

15.05.hrs

SAARC CONVENTION (SUPPRESSION
OF TERRORISM) BILL

As Passed by Rajya Sabha

[English]

THE MINISTER OF STATE IN THE
MINISTRY OF EXTERNAL AFFAIRS (SHRI
R.L. BHATIA): On behalf of Shri Dinesh
Singh, I beg to move that the Bill to give
effect to the South Asian Association for
Regional Cooperation Convention suppression
of Terrorism and for matters connected
therewith or incidental thereto, as passed by
Rajya Sabha, be taken into consideration.

The SAARC Regional Convention on
Suppression of Terrorism was signed at
Kathmandu on 4.11.1987 by the Foreign
Ministers/Ministers of External Affairs of the
seven member countries of the South Asian
Association for Regional Cooperation
(SAARC). India ratified the Convention on
2.8.1988 and our Instrument of Ratification
was deposited with SAARC Secretariat in
Kathmandu on 7.8.1988. The Convention
came into force on 22.8.1988 after due
ratification by all the member countries of
SAARC.

THE SAARC Convention is not a complete
code by itself and any specific request
invoking its provisions is to be implemented,
by the State parties, in accordance with the
relevant national laws and administrative
arrangements, on grounds of reciprocity.
Since India has already ratified the Convention,
it has become necessary to enact
domestic legislation which would enable the
Government of India to fulfill its obligations
under this Convention.

The Convention is aimed at giving ef-

fect to the basic principle, well accepted in
international law, that no offender committing
a terrorist crime should escape punishment.
This is known as the principle of 'extradite
or prosecute'. The Convention facilitates
extradition where appropriate. Furthermore,
any Convention country may try an offender
regardless of whether the crime was committed
within its jurisdiction, provided he is found
in that country. Thus, in the case of offences
enumerated in the Convention, jurisdiction is
exercisable even in the case of foreigners who
commit these crimes outside India (but within
the SAARC regions).

A second important objective of the
Convention is the identification of certain
serious offences as 'terroristic offence' and
which, for the purpose of extradition, would
not be treated as being of political nature.
This was essential to prevent offenders from
taking recourse to the plea of political offence
available under international law and under
national laws of most countries, including
India, which when raised, could be a ground
to refuse extradition. Section 31 (a) of the
Extradition Act of 1962 provides for the plea
of political offence. The important features
of the legislation I move now for your
consideration are:

(i) The proposed legislation will provide
that the provisions of the SAARC Regional
Convention on the Suppression of Terrorism
1987, shall have the force of law in India,
notwithstanding anything to the contrary
contained in any other law;

(ii) The proposed legislation is expected
to provide a self-contained legal basis for
taking suitable action in respect of any
request from any of the Convention countries
(SAARC Member States) either for extradition
or for prosecution, for offences specified
under Articles I and II of the

Convention. For this purpose, the Schedule to the proposed legislation shall contain the SAARC Regional Convention on suppression of Terrorism in its entirety;

(iii) Under the proposed legislation any person committing the offence of hostage-taking as defined thereunder or any other offence specified in Article-1 of the Convention as set out in the Schedule, may be tried for the offence under the provisions of relevant law for the time being in force;

(iv) The proposed legislation also contains a definition of the offence of hostage-taking not being defined anywhere else in the Indian law. A maximum punishment of 10 years of imprisonment and fine for the same is also provided. All other offences noted in Article 1 of the SAARC Convention are otherwise punishable under Indian law.

(v) The proposed legislation will provide for an offender to be tried in the place where he is found or at such other place as the Central Government may, by general or special order published in the Official Gazette, direct in this behalf;

Under the proposed legislation, no prosecution for an offence shall be instituted except with the previous sanction of the Central Government. Sanction granted under it is to be deemed to be a sanction granted under Section 188 of Criminal Procedure Code, 1973;

The proposed legislation also contains a standard safeguard clause according to which no suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of its provisions.

The adoption of the proposed Bill would

enable India to provide for effective implementation of the SAARC Convention on Suppression of Terrorism concluded among the SAARC countries. This is an important Regional Convention and will promote co-operation among the SAARC countries to combat, contain and eradicate terrorism from this region.

I would like to inform the House that this Bill was passed by the Rajya Sabha, on 26 November, 1992, at its 165th Session.

Since the Bill could not be considered and passed by this Hon'ble House during 1992 certain minor consequential amendments are necessary and a notice has been given to the Lok Sabha Secretariat accordingly on 11th March 1993 I beg your leave now to formally move that this Honourable House consider and pass the Bill with amendments as notified on 11th March.

MR SPEAKER : Motion moved;

" That the Bill to give effect to the South Asian Association for Regional Cooperation Convention on Suppression of Terrorism and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration "

SHRI GEORGE FERNANDES:

[Translation]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, there is no scope for discussion on this Bill. Our main objective is that as to why there has been so much delay in introducing this Bill. As you said that the convention was signed on 4th November, 1987 and few days thereafter the Government of India signed it, then why

now it is necessary to pass it tomorrow only. It has also been said that all other member nations, except Pakistan have passed it as a law in their respective countries.

SHRI R.L. BHATIA: Bangladesh and Pakistan.

SHRI GEORGE FERNANDES: We regret that the Government of India kept it in this state without passing this Bill for years together. Today there is international terrorism. Though, it is all over the world but we all are feeling as to how it is creating problems in south Asia. Few days ago some incidents occurred in Bombay. It is a general acceptance that it was not possible without the involvement of international hand in one or other way. It is also true in the case of Kashmir and Punjab and not only in these two states it is in the western region also but the terrorism in eastern region is discussed very little in India. Why it is so, I have not been able to understand it upto now. I am always of the opinion that terrorists activities are not possible in Assam, Nagaland and Manipur without international hand in it. Therefore, it is very essential that after the formation of SAARC the Government of India should not have delayed the efforts to improve mutual relations, to improve relations among the people of this region and to defeat those forces which hampers mutual relations. This is my main objection.

Mr. Speaker, Sir, keeping in view the convention in regard to the incidents occurred in Bombay I would like to state one thing that the convention as well as the Bill will be passed. But after passing this Bill, ultimately the question arises that if the manner of its implementation and implementing authorities are the same, then I

don't know as to how the Government will face international terrorism merely by enacting a law. With a hope that the Government will try to give reply. I would like to mention a matter here after the incidents of Bombay because if the ultimate aim of the Government is to bring back a person who committed any crime in our country and took shelter in a neighbouring or any other country, whether Government is doing something for seeking help to extradite that person or it is acquiring powers to file case or punish the person who designed a terrorist activity in the country from outside. Memon brothers are very much under discussion these days but how many and what type of mistakes the Government has committed.....(Interruptions)

[English]

MR SPEAKER: I think the entire information is related to the Home Ministry.....

[Translation]

SHRI GEORGE FERNANDES: No, I agree that the information is related to the Home Ministry but only one part of it is related to the Home Ministry and other is related to Ministry of External Affairs. This matter is related to the Ministry of External Affairs and though, the Home Ministry failed to furnish the information in time but when the Government come to know that these people have left the country and have gone to Dubai then why our Government did not inform the Government of UAE immediately. Further, they proceeded to Pakistan from Dubai on 18th of this month and about this you might have come to know directly from your Embassy there and not from the Ministry of Home Affairs. Then why you took so much time to inform the Government of Pakistan, you took full eight days. Pakistan Government was informed on 25th.

Sir, the intention of raising this question is not merely demanding reply from the Government but I would like to say that these officials were having all the information regarding Memon brothers but they neither informed the authorities in Dubai nor the Pakistan Government. Even after all these things if the Government gives responsibility of implementing it in the hands of the same officials, I think nothing significant would happen except the increase in the number of desks and joint secretaries by one or so. Thus, the Government must remain cautious regarding these issues. I have raised this issue here to put forward this point but alongwith it I would like to state one more thing. Mr. Speaker, Sir, you may ask, they are related to each other. I mean to say that when we are holding discussion about terrorism here, I would say that there are two types to terrorism here, I would say that there are two types to terrorism, one is international level terrorism and other is national level terrorism. In our country terrorism does not mean merely whatever is happening in Kashmir and Punjab but for instance it also includes as to how terrorism treatment is being meted out by the Government against those persons who are fighting for the cause of poor people in Andhra Pradesh. I am saying this because we want to maintain peace at international level. We would like that no nation should adopt violent means to settle the ordinary issues in the other country. We want to create such an atmosphere, in which when poor people launch a united movement or raise voice to solve their problems, they should not have to face state terrorism, because when we talk of terrorism then we should also talk about state terrorism. It should not be there that when a person take refuse of violence he should be condemned but when a group calling it a state or a nation adopt violent means may be pardoned.

Sir, this cannot go on there. (*interruptions*) This system of taking both things together cannot go on because we have lost our moral right to make such laws and nobody thinks of taking us seriously in the world. So, I want to repeat this thing and expect from the Union Government that it would not put off the issue of state terrorism from central to state level merely by saying such thing that we are talking about the Ministry of External Affairs here and this issue is related to the Ministry of Home Affairs but state terrorism is causing concern to all of us and is a thing which forces the country to bow down before the whole world. It must be done away. We have experienced and are experiencing daily as to how state terrorism alienated people from the country and as to how it created a rift in their minds. This thing is going on in Andhra Pradesh, Purvanchal, Punjab and Kashmir.

Mr. Speaker, Sir, while concluding my point on this Bill I expect from the Government that it would also consider the issue of state terrorism at state level. This bill is a good one but the Government would take steps to do away the state terrorism in the country. I expect this from the Government.

MR. SPEAKER: Dr. Sudhir Ray. Please be very brief, because this Bill (k) defines offence of terrorism, (2) extradition and (3) that taking hostage also is an offence. 1522 hours.

DR. SUDHIR RAY (Burdwan): Mr. Speaker, Sir, I support the Bill. But I must say that the Government has delayed bringing it because this Convention was first passed in 1987 and the country is now facing the forces of destabilisation everywhere. The forces of disintegration have come to the fore. We think that SAARC should be there and SAARC is there for

(Suppression of Terrorism) Bill

[Sh. Sudhir Ray]

more trade and commerce, more community feelings among the countries of South-East Asia. But of late everyone knows that Pakistan through its ISI is helping the terrorism in Punjab and Kashmir in a low intensity war in these two States of India.

Besides, even Bangladesh is giving shelter to ULFA. Therefore, this Bill should be passed. At the same time, I also support Shri George Fernandes that there are two types of terrorism. Shri Khudi Ram and Shri Bhagat Singh were also terrorists, but they were anti-imperialists

MR. SPEAKER: Please leave it.

DR. SUDHIR RAY. But the present terrorists are lackeys of imperialism. Now State terrorism is getting intensified. If people ask for food, cloth, land etc., the State tries to suppress them. But there are many laws there are some draconian laws like TADA, NASA, FSMA, etc.

Therefore, I support this Bill but at the same time I urge upon the State to negotiate with those people who have taken recourse to terrorism.

[Translation]

SHRI GUMAN MAL LODHA (Pali). Mr. Speaker, Sir, supporting this Bill I would like to say this namely that so far as the question of our nation is concerned, I fully support this Bill and would like to pass it. As my other colleagues said that this bill has been delayed but this Bill would be passed today as soon as possible.

Mr. Speaker, Sir, the most important thing is that unless and until Pakistan and Bangladesh do not accept this principle and

do not pass any such law the problem would not be solved. At present for all the terrorists activities being carried out in the different parts of the country, whether it is in Kashmir, Punjab and Bombay or adjacent to Dhaka or by the ULFA from Bangladesh Borders or in Manipur or Eastern states or in other states, the training centres for such activities are based in Pakistan and Bangladesh.

[Translation]

Sir, our efforts should be to get some firm resolutions passed through the convention so that our country may take a sigh of relief. It is one sided affair that they are attacking on us. You know it that they are doing it in Kashmir since, 1947 and now you know, the Memon brothers fled Bombay and have reached Pakistan through Dubai. Pakistan has provided shelter to them. If we are not allowed to discuss these tragic developments here in this House then where else can we discuss it.

[English]

MR. SPEAKER: This is for the Cooperation between the SAARC countries.

[Translation]

SHRI GUMAN MAL LODHA: Our main concern is that we should try to put pressure on Pakistan and Bangladesh that they should also pass a similar Bill. Otherwise, our Government has already made efforts to get the aforesaid countries to be declared as terrorist states. Besides, the other political parties our leader Advani Saheb has already suggested that efforts to put a check on the terrorist activities of Pakistan should be made on both national and international level by getting Pakistan declared a terrorist state. Only then this Bill would prove successful.

SHRI MOHAN RAWALE (Bombay South Central): Mr. Speaker, Sir, in the recently concluded Suraj Kund Session, the hon Chief Minister of Maharashtra and Ex-Minister of Defence had stated that the I.S.I., (Inter Services Intelligence) had its hand in the Bombay bomb blasts. Pakistan is abetting these terrorist activities. Our country is also being represented there I would like to remind the statement given by Mr. Nawaz Sharif in December, 1992 on Pakistan television that they would like to offer prayer to the Allah in Kashmir. Pakistan is planning to overtake Kashmir and Punjab; they are dreaming for a total annihilation of India. Strong action is therefore required to be taken against Pakistan. Three hundred people died in Bombay in the wake of bomb-blasts occurred there and eleven bombs were found in Calcutta and many people died there also. The Government should take firm action to avoid the repetition of such bomb-blasts. We should bring back the Memon-brothers from wherever they might have been living. Why does the Government not make efforts to get them back to our country and find out that who are their abettors and who are patronising them. I have a report in this regard... (Interruptions)

MR. SPEAKER: That would be effective after the Bill is passed.

(Interruptions)

SHRI MOHAN RAWALE: A.K. 47 rifles, 7343 bombs and other arms and ammunitions have been seized in Punjab upto now. The RDX explosives have been found in Bombay the day before yesterday; the explosives found there were sufficient to blow three fourth of Bombay. Pakistan has actually started a proxy-war against India. the terrorists whom we have arrested had all been having correspondence with the former

President of Pakistan Ziaul-Haq and their organisation is working with the support of Nawaz Sharif. Moreover, the I.S.I. organisation is also indulged in all sort of disruptive activities. For this strong action should be taken against the organisation known as Hizbul Muzahiddin and this issue should be raised in the ensuing SAARC summit. I am thankful to you for giving me an opportunity to express my views. Thanks... (Interruptions)

[English]

MR. SPEAKER: It is about cooperation between the SAARC countries - for extradition of and for taking action against the offenders.

[Transition]

SHRI BHOGENDRA JHA (Madhubani): So far as this Bill is concerned I rise to support it on behalf of my party. As regards the practical aspect of the affair, some hon. members have raised the issue that disturbances are being created in our country by some other countries and there is a likelihood of continuation of these disturbance. Even then we have not to adopt rigid attitude in this matter. The size of our country, our culture, our politics and history has an important role in the SAARC. We should therefore initiate for creating a cooperation between all the nations to fight terrorism being engineered from outside. This is our duty. We have already committed a wrong regarding our policy towards Sri Lanka. Even our media has also tried to create an impression that those who migrated to Sri Lanka two hundred years back only they were Indians and those who migrated there earlier than that are their enemies. This way efforts have been made to mislead the people and people were misled too. But that phase of committing mistakes is over. Ours

is a bigger country, so, we should be fare about our approach. There should be no slackness in protecting our national interests. We were slack in regard to the incident of Bombay and for that the hon. Minister of Foreign Affairs should reply in the House. The Ministry of Home Affairs may not have information as to how Memon brothers fled to Dubai, but the Ministry of Foreign affairs must have been aware of it. We are friendly with Dubai, and we have diplomatic relations with Pakistan, even then if there is such delay, then this is red tapism. It took one week to know that the Memon brothers have fled; I would like the Government to accept its failure in this matter. We could not prevent the incident when we had still time, there is a failure on the part of the Ministry of Foreign Affairs. I would not go into the details of our relations with different countries, But I would certainly say that too much cordial relation is also bad. We all are the witness that China's attitude to us is very co-operative. So far, as the issue of terrorism is concerned, China, being neighbourng country, has raised a protest against it. It is, however, another fact that China is not a member of SAARC, but it has surely shown a co-operative attitude. There is a qualittative change in the attitude of China what it had 10-15 years ago. We can also take its help, we should not keep in mind only the Pakistan Government in regard to the policy matters but the people of that country also. They also want peace and sovereignty. Our media, Government agencies and leaders are all in possession of the real facts regarding Kashmir. I had also gone there. I am of the opinion that majority of the people In Kashmir are not in favour of joining Pakistan, most of the people are in facour of Azad Kashmir and then comes the number of the people who want to live in India. But then they are not vocal. The incidents took place

in the country, like the one occurred in Ayodhya have prevented them to speak out their opinion. Those who are in favour of Pakistan are more vocal. So we should not commit a mistake of clubbing them together, in regard to defence and political affairs.

[English]

MR. SPEAKER: Mr. Minister.

[Translation]

have you already said about it?

[English]

SHRI R.L. BHATIA: I have already said what I had to say.

MR. SPEAKER: O.K. The question:

"That the Bill to give effect to the South Asian Association for Regional Cooperation Convention on suppression of Terrorism and for matters connected there with or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

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

The question is:

"That Clauses 2 to 8 stand part of the Bill."

The motion was adopted.

Clauses 2 to 8 were added to the Bill.

465 SAARC Convention CHAITRA 9, 1915 (SAKA) Rly. Budget, 1993-94 Gen. 466
(Suppression of Terrorism) Bill
As passed by Rajya Sabha

Diss.; Res. re. approval of 3rd Report of
R.C.C.; Dem. for Grants (Rlys.), 1993-94;
and Suppl. Dem. for Grants (Rlys.), 1992-93

MR. SPEAKER: The question is:

MR. SPEAKER The question is:

"That the Schedule stand part of
the Bill."

"That the Enacting Formula, as
amended, stand part of the Bill".

The motion was adopted.

The motion was adopted.

The schedule was added to the Bill.

*The Enacting Formula, as amended, was
added to the Bill.*

*Clause 1 Short Title extent and applica-
tion*

MR. SPEAKER. The question is:

Amendment made

"That the Preamble and the Long
Title stand part of the Bill "

Page 1, line 10, -

The motion was adopted

for " 1992" substitute -

*The Preamble and the Long Title we're
added to the Bill*

" 1993" (1)

SHRI R L. BHATIA. Sir, I beg to move:

(Shri R.L. Bhatia)

"That the Bill, as amended, be
passed".

MR. SPEAKER: The question is:-

MR. SPEAKER: The question is

"That Clause 1, as amended, stand
part of the Bill".

"That the Bill, as amended, be
passed"

The motion was adopted

The motion was adopted

*Clause 1, as amended, was added to the
Bill.*

15.37 hrs.

Enacting Formula

RAILWAY BUDGET, 1993-94 - GEN-
ERAL DISCUSSION: RESOLUTION RE..
APPROVED OF THIRD REPORT OF
RAILWAY CONVENTION COMMITTEE.
DEMAND FOR GRANTS (RAILWAYS).
1993-94

Amendment made

Page 1, line 7,-

for "Forty-third" substitute -

"Forty-fourth" (2)

AND

(Shri R.L. Bhatia)

SUPPLEMENTARY DEMAND FOR
GRANTS (RAILWAYS). 1992-93