

Kutch Tribunal

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- *3. **Shri S. Supakar:**
Shri C. C. Desai:
Shri Vishwa Nath Pandey:
Shri D. C. Sharma:
Shri Bihari Mishra:
Shri K. N. Tiwary:

Will the Minister of External Affairs be pleased to state:

(a) the progress made so far by the Kutch Tribunal in deciding the dispute between India and Pakistan on the issue of common boundary in Kutch; and

(b) the total expenditure incurred by India so far in placing our case before the Tribunal?

The Minister of External Affairs (Shri M. C. Chagla): (a) There is no issue of common boundary in Kutch. India contends that the boundary between India and Pakistan in West Pakistan-Gujarat border is roughly along the northern edge of the Rann of Kutch while Pakistan contends that the border is roughly along the 24th parallel.

Pursuant to the decision of the Indo-Pakistan Western Boundary Case Tribunal taken at its first session held in Geneva in February, 1966, both India and Pakistan simultaneously presented their Memorials, Counter-Memorials and Replies to the Tribunal by June 1, August 1, and September 1, 1966, respectively. The oral hearings before the Tribunal commenced on the 15th September, 1966 at Geneva and the counsel for India addressed the Tribunal. The opening address of the Indian counsel concluded on the 19th October. The leading counsel for Pakistan addressed the Tribunal from 24th October, 1966 to the 17th February, 1967. Counsel for India has commenced his reply on the 15th March, 1967. After the counsel for India has concluded his reply the counsel for Pakistan will reply and the Tribunal will give its award thereafter.

(b) The accounts regarding actual expenditure incurred so far have not yet been compiled.

Shri Supakar: What is the actual point at issue and may I know whether Pakistan is accepting the delimitation that was made during the partition of India and Pakistan in 1947?

Shri M. C. Chagla: The issue, according to us, is this. When the transfer of power took place in 1947, the whole of Kutch was transferred to us including the Rann, and that is our territory. On that, a dispute arose, as the hon. Member knows, with Pakistan after she invaded Kutch, and the matter was then referred to adjudication. Now, this tribunal is deciding whether our contention is right, and if our contention is right—I say it is right—then the tribunal will give its award according to the materials placed before it.

Shri C. C. Desai: Are the arbitration proceedings in respect of territory which is in the possession of India, Pakistan or is it no-man's territory? In whose possession is the territory—India, Pakistan, or in whose possession?

Shri M. C. Chagla: Pakistan says it is hers. We say it is our territory. (Interruption). The hon. Member will look at the treaty which was signed. As I said, we say the territory is ours. The territory which Pakistan claims is our territory. Pakistan says it is not. And that is how the dispute has arisen and the issue is whether the Rann of Kutch or a part of it belongs to Pakistan or the whole of it belongs to us

श्री विश्वनाथ पण्डे : श्रीमन्, कच्छ न्यायाधिकरण के सामने जो कच्छ के संबंध में विवाद प्रस्तुत है उस के संबंध में भारत के पक्ष को फिन लोगों ने प्रस्तुत किया है, वह मैं जानना चाहता हूँ।

Shri M. C. Chagla: The Indian case was presented by eminent counsel, our Attorney-General Mr. Daphthary, Mr. N. C. Chatterjee, a Member of this House and Mr. Palkiwala from Bombay, an extremely able and eminent counsel

Mr. Speaker: Shri D C Sharma
There is a list

Shri Atal Bihari Vajpayee: The question-list does not contain any such list of names

Mr. Speaker: About four names are there Perhaps they were later on added There are four names added afterwards

श्री क० ना० तिवारी: मैं यह जानना चाहता हूँ कि कच्छ का जो यह हिस्सा विवाद-ग्रस्त है उसमें क्या कुछ हिस्सा इस का पाकिस्तान में भी चला गया है? यदि हा, तो उस के संबंध में जब तक निर्णय नहीं होता तब तक हम लोग ठहरे रहेंगे या उस के पहले भी हम उस को कहेंगे कि खाली कर दो?

Shri M. C. Chagla: It does not arise out of this question

Shri Atal Behari Vajpayee: There is an apprehension in the public mind that the Kutch Tribunal might give a political verdict What do the Government of India propose to do if such a verdict is given

Shri M. C. Chagla: When I was a judge, I did not like any counsel to speculate what my judgment was going to be I do not know what the decision is going to be I hope they will decide according to justice and equity We have a representative on the tribunal and Pakistan has a representative on it The Chairman is a distinguished jurist and we sincerely hope that the judgment will not be actuated by any political considerations but will be determined according to the facts placed before them and according to justice and equity.

Shri C. C. Desai: Are we going in for arbitration over a territory which is in our occupation and which was taken by us from their aggression?

Shri M. C. Chagla: That is a question about the treaty. I cannot answer it The treaty was signed before my time.

Shri G. G. Swell: We have been standing up again and again for an opportunity to put a question, but you are not calling us

Mr. Speaker: I am calling members in the order in which their names appear in the question list Your name is not one of them After I call those Members, I will give you an opportunity

Shri G. G. Swell: But I saw Mr Desai getting up twice and getting answers to two supplementaries on the same question

श्री प्रकाशबीर शास्त्री: श्रीमन्, मैं यह जानना चाहता हूँ कि न्यायाधिकरण के समक्ष जिन भारतीय वकीलों ने अपना केस प्रस्तुत किया है क्या उन्होंने कुछ इस प्रकार की कठिनाई का भी इजहार भारत सरकार को किया जिससे पता लगता है कि न्यायाधिकरण इस केस को सम्भा करने की नीति में विश्वास रखता है? यदि हा, तो उसके निराकरण के लिए क्या उपाय किया जा रहा है?

Shri M. C. Chagla: Since I assumed charge of this office, we have met every demand made by our team which is in Geneva, in the way of personnel, materials advice and expertise I have not heard of this that there is any complaint that the tribunal is deliberately prolonging the matter May I point out that I have been a member of the International Court and the procedure is extraordinary The judges hardly ever stop the counsel from arguing, however irrelevant the argument may be This is an international tribunal and one of the conventions is

if you interrupt a counsel, he might think that you are against him. Pakistan took nearly 3 months to argue its case. I was told that he went into many matters which were not relevant and which any High Court Judge here would have stopped. This is the practice, so that if there is delay, the delay is not due to the tribunal but due to the fact that the counsels choose to argue all sorts of matters and the tribunal hardly ever intervenes to prevent them from doing so.

Shri G. G. Swell: Mr. Vajpayee has just now voiced the widespread apprehension in this country. Now that the Government has taken the case to the international tribunal, will the Government abide by the decision of this tribunal, whatever be the nature of the decision?

Shri M. C. Chagla: Yes, Sir; we are bound by it. Of course, this is a hypothetical question. We went to the international tribunal on the understanding that the decision will be binding. As I said, it is a hypothetical question. I hope that the decision will be such that our country will be able to accept it and take the view that it is a fair and just decision.

Shri Shashi Ranjan: A question of this nature was raised in the last Parliament and Mr. Chatterjee gave some account of the developments there. Later on he said that he would see to it that this House is kept informed of the developments. May I know from the minister whether he would like to keep the House informed of the developments in the tribunal?

Shri M. C. Chagla: I always like to keep the House informed, but I do not know what developments the House wants to know. The counsel are arguing the case. We know what the dispute is. We do not know the minds of members of the Tribunal. We can only give the dates. We will tell them when India has finished arguing, when Pakistan has resumed arguing the case and when the judgment

is likely to be delivered. Apart from that I do not know what information the House wants. Let me be told what information it wants and if I can give that, subject to public interest, I shall certainly do so.

Shri Hem Barua: There is a widespread apprehension in the country that certain papers, particularly the Instrument of Accession, were missing from our official files here and the Instrument of Accession had to be procured from London. If that is so, may I know, in the interest of our country, if Government have been able to furnish our lawyers of the International Tribunal with all the necessary documents and papers in their original?

Shri M. C. Chagla: As I informed the House, if I might repeat what I said, whatever request has come from our team at Geneva, I have insisted that whatever the expenditure they should be properly supported, because I appreciate how important this decision is to our country and I do not want our team to be in any way handicapped. I have been stressing this point to the Finance Minister that finance is no consideration.

श्री मधु लियये: वाह ! प्रश्न क्या, उत्तर क्या ? (व्यवधान)

श्री कंबर लाल गुप्त: मिनिस्टर साहब को यह जवाब देना चाहिये था कि प्राया वह कागज खो गया है या नहीं ? वह वापस प्राया या नहीं ? यह जवाब हम को नहीं मिला ।

Shri M. C. Chagla: The question that Shri Hem Barua put was whether all papers had been submitted before the Tribunal and I have answered that.

श्री मधु लियये: पहले प्रश्न का उत्तर नहीं प्राया ।

Shri Hem Barua: I said that there is an apprehension in the country that the Instrument of Accession was missing and it had to be procured from London. I wanted to know about

that specifically from the hon. Minister.

Shri Tenneti Vishwanatham: With reference to the reply given by the hon. Minister to the question put by Shri Hem Barua about the Instrument of Accession, may I know whether it is a fact that it was actually missing from our records?

Shri M. C. Chagla: The hon. Member may either write to me and I will send him a reply or he may put down a separate question, because that does not arise out of this question.

श्री मधु लिमडे : इस प्रश्न का उत्तर सदन में देना पड़ेगा ।

The Prime Minister and Minister of Atomic Energy (Shrimati Indira Gandhi): This question was asked many times in the last session.

Shri Hem Barua: Only once.

Shrimati Indira Gandhi: Anyway, a very clear and categorical answer was given, that it is not lost and it is in safe custody.

श्री कंबर लाल गुप्त : साफ़ जवाब क्यों नहीं देने ?

श्री मधु लिमडे : यह जवाब ठीक नहीं है । उसकी दो तकलें थीं, क्या दोनों सुरक्षित हैं । अध्यक्ष महोदय, टेबिल पर दोनों कापियां रखी जायं । इस सम्बन्ध में हमारा इनसे क्षमा पत्र-व्यवहार चल रहा है । इस तरह से छिपाने से काम नहीं चलेगा ।

Shri Hem Barua: Sir, I rise to a point of order. May I submit that when this question was specifically put last time there was no satisfactory reply and I had to write to the Minister concerned about it for further clarification. There has been no reply to that letter up till now.

Shri M. C. Chagla: I do not think have received any letter.

Shri Hem Barua: It was addressed to your predecessor, Shri Swaran Singh. I wrote specifically about this to him. There has been no reply up till now.

Mr. Speaker: Let us go to the next question.

Vietnam Conflict

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*4. **Shri H. N. Mukerjee:**
Shri D. C. Sharma:
Shri Indrajit Gupta:

Will the Minister of External Affairs be pleased to state:

(a) whether the International Commission for Supervision and Control in Vietnam or any of its member countries has taken an initiative in the matter of seeking ways in ending conflict in Vietnam;

(b) if so, the precise nature of the steps taken, and

(c) whether any and if so, the names of other countries which have expressed their desire to help in this matter?

The Minister of External Affairs (Shri M. C. Chagla): (a) to (c). The three Member countries of the International Commission for Supervision and Control in Vietnam had been informally consulting amongst themselves on the desirability of issuing an appeal to the parties concerned to facilitate discussions towards a peaceful solution of the Vietnam problem and to secure extension of the ceasefire on the occasion of the Vietnamese New Year.

Shri H. N. Mukerjee: In view of the recent escalation of the fighting and the intensified bombing of North Vietnam, may I know if India is making a very special effort to play the role that is naturally expected of her, which she did not seem to be playing in recent times, in order to bring about a settlement of this dispute?