

19.14 hrs.

INDIAN PENAL CODE (AMENDMENT) BILL

As passed by Rajya Sabha

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P.M. SAYEED) : Mr. Deputy-Speaker, Sir, I beg to move:

"That the Bill further to amend the Indian Penal Code, as passed by Rajya Sabha, be taken into consideration."

The International convention against taking of hostages was adopted by the General Assembly of the United Nations on 17th December, 1979. The Convention was adopted in the background of Iranian hostage crisis. It is one of the important conventions aimed at fighting international terrorism. The convention entered into force on 3rd June, 1983. India acceded to the convention from the 7th September, 1994.

The significance of the Convention lies in the fact that it declares the taking of hostages as an offence of grave concern to the International community and accordingly any person committing an act of hostage taking, shall either be prosecuted or extradited. The convention also seeks cooperation between State Parties in devising and, adopting effective measures for the prevention, prosecution and punishment of all acts of taking of hostages as manifestations of international terrorism.

As per the convention, if any person seizes or detains and threatens to kill to injure or to continue to detain another person in order to compel a third party, namely, a State an international inter-governmental organisation, a natural or judicial person or a group of persons to do or abstain from doing any act as an explicit or implicit condition for release of the hostages, it will constitute the offence of hostage taking.

At present, the offence of hostage taking is not defined in the Indian law. However, vide Criminal Law (Amendment) Act, 1993, Section 364A was added to the Indian Penal Code to make kidnapping for ransom, etc., an offence punishable with death or imprisonment for life and also fine. Section 364A I.P.C. does not take care of situations where the offence is committed with a view to compelling foreign states or international inter-governmental organisations to do or abstain from doing any act or to pay ransom.

Hence the Indian Penal Code (Amendment) Bill seeks to amend the said section 364A on a kidnapping for ransom, etc. to make it clear that kidnapping a person to compel the Government or any foreign state or inter-governmental organisation or any other person is punishable under that section.

The Parliamentary Committee on Home Affairs in its Fourteenth Report presented in the House on the

13th December, 1994 has expressed agreement with the provisions of the Bill and recommended that the Bill in its present form be passed.

Rajya Sabha has considered the Bill on 22.3.1995 and passed it in its present form.

I commend the Bill for consideration of this august House.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Indian Penal Code, as passed by Rajya Sabha, be taken into consideration."

[Translation]

PROF. RASA SINGH RAWAT (Ajmer): Mr. Deputy-Speaker, Sir, I support the Bill presented by the hon. Minister of State in the Ministry of Home Affairs. I understand that this is to make the Section 364A of Indian Penal Code extensive in which words will be added before any person, any foreign country, International, Inter-governmental organisation or any other person. Today, the international terrorism has endangered the very survival of humanity and it is taking a very gruesome turn. Innocent people are being made hostages and put to death. I think that in the international conference held on 17th December, 1979, under the auspicious of United Nations General Council it was accepted that the person who make people hostages should be given stringent punishment. The resolution provides for checking incidents of hostages, procedure for trial and the nature of punishment, alongwith taking security steps and international co-operation. The terrorism is not limited to one country today, rather it has become world wide phenomenon. The incidents of making hostages are taking place, not only for inflicting damages to the person only but to the nations or the Government Institution also. The provision of death sentence or life imprisonment for such criminal acts is good but it is necessary because to make this effective. I fully support this Bill. The incidents of terrorist activities and taking people as hostages cannot be justified and stringent punishment should be given for that.

The Amendment for adding three words in that Indian Penal Code is for encouraging international co-operation and I support this.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): Mr. Deputy-Speaker, Sir, I support this Bill though it took 15 years to implement the suggestions given at the International Conference held on 17th December, 1979, whereas IMF or GATT suggestions are implemented without any delay. There should not have been any delay in implementing these suggestions. The amendments brought by you are good. This will enhance the importance of the Act by adding these two-three words.

Regarding kidnapping and hijacking, I would say that the ruling party has kidnapped some of our members and has taken to its side. I want to know any action can be taken against them under this Act?

With these words I support this bill.

[English]

MAJ. GEN. (RETD.) BHUWAN CHANDRA KHANDURI (GARHWAL): Sir, I just to briefly make two points. One point has already been raised by my colleague that the Minister may like to tell us as to why he has taken so much time. Of course, his predecessors have not done it earlier. From December 1979 till now it is a long time. There may be some reasons. We would like to be enlightened on this.

Of course, I support the idea and it is a good idea. You have provided for death and life imprisonment in this Bill. This provision already exists in our country. Today, in our country, abduction has become rampant and a very common phenomenon. It has even gone to such an extent that State-organised abductions are taking place and it has become a source of making money including making party fund in certain States.

I would like to know from the hon. Minister that when you are providing for the sentence, how many people have been given death sentence or life sentence under this Act which is now being provided for foreign people. How many punishments have actually been given? Or are you only going to register more and more cases of punishment in your books? What I am trying to convey is that we have got provision of punishment, but our procedures and our system of punishing people is so lengthy and ineffective that eventually that becomes something which will remain in the books only.

Is there any thinking in the Government for rationalising and streamlining the various procedures and for shortening the time-frame and for seeing that people get punishments quickly?

I would certainly like to know how many people have been given death sentence or life imprisonment in our own country under this Act.

[Translation]

SHRI BHOGENDRA JHA (Madhubani): Mr. Deputy-Speaker, Sir, I do not know whether it is an auspicious moment or the good intention of the Government, that it has brought this amendment at the last moment and we are compelled to pass it. It would be better if this attitude is shown in other fundamentals also it will be good for the democracy. The complaints of some of the friends seems to be just even after lapse of 16-17 years, they did not bring this amendment. We are against certain things in it but this is in the interest of the humanity and the nation. It is not proper that such things may be done or got done for some country. This

is dangerous for us and for the whole world. Therefore, it has to be passed with one voice.

I would like to know from the hon. Minister the number of such countries who have made such a law and those who have not done so? I personally am not in favour of death sentence because if one is dead, how he will repent. The culprit should himself feel the agony. The provision of life imprisonment is alright. It has already been made a cognizable offence and also, under non-bailable offence. This should be governed by Indian Penal Code. If a person languishes in jail for a long period, that will also be a punishment for him...*(Interruptions)* I am not opposing it on personal grounds...*(Interruptions)* It is not necessary that all the decisions are correct in a democracy, but no system is better than democracy in the world...*(Interruptions)* I am supporting this Bill but the information sought by me should be provided. I am not in favour of capital punishment because his dependants have to suffer for that...*(Interruptions)* I support this Bill and conclude.

SHRI P.M. SAYEED : Sir, I am highly grateful to you and also to the hon. Members for having given me time to reply at this late hour.

This Convention was held in 1979. Hon. Member Hossain has asked why it took so much of time. We became a member only in 1994. Probably, as the necessity was not felt at that time, we not brought this measure forward. And the moment we became a member in September 1994, we tried to bring this measure forward so that anybody who is taking hostage outside will have to be effectively dealt with. We did not even have law to define hostages in our country. So what happened was that section 364-A of the IPC was amended to deal with the offence of kidnapping for ransom. This amendment only seeks to achieve that very objective. This is the position.

Secondly, my esteemed friend Prof. Rawat has asked for severest punishment. I do not know what is the more severest punishment for a person who can be given death punishment? He may tell me.

MR DEPUTY-SPEAKER : Probably, he wants to make him re-born after his death !

(Interruptions)

SHRI P. M. SAYEED : Shri Bhogendra Jha has asked how many countries have now become parties to the Convention. I can say that 69 countries, including FRG, the UK, the USA etc. become parties to the Convention. Among the neighbouring countries, Bhutan became a party in 1981 and Nepal in 1990. None of the other neighbouring countries has become parties to the Convention. This is what I wanted to convey to the House.

Sir, my esteemed friend Shri Khanduri has asked how to condone the delay, how to shorten the delay. With regard to death penalty received so far in the country. I just have no figures because this Section

364-A was amended recently. Afterwards, how have been awarded death sentence, I do not have that statistics. If you are keen, I will try to collect and pass it on to you.

MR. DEPUTY-SPEAKER : The question is :

"That the Bill further to amend the Indian Panal Code, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

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

MR. DEPUTY-SPEAKER: The question is :

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill

MR. DEPUTY-SPEAKER : The question is :

"That clause the Enaction Formula and the Long Title stand part of the Bill."

The motion was adopted.

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

SHRI P. M. SAYEED: I beg to move:

"That the Bill be passed.

MR DEPUTY-SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

SHRI P.M. SAYEED: Sir, it is an exceptional day. Everything has been passed unanimously.

MR DEPUTY-SPEAKER: So, I thank you very much for the wonderful patience that you have exhibited.

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT(DEPARTMENT OF YOUTH AFFAIRS AND SPORTS) AND THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL WASNIK): Sir, I would like to thank hon. Deputy-Speaker who has been very kind enough to see that the Bills are passed. I also thank all the hon. Members who have shown exemplary cooperation and cooperated in passing these two important Bills.

MR. DEPUTY-SPEAKER: This is qualified congratulations to the hon. Members of the House.

(Interruptions)

MR. DEPUTY-SPEAKER: I thank you very much for the excellent patience shown by you.

The House stands adjourned to meet tomorrow the 25th May, 1995 at 11.00 a.m.

20.00 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Thursday, May 25, 1995/
Jyaistha 4, 1917 (Saka).*
