

[27 February, 2006]

RAJYA SABHA

- (vi) Ninety-seventh Report on Action Taken by the Government on the Recommendations/Observations of the Committee contained in its Ninetieth Report on the Development of Airport Sector with special emphasis on new modern airports.

**REPORTS OF THE DEPARTMENT RELATED PARLIAMENTARY  
STANDING COMMITTEE ON LABOUR**

SHRI K. CHANDRAN PILLAI (Kerala): Sir I lay on the Table a copy each (in English and Hindi) of the following Reports of the Department related Parliamentary Standing Committee on Labour:

- (i) Eleventh Report of the Committee on The Central Silk Board (Amendment) Bill, 2005; and
- (ii) Twelfth Report of the Committee on The National Institute of Fashion Technology Bill, 2005.

**ANNOUNCEMENT BY THE CHAIR**

MR. CHAIRMAN: I have to inform the House that the discussion on the statement made by the Prime Minister on the 17th February, 2006 regarding India's vote in the I.A.E.A. on the issue of Iran's nuclear programme will be taken up in this House today, the 27th February, 2006. The discussion will commence at 2.00 p.m.

SHRI SATISH CHANDRA MISRA: Sir, I want to raise an important issue.

**MATTERS RAISED WITH PERMISSION**

**Need to restore faith in the system of delivery of justice in view of  
the recent judgement of a Session Court in the Jessica Lai  
murder case.**

SHRI SITARAM YECHURY (West Bengal): Thank you, Mr. Chairman, Sir, I want to raise a very important issue, which, in my opinion,

concerns the entire construction of delivery of justice in our country. What has happened with the Jessica Lai murder case, and the entire media is full of reports of how tardy the investigations have been, and how the complicity has been, and how the witnesses have turned hostile. Now, this is not a new thing. If this is what was to happen to page three celebrities, what is the fate of normal common citizens of our country? And this is a matter serious enough to draw the attention of the House so that we restore faith in the system of delivery of justice that we have in the Indian people. We have seen in a series of cases, whether it has been the cases in Gujarat, whether it has been the cases of other VIPs that were involved—I do not want to take their names—whether it has been the cases that are continuously being reported in the media how witnesses are intimidated, how the case is distorted and finally, the accused goes scot-free. So I think, something in this matter needs to be done, and the greater danger that I have with me is that Delhi, the National Capital, has a crime rate, which is 2.7 times higher than that of the national average. In 1998, there was 645 cases of murders of whom, only 376 cases were made out, and of whom conviction took place only in 160 cases. Out of 650 cases, convictions took place only in 160 cases. This is the sorry state of affairs. In this connection, since the Home Minister is also here, I would like to draw the attention of the House to the letter of the Chairman of the Law Commission of India, Justice Jagannath Rao, to Shri H.R. Bhardwaj, dated 13th August, 2004, and this letter is available on the website, from where I picked it up, where he says: "In recent times, it has become very common for witnesses in criminal cases to turn hostile on account of danger to their life and property or to that of their relations, consequent upon threats or intimidation by the accused..." It is in that context that the Law Commission had prepared this Consultation Paper. It goes on saying, "The Supreme Court in four recent judgements had dealt exhaustively with the subject of witness'anonymity and witness protection programmes. The Supreme Court has also stated that the Parliament must consider making a law on the subject at the earliest".

Now, what is the Government proposing to do on this aspect? The details that are available on the Jessica Lai's case are absolutely unacceptable. In any democratic civil society, if the system of delivery of

justice can be manipulated to such an extent to deny justice, and it happens right under our nose in the national capital of Delhi, and if there is nothing that we can do about it, it only displays a sense of incompetence of the Government and of the institutions of our country, which can't be allowed or tolerated. So, I want the Government to seriously take note of this and immediately assure, through the House, the Indian people that the system of delivery of justice will not be allowed to be tampered with and restore their faith in the system. /

**विपक्ष के नेता ( श्री जसवन्त सिंह ):** चेयरमैन साहब, अभी सीताराम येचुरी जी ने जो बात कही है, मैं अपनी आवाज उससे तो जोड़ना ही चाहूंगा और साथ ही यह कहना चाहूंगा कि यह बीमारी बहुत फैल गई है। जो आपने कहा है, वह एक शहर का मामला है और वह भी दिल्ली शहर का है। ऐसा लगता है कि दिल्ली में यह रोजमर्रा की बात हो गई है। जो किसी पद पर बैठे हैं, औहदार हैं, वह सोचते हैं कि वे किसी कायदे-कानून के दायरे में नहीं हैं। जो हमारा मंत्रालय है, हम उसे लॉ एंड जस्टिस कहते हैं, I am not mistaken. This clearly demonstrates that there is neither law nor justice, as far as some people are concerned. In fact, I am appalled at how casually all of us take this, यह तो शहर की बात है, और यह हमारा कैपिटल है इसलिए आपको बात उठाने का मौका मिल गया और आपने सदन में अपनी बात उठा ली। चेयरमैन साहब, आप जानते हैं कि आज यह बीमारी यहां आ गई और अखबारों में भी छप गई, लोगों को पता चल गया है और टेलीविजन पर आ गया, जिसको काफी सारे लोगो ने देखा था और सबके सामने गोली लगी थी। मुझे कहते हुए बहुत संकोच भी होता है और दर्द भी क्योंकि अगर मैं कहूं जो बुरा और न कहूं तो भी बुरा। आज हमारे गांवों में क्या हालत हैं? क्योंकि यह तो दिल्ली का मसला है इसलिए हम यहां पर खड़े होकर कहते हैं और हमें बोलने का वक्त भी मिल जाता है। आज गांवों में यही बीमारी किस हद तक फैल गई है, आप जानते हैं कि हमारी गांवों में पैदा हुई, पली और बढ़ी It is a very serious issue. I don't know the answer where its finality is. Is it simply another law that will settle the matter? Or, is it an example that those of us who are entrusted with this responsibility have to provide? I would support anything that the Government does in this case. I do join my voice to Sitaram's voice. This is a very important issue because the entire moral authority of governance is shattered, or totally ignored. After that, if we think that we can continue to have any kind of standing in the eyes of the people, it is a complete illusion, हिन्दुस्तान की मिलकियत के दो बड़े पहलू हैं और उन दोनों के बिना यह मिलकियत नहीं चलती है। मैं इसके बारे में कई बार कह चुका हूं। इसमें पहला इकबाल है और दूसरा सुनवाई। अगर सरकार का इकबाल मर जाएगा और सरकार या कोर्ट्स की सुनवाई

बन्द हो जाएगी तो आप यह मानकर चलिए कि सरकार फिर चल नहीं सकती। आप राज कर लेंगे। लेकिन राज-काज नहीं होगा। हम सबको इस पर बहुत गंभीरता से सोचना चाहिए। I fully share the concern of Shri Sitaram Yechuri.

SHRIMATI BRINDA KARAT(West Bengal): Thank you so much, Sir, for giving me this opportunity to associate myself with this very important issue. Actually, I have been a social activist for the last 25 years and taking up women's issues. We know from our direct experience from the cases of victims that they are doubly victimised by the utter failure and corruption which is present at different levels of investigation and even in courts. Jessica Lai's case has become a symbol of this huge injustice which so many victims faced. That is why there is a national outrage on this.

What are the three major issues? Why is the whole country so agitated on this? The first is this I do not want to name any political party. But the fact is that the people involved are the sons of very important politicians. We are all on trial today because of the son of a person who is the Minister in the Government today. It is the perception; the common perception is that he has used his political clout and connections to be able to manipulate the whole system. The connivers in this case are also sons of politicians. This is the first point, that is, the question of political accountability and in this context, the role of the Central investigating agencies. Why I say Central agencies because the Delhi Police is directly under the Central Government. Within the first few months of the investigation, when the Central Forensic Laboratory's report came, the senior officials of the Delhi Police themselves stated that the investigation was contaminated; it was corrupted and that there was manipulation. They recommended that strong action be taken against those police officials. They have even given the clauses...

MR. CHAIRMAN: Don't go into details.

SHRIMATI BRINDA KARAT: No, Sir. This is what is important. Yet no action was taken against any of the police officials during the mid-investigation procedures. Thirdly, today what we want to know from the Home Minister is: Will he order a time-bound reinvestigation into this entire case? That is the issue here. We want a time-bound reinvestigation

[27 February, 2006]

RAJYA SABHA

and we want action against all the police officials. If officials of the CFL are also involved in it, we want a time-bound action against them also.

MR. CHAIRMAN: Would the hon. Home Minister like to say something?

THE MINISTER OF HOME AFFAIRS (SHRI SHIVRAJ V. PATH): Sir, I am grateful to the hon. Members who have raised this issue. The recent judgement, which has been given in Jessica's case, has attracted the attention of the entire country. Media has highlighted it and the lawyers are thinking about it. The hon. Members are also concerned about it. We would certainly like to see that justice is done in the matter. Whatever is possible, as per the law, will be done by the Government. Let there be no doubt about it. There are some very important issues which have been raised, very rightly, by the hon. Members. One of the important issues is how to protect witnesses. Now this question was discussed by the Supreme Court and the Supreme Court has given a judgement in this regard and that judgement is now part of the law. The Criminal Procedure Code is with us and that Criminal Procedure Code, unfortunately, is not having enough provisions to protect the witnesses. It is the intention of this Government to see that the Criminal Procedure Code is amended to provide protection to the witnesses. The Supreme Court has given a judgement and that judgement can also be followed by us. A little bit more thinking can be done on this matter in order to see that the Criminal Procedure Code is amended. I would like to submit before the House that we have recently drafted the Communal Harmony Bill. The Communal Harmony Bill is before the Standing Committee and the Standing Committee is very kindly looking into it very carefully. We hope the report will come very soon and we will consider it. In that Bill we have got specific provisions to provide protection to the witnesses. If any witness is harassed or intimidated or put under pressure, in what fashion that witness can be provided protection, it is very specifically provided in the Communal Harmony Bill. We would like to see that that kind of provision is incorporated into the Criminal Procedure Code also. There are one or two other things which should be considered by us. While discussing the criminal situation and justice system in the country, many hon. Members, including Shri Jethmalani, spoke on this subject. And, they gave very good suggestions with respect to that. One of the things which

has to be borne in mind by all of us is that sometimes the witnesses are unwilling to come forth and give evidence because they don't want to keep coming to the court to do it. The question is, what can be done in these cases. This issue has been considered by the Law Ministry as well as by the Home Ministry. We would like to depend not only on oral evidence but we would also like to depend on circumstantial evidence, and the circumstantial evidence does not require any witness as such, circumstantial evidence is stronger than the oral evidence, in some cases. We would like to see that the system of investigation is modernised, and new methods are adopted so that the criminal justice is done in a proper manner. It is very rightly said that governance cannot be done just by using *danda* or by using rifle or by the authorities alone. It should have *prestige* इकबाल होना चाहिए। इकबाल के बिना गवर्नमेंट नहीं चल सकती। यह बात बहुत सही है। अगर हम सब लोगों की मिल कर इकबाल ही खत्म करने की तैयारी है कि हम आपको गालियां दें, आप हमको गालियां दें और किसी की भी प्रेस्टिज कायम नहीं रहे और वह इकबाल भी हमने खत्म कर दिया, इकबाल खत्म हो जाए, तो इकबाल नहीं रहेगा और प्रेस्टिज नहीं रहेगी। जो बात सिर्फ इशारे से हो सकती है, नज़र उठाने से हरे सकती है, वह डंडा लेकर, पिस्तौल लेकर भी नहीं हो सकती है। ऐसी परिस्थिति है। इसलिए ऐसा कोई सवाल सामने आ जाता है, when a matter of this kind is taken up, and very rightly taken up, on the floor of the House, instead of blaming the persons who should not be blamed, we should go to the very root to find out who is really responsible, and do whatever is necessary. Now, we are asked to give an assurance on the floor of the House that re-trial.. *(Interruptions)*... that re-investigation should be ordered. Unfortunately, my understanding is that - the Law Minister can help me or Jethmalaniji can help me - the law that exists today says that no person should be tried twice or punished twice, so, this is the law. Yet the Supreme Court has very rightly, in some cases, ordered a re-trial. That has also become a kind of law for us, and it should be followed by us. One of the provisions that is available in the existing law is that on such matters, on a matter in which the punishment is awarded or acquittal is given, there is a provision for appeal and a second appeal too. And, there is a provision, in some cases, for a review also in legal matters. We will, certainly, look into it. But, in this case, the matter is before the High Court, and the High Court has *suo moto* taken cognisance of this case, and has asked the Police to look into the investigation, which was done, and to find out where the mistakes were committed. The report will be

(27 February, 2006]

RAJYA SABHA

given, and whatever can be done in this matter as per the ruling given by the Supreme Court or as per the decision given by the High Court or as per the existing law, we will, certainly, do it. And, I am one with the feeling and views expressed by the hon. Members on this point.

MR. CHAIRMAN: Now the Round Table Conference on Kashmir to be raised by Shrimati Sushma Swaraj.

DR. MURLIMANOHAR JOSHI (Uttar Pradesh): Sir, I am speaking on it  
(Interruptions)

SHRI SATISH CHANDRA MISRA (Uttar Pradesh): Sir, I want to say something. This is an issue connected with the earlier issue...

श्री सभापति : आप वोट कीजिए, मैं यहीं बैठा हूँ ...(व्यवधान)...No; no; there is no need of any connection (Interruptions) Everything is appropriate ...(Interruptions)...

SHRI SATISH CHANDRA MISRA: The Home Minister is here  
...(Interruptions)...

Mr. Chairman: Mr. Veer Singh, आप खड़े मत होइए...(व्यवधान)...

आप किसलिए खड़े हो रहे हैं...(व्यवधान)...

श्री वीर सिंह:\*

श्री सभापति : आप बैठिए ...(व्यवधान)... देखिए मैं आपको इजाजत दूंगा...(व्यवधान)...माननीय सदस्य बैठ जाएं...(व्यवधान)... Nothing is going on record ...(व्यवधान)... देखिए, आप यह सीडी डिसप्ले कर रहे हैं...(व्यवधान)...मेरी सुन लीजिए, आप यह सीडी डिसप्ले कर रहे हैं, यह ब्रीच ऑफ प्रिविलेज है, mind it ...(व्यवधान)...पहले यह मामला आएगा, तो आ जाएगा। क्या यह जरूरी है कि यह इसी समय आ जाए...(व्यवधान)... ...(व्यवधान)...पहले यह मामला आएगा, फिर उसके बाद आपका आएगा...(व्यवधान)...मेरे पास नम्बर लिखा हुआ है। यह कागज-पत्र दिखाना ठीक नहीं है। मैं माननीय सदस्यों से निवेदन करूंगा कि हाउस को इतना हल्का न लें। कोई सीडी दिखाएगा, कोई कागज दिखाएगा, फिर बाद में कोई चप्पल दिखाना शुरू कर देगा।

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\* Not recorded

**Roudtable Conference on Kashmir**

**डा० मुरली मनोहर जोशी :** (उत्तर प्रदेश ) : सभापति जी, मैं आपका आभारी हूँ कि आपने मुझे इस महत्वपूर्ण प्रकरण को यहां प्रस्तुत करने की अनुज्ञा दी।

पिछले कुछ दिनों से काश्मीर के मामले में यू० पी० ए० सरकार द्वारा जो कदम उठाए जा रहे हैं, उस से देश को काफी चिंताएं होने लगी हैं। हाल ही में एक सम्मेलन बुलाया गया जिसमें उन लोगों को भी बुलाया गया जो आतंकवाद का समर्थन करते हैं और आतंकवाद के द्वारा काश्मीर की समस्या को हल करना चाहते हैं, लेकिन उसमें बात बजाय आतंकवाद के स्वायत्तता और अनेक प्रकार की उन स्वाधीनताओं की की गयी जो इस सवाल से कहीं जुड़े ही नहीं थीं। महोदय, काश्मीर के मामले में जो केन्द्र बिंदु है, वह वहां फ्रांस-बॉर्डर टैरिज्म को खत्म करने का है। इस देश के सभी राजनीतिक दलों ने हमेशा इस बात की आवाज उठायी थी कि पहले पाकिस्तान आतंकवाद को समाप्त करे और इसी संदर्भ में 2004 में जो समझौता हुआ था, उस में पाकिस्तान की ओर से बात का स्पष्ट उल्लेख कराया गया था, उन को यह कहा गया था और उन की यह मांग थी कि वह अपनी भूमि से और अपने कब्जे की भूमि से आतंकवाद की कोई कार्यवाही नहीं होने देंगे। महोदय, यह समझा जाता था कि जब तक इस केन्द्र बिंदु पर पूरे तौर पर हमारा समाधान नहीं होता और देश इस बात को स्वीकार नहीं कर लेता कि आतंकवाद पूरे तौर पर पाकिस्तान की सीमाओं से आना बंद हो गया है, तब तक और कोई मुद्दा काश्मीर के बारे में महत्वपूर्ण नहीं है। लेकिन यह देखकर हमें हैरत हुई कि धीरे-धीरे वह मुद्दा वह बिंदु काश्मीर के प्रकरण में गायब होता जा रहा है और बजाय आतंकवाद के काश्मीर की स्वायत्तता, काश्मीर के अंदर का प्रबंध एक मुद्दा बनता जा रहा है। महोदय, अंतर्राष्ट्रीय जगत इस बात को देखकर निश्चित रूप से सोचेगा कि भारत ने अपनी नीति में परिवर्तन कर लिया है, अपने दृष्टिकोण में परिवर्तन कर लिया है और जो मुख्य बात थी, हम उससे हट रहे हैं।

महोदय, मैं समझता हूँ कि यह देश हित में नहीं है और अंतर्राष्ट्रीय स्तर पर भी यह बात हमारे लिए हानिकारक होगी क्योंकि जब हम खुद इस प्रश्न को नहीं उठाएंगे तब दूसरे देश इस मामले में हमारा साथ कैसे देंगे? यह इस विषय का एक पहला और इस का दूसरा पहलू यह है कि यह सवाल उस समय उठाया जा रहा है जब कि राष्ट्रपति बुश का इस देश में आगमन होने वाला है। मैंने जहां तक पढ़ा वह तो आतंकवाद के बारे में चर्चा कर रहे हैं और कहते हैं आतंकवाद बंद होना चाहिए लेकिन हमारी चर्चाओं में उसका कहीं जिक्र ही नहीं है और हम स्वायत्तता का सवाल उठा रहे हैं, स्वाधीनता का सवाल उठा रहे हैं। इसलिए समझ नहीं आता कि आखिर सरकार कहां जाना चाहती है और इस मौके पर यह सवाल क्यों उठाया गया है। मुझे कभी कभी ऐसा लगता है कि इस यू० पी० ए० सरकार की नीति में कुछ ऐसे परिवर्तन आ रहे हैं जिस से प्रतीत होता