give you a small example of Shri Sanjay Raut, who happens to be a part of an incident, was arrested; he was left after 103 days; and the judge, in the order of the court which came out, said – I am just using it as a parallel and not making an allegation – that there was no case against him and how he was arrested. So, my limited question is that people from the Treasury Benches as well as from the Opposition have drawn the same parity that PMLA has ambiguity and it has presumptions. I think, we should be careful while making laws. I am so glad that Mr. Dubey is in the House right now because he talked about this ambiguity when this PMLA Bill was being discussed. I still remember it. I am not going into the merits of whether this Government is using it against the Opposition or not. That is not what I am here for and that is not what I want to debate or discuss here. My limited point is that when we make laws, which are so important, and if we feel – there is a consensus in the House and everybody is supporting this law – that there is an ambiguity and there is presumption, should we still – I think, 'mistake' may be a wrong word - follow or repeat, if we have doubts about what we did in PMLA, those ambiguities and presumptions, because no law should get misused? That is my limited point. I just want a clarification.

A plenty has been said about the death penalty, clause 3 and the Chinese Naval presence, but I know that these are very sensitive issues and I do respect that the hon. External Affairs Minister may not be able to speak freely about these relationships. This also is not the agenda and place for it. But I would like to request him on this occasion that there is always in the society, if you read the newspapers, some pot boiling somewhere. So, it would be better if the External Affairs Ministry would have a broader discussion on our relationships. Shrimati Meenakashi Lekhiji was reading out all the accolades of this Government and so many wonderful things that they have done and that they have hosted so many people and they have been hosted by so many people. We are all very proud of it as Indians, but we would like to have a broader discussion on China-India relationship. I think, this Bill is welcome, but we cannot leave China in our relationship with all our neighbours when we discuss this kind of a Bill.

I have drawn two parallels. You missed my one point. So, I will just repeat it quickly. It is about cyber attacks. In the entire fight between Russia and Ukraine, there were food ships which were taken. Now, how do you bring accountability? Who would you really punish in such a situation? This is not covered here.

There are just two short points. One is cyber attack clarification. Mr. Chaudhary and Mr. Manish Tewari drew the parallel of PMLA. I would request you to please clarify these points.

Thank you for bringing this Bill. Thank you very much.

SHRI E.T. MOHAMMED BASHEER (PONNANI): Hon. Chairperson, Sir, I support this Bill. I feel that this is in the best interest of the nation.

17.44 hrs

(Hon. Speaker *in the Chair*)

Coming to the Bill, with regard to definitions, there is clarity and there is no ambiguity. In that way, it is drafted nicely.

Sir, the Standing Committee on External Affairs which scrutinized this Bill has said and I quote.

“The Committee, therefore, desire that to cover all the means of transport on water and sea, the word ‘vessel’ should be added along with ship and aircraft. Moreover, along with crew and passengers, the presence of any other person on ship/aircraft and private ship is also possible. The Committee, therefore, would like that the words ‘any person’ should also be incorporated suitably and ‘ship’ and ‘aircraft’ should also be defined in two separately sub clauses in the light of definition of these objects in other relevant acts to cover all types of possibilities.”

I hope that Government will seriously consider this observation of the Committee on External Affairs. This Act stipulates volume of punishment. India needs to have a separate domestic legislation on this. There is necessity of designated courts to address this issue. All these things need to be done. This widens the scope of law making. The Bill has been drafted in accordance with the United Nations Convention on the Law of the Sea adopted by India in 1982 and ratified in 1995. The Committee also mentioned that it now hope that the proposed new legislation will definitely enable the authorities to prosecute the apprehended pirates irrespective of their nationalities. A number of UN resolutions have been passed to facilitate the nations to enact legislation on piracy by adopting the definition of UNCLOS. This point may also be kindly taken into consideration.

I need not say much about the need of legislation. It is very, very vital because these kinds of crimes in the sea are increasing day-by-day whether it is in the way of robbery or any kind of ill motive.

These kinds of things are increasing. A dangerous situation has arisen not only in India but in other countries also. Our Committee has also observed that after 2008, the major spurt in piracy attack was witnessed in the Gulf of Adam by pirates of Somalia. The Committee also observed that the threat of piracy has mushroomed enormously. That also is a very important thing to be noted.

Towards the end, I would like to make three-four suggestions. Further probe should be done in order to do the things in a proper way. What are the costs of piracy and how do these compare to the expenses required for mitigation? What is the best way of countering armed maritime violence in regions of chronic lawlessness and anarchy? Is the current international legal framework for countering piracy sufficient? If not, what is the Government doing in this regard? What is the extent of Government responsibility for countering piracy and what role should the private sector play in this? These are some of the things which I would like to know.

It is a very good legislation. It has been brought out with a very good intention. I support this Bill wholeheartedly. Thank you very much, Sir.

*m35 माननीय अध्यक्ष : श्री एन. के. प्रेमचन्द्रन जी पांच मिनट बोलेंगे और फिर श्री कोडिकुन्नील सुरेश जी पांच मिनट बोलेंगे ।

श्री एन.के. प्रेमचन्द्रन जी ।

*m36 **SHRI N. K. PREMACHANDRAN (KOLLAM):** Thank you, Mr. Speaker, Sir, for affording me this opportunity to speak on the Anti-Maritime Piracy Bill, 2019. I fully support the Bill.

First of all, I would like to congratulate the hon. Minister for comprehensively piloting the Bill in a very structured and diplomatic manner for which I would place on record our appreciation. It is really a model to all other Ministers also the way in which it was presented. Also, I would like to take this opportunity to thank the hon. External Affairs Minister for accepting my amendment. My amendment No. 6 is accepted in your official amendment. I am thankful to the hon. Minister for accepting my amendment and moving it as an official amendment. ... (*Interruptions*) I will be moving the other five amendments. They will be accepted in future.

It is quite unfortunate to note that India which is such a large country is having no separate and distinct domestic legislation in dealing with the piracy issues.

The menace of piracy is increasing like anything and we are adversely being affected for the reason that we are not having a domestic legislation to combat piracy in the seas.

Sir, in our country, especially the Indian Navy and Coast Guard are facing big difficulties in combating the maritime piracy for the reason that we do not have a comprehensive legislation. I would like to draw the attention of the hon. Minister towards the Italian marines case, that is Enrica Lexie case, which was widely agitated in the International Court of Justice. Even the Supreme Court has also dealt with it in detail. I would like to draw the attention of the hon. Minister towards this case in which the judicial proceedings are still going on. Two fishermen belonging to my constituency in Kollam were brutally killed by the Italian marines who had gone for deep sea fishing from the Neendakara Fishing Harbour. A big controversy had arisen regarding the jurisdiction as to where the case has to be instituted. Such a big controversy was there, and justice was given to the relatives of the victims after a long time unfortunately.

So, my suggestion to the hon. Minister and the Government is that we should have a comprehensive legislation so as to determine the jurisdiction in the case of international waters according to the norms and guidelines of the international conventions. The United Nations Convention on the Law of the Sea (UNCLOS) is very specific. The signatory countries or the signatory States may be allowed ample freedom to have legislation of their own, but it should be within the stipulated norms of the international conventions. If that be the case, my first suggestion is that the Government of India should have a comprehensive legislation in respect of the crimes happening in seas.

Coming to the Bill, I fully endorse the views of Manish Tewari Ji. It is a scrupulous scrutiny of the provisions of this Bill by Manish Tewari Ji, especially regarding Clause 3, Clause 4, and Clause 6. Regarding Clause 3, it is absolutely a correct fact that the death penalty is being disapproved by the hon. Supreme Court. It is in the rarest of the rare category. Now, by way of the official amendment, you are providing a discretionary right to the Supreme Court or to the concerned court. It is absolutely okay and we fully welcome the official amendments, but at the same time, we have to be more clear regarding the jurisdiction of the cases and the way by which the case is to be investigated.

Sir, in Clause 6, you are defining a police officer. It says "Notwithstanding anything contained in the Code, the Central Government may, for the purpose of this Act, by notification, confer the powers of arrest, investigation and prosecution of any person exercisable by a police officer under the Code." So, I would like to move an amendment. The police officer has to be designated. What will be the rank of the police officer? That has to be mentioned specifically. Otherwise, it will also be creating problems in future because it will be agitated in the courts of law.

Regarding Clause 8, "for the purpose of providing speedy trial of offences under this Act, the Central Government, after consulting the Chief Justice of the concerned High Court by notification can specify..." my suggestion is that after getting concurrence from the Chief Justice of the concerned High Court, that has to be taken care of. That is an amendment

which I have already given notice of. It is a welcome step because I am also a part and parcel of the Standing Committee on External Affairs.

We had a threadbare discussion on this Bill and we had a very scrupulous scrutiny of the Bill. Most of the suggestions of the Standing Committee have been accepted by the Government for which we are also thankful to the Government.

The provision, “..the Designated Court shall have the jurisdiction to try a proclaimed offender in absentia”, has been removed. We have to be very careful about Clause 11 of the Bill that is about ‘burden of proof’. It is a well-accepted principle of Indian jurisprudence that until and unless you are convicted, the presumption of law is that the person is innocent. The ‘burden of proof’ is on the convict. I do not know the legality of this Clause in the courts when it will be agitated in the courts of law. It will be a clear case of confusion. That has to be clarified by the hon. Minister. These are the provisions on which I would like to seek clarification from the hon. Minister.

I would also like to draw the attention of the hon. Minister to one of the major issues. It has occurred recently. I would like to draw the attention of the hon. Minister to it as this is also done in the name of piracy. Thirty Indian citizens have been arrested and they have been captured by a request of Nigeria. They have requested for arresting 30 Indians who were in a vessel, out of which a Third Officer who belongs to my Constituency, namely Vikraman Nair is also facing trial in Nigerian courts. I would like to urge upon the Government and the Minister to please look into the matter, and probable and maximum diplomatic assistance has to be provided to them. Nowadays, we are getting a series of complaints from them. They are not even allowed to call their relatives in the country. So, kindly have a diplomatic intervention in the matter in order to rescue all these Indian prisoners or persons who are facing trial in Nigeria.

With these words, once again, I support this Bill. Thank you very much, Sir.

***m37 SHRI KODIKUNNIL SURESH (MAVELIKKARA):** Thank you, Speaker Sir, for giving me an opportunity to participate in the discussion on this important Bill, namely the Anti-Maritime Piracy Bill, 2019. The Bill brings the UN Convention on the Law of the Sea into a domestic law and enables Indian authorities to take action against piracy on the high sea areas. What essentially one gets to understand is that through the Bill the Government of India becomes a party to the UN-led International Convention on the Law of the Sea and gets more teeth for our deterrence on piracy. However, there are certain areas of concern regarding the ambiguity present in the Bill. Before moving to those issues, let me remind you of a current incident wherein 16 Indian seafarers of a merchant vessel named Heroic Idun who are now under the custody of the Nigerian Navy and are taken to the land for interrogation, which is far from any judicial dignity.

Just now, hon. Member Shri N. K. Premachandran also mentioned about one Vikraman’s case. So, this is very much becoming a matter of embarrassment for their family as well as the Members of Parliament from Kerala. The parents of Vikraman and others contacted us regarding this issue. We also contacted the External Affairs Ministry as well as our Embassy in Nigeria, but we could not get a proper reply from them. So, I would like to bring to your kind attention that this problem is not solved yet, and their family members are very much in a state of shock. I would like to request you to sort out this problem at the earliest. Further, many of the poor workers who are working in these vessels are being unnecessarily arrested by the African countries, especially Ghana, Nigeria, etc. They are arresting the persons in these vessels or taking them into custody without any reason. This is the situation being faced from time to time by the Indian workers who are working in various vessels. So, I would request the Government to initiate further discussions to secure their release and help them come back safely in India as fast as possible as any discussion on maritime piracy -- where India is a party to -- must consider the pain and desolation of illegal detention of Indian seafarers in other nations, and securing them must be a policy priority. Let me come to the other issues pertaining to the Bill. As regards the jurisdiction issue, the Bill will apply to the sea beyond the Exclusive Economic Zone (EEZ), that is beyond 200 nautical miles from India’s coastline.

However, it is unclear if it will apply to the EEZ that extends between 12 and 200 nautical miles from the coast of India, which means that area of jurisdiction being unclear will result in loopholes for pirates and other criminals. The Government must take it up and provide clarification. The Bill states that for committing acts of piracy the convicts shall be punished with imprisonment for life or death.

18.00hrs

It is unclear in the Bill how the overlap of the 14-year term and the life term will be determined since committing an act of piracy will necessarily include participation as well.

माननीय अध्यक्ष: सभा की कार्यवाही श्री कोडिकुन्नील सुरेश जी के बोलने तक बढ़ाई जाती है। बस दो मिनट में खत्म हो जाएगा।

SHRI KODIKUNNIL SURESH: On the issue with the death penalty, the Supreme Court of India has advocated for the use of extreme punishment in the "rarest of rare" cases. According to the top court, the death penalty violates Articles 14 and 21 of the Constitution. How to frame the scope of piracy within the scope of domestic jurisdiction, as well as how to address areas of overlap between what constitutes a rare case and how the brutality of piracy is defined, require clarification. The Bill further states that the designated court will not have jurisdiction over offences committed on a foreign ship unless an intervention is requested by the country of origin of the ship, the ship-owner, or any other person on the ship. But a question remains, as to what if the crime committed on a foreign ship is intended to harm India's interests? These questions need to be answered, and the rights of Indian fishermen who are illegally detained and brutally assaulted by the Sri Lankan navy are a case in point. How would the law treat the actions by a foreign government's naval force, whether as an act of crime or an act of their national maritime security policy, and under the new law, whose application extends beyond 200 nautical miles, and how would the legalities concerning the new law be endorsed? With these words, I conclude my observations.

*m38 **माननीय अध्यक्ष :** हम इस विधेयक पर आगे भी डिबेट करेंगे और उस समय माननीय मंत्री जी का जवाब मिलेगा।

सभा की कार्यवाही कल गुरुवार, 8 दिसम्बर, 2022 को प्रातः ग्यारह बजे तक के लिए स्थगित की जाती है।

18.02 hrs

*The Lok Sabha then adjourned till Eleven of the Clock on
Thursday, December 08, 2022/ Agrahayana 17, 1944 (Saka).*

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