

बताना चाहता हूँ कि डिफेंस वालों से भी सिविल एवियेशन के अधिकारियों की बातचीत हुई है और कुछ स्पेस हमको मिला है। बर्डज की वजह से भी हमें काफी दिक्कत होती है। हमारी लगातार कोशिश यही है कि किस तरह से ज्यादा से ज्यादा स्पेस सिविल प्लेस के लिए बढ़ाया जाए और मुझे उम्मीद है कि जल्द से जल्द हम इस समस्या का हल ढूँढ लेंगे।

माननीय सदस्यों ने यह पूछा है कि 31 दिसंबर तक क्या सभी इंटरनेशनल फ्लाइट्स जो बाहर से आएंगी, उसमें भी “अकास” सिस्टम होगा ? मैं माननीय सदस्यों को बताना चाहता हूँ कि दुनिया में कहीं भी यह चीज नहीं आई है। सिर्फ अमरीका ने “अकास” सिस्टम को अपनाया है ताकी दुर्घटनाएं न हों। अमरीका के बाद हिंदुस्तान के सिर पर सेहरा बंधा है कि हिंदुस्तान ने इस सिस्टम को अपनाया है। सारी दुनिया में यह काम अब शुरू हो रहा है।

इसी संदर्भ में हमने 16 अप्रैल को एक मीटिंग बुलाई है, उसमें पड़ोसी देशों के डी.जी.सी.ए. और हमारे जो प्राइवेट आपरेटर्स हैं, उनको हमने बुलाया है, इस संबंध में हम उनसे बातचीत करेंगे। हमने इंडियन एयरलाइंस और हयर इंडिया को कह दिया है कि एक साल नौ महीने के अंदर इस सिस्टम को पूरी तरह से लागू कर दें। जहां तक 30 सीटर्स से कम कैपेसिटी वाले विमानों का ताल्लुक है, जहां तक मुझे जानकारी है, इन छोटे विमानों में यह सिस्टम फिट नहीं हो सकता है लेकिन कोशिश की जा रही है कि छोटे विमानों में भी इस सिस्टम को लगाया जाए।

इस सिस्टम की मदद से पॉयलट को यह पता लगता है कि आस-पास में कौन सी फ्लाइट है, कितनी दूरी पर है, उसको सिग्नल्स मिलते हैं जिससे उसको अपनी स्थिति की जानकारी हो जाती है। जहां तक एयर ट्रैफिक कंट्रोलर का सवाल है, मुझे बड़े खेद के साथ कहना पड़ता है कि हमारी 250 वैकेंसीज खाली पड़ी है। दुर्भाग्य से इसकी ट्रेनिंग देना वाला हमारा एक ही इस्टीमेट है इलाहाबाद में और वहां साल में हम सिर्फ 50 लोगों को ट्रेनिंग दे पाते हैं। इसलिए मैंने अपने अधिकारियों को कहा है कि एक साल के अंदर अगर हिंदुस्तान में 50 से ज्यादा एयर ट्रैफिक कंट्रोलर तैयार नहीं हो सकते हैं तो बाहर के मुल्कों से बात कीजिए और मलेशिया में या दूसरे देशों में उनको ट्रेनिंग के लिए भेजिए और ये 250 वैकेंसीज तुरंत भरने की कोशिश कीजिए।

महोदय, एयर ट्रैफिक कंट्रोल में जहां सीट पर 2 आदमी बैठते हैं, उन 2 आदमियों के पीछे हमने एक सुपरवाइजर रखने की बात कही है ताकि वह यह देखे कि पॉयलट और एयर ट्रैफिक कंट्रोलर के बीच में ठीक से कम्युनिकेशन हो रहा है, यहां से जो मैसेज जा रहा है वह वहां तक पहुंच रहा है या नहीं, दोनों आपस में ठीक से मैसेज दे रहे हैं या नहीं, मैसेज रिकार्ड हो रहा है या नहीं। इतना ही नहीं एयर ट्रैफिक कंट्रोल की सीट पर जो आदमी बैठता है, अगर उसकी ड्यूटी 4 घंटे की है तो उसकी ड्यूटी समाप्त होने से 15 मिनट पहले दूसरी ड्यूटी वाला व्यक्ति आ जाना चाहिए। ताकी पहली ड्यूटी वाले ने जो इंस्ट्रक्शन दिया है, जो इंस्ट्रक्शन लिया है उसको भी उसका ग्रहण उसे मिले। यह सिस्टम हमने किया है। आखिर में जो बीबी साहब ने कहा फॉरेन एयर लाईस के लिए मैं सदन को धन्यवाद देना चाहता हूँ कि फॉरेन एयर लाईस को डॉमेस्टिक एयर लाईस में आने के लिए नहीं देंगे, उस स्टैंड के लिए आपने पूरी सराहना की है। हम उसी स्टैंड पर हैं। जब सब्जेक्ट कैबिनेट में जा रहा है। मुझे आशा है उम्मीद अच्छी निकलेगी।

#### CLARIFICATIONS ON THE STATEMENT BY MINISTER—

##### **Release of persons still under detention under erstwhile terrorist and Disruptive Activities Act, 1987**

THE VICE-CHAIRMAN (SHRI G. SWAMINATHAN): Now Members can seek clarifications on the statement laid on the Table of the House by Shri Indrajit Gupta, Minister of Home Affairs, on 20th March, 1997 regarding release of persons still under detention under the erstwhile Terrorist and Disruptive Activities Act, 1987 which lapsed on 23rd May, 1995. Shri Md. Salim. He is not here. Shri K.R. Malkani.

SHRI K.R. MALKANI (Dlhi): Sir, we have heard the statement and noted that the review committees are at work and a whole lot of TADA people have been bailed out Fine. A couple of questions arise. More than a year back when the TADA was not revived and it was allowed to lapse, IGPs of several States had said that if a similar law was not

enacted soon enough it would be difficult to handle cases of terrorism. We have also seen only last week that a former Cabinet Minister was convicted under TADA. He was sentenced to ten years. Maybe, but for TADA, a man like him would not have got caught. Last year when this Act was allowed to lapse, the then Home Minister had said that a new Bill would be brought in and there would be enough safeguards so that there was no misuse and no harassment of innocent persons but, at the same time, the terrorists would not be allowed to escape through the weaknesses of the law. My question is: Are you thinking of any such law, a revised version of the old TADA a criminal Law Amendment Bill, which takes good care of terrorism, but which tees to it that the innocent people are not harassed? That is all I am asking. Thank you.

SHRI R. MARGABANDU (Tamil Nadu): Sir, from the statement we understand that 1600 persons are still under detention and 20,037 persons are on bail. Now so far as the proceedings initiated against these persons are concerned, they will be proceeded against under TADA. The Act was originally meant for two years but subsequently it was extended from time to time for eight years and it lapsed on 23rd May, 1995. The Act ceased to operate after that. I would like to know whether any extremists or any persons who are indulging in these activities are arrested after 24th May 1995 and if anyone is arrested, whether any action is taken. Under what Act are they dealt with? Now it has been described as an obnoxious Act. When this Act was challenged in the Supreme Court, while upholding the Act the Supreme Court made some suggestions that some other liberalised provisions would have to be introduced. Keeping that in view, the Criminal Law (Amendment) Bill, 1995 was introduced. I would like to know whether the TADA has been substituted by any other Act. If it is not substituted by any other Act or if any other Act is not passed, what is the position? I would

like to know whether it has been given retrospective effect from 24th May, 1995. If it has not been given retrospective effect, I apprehend that the terrorists and other such people cannot be controlled and contained. These are the areas in which I require some clarification. I would like to know whether retrospective effect has been given to the Act. Was anybody arrested after 24.5.1995? If arrested, under what provision of law were they arrested? I would like to know about all these things.

**श्री जलालुद्दीन अंसारी ( बिहार ) :**

उपसभाध्यक्ष महोदय, मैं माननीय मंत्री जी से जानना चाहता हूँ कि जब टाडा ऐक्ट 23 मई, 1995 को लैप्स कर गया, उसके बाद से लॉ ऑफ दि लैंड के द्वारा कार्यवाही की जा रही है। इन्होंने अपने बयान में बताया कि केन्द्र में और राज्यों में भी रिव्यू कमेटी बनाई गई है और रिव्यू चल रहा है। मैं जानना चाहता हूँ कि इस रिव्यू कमेटी के सामने कोई टाईम-बाउंड प्रोग्राम है कि कितने दिनों में इन केसेज को वह क्लीयर करेगी? हम समझते हैं कि रिव्यू कमेटी का एक टाईम-बाउंड प्रोग्राम होना चाहिए, उसकी एक टाईम लिमिट होनी चाहिए कि इतने दिनों के अंदर वह तमाम केसेज को रिव्यू करके क्लीयर कर दे और जो लोग डिटेंशन में हैं, उनको छोड़ दे।

तीसरी बात मैं यह जानना चाहता हूँ कि जो केसेज पेंडिंग हैं और जिनकी अभी तक चार्जशीट दाखिल नहीं हुई है, उनको रखने का क्या औचित्य है? यही मेरे तीन प्रश्न हैं और मैं चाहूंगा कि इन तीनों प्रश्नों का जवाब मंत्री जी दें।

† شری جلال الدین انصاری "بہار": آپ سہا ادمیکش  
مہودے۔ میں مانیئے منتری جی سے جاننا چاہتا ہوں کہ  
جب ٹاڈا ایکٹ ۲۳ مئی ۱۹۹۵ کو "لیپس" کر گیا۔ اسکے  
بعد سے "لا آف دی اینڈ" کے دوارہ کاروائی کی جا رہی  
ہے۔ انہوں نے اپنے بیان میں بتایا کہ کیندر میں اور  
راجیوں میں بھی رویو کمیٹی

† [ ] Transliteration in Arabic Script.

بنائی گئی ہے اور رویو چل رہا ہے۔ میں جاننا چاہتا ہوں کہ اس رویو کمیٹی کے سامنے کوئی ٹائم باؤنڈ پروگرام ہے کہ کتنے دنوں میں ان کیسیز کو وہ کلیئر کریگی۔ ہم سمجھتے ہیں کہ رویو کمیٹی کا ایک ٹائم باؤنڈ پروگرام ہونا چاہئے۔ اسکی ایک ٹائم لمیٹ ہونی چاہئے کی اتنے دنوں کے اندر وہ تمام کیسیز کو رویو کر کے کلیئر کر دے اور جو لوگ ڈیٹینشن میں ہیں، انکو چھوڑ دے۔

تیسری بات میں یہ جاننا چاہتا ہوں کی جو کیسیز پینڈنگ ہیں اور جن کی ابھی تک چارج شیٹ داخل نہیں ہوئی ہے، انکو رکھنے کا کیا "اوپریت" ہے۔ یہی میرے تین پرسن ہیں اور میں چاہوں گا کہ ان تینوں پرسنوں کا جواب منتری جی دیں۔

"ختم شد"

SHRI R. MARGABANDU: Sir, I may be permitted to put one more question.

THE VICE-CHAIRMAN (Shri G. Swaminathan): But you have already spoken.

SHRI R. MARGABANDU: Under section 5 of TADA Act, possession of arms and ammunition is punishable. Under section 15, if any admission is made to a police officer, it is admissible as evidence. Under Section 21, if the possession of arms and ammunition is proved, it is presumed that he is guilty and the burden is on the accused to prove that he is innocent. Section 22 is

regarding identification. If a person is declared a proclaimed offender, then a photograph is sufficient, instead of the identification parade. These provisions have been held to be obnoxious and against human consideration. The Supreme Court had come down heavily against it. Have any steps been taken to delete these provisions?

THE VICE-CHAIRMAN (Shri G. Swaminathan): I must inform the hon. Member that a Member can seek clarifications only once. No Member can speak twice.

SHRI BR ATTN SENGUPTA (West Bengal): Mr. Vice-Chairman, Sir it is a welcome feature that the hon. Minister has come out with an elaborate statement on an Act which has lapsed. I would like to know from the Home Minister whether TADA and the other black laws were really effective in containing violence, separatist activities and other fissiparous tendencies in the country. Secondly, there was a wide spread allegation that TADA was targeted against a particular community in our country. I would like to know whether this is true. If it is true, then what preventive action can be taken in future if such a law is required to be made?

THE MINISTER OF HOME AFFAIRS (Shri Inderjit Gupta): When these issues relating to TADA were agitated in this House by a large number of Members, they expressed their concern. The emphasis at that time as I understood it was that there is a possibility of such a piece of legislation being misused and that some innocent people, a large number of innocent people, are perhaps being penalised under this Act. Therefore, the Government is called upon to see that such misuse is checked and maximum number of people are released; the emphasis was on that. Here today, I find that an equal number of questions are being asked in the name of clarifications which are really emphasising the opposite side, i.e. whether the TADA is really effective or not and whether in the

absence of such an Act as TADA it will really be possible to contain terrorism or not and whether the lapsed Act should be substituted by a new law and so on. So, it seems there are two sides to the question. Hon. Members react to this issue from two different angles, now as far as we are concerned, as far as the Government is concerned, we have made it clear that we consider these provisions of the lapsed TADA to be quite severe, quite draconian. But such a legislation was at that time thought to be necessary in order to curb the Terrorist and Disruptive Activities which had been going on in our country. There is no doubt about the fact that these activities poses a serious threat to our country. Now this Act has lapsed but as everybody knows, Sir, that according to the general law of this land the legal position is that, even if the Act has lapsed, all investigations, all legal proceedings or remedies which are pending under TADA, all such lapses are allowed to continue. So, that is the reason why a fairly large number of cases are still pending giving rise to these questions that these be reviewed and to see they are disposed of. One hon. Member has asked whether it is proposed to substitute this lapsed TADA by any new law. At the moment we have no such proposal under consideration. But a reference was made by another Member to the question of amending the Criminal Law; the Criminal Law Amendment Bill is already there and pending in Rajya Sabha since May, 1996. We are working on it and we hope to bring it for consideration before the Parliament as soon as possible. This Bill seeks to replace the erstwhile TADA and deletes provisions which were misused. Before the Bill is take up for consideration we would like to have wider consultations also with the different political parties in Parliament and accordingly this Criminal Law Amendment Bill will be finalised for consideration by the Parliament. It will be a much more balanced Bill, a balanced piece of legislation so that nobody can accuse it of being onesided. After the lapse of TADA, after it expired, I understood one hon. Member

to have asked whether any arrests have taken place with retrospective effect. I do not know exactly what that means. Obviously, no arrests can take place as under the old lapsed TADA. Arrests are taking place all the time under different pieces of legislation

If very serious cases take place involving terrorism and all that, for example, what is happening in some of the north-eastern States or in some other States, resort can be had to measures like the National Security Act or some other Acts and that is being done in many cases.

One hon. Member wanted to know whether the Government was proposing to make any provision for review of all the cases within a given time-frame. Well, it is very difficult. Any Committee which is headed by people of considerably high rank cannot be asked to bound itself to a time-limit because reviews depend on the continuous flow of information, reports, checking up of reports and all that. So, there cannot be any time-bound programme. As we have shown in the earlier statement, quite a lot of reviews are leading to action in the form of release of the detenues and one can now say, after the review committees started functioning—I hope they are going to function much more regularly in future—that it is not going to lead to any delay. If there is any delay, in some cases, it is because much depends upon the reports that are available before the Courts, reports which have been submitted by the police and other agencies.

About possession of arms and ammunition, I think it refers to unlicensed arms and not the licensed arms. Possession of unlicensed arms is, of course, a serious offence and TADA had provided for dealing with such cases. Everybody knows the case of Mr. Sanjay Dutt who was charged with possession of illegal arms for which he was refused bail also for a considerably long time. Ultimately he was given bail but on very, very stringent conditions. I think you are aware, Sir, of the fact that even though he is on bail, he has to appear in the

court everyday, from morning when the court meets to the time when the court completes its work. He was to remain sitting in the court the whole day. I think this is an unusual type of condition imposed because generally people who are on bail are certainly asked to report to the police authorities or the court once everyday, but not spending the whole day sitting there. But this was a charge of possession of illegal arms. There are other Acts; there are other laws other than TADA which can cover many of these offences, criminal offences and there is a good case in the point that instead of using TADA, why cannot we prosecute people under the ordinary laws of the land though it may involve some delay! Whether TADA has actually been effective, how it has been effective, etc., are questions of assessments. One cannot say that terrorism or disruptive activities in the country have noticeably declined or have come down, even during the period when TADA was in force. At least I am not making that claim. On the other hand, it can be argued that had there been no TADA or a law of that kind, arrests and detentions of that kind, there could have been more activities by the terrorists. No doubt, it had a deterrent effect on many people. I repudiate any kind of charge or idea that it has been loaded deliberately against people of a particular community, it is not correct, this is not correct at all. There are some cases. For example, in the beginning when TADA was first promulgated it was being used mainly in the State of Punjab. That was at the time of the height of militancy in Punjab. And it is not very surprising that at that time the largest component of people who were being proceeded against happened to belong to a particular community which, as you know, is the majority community in the Punjab. But it does not mean that it was loaded against them. It had happened that these milium and terrorist activities were taking place on a much wider scale in that particular area. Similarly, in Jammu and Kashmir there are a fairly large number of people who are

still being held under the old TADA. Cases are being reviewed and detenus being released. That is true. But there are still a fairly large number of people there and, I assume, among them the majority of people would probably belong to a certain community because that is the composition of that area, that State. But it doesn't mean that the Act has been specially brought in order to target them. So, this is not correct at all.

There was a question whether this review would be expedited and would be made more effective. The other day in the course of my statement I had given quite a lot of details about this including the fact that now all the review committees are going to be duty-bound to hold at least one meeting of those committees in each state every two months and report regularly to the Centre as to what exactly they have done, how many cases they have reviewed, what the results are that they have come to and what action they have recommended. Secondly, the accused or the detained\* person is going to be given—it has already begun now—full opportunity, if he so wishes, to appear in person before the committee and to make his statement there. Many of these people are poor people, not very well educated, not very literate, and they cannot always but forward their opinions or their statements in writing. It is not possible. Or else, they have to engage somebody to do it on their behalf. That is also full of all kinds of undesirable implications. It is better if such people want, they should be given the opportunity to appear personally before the review committee to make their statements if they have anything to say in their own defence. They can certainly lay it there.

Now, as I said the other day, the number have come down considerably. Now there are a little less than 2,000 people in the whole country who are being held in detention. All the others have been released either on bail or have been released unconditionally. Then there is the review of those cases which are before the courts. There are some

cases which are before the courts. Of course, the courts will have to deal with them, but the courts have to be given some sort of diWtkfa. The question may be asked whether the courts are going to be told to be tint-bound. There also there is a difficulty because the courts do not like that at all. But I may tell you the number of courts which are functioning at present—the designated TADA courts, as they are called. There are altogether 233 TADA courts functioning in the country and we have requested the following State Governments to consider the desirability of increasing the number of designated courts in order to ensure speedy disposal of these cases of TADA detainees. These are Andhra Pradesh, Assam, Jammu and Kashmir, Manipur, Maharashtra, Punjab, Rajasthan and Delhi. Here we think that there is a case for more courts to be set up. The view of some State Governments was that there is no necessity to increase the number of TADA courts in view of the number of cases pending going down and also in view of regular review meetings by the Review Committees. The Government of Punjab have, however, taken up the matter with the hon. High Court for appointing additional judges to exercise jurisdiction in the already constituted designated courts in the State. So by these various means, we are hoping that disposal of these will be speeded-up and it will

be possible to report back to the House after some time, after a few months perhaps, where I hope it will be possible to say that the number of cases will be much less.

The legislation of the Criminal Law (Amendment) Bill, 1995—about which I mentioned—is already pending in Rajya Sabha. It was introduced here on 18.5.1995 and was discussed in great detail. However, voting on passing the Bill was not possible. Later, efforts were made to reach a consensus among various political parties, and such efforts are still continuing. We are hopeful that all the parties will have a consensus of views which will enable us to ultimately come forward with a good and well-balanced piece of legislation. That will look after these various problems which have arisen. I think, these were the main points which I wanted to bring to the notice of the House.

THE VICE-CHAIRMAN (SHRI G. SWAMINATHAN): The House now stands adjourned till 11.00 a.m. on Monday, the 21st April, 1997.

The House then adjourned at fifty-seven minutes past five of the clock till eleven of the clock on Monday, the 21st April, 1997.