

[Translation]

MR. DEPUTY SPEAKER : I am making request. Please cooperate with me. This time can be utilized for some other good purposes. There are other important issues.

(Interruptions)

[English]

MR. DEPUTY SPEAKER : Shri Indrajit Gupta.

(Interruptions)

[Translation]

KUMARI UMA BHARATI : At least you can say this much...(Interruptions)

MR. DEPUTY SPEAKER : Umaji how many times. I have to request you. You please sit down.

(Interruptions)

KUMARI UMA BHARATI : You please ask the Minister so as to ensure that he would talk. Hon. Minister of Home Affairs we want a reply from you...(Interruptions)

THE MINISTER OF HOME AFFAIRS (SHRI INDRAJIT GUPTA) : Parden?

(Interruptions)

KUMARI UMA BHARATI : Don't be so agitated. You should at least say that you will hold talks with Pakistan in this regard. Just say sentence...(Interruptions)

SHRI RAM KRIPAL YADAV (Patna) : He will not talk because of your insistance...(Interruptions)

KUMARI UMA BHARATI : You please don't speak...(Interruptions)

SHRI SHIVRAJ SINGH (Vidisha) : Has our Government literally surrendered before Pakistan?

[English]

MR. DEPUTY SPEAKER : The House stands adjourned for 15 minutes.

12.21 hrs.

The Lok Sabha then adjourned till thirty-five minutes past Twelve of the Clock.

12.37 hrs.

The Lok Sabha re-assembled at thirty-seven minutes past Twelve of the Clock.

[Mr. Deputy Speaker in the Chair]

[Translation]

KUMARI UMA BHARATI : Mr. Deputy Speaker, Sir, we want a statement from the Minister of External Affairs. He should give us an assurance that he will come and

discuss. The wives of Pakistan POWs are not able to decide whether they are widowed or otherwise.

MR. DEPUTY SPEAKER : Please be seated first and allow me to speak. Let me say one thing that will allow the Zero-Hour.

(Interruptions)

[English]

MR. DEPUTY SPEAKER : Have some patience. Sit down, please.

[Translation]

You should also sit down. My submission is that some days ago I had mentioned in the House that during the war of 1971 we had released 90 thousand Pakistani prisoners of war but some of our prisoners of war are still in the jails, and this should be verified by the Government. If this is verified by the Government it would do the needful...(Interruptions)

MR. DEPUTY SPEAKER : Still something left?

KUMARI UMA BHARATI : We should either get the reply from the Government or from the Hon'ble Minister.

MR. DEPUTY SPEAKER : Yes he will give the reply.

[English]

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF TOURISM (SHRI SRIKANTA JENA): Thank you, Sir.

[Translation]

SHRI MOHAN RAWALE (Mumbai South-Central) : The Government does not want to say anything about extradition.

[English]

MR. DEPUTY SPEAKER : Nothing will go on record.

(Interruptions)*

[Translation]

MR. DEPUTY SPEAKER : No use. Nothing is going on record. Please be seated.

12.39 hrs.

STATEMENT BY MINISTER

Release of persons still under Detention under Erstwhile Terrorist and Disruptive Activities Act, 1987

[English]

MR. DEPUTY SPEAKER : Now, the hon. Home Minister to make a statement.

* Not Recorded.

THE MINISTER OF HOME AFFAIRS (SHRI INDRAJIT GUPTA) : Sir, I rise to make a statement on the issues raised by hon. Members regarding the release of persons still under detention under the erstwhile Terrorist and Disruptive Activities Act, 1987 which lapsed on the 23rd of May, 1995.

I want to request the hon. Members to have a little patience because it is rather a lengthy statement. It runs into four or five pages.

SHRI RAM NAIK (Mumbai North) : Let it be laid on the Table of the House.

SHRI INDRAJIT GUPTA : That is up to the hon. Deputy-Speaker. If he wants me to lay it on the Table, I can lay it.

MR. DEPUTY SPEAKER : Let it be laid on the Table of the House.

(Interruptions)

SHRI G.M. BANATWALLA (Ponnani) : It should be read out.

MR. DEPUTY SPEAKER : I have already said that it may be laid on the Table of the House.

(Interruptions)

SHRI RAM NAIK : It is being laid...*(Interruptions)*

SHRI G.M. BANATWALLA : Why should you be so impatient?

MR. DEPUTY SPEAKER : It is to save the time of the House.

(Interruptions)

SHRI G.M. BANATWALLA : Just one person gets up over there and says something...*(Interruptions)*

MR. DEPUTY SPEAKER : Everyone of you will get a copy.

SHRI G.M. BANATWALLA : Let it be read out. We have a reservation on it.

[Translation]

MR. DEPUTY SPEAKER : If this is the will of the House, I have no objection.

[English]

SHRI RAM NAIK : In your ruling, you have said that it will be laid on the Table of the House. Shri Banatwalla says, "somebody has said". I am not 'somebody'. I am one of the hon. Members...*(Interruptions)*

SHRI P.M. SAYEED (Lakshadweep) : You have not given your ruling. What you have said is, "if the Minister is prepared to do it, he can do so." You did not give a ruling saying that it should be laid on the Table.

[Translation]

MR. DEPUTY SPEAKER : Some hon. members had met me privately and they wanted to raise some issues

in the Zero Hour. I wanted that they should get time to speak. If you don't want, I can't do anything.

(Interruptions)

SHRI INDRAJIT GUPTA : Should I read out?

[English]

SHRI MADHUKAR SARPOTDAR (Mumbai North-West) : Let him lay it on the Table of the House. It should be laid...*(Interruptions)*

SHRI RAM NAIK : The hon. Minister also said that if we want, then it can be laid on the Table of the House. Then you ruled saying that it should be laid on the Table of the House...*(Interruptions)*

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : No, no...*(Interruptions)*

SHRI RAM NAIK : You see the record. If you do not attend the House, it is not our fault. Every now and then Shri Banatwalla stands up and says...*(Interruptions)*

[Translation]

MR. DEPUTY SPEAKER : Will you please accept my request that whatever you want to speak, please speak it with a smile.

SHRI RAM NAIK : Mr. Deputy Speaker, Sir, I am speaking smilingly that this House has a great tradition. When the Hon. Minister of Home Affairs has already said it is a lengthy statement and it can be laid on the table of the House and I have no objection." Later on you gave a ruling that it may be laid on the Table of the House. After this ruling...*(Interruptions)*

SHRI RAM KRIPAL YADAV (Patna) : He did not give any ruling, but he simply said that it all the members desire...*(Interruptions)*

SHRI RAM NAIK : Please let me complete. After such a ruling...*(Interruptions)*

[English]

SHRI BIJU PATNAIK (Aska) : He cannot give any ruling. Hon. Deputy Speaker cannot give any ruling on this...*(Interruptions)*

SHRI RAM NAIK : Shri Banatwalla got up and said, "if someone is raising an objection, it cannot be allowed." This is what he said...*(Interruptions)*

SHRI ANANTH KUMAR (Bangalore South) : Why are they challenging the authority of the Deputy-Speaker?

[Translation]

SHRI RAM NAIK : Whenever, you give a ruling it is the habit of some of the Members that they would challenge that and create a nuisance...*(Interruptions)*

SHRI RAM KRIPAL YADAV : Why do you say challenging? Nobody has challenged...*(Interruptions)*

SHRI RAM NAIK : I am saying with a smile that challenging the ruling of the Deputy Speaker is against the tradition and you have done so...*(Interruptions)*

SHRI RAM KRIPAL YADAV : There is no question of any dispute. You are wasting the time of the House ...*(Interruptions)*

SHRI RAM NAIK : You are just arguing unnecessarily ...*(Interruptions)*

PROF. RASA SINGH RAWAT (Ajmer) : The Hon'ble Minister of Home Affairs had sought the permission and had said that it was a lengthy statement, should be lay or?...*(Interruptions)*

MR. DEPUTY SPEAKER : Nothing is being heard.
(Interruptions)

MR. DEPUTY SPEAKER : I am trying myself to keep smiling. You keep smiling you keep smiling and say what you have to say.

(Interruptions)

MR. DEPUTY SPEAKER : Why are you so agitated?

(Interruptions)

[English]

MR. DEPUTY SPEAKER : Regarding Items No. 16 and 17, I think, both the hon. Ministers may lay their statements on the Table of the House.

(Interruptions)

[Translation]

THE MINISTER OF RAILWAYS (SHRI RAM VILAS PASWAN) : Mr. Deputy Speaker, Sir, if all the Members of Parliament desire that the Hon'ble Minister of Home Affairs should read the statement, let him do so.

MR. DEPUTY SPEAKER : I wanted to save his time.

SHRI RAM VILAS PASWAN : The statement would have been read by this time.

MR. DEPUTY SPEAKER : It will not be possible to read it within such a short time. It is a 5 page statement.

SHRI INDRAJIT GUPTA : Mr. Deputy Speaker, Sir, I had definitely said that it is a long statement, but I had never objected to read it. I just left it to you, whether it is to be laid on the table or to be read out. I leave it to you. I have no objection.

MR. DEPUTY SPEAKER : I do not want to make it controversial I wanted to save your time.

(Interruptions)

MR. DEPUTY SPEAKER : Okay, you may read, if you do not want to save your time.

(Interruptions)

[English]

MR. DEPUTY SPEAKER : It is not a ruling

(Interruptions)

SHRI INDRAJIT GUPTA : Mr. Deputy Speaker, the hon. Members have raised the issue of release of persons still detention under the erstwhile TADA Act, 1987 even after it lapsed on 23rd May, 1995. The legal position in this regard is that as per the saving clause, i.e., Section 1(4) of the above Act, any investigation or legal proceedings or remedy pending on the date of such expiry is allowed to continue as if the TADA Act had not expired. Such a provision is not peculiar to this Act only, as it forms the basis of the general law of the land. As a result, around 1600 persons - actually, the exact figure is 1599 - are still in detention in various States in the country and as many as 20,037 are on bail in the cases which are on going, as per reports last received from the State Governments and the Union Territory Administrations.

I may apprise the House that the Central Government is already seized of the grievances relating to the TADA detainees and it is with a view to mitigate them that the Central Government have been requesting the States/Union Territories to take all necessary steps to finalise the pending TADA cases expeditiously. They have been asked to issue suitable instructions to their prosecution branches to ensure speedy trial of the cases relating to TADA detainees and not to seek unnecessary adjournments. This matter has also been considered by the hon. Supreme Court in Kartar Singh's case in February, 1994 and as per the directions of the hon. Supreme Court, Review Committees have been constituted both at the Central and at the States/Union Territories level. The Central Review Committee is chaired by the Union Home Secretary and comprises of the Law Secretary, the Director, CBI and the Joint Secretary concerned in the Ministry. State Review Committees are chaired by the Chief Secretary of the State and comprise of the Home Secretary, the Law Secretary and the DGP of the State Government. In some States like Maharashtra, the Review Committee is chaired by a Retired Judge. The meetings of these Review Committees at the Central and State levels are being held periodically to examine, in depth, the applicability of the TADA provisions and other incidental questions like recommending bail etc. case-wise.

As a result of these reviews and concerted efforts made by the Central Government, TADA provisions have been dropped against as many as 28502 persons depending upon the nature and gravity of the alleged offence. In this connection I may point out that in August 1996, instructions were again issued to all States/UTs to have a thorough look at all the TADA pending cases especially those which are still pending investigation and where no charge-sheets have been filed in the court and also in those cases where the accused are still under detention. They were also clearly told to ensure that the State level Review Committees constituted earlier are fully functional and regularly review the cases as per directions of the hon. Supreme Court in Kartar Singh's case in February 1994. They

were also requested to review the adequacy or otherwise of the number of designated TADA Courts in the States so as to expedite the TADA cases in a time-bound manner. It is because of these efforts that as many as 11899 TADA cases have been reviewed so far as per the reports last received which resulted in the dropping of TADA provision against as many as 28502 persons as mentioned earlier.

In another Public Interest Litigation, the hon. Supreme Court in its judgement of February, 1996 also classified TADA undertrials into four categories and recommended grant of bail by the Designated TADA Courts in the following manner :

- (a) Hard Core undertrials whose release would prejudice the prosecution case and whose liberty may prove to be a menace to society in general and to the complainant and prosecution witnesses in particular. (In these case the Court did not recommend grant of bail).
- (b) Other undertrials whose overt acts or involvement directly attracts Section 3/4 of TADA Act (for this category of cases, the Supreme Court recommended that if the undertrials have been in prison for more than five years and their trial is not likely to be completed within the next six months, they can be released on bail unless there are reasons to the contrary).
- (c) Undertrials not directly involved under Section 3/4 of TADA but are so charged because of being a part of criminal conspiracy. (In this category, the Supreme Court recommended that they can be released if they have been in jail for three years).
- (d) Those undertrials who were found possessing incriminating articles in the notified areas and hence booked under Section 5 of TADA. (In these cases, the Supreme Court recommended that such class of undertrial prisoners can be released if they have been in jail for over two years).

These guidelines are required to be followed by the Courts.

However, the hon. Supreme Court observed that the above directions may not be applied by the Designated TADA Courts in exceptionally grave cases such as Bombay Bomb blast case. However, even in such cases the hon. Supreme Court has desired that the Review Committee examine the case against each accused to ensure that the TADA provisions are correctly applied. I may appraise the House that the Bombay Bomb blast case which was the result of a nefarious conspiracy by anti-national forces, criminal and

underworld mafia which resulted in a huge loss of life and property and shook the whole country, was also reviewed both by the State level Review Committee as well as the Central Review Committee chaired by the Union Home Secretary a number of times and charges in respect of each and every accused were reviewed and the Review Committees were fully convinced that TADA charges were correctly attracted in all these cases on the basis of the available evidence. As a result of the detailed guidelines issued by the Apex Court, the Designated TADA Courts have released 20037 persons on bail as per last report received from the various State Governments.

Hon. Members will appreciate that India has been facing a challenge to its territorial integrity, political and social fabric for the last few years because of a proxy war being waged from across our borders to destabilise this country. Hostile forces have been busy in building up terrorist and militant groups in parts of the country by providing them training in camps located across our borders and other material support and instigation. In such a situation, pending TADA cases cannot be withdrawn without proper scrutiny. Neither is this legally tenable for the Government to withdraw these cases *suo motu* without the permission of the Courts. It is up to the Designated TADA Courts to grant or refuse such permission for withdrawal of any such case even if the prosecution so recommends. I may point out that one of the Designated TADA Courts in Delhi in July, 1996 refused permission to drop TADA charges in 288 cases in spite of the plea put up by the Public Prosecutor. The Delhi Government has filed a Special Leave Petition against the order of the Designated Court in the Supreme Court of India which has been admitted and the hearing is going on.

The reviews of the State Level and the Central Level Review Committees have resulted in the dropping of TADA charges against a large number of persons depending upon the nature and gravity of their alleged crimes. As per the directions of the hon. Supreme Court in the above mentioned case, Designated TADA Courts have released a very large number of detainees on bail and as of now only about 1599 persons are under detention as per report last received. If hon. Members would like to know the State-wise distribution, I will give that presently. Hon. Members will appreciate that now the cases that remain after repeated reviews and the detainees that still remain under detention after application of the hon. Supreme Court's above directives by the Designated TADA Courts are those cases which are indicative of grave terrorist offences on the basis of available evidence. The Central Government would continue to monitor the progress of these reviews and trials of these cases. I will be writing to the Chief Ministers of all the States and Union Territories to ensure that bi-monthly case-to-case reviews are held and the proceedings thereof are sent to the Union Home Secretary, who Chairs the Central Review Committee.

I am also inclined to explore the possibility of allowing the detainees and the accused persons under TADA to be heard in person by the Review Committees, if they so desire on the representation submitted by them. Although State Review Committees have the Law Secretary of the State Government as a Member, who is invariably a senior District Judge, I will also bring it to the notice of the States and Union Territories having significant number of pending cases to consider heeding the advice of the hon. Supreme Court in the above mentioned case to have the State Review Committees headed by retired High Court Judges. I may mention that Maharashtra already has a retired High Court Judge heading the State Level Review Committee which is holding monthly review meetings.

Now, with your permission, I would just like to read out a statement showing the number of live cases under TADA and persons under detention.

In Andhra Pradesh, the number of live cases under investigation and pending trial is 294. These figures relate to 19th February, 1997. The number of persons involved is 1,845; the number of persons arrested is 1,436; the number of persons arrested and under detention is 23; the number of persons released on bail is 1401; and the number of persons absconding, that is, yet to be arrested is 409.

13.00 hrs.

In Arunachal Pradesh : No. of live cases in 14; No. of persons involved is 57; No. of persons arrested is 57; No. of persons arrested and under detention is 1; No. of persons released on bail is 52 and No. of persons absconding is 5.

In Assam : No. of live cases is 2107; No. of persons involved is 9886; No. of persons arrested is 9290; No. of persons arrested and under detention is 59; No. of persons released on bail is 9215 and No. of persons absconding is 596.

In Bihar : No. of live cases is 4; No. of persons involved is 91; No. of persons arrested is 78; No. of persons arrested and under detention is 21; No. of persons released on bail is 57 and No. of persons absconding is 13.

In Gujarat : No. of live cases under investigation is 77; No. of persons involved is 912; No. of persons arrested is 748; No. of persons arrested and under detention is 160; No. of persons released on bail is 556 and No. of persons absconding is 164.

In Goa : No. of live cases is 1; No. of persons involved is 3; and No. of persons absconding is 1.

In Haryana : No. of live cases is 103; no. of persons involved is 219; No. of persons arrested is 218, No. of persons arrested and under detention is 16; No. of persons released on bail is 203 and No. persons absconding is 1.

In Himachal Pradesh : No. of live cases is 1; no. of persons involved is 8; no. of persons arrested is 6; no. of persons released on bail is 6 and no. of persons absconding is 2.

In Jammu & Kashmir : No. of live cases is 5154; no. of persons involved is 6837; no. of persons arrested is 2993; no. of persons arrested and under detention is 429; no. of persons released on bail is 3707 and no. of persons absconding is 137.

In Karnataka : No. of live cases is 19; no. of persons involved is 224; no. of persons arrested is 160; no. of persons arrested and under detention is 54; no. of persons released is 92 and no. of persons absconding is 60.

In Manipur : No. of live cases is 579; no. of persons involved is 2251; no. of persons arrested and under detention is 9; no. of persons released on bail is 1611 and no. of persons absconding is 244.

In Madhya Pradesh : No. of live cases is 28; no. of persons involved is 453; no. of persons arrested is 373; no. of persons arrested and under detention is 11; no. of persons released on bail is 111 and no. of persons absconding is 80.

In Maharashtra : No. of live cases is 238; no. of persons involved is 1146; no. of persons arrested is 647; no. of persons arrested and under detention is 338; no. of persons released on bail is 337 and no. of persons absconding is 162.

In Meghalaya : No. of live cases is 8; no. of persons involved is 20; no. of persons arrested is 20; no. of persons released on bail is 16 and no. of persons absconding is 4.

In Punjab : No. of live cases is 1393; no. of persons involved is 2634; no. of persons arrested is 2304, no. of persons arrested and under detention is 158; no. of persons released on bail is 2029 and no. of persons absconding is 212.

In Rajasthan, the no. of live cases is 52; the no. of persons involved is 198; the no. of persons arrested is 167; the no. of persons arrested and under detention is 65; the no. of persons released on bail is 110; and the no. of persons of absconding is 31.

In Tamilnadu, the no. of live cases and pending trial is 20; the no. of people involved is 282; the no. of persons arrested is 204; the number of persons arrested and under detention is 55; the no. of persons released on bail is 123; and the no. of persons absconding is 75.

In Uttar Pradesh, the no. of live cases is 58; the no. of people involved is 119; the no. of people arrested is 107; the no. of people arrested and under detention is 37; the no. of people released on bail is 70; and the no. of persons absconding is 12.

In West Bengal, the no. of live cases is one; the no. of persons involved is eight; the no. of persons arrested

is six; the no. of persons arrested and under detention is six; and the no. of persons absconding is two.

In Chandigarh Administration, the no. of live cases is seven; the no. of people involved is 17; the no. of people arrested is 12; the no. of persons arrested and under detention is three; the no. of persons released on bail is nine; and the no. of people absconding is five.

In the National Capital Territory of Delhi, the no. of live cases is 404; the no. of people involved is 518; the no. of persons arrested is 518; the no. of people arrested and under detention is 154; the no. of persons released on bail is 332; and the no. of persons absconding is seven.

So, the no. of total cases is 10,562; the total no. of persons involved is 27,728; the total no. of persons arrested is 19,344; the total no. of persons arrested and under detention is 1,599; the total no. of persons released on bail is 20,037; and the total no. of persons absconding is 2,222...*(Interruptions)*

[Translation]

MR. DEPUTY SPEAKER : Shri Mulayam Singh Yadav.

(Interruptions)

SHRI MOHAN RAWALE (Mumbai-South-Central) : Mr. Deputy Speaker, why Daud Ibrahim has not been arrested so far...*(Interruptions)*

MR. DEPUTY SPEAKER : You please sit down...Okay.

SHRI MOHAN RAWALE : He is still absconding...*(Interruptions)*

[English]

MR. DEPUTY SPEAKER : Please behave properly. Please sit down.

[Translation]

You please sit down. How many times shall I have to repeat. Let him give the statement first.

(Interruptions)

[English]

MR. DEPUTY-SPEAKER : Let the hon. Minister make his statement. Please sit down.

(Interruptions)

SHRI MADHUKAR SARPOTDAR : Sir, what are they doing about those 'pending cases'?...*(Interruptions)*

[Translation]

SHRI MOHAN RAWALE : Activities of I.S. I. are still going on issued...*(Interruptions)* Hon. Minister of Home is sitting here...*(Interruptions)* Whether the Minister of Home Affairs. Afraid of him...*(Interruptions)*

Whether the Government has hired Daud Ibrahim?...*(Interruptions)* Whether Pakistan has hired him for carrying out bomb-blasts?

[English]

MR. DEPUTY-SPEAKER : The House stands adjourned till 2.10 P.M.

13.08 hrs.

The Lok Sabha then adjourned for Lunch till ten minutes past Fourteen of the Clock.

14.12 hrs.

The Lok Sabha re-assembled after Lunch at twelve minutes past Fourteen of the Clock.

[MR. SPEAKER in the Chair]

(Interruptions)

[Translation]

SHRI L. RAMANA (Karimnagar) : The Government of Karnataka has Almatti Dam.

MR. SPEAKER : We will take it up later on.

(Interruptions)

[English]

MR. SPEAKER : The Motion under Rule 184 has been fixed for 2 O'Clock. So, we will take it up first and then, we will go to other business of the House.

(Interruptions)

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : The Minister of Defence intended to make a statement on the incursions into the Indian territory by the Chinese Army. But, suddenly, the House was adjourned ...*(Interruptions)*

MR. SPEAKER : We will dispose of this item first. It is because it is listed for 2 O'Clock.

(Interruptions)

[Translation]

MR. SPEAKER : There is no problem. We will take it up later on.

THE MINISTER OF DEFENCE (SHRI MULAYAM SINGH YADAV) : I have to give this statement in the Rajya Sabha as well. Mr. Deputy Speaker had called me...*(Interruptions)*

[English]

MR. SPEAKER : I think it is only about one-and-a-half pages.