

(viii) Need for providing financial assistance to Orissa for certain projects to remove regional disparities.

**SHRI BRAJAMOHAN MOHANTY (Puri)**: Orissa is a backward State and its per capita income, infrastructure and growth is much behind the national average. In the matter of per capita income, Orissa occupies 17th position and it has remained unchanged during the last four decades. Government of India should consider making special investment in Orissa to remove the regional disparity, backwardness and poverty in the State.

I urge upon the Government of India to provide special financial assistance for implementation of following projects in the State so that it can pick up and regional disparity is removed to a great extent :

1. One million tonne sponge iron plant at Daitari in Orissa.
2. Multi-purpose irrigation projects of Rengali Indravati.
3. Suvernarekha project.
4. Kordha-Balangir rail linking with Gopalpur Port.
5. Construction of Konark-Gopalpur Marine Drive.
6. Talcher Sambalpur rail line,
7. Hundai Project which will involve the development of Paradip Port.
8. Talcher Thermal and Ib Valley Power Projects.
9. More funds to be provided for minor irrigation works in the State.

12.25 hrs.

STATUTORY RESOLUTION RE :  
DISAPPROVAL OF PREVENTION  
OF ILLICIT TRAFFIC IN  
NARCOTIC DRUGS AND PSY-  
CHOTROPIC SUBSTANCES  
ORDINANCE

AND  
PREVENTION OF ILLICIT  
TRAFFIC IN NARCOTIC  
DRUGS AND PSYCHOTRO-  
PIC SUBSTANCES BILL  
*Contd.*

[English]

**MR. DEPUTY-SPEAKER** : Now, we shall take up items 12 and 13 of the Agenda together. Shri Sriballav Panigrahi may speak.

**SHRI SRIBALLAV PANIGRAHI (Deogarh)** : Mr. Deputy-Speaker, Sir, I rise to support this Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Bill, 1988.

Sir, as you know, drug as a medicine saves life and as narcotic destroys life. This is a growing menace. Everywhere in the world particularly, in the Western countries also, it is there, India is also not spared. It is slowly raising its ugly head in the country. Our country is used as transit point in the trafficking of narcotics and that has got to be effectively checked. No doubt, a lot of measures have been taken in this direction. Particularly, the Prime Minister has taken the initiative in launching a 14-point programme to check these things. But, Sir, in spite of several legislative measures that we have taken, still that is not sufficient to completely eliminate this evil. Therefore, I congratulate the Government on having come before this House, with this Bill for preventive detention of all the culprits who indulge in this heinous crime. If this thing is let loose, it will spoil the younger generation and in that process, the entire nation, will be in its way of ruination.

What is the intention of the Bill ? There is an ordinance, as you know,

which was promulgated on 4th July, 1988. This Bill seeks to replace the said Ordinance.

I do not understand why they are opposing it. I am pretty sure that none from the other side, from the Opposition has any sympathy with those people who indulge in this heinous crime. Nobody has any sympathy for them. But still I wonder, some of them are opposing this measure. Some of them are allergic to the very word 'preventive detention'. Detention for whom? It is for those people who indulge in such serious crimes. What is the harm in detaining them, in putting them under detention for one year, might be for two years—may not be with the approval of the advisory committee. Those things are not very material. Personal freedom etc., matters to whom? It is in respect of law abiding citizens, those who are well-behaved citizens, honest citizens. Those who are out to destroy civilisation, human civilisation, our youth force in particular should deserve no sympathy. Why should we have any sympathy for them? The law has got to be more strict. Even capital punishment should be provided for this. In some other countries there is very stiffer punishment to deal with the moral offences, economic offences. In a democratic country like India, we are very liberal. Therefore, I urge upon the Government to think of very very stiffer punishment, even capital punishment to be provided. The Government is quite sincere. So far as India is concerned the situation has not gone out of control at present. It is time to take very drastic measures and they have sounded a red alert at the appropriate time. As a result of crack down, the trafficking of drug from India has come down considerably. Trafficking from India accounted for 35% of all seizures of heroin to Europe to in 1985. It has come down to 29% in 1986 and quite remarkably to 7% in 1987. Of the total heroin seized in UK in 1986, 80% was stated to have gone from India but last year it also came down to 40%. Heroin seizures in India have gone up from 761 Kg in 1985 to 2,621 Kg in 1986 and further to 2,747 Kg in 1987. Up to 30th June, 1988 the quantity of heroin seized is 1,707 Kg. It is a quite remarkable progress, thanks to the authorities

concerned. Since April 15 up to 4th July the date when this Ordinance was promulgated, 6.9 tonnes of hashish ganja and 1,238 tonnes of heroin, one tonne of methocologne and 1.28 million tables of this powder have been destroyed. We have law now to stop illicit traffic in drugs and our Government is very sincere in implementing the law but, at the same time, what is required is massive propaganda against the ill-effects of this drug addiction and motivation of not only machinery but also the judiciary so that the sincerity of the Government is reflected in implementing the law. We have seen that as a result of some loopholes in the Act, many arrested people are being released on bail and to remedy this situation, preventive detention for a year or two is the right step. As I suggested, Government should give serious thought to this matter and decide whether this punishment should be made stiffer and life imprisonment and even capital punishment should be awarded to stop the evil effects, the sinister designs and the evil consequences of drug trafficking. It is an international phenomenon now and we have to take a lead.

The programme of rehabilitation has got to be given more emphasis and has to be implemented with sincerity so that the addicts also get back to normalcy and behave as normal citizens. In order to prevent misuse of power, a Joint Secretary in the Central Government and an officer of the status of not less than a Secretary in the State Government are empowered to issue orders of preventive detention. At the same time, there should be effective monitoring so that these powers are not misused.

I strongly support this Bill and I also urge upon the Government to provide more teeth to the Act and take stringent action against all those who indulge in such evil activities which result in the ruination of society.

[Translation]

SHRI YOGESHWAR PRASAD YOGESH (Chatra): Mr. Deputy Speaker, Sir, I rise to support the Prevention of

[Shri Yogeshwar Prasad Yogesh]

Illicit Traffic in Narcotic Drugs and Psychotropic Substances Bill, 1988 which has been moved by the hon. Minister in the House.

Drug addiction has always been viewed as a very inferior act since the olden days in our country. It has been condemned but this bad habit is capturing the minds of our new generation. It has become a matter of general concern in the future social life of the country. In view of the above, the Bill brought forward by the hon. Minister is a very commendable one and I welcome it.

Mr. Deputy Speaker. Sir, you may perhaps recall that fashion of drugs entered this country after the arrival of hippies in this land. The structure of drug addiction created by these young people at different places in the country has attracted the minds of the youth of your country. It added fuel to the fire. Not only this but the cinema has also contributed to it. The producers of this type of films started depicting the shabby and absurd aspects of this new generation viz. Keeping long beards, smoking hero in and hemp and such other acts of drug addiction as a fashion. You might have heard a song "Dam Maro Dam, Mit Jaya Gum", which created a craze, in the new generation to go in for addiction as a fashion. This has aggravated the situation and deeprooted the tendency. You may see that our youths, particularly the hostellers, and colleges or school going children are deeply engrossed in addiction. It has permeated poison in the veins of our youth, who are the only hope and future of our country and it is a matter of great concern. It needs a multi pronged attack on it from all sides. The hon. Member, Shrimati Geeta Mukherjee is totally right to say that there were one lakh drug addicts in 1980 and this number has gone up to ten lakh by 1988. Moreover, it is continuously increasing and the practice is further rising. It had never been a tradition with the people of India and it has been viewed as a very inferior act. Now-a-days the people belonging to new generation are taking drugs in the presence of their parents, whereas in the

older days people did not dare to come in their face. Children are seen taking drugs very clandestinely. We have seen the impact of such drugs on the minds of the children. Addiction makes the family life a hell and ruins the entire family. Nobody is ignorant of this phenomenon. In my opinion, a strict watch and vigilance should be kept on its centres is, colleges, hostels and schools. Mostly what happens is that people supplying these drugs are nabbed. They are mostly the poor people who are engaged for this work. This business operates in the desolate places or jhuggis which are away from the eyes of police. They kingpins of this trade are very clever. They engage poor people. Since this trade provides large margins it is but natural that it will give rise to corruption. These people are marring the future of this country by taking the undue advantage of their lust for money. Only those people are being nabbed who are carriers and take these drugs from one place to the other. While awarding punishment to these people, the learned Judges know that they are not involved to that extent in the crime as the kingpins working behind them except their temptation for money. But as per the existing provisions of law we can punish only these people. No leniency should be shown to the low class people in such cases, because it provides loopholes and gives rise to this trade. A strict watch should be kept on them. Every effort should be made to nab the culprits who are earning profits in crores of rupees. This trade should be checked effectively. It is, therefore, required that you should keep a watch on the jhuggis. I would like to tell one thing to the hon. Minister that the Government agencies meant for apprehending, such people are not well equipped for the job. Their resources are quite meagre. The present law and the provisions made therein are also not so effective.

That is why it is essential to make this law more stringent and as regards the people who are already addicted to drugs, they should be provided with proper medical treatment and the Department of Health should get appropriate research conducted in this regard. I think that no proper medicine has been invented so far

for the proper treatment of drug-addicts. However, it is better to take preventive measures to provide medical treatment and deterrent punishment who commit such offences. Wide publicity is required to be given about the evils of drug-addiction through various publicity media. The media should be used for this purpose. Just now, some of our friends submitted that the way the thing is presented by Doordarshan about drugs menace, it makes an adverse effect on the minds of the people and it helps in increasing such crimes. I do not accept this view point. The way the menace of drug addiction is presented by the Doordarshan creates an everlasting effect specially when it is shown at TV screen as to how they are groaning and whining due to pain. Television is a very effective medium and can influence a vast cross-section of our people. Therefore, I will request the hon. Minister to make maximum use of it. Publicity should be given through AIR also I think in addition to the radio and television which are of course very effective means, seminars and debates on this subject should be held in schools and colleges and the students should throw light on it and the youth power should be encouraged to participate in such debates and the best debater should be given prizes and all this should receive Press coverage. This will enable the young generation to understand the manace of this evil in its proper perspective. Apart from that, classes should be held in schools and colleges in which attendance of the students is made compulsory and in these classes students are told as to how people fall prey to the drugs and what are its ill-effects.

The suggestions which have been brought forward should be considered. I think that the names of the criminals and the high ups connected with its trafficking should be exposed and they should be apprehended and awarded the most stringent punishment. Apart from this, in order to control drugs trafficking across our borders especially Pakistan border should be put under strict vigilance. Along with it, it is alleged that there are some people in the administration who are involved in the smuggling of narcotic drugs. Such people should be weeded out.

These people not only bring disgrace to the entire bureaucracy but they tarnish the image of the Government too. Provision for awarding special punishment to them should be made. The bureaucracy which has been entrusted with the special responsibility in this regard, if some of its members are showing negligence, steps should be taken to socially boycott them and award suitable punishment.

With these words, without taking much time, I support this Bill.

[English]

MR. DEPUTY SPEAKER : Shri Jagannath Pattnaik.

SHRI MANVENDRA SINGH (Mathura) : May I point out, Sir, that there is no quorum in the House.

MR. DEPUTY SPEAKER : The bell is being rung—Now there is quorum, Shri Jagannath Pattnaik to speak.

SHRI JAGANNATH PATTNAIK (Kalahandi) : Sir, I rise to support this Bill because there is a dangerous trend in the under developed and developing countries particularly in our country because the creative genius of the younger generation is being destroyed. The drug menace also affects the labour doing manual work. They lose their physical strength. It also has direct effect on the mental capability.

While the seizure of heroin in 1984 was 200 kg in 1986 it has increased to 226 kg. If we go into the statistics of head-count we find 87.6 per cent drug addicts belong to age group of 14-25 years. Now from this we can infer what a dangerous effect it will have on our economy, production and the creative field when our future generations are going to be affected by this drug menace.

The cost of the drugs across the border is double and those who live near-by our borders are tempted to this drug menace. What we find is that 97% of

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the heroin and 50% of charas originates from Pakistan, Afghanistan and border regions of this region which is known as Golden Crescent and 70-80 per cent of Ganja is smuggled from Burma, Laos and Thailand which is known as Golden Triangle. So we should be more careful in these sensitive zones because it has taken another dimension, namely, the smugglers in these border areas are having links with the terrorists who want to create a sense of disharmony in our country. It is quite clear that forces outside who are interested to see that India's economic progress does not take place they want to destabilise and destroy our younger generation's creative zeal and efficiency. These forces are interested that our young people get addicted to the drugs. So we have to be more careful.

I find in this Bill there is provision to destroy these seized goods immediately so that this may not reach the market. This will have a very good effect. Further the offence has been made non-bailable. This will also have a deterrent effect on the law offenders. We have to make people aware how to reject this temptation from the minds of the younger generation. A slogan should be given "Get rid of brown sugar and save the country". A mass campaign should be launched through TV, Radio, etc. to educate the people and especially the younger generation. There is need to create a nation-wide awareness towards this drug menace which is going to destroy our future generations. So this is a Bill which should be welcomed by everybody.

THE MINISTER OF STATE IN THE DEPARTMENT OF REVENUE IN THE MINISTRY OF FINANCE (Shri A.K. PANJA) : Mr. Deputy Speaker, Sir,.....

SHRI SHANTARAM NAIK (Panaji) : My area is not represented.

MR. DEPUTY SPEAKER : We will see, I have already called the Minister. You could have given your name in the beginning.

SHRI SHANTARAM NAIK : I have given right in the beginning.

MR. DEPUTY SPEAKER : You have not given. What can I do ?

SHRI A.K. PANJA : Hon. Deputy Speaker, Sir, on three main points, it was argued by the Members of the Opposition. Surprisingly, all of them, who argued, are absent now. The main point argued by Shrimati Geeta Mukherjee was why ordinance. Why it has not been done in the usual course as it is being done now ? The reason was that there was some urgency. The information that we obtained was that unless we go ahead with the ordinance and get hold of those drug traffickers immediately there is a chance that those drug traffickers would go underground and thereby elude the enforcement agencies. That's why the ordinance was brought in.

This Bill was introduced four or five days ago. If this time-lag had been there since the introduction of the Bill and the passing, these four days—even four hours—would have been enough for these cunning people who are out to destroy the country and its people hide in such a manner—they have lot of money with themselves—that it would have been very difficult to arrest them. The result is from 4th of July 1988, this ordinance was enforced. 'And up to 22nd of August, within the 1½ months, we have been able to issue detention orders in respect of 168 persons, including 19 foreigners. 134 persons have already been detained. Therefore, there was so much urgency. The COFEPOSA Act was there. But, as you know, the COFEPOSA Act deals with the smugglers. The whole pith and substance of that Act was to deal with smugglers, that is, those who are either importing these drugs or exporting them out. But for those who are internally operating between the States or between Union Territories and States or internally operating by selling or manufacturing, the COFEPOSA Act was not sufficient to detain them. Therefore, we had all the details of these persons. But we cannot catch hold of them by using COFEPOSA Act. That's why this Act had to be brought in by an ordinance.

We have already been able to detain 144 persons, as I said. In respect of others also, attempts are being made to get hold

of them. And those who are absconders, we have alerted our information input giving agencies so that we can know where they are and get hold of them.

Mr. Reddi made another point about welfare measures. Various other Members also mentioned from this side as to what are the welfare measures that have been taken so far as the persons who have already been affected by drug addiction are concerned. The Government is fully aware of such a danger from those people who have already been affected. A survey was made and also the Government records show that all these drug addicts were being treated in the various psychiatric wards in the various institutions of the country. But in view of the special problems faced by these drug addicts, it has been decided to set up special wards for their treatment in the hospitals and also counselling centres and not to mix them with the psychiatric patients. In fact, in 1986, the Minister of Health had set up an expert committee. Under that Committee three recommendations were given. The first one is that there should be an apex centre for manpower development and training; the second one is that there should be regional centres in various regions in the country and the third one is to start 30 bedded de-addiction service units. Pursuant to that, the Planning Commission has already sanctioned and agreed to one 30 bedded hospital for de-addiction centre at Delhi at the cost of Rs. 78 lakhs during 1987-88 and thereafter, Rs. 80 lakhs in 1988-89. This will be under the All-India Medical Institute of Medical Sciences at Deen Dayal Upadhyaya Hospital. The OPD of this hospital so far as the drug addicts are concerned have already been operationalised from 15th June 1988 and the ward will start functioning from 1st December 1988. It was asked by Shri Dinesh Goswami as to where is the OPD available in Delhi. Now he is absent. This is the OPD which is functioning since 15th June 1988 in Deen Dayal Upadhyaya Hospital. It appears that in the Health Department some arrangements have been made. In several hospital in Delhi, 38 beds have been reserved for the drug addicts in 1987-88. In the country, the existing facilities are that there are 642 beds available for

treating the drug addicts throughout the country as indoor patients. From the figures obtained from the Health Department, it appears that in 1985, 11489 patients were treated in 1986, 14593 patients were treated and in 1987, 11660 patients were treated. In view of the dangers posed by the drug traffickers, the Prime Minister took three meetings after forming the Cabinet Sub-Committee headed by our Union Minister. The question of co-ordination was also argued by Opposition. It was for this purpose that this Cabinet Sub-Committee has been formed with the Union Minister as the convenor and Chairman of the Committee with the Minister of Revenue, Minister of Information and Broadcasting, Minister of Welfare and Minister of Health. They are the co-ordinating factors and the State Minister, Mr. Chidambaram is also there so that co-ordination takes place for attacking this dreadful menace in the country. It has been decided by the directives of the Prime Minister that the All-India Medical Sciences in New Delhi will have 30 bedded units with Sucheta Kriplani Hospital, New Delhi, Safdar Jang Hospital, New Delhi, Guru Tegh Bahadur Hospital, New Delhi and RML Hospital, New Delhi. Therefore, the total number of beds in Delhi alone will come up to 218 indoor beds which will look after 3000 patients in year. There are two additional units that have been proposed to be opened in the Post Graduate Institute of Chandigarh and JIPMER of Pondicherry. The total cost of seven additional units will be approximately Rs. 295.5 lakhs in 1988-89 and Rs. 337.5 lakhs in 1989-90. While completing the work of Ministry of Health, for 1989-90, we have set up a future plan of action. Under the directives of the Prime Minister specific dates have been given to each Ministry in respect of each of their functions by which date they are going to complete the orders that have been given.

13.00 hrs.

In 1989-90, there is a provision of plan for regional centres in Rajasthan, Meghalaya, Maharashtra, West Bengal and Goa. The State Governments have been provided if they provide the basic ward space in the hospital, per unit cost of Rs. 55

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Jakhs that would be granted to the State Government by the Central Government and thereafter the recurring expenses have to be borne by the State Government. All the state Governments and UTs have been alerted about the danger and also for looking after the drug addicts within their respective areas. Therefore, they have been asked to made the Budget provision in the next year so far as the States and UTs are concerned. They have been asked to make special Budget provision for the purpose of curing the drug addicts and for counselling centre. The major activities of the Action Plan, as I have said, are to set up 30 bedded de-addiction units in various regions in the country. Secondly mobilising State Programme Units for implementation of drug de-addiction programmes and thirdly the collection of quarterly data regarding the number of facilities available in the country, the number of new facilities in the country and the number of new facilities being set up and the types of drug abuse being made. Fourthly, five regional workshops are also being organised in order to assess the facilities available in the State and also to impress upon the State to set up not only 30 bedded units but also utilise the existing infrastructure available in the State Government hospitals. The five workshops that have been launched to create awareness and also to find out the details of the discussions for which schedules have also been made, i.e., 15-17th July at Hyderabad, 29-31st July in Bombay, 9-11th September in Guwahati, 7-9th October in Srinagar and 25-27th November at Madras so far as this year programme is concerned. Therefore, it is not correct, as alleged by some of the Opposition Members, that no steps are taken under the Narcotic Drugs and Psychotropic Substances Bill, 1985. These are the actions which are already taken and future action plan has been made and actions are being taken for that. It has also been stated by Mr. Reddy that NDPS Act, 1985 has not been extended to the eastern region. Our records show that it is not so. All the State Governments and UTs have been authorised, and specific power is given to empower their own police officer under Section 42 of the Act

so that they can go ahead with the steps taken. It has also been alleged that the NDPS Act has not been properly enforced. This is contradicted. It has been in the record that the Act has been enforced as far as the available power within that Act. In fact, there has been a spectacular seizure and a number of syndicates have been neutralised. Operation destruction has been carried out to destroy the illegal cultivation of poppy in the Chakrata Taluk of Dehra Dun District and large tracts of ganja cultivation, 803 acres have been destroyed in Idukki District of Kerala. More than 11000 persons have been prosecuted under this Act since its inception by different agencies. There is a large pendency in the courts also. For speedy disposal, special courts have been proposed to be set up. Allegations were made that only prosecutions have been launched, but they are being set free by the courts. We cannot comment on that. We are producing evidence and it is for the law courts to decide, whether he is guilty or not. As to the conviction rate, I would like to tell the House that according to the information received by our Narcotics Control Bureau—all the information has not, of course, been received—, so far the convictions amount to 52 per cent of the prosecutions decided against various drug traffickers.

Then, about the figures of immediate destruction from 15th July to 20th August, 1988, the figures are heroin-2143 kgs, hashish-19077 kgs, ganja-211611 kgs, methaqualone-2511 kgs. These are the actions we have taken.

Yesterday, we got the figures of value of seizure of smuggled good and narcotics drugs. Today, we have crossed the figure of the seizure of the whole of the last year. By 31st August we have done that. The Narcotics Control Bureau and other coordinating agencies are taking steps and action against the drug traffickers.

For supervising all this, we already have a special officer of a high rank to supervise all these actions, and these are giving results to us.

Shri Balkavi Bairagi mentioned about

certain points. He is from the area where a lot of licit cultivation of opium is done. He asked for the licencing policy. That has already been finalised and announced. It appears that the acreage has been restricted to 10 acres per licensee, we are trying to minimise it gradually, because a large number of cultivators depend on opium cultivation. We are taking two steps. We are trying to minimise it to such an extent which is necessary for preparation of medicines only. Secondly, we are finding out through agricultural department and taking help from the Planning Commission to find out alternative crops for these cultivators in the areas where they grow opium. We have been successful. In fact when I had been to Nepal and Burma, their Governments showed a lot of interest to find out what are the alternative cash crops. The Government of India Agricultural Department, has found out that for the particular type of region, taking into account the nature of the soil, altitude and the weather conditions of that particular area. We have been successful in growing cauliflower there; a particular type of seed for cabbage as also cauliflower and they are giving good return to the cultivators. In some other places other seeds like that of tomato are being developed in high altitude areas. We are thus trying to have alternative crops for the cultivators who are engaged in unlawful opium cultivation.

**SHRI HANNAN MOLLAH (Ulu-beria) :** Will it match their earlier income ?

**SHRI A. K. PANJA :** The opinion of the experts is that it will match. I am thankful to the hon. Member for raising a very relevant point. The price is going up in the international market in such a manner that to always keep that matching it will be difficult, but if we could give them a good matching so as to enable them to have their earnings, have a cash crop and then enforce the law, that would be more effective. We have our own agreement with the SAARC countries and this point has been emphasised by all the leaders all over the world and also in the United Nations. That is a good sign. Although, it may not be matching immediately, but it would be sufficient for them

to carry on their own agricultural activities, maintain the consumption level and buy goods for their living. Shri Bairagi also mentioned that certain machines are lying at the laboratory in Neemach and Ghazipur and they are not being used. We have checked up. We found that there was some defect in those machines and therefore they were not made operative. They have now been made operative, but not after the speech of the hon. Member, long time before that. Of course, there was a period of time when these machines for processing opium could not be made operative. I understand and I am told that about to be the defects have been rectified and the machines are now commissioned.

So far as this Act is concerned, a challenge has been made by certain hon. Members by saying why there should be preventive detention. Shrimati Geeta Mukherjee emphasised on this; she said she was herself detained under preventive detention. But this has been made clear not only by Article 22 of the Constitution in 1950, but since then during these forty-two years there have been various interpretations by the Supreme Court, the highest apex body of judiciary, that this power has been given to the Union Government as well as the State Government. I would like to ask the hon. Members to realise that in this Act the narcotic drug traffickers are specifically mentioned as the persons who are to be detained. Therefore, the possibility that it will be used for political purposes is totally ruled out. I need full support of the Opposition to this Bill. I would like to allay any suspicion which is there in the minds of the hon. members.

Mr. A. K. Gopalan's case, when he went to the Supreme Court in 1950, was almost the first leading case of this type. Sir, kindly see the distinction, in preventive detention, it is not the punitive measures taken but it is the precautionary measures taken and, therefore, he was being detained. It is not that the moment he was found guilty of certain charge, he was detained and imprisoned. So, that was being done under the Narcotic Substances Act, 1985 and under the Indian Penal Code.



[Shri A. K. Panja]

The reason why it came as an ordinance is that our intelligence reported that some more than 100 people are to be caught immediately as they pose a danger to the nation. So, there was no other way out but to promulgate an ordinance of Preventive Detention.

I have already given the figures of the persons arrested. Within the short period, from 4th July to 22nd August, 134 persons have been put in the prison. Now, the difficulty is that they are not an ordinary people or ordinary smugglers engaged in illegal activities. They are the persons having a lot of money. So, unless the state Governments take full power, with the full confidence of the House, to prevent these people from engaging themselves in the manufacture, transportation or the sale of these narcotic drugs, this evil cannot go from our country. The actual cream, the backbone of the country, i.e. people in the age group of 11 to 25 years are victims to this crime. They are being made unintentionally the potential demanding creatures and from 11 years to 25 years old young men and women are involved in it. The supply of these drugs is made in such a cunning manner that a demand is created among this age group. So, preventive detention is necessary to tackle these enemies of the country.

Shrimati Geeta Mukherjee mentioned that she once went to jail under the preventive Detention Act and throughout the period of her stay there she was given carminative mixture. I would like to make it clear, through the Opposition leader as she is not present here, that the narcotic drug traffickers even though they are politicians they should not be allowed to take refuge under the political ground. I would like to make it clear to all that so far as the Revenue (Narcotic) Department and the Government of India is concerned, we are not making any distinction. Irrespective of the party to which one belongs, rich or poor, very powerful or not very powerful, we are taking strict action against them. I can assure the Hon. Members that if there is any cogent evidence against a person, whoever he may be,

under the four corners of the law we will immediately apprehend him and put him behind the bar without any mercy whatsoever.

One point, regarding the power given to the Government under which anybody on the allegation that he is a drug trafficker, could be taken in the prison, was raised and I think I must clarify it. It is not as if there is no remedy. Three clear safety measures are there which are within the four corners of Article 22 of the Constitution.

First is, that immediately on detention, within five days period he shall have to be informed of the cause of the detention

Secondly, the case is referred within 5 weeks (5 weeks time you have to give to bring the cause or the ground of detention) before the Advisory Board. The Advisory Board consists of at least one Judge of the High Court and it is set up as per the conditions laid down under the Constitution. It examines in detail the grounds of detention. There are many instances where we have detained a person and the Advisory Board has released him because according to them sufficient ground is not there to detain a person.

So, the first safety measure is that he is made known the cause of the detention. Then even after the matter has gone to the Advisory Board he can come to the Minister concerned and give representation. So, again this power, to reconsider the grounds on which either the parole could be granted or the detention order could be set aside. He has also got the right to go to the High Court and challenge the detention order. Then the High Court examines the detention order within the four corners of Article 22.

**SHRI HAROOBHAI MEHTA (Ahmedabad)**: Is it so that the representation can be made at any time? Is it not that the representation can be made only after the Advisory Board has gone through the case?

SHRI A. K. PANJA : As an Advisory Board is constituted under Article 22, we do not deal with the representations made to us immediately because the functioning Advisory Board is there. Unless the case is of such urgency, like somebody's mother has died or some sister's or daughter's marriage is there, we do grant parole to such persons.

The point that I was making is that this safeguard to make a petition in the High Court is there. The Supreme Court can examine each point minutely. Under the specifications of Article 22, they can say that it is not justiciable. It has been repeatedly held and only recently it has been said that each and every provision has to be followed strictly. The High Court has already allowed many persons to get set-free. The Supreme Court also had many a times set aside many of the orders. Therefore, so far as the detention is concerned, it was quite necessary to tackle the drug traffickers.

Shrimati Geeta Mukherjee, who moved the Resolution also made a point that there is a narcotic terrorism. It was also mentioned by Mr. Mollah. It is true that the Interpol has found out some connection between the drug traffickers and terrorism. So far as India is concerned, we have not found any nexus between the drug traffickers and the terrorists. There are some instances here and there which show that there can be some possibility of a nexus. These offences are with regard to the gold seized or the narcotic drugs seized from the terrorists. So, there is every possibility of some nexus. The Interpol has found out a direct nexus between the drug trafficking and terrorism in other parts of the world.

So far as the Narcotic Cells are concerned, they are functioning. Mr. Hannan Mollah asked whether the cells have been made operative. Yes, they are made operative. In addition to setting up a Cabinet Sub-Committee and the cells, at the officers level we are coordinating with the Department of Home, Department of Health, Department of Welfare and also the Department of Revenue (Customs and Excise).

So far as the points raised regarding the amendment of NDPS Act, it will be coming before the House very soon. Some of the hon. members made a mistake between Preventive Detention, life imprisonment and capital punishment. So far as capital punishment and other things are concerned, these are now being looked into and I am not going to say anything on that point until it comes before the House. At that time it will be looked into in great detail.

So far as the question of enhancing the punishment, attaching the property of the narcotic dealers, etc. is concerned, we are trying to get more powers with the blessings of this House. Even if the property were to be in some third name, if it could be traced and established that the narcotic dealers' money has gone to build up that property, even that property can also be attached when we get these powers.

A question is put as to when representation could be made. Representation can be made at any time. We seldom interfere with such representation. We consider that it can be made to the detaining authority and also to the Centre. As there is the Advisory Board, he gets the power. But it is not as though he cannot make representation. Any time after detention, he has a right to make a representation and the Government has to decide that representation within a reasonable time.

Shri Balkavi Bairagi and Shri Patel raised the question of insurance to the officers involved. This point is under the active consideration of the Government. We know that these officers have to take a great risk when they have to deal with the narcotic dealers. And they get proper impetus to carry out their work if they are rewarded for their efforts.

Mr. Wadiyar has raised the point about setting up of narcotic cells in the airports. We have set up narcotic cells in Delhi and Bombay and those cells are working. X-ray machines cannot detect opium, etc. if these drugs covered under normal clothing. But if these are kept in

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the body cavity it is possible to detect them. In this connection, I would like to point out that we are having some dogs which are specially trained to detect drugs. These dogs can detect drugs by smelling the luggage when it goes through the conveyor belt. The number available is not sufficient. But these are very good dogs and these are of great use. The dogs can detect the drugs even if they are mixed with strong perfumes or hidden inside the suitcases. But the training and maintenance of these dogs is very costly and it also requires great expertise. We are taking some steps in this regard.

Shrimati Geeta Mukherjee quotes some names from an article in the 'Times of India' and she wanted to know whether they have been arrested. Most of them have been arrested except one or two who are still absconding. I have pointedly told my Department to bring at least fifteen top narcotic dealers who have been apprehended since the ordinance came into force as also under the previous Act. The names of these people must be made known to all, so that the ordinary citizens can take care of themselves if they happen to come into contact with them. Even though it is going to take some time of this House, I want to read out these names.

If some of them are still at large, they will be apprehended. The kingpin among these narcotic dealers is found to be a resident of both Bombay and Delhi. His name is Gurbux Bhryanl. The following are the other traffickers who are detained :

Jasbir Singh Sandhu, Delhi  
Jindo Malhotra, Delhi  
Sunder Mehta, Delhi  
Ravi Kumar Sharma, Delhi  
Yudhistar Kumar, Delhi  
Dev Singh Chauhal, Delhi  
Narendra Visnoi alias Narula Visnoi,  
Bombay  
Vipin Jaggi, Delhi. (His name was mentioned in an Article in *The Times of India*.)

Bhaverlal Somani, Bombay  
Rajni Kant Patel, Bombay  
Yogesh Pandya, Bombay  
Virender Rai, Varanasi  
Collector Papachan, Kerala  
Nari Khan (A Pakistani citizen who was arrested in Bombay)

I have got a list of more than hundred people. But these are the top 15. If I start reading all the names, it will take a lot of time.

Sir, it was argued that the COFEPOSA is there. It is not giving any help. As I said in the beginning, there is a distinction. COFEPOSA is meant for smuggling and this Act is meant for internal traffickers as well as those who import. In 1984, detention under COFEPOSA was 994. In 1988—up to July—orders issued were 817. The persons detained in 1984 were 719 and persons detained up to 31st July, 1988 were 663. The persons who were released by the Advisory Board—as was stated that they would not get any justice, if they are detained in this year alone, i.e. up to 31st July were 112. The court release up to 31st July was 216. Wherever appeal is preferable, we are preferring it and wherever it is not possible to prefer an appeal because of legal opinion, we are not preferring the appeal. But wherever we find that there is a possibility of preferring an appeal by taking opinion either of Attorney General or Panel Counsels, we are doing so.

From 19th December, 1974, till 31st of July, 1988, the number of orders issued under COFEPOSA was 10,535 and persons detained were 8671. Therefore, it is not so that the COFEPOSA had not been used. It was asked here whether we have taken action against the people who are working in the Government and I would say "we have done so". So far as Customs and Central Excise is concerned, in 1985, action against ten officers were taken. In 1986, it was 5 officers and in 1987, the officers so far involved are three and one of them was arrested.

So far as police personnel are concerned, we have taken action. In 1985, the number was

2. In 1986, it was 5 and in 1987, four police personnel were arrested.

I would give you figures for Air India and Airlines personnel. They are as follows :

Year	Number of persons
1985	7
1986	8
1987 (uptill now)	3 arrests were made

**Other Departments**

Year	Number of persons
1985	6
1986	14
1987	5

The total number of goods seized from these Government officers is worth Rs. 91.03 lakhs. The total number of officers involved are as follows :

Year	Number of Government officers apprehended
1985	25
1986	32
1987	15

The total amount as I said recovered from them by seizure of goods either narcotics or otherwise is worth Rs. 91,3,000.

As far as foreign airlines are concerned, we have been able to apprehend seven persons in 1986. In 1987, it was

three. The total value of goods realised was Rs. 33,62,000 and three persons were arrested.

In the Shipping Corporation of India 39 persons were identified, and action was taken against them in 1986 ; in 1987—ten persons. The total goods seized were worth Rs. 50,10,000 and one person was arrested. Therefore, it is not correct that no action was being taken against Government's officers who indulged in this. As I said—I do not want to repeat it— whoever he may be, whether in Government or outside Government, of whichever political party, however high-up or low he or she may be, we are not sparing any one.

Some figures might be interesting. It was stated by Shrimati Geeta Mukherjee—she has come now ; so, I can say this, she asked : Why ordinance ? Why did you not come like this, i.e with a Bill ? I hope Shrimati Geeta Mukherjee will realize this : this Bill was introduced long ago. We have now spent seven days. During these seven days, all would have gone underground—powerful people with money. Therefore, Mrs. Geeta Mukherjee will realize this. Between 4th July when the Ordinance came into operation till 22nd August, 168 orders were issued. Till 27th August, the number of persons detained is 134 : 120 by Central Government's officers and 14 by Delhi Administration. The break-up of detention orders issued—I do not want to go into details—but the hon. Members might be interested in State-wise break-up Assam 1; Bihar 14; U.P. 30 ; Delhi 49; Tamil Nadu 4; Karnataka 2; Kerala 2; Rajasthan 6; Punjab 20; Haryana 1; West Bengal 5; Madhya Pradesh 8; Gujarat 2 and Maharashtra 5. Besides this total, I find that 19 were foreigners were also involved in this.

Had we not brought this Ordinance—Shrimati Geeta Mukherjee and Mr Hannan Mollah will kindly realize this— they had their passports, and they would just have gone away during this period of debate, out of our hands. There were 19 foreigners; out of them, 14 have

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already been apprehended. That is why I request you kindly to realize this, I hope you will withdraw your objection. That is why it was so much necessary. I can very well realize Mrs. Geeta Mukherjee's personal feeling when she was, as started by her, wrongfully detained under preventive detention. But this is an Act—I do not want to repeat it—specifically made, clearly for drug-traffickers. So, if there is any political colour, it will go before the advisory Board and it will be set at naught by the Board. If they do not do it, the High Court will find it out, call for the file, call for the background; and if there was really a political background, without any smell of any narcotics, he will be made to go scot-free. That is why this ordinance was brought in.

The preventive detention is also there for that purpose. It is not a punitive measure; and I can, at this stage, read from the Judgement of Patanjali Shastri in A.K. Gopalan's case in which things had been made clear on that very issue. It is known to all; but I want to read it at this stage. It says:

“The objective of preventive detention is not to punish a man for having done some thing, but to intercept him before he does it or to prevent him from further doing it. No offence is proved, nor any charge is formulated. The justification for such detention is suspicion or reasonable probability of the impending commission of the prejudicial act, and not a criminal conviction, which can only be warranted by legal evidence.”

In *A.K. Gopalan vs the State, Patanjali Shastri* had said this, I quote :

“This is a sinister-looking feature .....” i.e. this preventive detention case.

“.....so strangely out of place in a democratic Constitution...”

—as argued by Shrimati Geeta Mukherjee.

“...which invests personal liberty with the sacro-sanctity of the fundamental right, and so incompatible with the promises of its Preamble, is doubtless designed to prevent the abuse of freedom by anti-social and subversive elements which might imperil the national welfare of the infant Republic.”

It was decided in 1950.

Therefore, kindly see the distinction that this is a process of law which the Constitution envisages, that is, the people of India ordain to ourselves, this power given under Article 19, Fundamental Right, Article 21 liberty, and Article 22, it comes in. Therefore, Fundamental Rights of ordinary peaceful citizens are there, Article 19 enshrines it, then Article 21 is there, and then Article 22 envisages only—I want to repeat once more the wording of Mr. Justice Patanjali—“It is not a freedom of anti-social elements or subversive elements” and that is why Preventive Detention has been upheld by the Supreme Court provided it remains within the four corners of Article 22 of the Constitution.

**SHRIMATI GEETA MUKHERJEE** (Panakura): Let our friend Mr. Panja allow us to agree to differ.

**SHRI A.K.PANJA**: The point made by another hon. Member is regarding one small point and I might make it clear, that why in Section 3 it is “any person (including a foreigner)” and why it is ‘person’ in other places, and in other places “any person”, appears, specially in Section 5. The point is, if you kindly read, Section 3, Section 3 is the power of detention and, therefor, it is stated—

“That the Government may, if satisfied, with respect to any person (including a foreigner) that with a view to preventing him from engaging in illicit

traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained."

This is the Section which gets the power of detention and that is why by abundant caution "including foreigner" has been put in it.

Now, Section 5-hon. Member will kindly examine-starts with what is to be done with the persons already detained, and therefore the wording is "Every person in respect of whom". If it is any person, then the word would have been "including foreigner". But now Section 3, it has to be read altogether, and Section 3 says "any persons" and when it comes to Sections 5, the operation portion says "Every person" which means, any person including foreigner. This is the whole genus and it is "any person" drastically. This also makes it clear that so far as Section 10 is concerned.

SHRI RAM SINGH YADAV  
(Alwar) : Why do you again use this word in Section 10?

SHRI A.K.PANJA : Right. I am coming to that. The hon. Member is right in asking why I am using these words here and I causing then again in Section 10. Kindly see Section 10 is again an independent clause coming in. The non-obstante clause has been used. "Notwithstanding anything contained in this Act". Therefore, the whole Act is taken out. That what is provided is "any person," not every person,—

"any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the 31st day of July, 1990, may be detained without obtaining,"  
etc., etc.

Therefore, kindly see again, Section 10

is a section on its own, without the help of any other section, and starts with "Notwithstanding". Section 3 is an independent section using "any person (including a foreigner)". Section 5 says, "Every person" and not "any person". And Section 10 again says, "Notwithstanding anything contained in this Act, any person (including a foreigner)" so that there may not be any doubt whether it applies to foreigners so far as this Act is concerned, or not. And this is why I got it examined after the hon. Member mentioned it and I am satisfied that so far as the wording is concerned, it is not in contradiction to either what is mentioned in Section 3 or Section 5 or Section 1, when we take the Act as a whole.

So far as the last point is concerned as to whether we should go by the preventive detention or whether we should go by ordinary law, the ordinary law could have been brought even by an Ordinance. But we have gone by preventive detention, I need not utter the wording of Mr. Justice Patanjali which he used as far back as 1950. I think those who have seen Mr. Gopalan's case, will agree that it holds good even today and for all times to come. And that is why these things are necessary to prevent mischief-makers who are not doing a mischief as such. But, Sir, hundreds of children are in jeopardy and the major target group being obtained by them is 11 to 25. They are adopting tactics by taking even younger generation, mixing it with ice cream, mixing it with such liquid things which younger people like, children like with sweets and others. Therefore, I say that the power should be given by the entire House without a single opposition, so that I can go and tell my officers to go ahead—as they have done so already—with full courage and conviction. So, the whole House should unletly give this power thinking that it is not a question of political thing which came in 1950. Forty two years of our independence have already passed. Various manoeuvrers of drug trafficking are now coming in. The State is aware of the new enemies. When these enemies are enemies of society and when all the Members have agreed that they are enemies, this power under preventive detention has to be obtained by the

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States as well as the Union, and thereafter get hold of them as quickly as possible. There are still many at large and we want to have the blessings of this House and full inspiration from this House so that we can get hold of them and put them behind the bars as far as possible.

With these words, I move that the Bill be passed.

MR. DEPUTY-SPEAKER : I find that Shri Madhav Reddi, the mover of the Statutory Resolution is not present in the House. So, I shall put the Statutory Resolution to the vote of the House. The question is :

"That this House disapproves of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988 (Ordinance No. 7 of 1988) promulgated by the President on the 4th May, 1988 "

*The motion was negatived.*

MR. DEPUTY-SPEAKER : Now I shall put the motion for the consideration of the Bill to the vote of the House. The question is :

"That the Bill to provide for detention in certain cases for the purpose of preventing illicit traffic in narcotic drugs and psychotropic substances and for matters connected therewith be taken into consideration."

*The motion was adopted.*

MR. DEPUTY-SPEAKER : The House will now take up clause by clause consideration of the Bill. The question is :

"That Clauses 2 to 16 stand part of the Bill."

*The motion was adopted.*

*Clases 2 to 16 were added to the Bill.*

MR. DEPUTY-SPEAKER : The question is :

"That Clause 1, the Enacting Formula, the Preamble and the Long Title stand part of the Bill."

*The motion was adopted.*

*Clause 1, the Enacting Formula, the preamble and the Long Title were added to the Bill.*

MR. DEPUTY SPEAKER : The Minister may now move that the Bill be passed.

SHRI A. K. PANJA : Sir, I beg to move :

"That the Bill be passed."

MR. DEPUTY-SPEAKER : Motion moved :

"That the Bill be passed."

SHRI SHANTARAM NAIK (Panaji) : Sir, I stand here only to make a few comments after the Bill has come to the third stage.

I would have been a little glad, and this suggestion can be considered at a future date also, that if the main Act, namely, the 1985 Act, had added a chapter incorporating the provisions of the present Bill, then in one legislation itself we could have the substantive law as also the preventive law. Although the nature of both the legislations is different, yet if a separate chapter on preventive law had been added in the 1985 Act itself, I think there would not have been any need for a sprate legislation. The only thing needed is an amendment to 1985 Act. I don't think that there would be any legal hitch about this aspect. In case there is any, the hon. Minister may kindly explain this.

Another aspect I would like to state at this stage is that much depends upon the papers, the charge-sheet and the grounds framed by the officers under this

legislation. As you have stated rightly, the Advisory Boards in many cases have ordered the release of detenus, but it was later on found in some particular cases the grounds were insufficient. I would submit that in most of these cases where Advisory Boards have released detenus on some ground or other, the officers concerned who prepared the cases or case papers have failed to draft the grounds properly or failed to submit grounds to the detenus in time or they have not prepared papers in time. In most of the cases, they are released on these grounds. Therefore, I would submit that there should not be any scope for corruption in case corruption enters into any individual aspect, any small mistake or loss, deliberate or otherwise, on behalf of those who prepare case papers can lead to release of the detenus. So, what should be done in such cases? Such cases where detenus have been released should be examined from this angle whether there was any deliberate attempt to keep loopholes in these cases and detenus were released and action should be taken under service rules against those officers who have allowed them to be released.

Another aspect I would like to state is that as far as Advisory Board is concerned, we are guided by Article 22 Sub-Clause 4 of the Constitution. Sir, in this case, the requirement is that members of the Advisory Board should be high court judges or those who are eligible to be appointed as high court judges. In such cases, why not make an amendment to the Constitution so that person from society may be a lady member or other social figures of public men are also made members of this Board? In such cases, not much legal formalities are required to be followed and any average person can apply his or her mind. Therefore, this aspect should also be considered.

**SHRI A. K. PANJA :** So far as the first point is concerned, it could not have been by amending the Act of 1985. First of all, by amending the Act, the main statute, we could not bring in preventive detention, the reason being that this is a special provision even in Article 22 of the Constitution. The courts have repeatedly held that all the points mentioned in

Article 22 shall have to be strictly followed, even in respect of procedure. In other cases, procedure is not being looked into or is being looked into as formalities. But here, Sir, a person's liberty is being touched, therefore the Constitution framers took this care and all laws which have to be made for preventive detention—whether it was of previous preventive detention or the present one—are to be included and we are doing it. This has to be within the four corners of the Article 22 only and the Supreme Court has said that it has to be within the Article 22 and that is why a special Statute is necessary. It cannot be mixed with the general statute which deals with other provisions of the Narcotics.

Secondly regarding the Advisory Board, the hon. Member is correct that some times grounds are couched in such a language that the Advisory Board of the High Court finds it vague or otherwise and then release them. But then, Sir, to err is human; up till now we have not come across any case where any officer intentionally acted in order to get the release of that person. No such case has come to our notice. But it is true that we have to go by whatever evidence is available. And on that if the Advisory Board of the Court finds that the persons should be set at liberty, they are entitled to do so because that is the law of the land.

Regarding the last one about amending the constitution and bringing in social worker or some others, I do not think that will be proper at this stage because it is so much compliance with the various statutes or laws which is necessary that it is better that the constitutional framework is limited within the Judges, i.e., the members of judiciary, and that is much better at present because the details of the case law have to be examined, the details of the lines used in the grounds, what are the grounds, how it is to be done, what is the background. A judicial man, a man from the judiciary as given in the Constitution is much better equipped to deal with this and hence the present Bill.

**MR. DEPUTY-SPEAKER :** The question is :

“That the Bill be passed.”

*The motion was adopted.*