

**THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF  
MARITIME NAVIGATION AND FIXED PLATFORMS ON  
CONTINENTAL SHELF BILL, 2002**

THE VICE-CHAIRMAN (SHRI RAJU PARMAR): Now, we will take up the Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Bill, 2002.

THE MINISTER OF SHIPPING (SHRI VED PRAKASH GOYAL):  
Sir, I beg to move:

\*That the Bill to give effect to the International Maritime Organisation Convention for Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf and for matters connected therewith, be taken into consideration."

Sir, the proposed legislation is based on the International Maritime Organisation Convention on Suppression of Unlawful Acts against Safety of Maritime Navigation, 1988, and the International Maritime Organisation Protocol for the Suppression of Unlawful Acts against Safety of Fixed Platforms located on the Continental Shelf, 1988, which are further based on the Charter of the United Nations, concerning the maintenance of international peace and security and the promotion of friendly relations and cooperation among States.

The Convention and the Protocol were adopted in the backdrop of deep concern of the international community after the world-wide escalation of terrorism in all forms, which endangers the people at large and, many times, takes a heavy toll of human lives. It was considered that the unlawful acts also jeopardize the safety of life and property at sea, affect the maritime services adversely, and undermine the public confidence in the safety of maritime navigation.

If the States of the world are adequately equipped with legislative powers to deal with such situations, definitely, the cause of global peace and security will be strengthened. The proposed enactment, therefore, has been considered necessary to enable the Government to implement the provisions of the said Convention and Protocol. Also, in the changed scenario of global marine safety, it is essential to have a legislation to ensure safer navigation in the whole of India, including the limit of the

territorial waters, that is, 12 nautical miles from the nearest point of appropriate base line, the Continental Shelf, the Exclusive Economic Zone, that is, 200 nautical miles from the nearest point of appropriate base line or any other maritime zone of India within the meaning of section 2 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976.

The unlawful acts or offences punishable under this legislation have been dealt with in Chapter II, section 3, of the Bill. To illustrate, some of the unlawful acts referred to in this section are:-

Acts of violence against a person on board a fixed platform or a ship;

Destruction of, or, damaging a fixed platform or a ship, which is so essential today for our oil transportation;

Seizure of a ship or a fixed platform;

Placing a device or a substance which is likely to destroy a fixed platform or a ship;

Destroying or damaging maritime navigational facilities or communicating false information etc.

As of now, there is no law to address these unlawful acts.

The Bill is divided into three chapters and 14 sections. I shall briefly touch on these sections and their contents.

Section 1 contains short title, extent and application of the proposed Act.

Section 2 spells out definitions of terms used in the legislation.

Section 3 lists the offences against persons, ships, fixed platforms, cargo of a ship and navigational facilities etc. to which the legislation shall be applicable and indicates the penalties thereto.

Section 4 empowers the Central Government to confer powers of investigation exercisable by a police officer under the Code of Criminal Procedure, 1973 on any gazetted officer of the Coast Guard or any other gazetted officer of the Central Government.

Section 5 empowers the respective State Governments to specify in consultation with Chief Justice of a High Court, a Court of Session to be a Designated Court to try these offences.

Section 6 specifies the offences that can be tried by the Designated Courts.

Section 7 provides that the provision of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Designated Court.

Section 8 contains provisions as to bail while Section 9 lists the provisions as to extradition.

Section 10 empowers the Central Government to notify the Contracting parties to the Convention or Protocol.

Section 11 confers upon the Central Government, the powers to treat certain ships to be registered in Convention States.

Section 12 lays down that the previous sanction of the Central Government would be necessary for prosecution under Act.

Section 13 lists the presumptions as to offences under section 3 while section 14 provides protection for action taken under the Act in good faith.

SHRI PRANAB MUKHERJEE (West Bengal): Mr. Vice-Chairman, Sir, I would like to mention that all this information is available in the text of the Bill where the clause-wise analysis has been given. So, in addition to that if you want to share any other information which is not provided in the Bill itself, you can enlighten the House. Otherwise straightway we can go to the debate because all this information is available in the text of the Bill where the clause-wise analysis has been made at the end.

SHRI VED PRAKASH GOYAL: Sir, the purpose of reading of these clauses in one line is to clarify the importance of these clauses before you go through all of them. In any case, you are going to read it and you must have gone through it. My intention is not to lengthen my speech.

With the enactment of the proposed legislation, India will not only be at par with many advanced Maritime Countries but also will enjoy a pre-eminent position. Also, the Government machinery will be better equipped

to deal with the Unlawful Acts against the safety of Maritime Navigation and ensure speedy and efficient trial of such cases.

With these words, Sir, I commend the Bill for the consideration of the House.

*The question was proposed.*

**श्री मूल चन्द मीणा (राजस्थान):** उपसभाध्यक्ष जी, the Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Bill, 2002. के ऊपर मैं अपने विचार रखना चाहता हूँ। मंत्री महोदय इस बिल को लाए, लेकिन काफी देर से लाए, फिर भी ठीक है कि आप इस बिल को लेकर के आए हैं। अंतर्राष्ट्रीय सामुद्रिक संगठन लंदन का रोम में 10 मार्च, 1988 में सम्मेलन हुआ था। उस सम्मेलन में सामुद्रिक नौ परिवहन की सुरक्षा के विधि-विरुद्ध कार्य हो रहे थे, विधि-विरुद्ध कार्य होने की संभावना थी, अंतर्राष्ट्री स्तर पर उनमें एकरूपता लाने के लिए यह सम्मेलन किया गया था। उस सम्मेलन में इस पर आम सहमति हुई थी, आज से करीब 14 साल पहले और आज यह बिल आ रहा है। कृपया मंत्री जी इसको देरी से लाने का कारण बता दीजिएगा।

दूसरे, दुनिया के अंदर आतंकवाद ऐसा स्वरूप ले चुका है, आप चाहे हवाई जहाज से यात्रा करें, चाहे जहाज से यात्रा करें, आज कोई भी यात्रा सुरक्षित नहीं है। अभी थोड़ी देर पहले अहलुवालिया जी बता रहे थे कि पानी के जहाज में कहीं बम विस्फोट हुआ है। इस बिल को लाने की बहुत जरूरत थी। लेकिन आपने इस बिल के अंदर जो प्रावधान किए हैं, धारा तीन (ए) के अंदर आपने 10 वर्ष की सजा का प्रावधान रखा है जो बहुत कम है। इतना बड़ा अपराध हो, किसी प्लेट फार्म को उड़ा दिया जाए या किसी जहाज को विस्फोट कर दिया जाए, उसके बाद भी किसी के पास विस्फोटक सामग्री मिल जाए, गोला-बारुद उसको उड़ाने का मिल जाए, उसके बाद भी आप 10 वर्ष की सजा का प्रावधान कर रहे हैं। इसके बजाय आप इसमें आजीवन सजा, मृत्यु दंड, कठोर दंड की व्यवस्था कर दीजिए। आज कोई व्यक्ति किसी प्लेटफार्म को, किसी जहाज को उड़ाने की धमकी दे और उसके पास उसको उड़ाने का सामान हो, गोला-बारुद हो या कोई दूसरा पदार्थ हो, उसके लिए आपने केवल दो साल की सजा की बात कही है। धमकी देने वाले को केवल दो साल की सजा का प्रावधान किया है। दो साल की सजा काटने वाला व्यक्ति किसी दिन प्लेट-फार्म को या जहाज को उड़ा भी सकता है, जब कि उसके पास से गोला-बारुद बरामद किया जा चुका है। ऐसे आदमी को कम से कम 10 साल की सजा तो मिलनी चाहिए जिससे कि वह ऐसा अपराध न कर सके। यदि कोई व्यक्ति लोगों को डराता है या उनके मन में भय पैदा करता है तो उसको कठोर दंड मिलना चाहिए।

इस बिल में आपने पुलिस को और स्थानीय अधिकारियों को पावर्स देने की बात कही है। आपको इसमें थोड़ा-सा देखना होगा कि कहीं पुलिस इसका दुरुपयोग न कर ले। इसके दुरुपयोग को रोकने के लिए बिल में आपने कोई व्यवस्था नहीं की है। इसकी व्यवस्था आप कर दें या इसमें आप कोई ऐसा कॉलम रख दें कि इसका दुरुपयोग न हो सके। किसी निर्दोष व्यक्ति को पुलिस इसमें फंसा न सके। हम देखते हैं कि जो दोषी होते हैं, वे तो पुलिस से मिलकर निकल जाते हैं, लेकिन जो निर्दोष होते हैं, जो अपराधी नहीं होते हैं, उनको पुलिस द्वारा फंसा दिया जाता है,

ऐसी कई प्रकार की घटनाएं अखबारों में पढ़ने को मिलती हैं। प्रेक्टीकल में ऐसा पुलिस कर देती है। इसको रोकने के लिए आप इसमें कोई क्लॉज जोड़ दें तो अच्छा रहेगा।

मैं मंत्री महोदय को धन्यवाद देना चाहता हूं कि आप बढ़ते हुए आतंकवादी कार्यों को देखते हुए इस बिल को लेकर के आये हैं। सारे दिलों की ओर से इस बिल का स्वागत किया गया है, सभी ने इसको सपोर्ट किया है, इसलिए ऐसे स्ट्रांग कानून का कोई विरोध नहीं करता है। आप इस बिल का सदुपयोग करिए। मैं यही कहना चाहता हूं। मैंने आपसे कुछ बातों के ऊपर स्पष्टीकरण मांगे हैं, मैंने आपसे निवेदन किया है कि एक तो दंड बढ़ा दिया जाए, दूसरा कारण इस बिल की देरी के बारे में पूछा है, कृपया आप इनका जवाब दें। यही मैं कहना चाहता हूं। धन्यवाद।

**SHRI PRASANTA CHATTERJEE (West Bengal):** The Bill is to give effect to the International Maritime Organisation Convention for Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf and for matters connected therewith. The present Bill has two objectives:

- (a) Suppression of unlawful acts against the safety of maritime navigation in relation to ships of any type not permanently attached to seabed and
- (b) Suppression of unlawful acts against fixed platforms.

In the Bombay High, there are a number of fixed platforms for oil exploitation which can be termed as nothing but man-made islands. The Bill appears to be necessary to combat the various types of crimes which are nowadays happening in the Indian water specially in the Bay of Bengal. Though it is necessary to frame a law and to give effect to the International Conference of the International Maritime Organisation towards safety of maritime navigation, etc., at the same time, the discussions and cooperations are also required with the neighbouring countries like Thailand, Singapore, Phillipines, Bangladesh, etc. The Coast Guard is to play a more vigilant role. The Bill provides power of investigation (normally exercisable by a Police Officer) to a Gazetted Officer of the Coast Guard or any officers of the Central Government. As per the Bill, the State Government is to specify with the concurrence of the Chief Justice of the High Court, a Court of Session to be the designated court to try offences as per the CRPC etc. The Bill also contains provisions in regard to the type of punishment for different types of offences. The Bill also safeguards innocent actions. The Bill covers two aspects

- (i) offences committed under the maritime jurisdiction of India; and
- (ii) offences committed on the fixed platform and on-board the ship flying the Indian flag at the time of offence, even outside the Indian maritime jurisdiction.

In the Bill, Continental Shelf of India was meant for a general terminology of the oceanic domain combining geomorphology as well as judicial nomenclature. This is slightly confusing. Moreover, in the context, as per Article 76 of the Third United Nations Convention on the Law of the Seas (UNCLOS-III United Nations 1997), India is having a scope to have rights over the natural resources of the seabed and sub-seabed beyond the customary 200 nm limit of EEZ. This zone is called as the outer limit of the Continental Shelf (this is judicial continental shelf, not to be confused with the physiographic continental shelf). This may go up to 350 nm from the coast. I would like to know whether the present Bill also encompasses this oceanic regime likely to be added with our present offshore area for exploration and exploitation of mineral resources of the seabed. This is a very important component to be kept in mind while enacting the law.

**Territorial Water:** Coastal States enjoyed full sovereignty over the territorial sea (including the seabed below and the airspace above it), subject to a right of innocent passage on the part of foreign ships. There was, however, no unanimity as to the breadth of the territorial sea, with the consequence that the coastal States determined its breadth unilaterally. Most coastal States limited their claims to a breadth of 12 nautical miles.

**Exclusive Economic Zone (EEZ):** The EEZ is defined as an area beyond the territorial sea, extending for a maximum of 200 nautical miles from the baseline from which the breadth of the territorial sea is measured (Articles 55 and 57). In terms of Article 56 of the Convention, a coastal State enjoys,- within the EEZ, (a) Sovereign rights for the purpose of exploring and exploiting, conserving and managing all natural resources of the seabed and its subsoil and of the waters superjacent thereto, as well as with regard to other activities aimed at the economic exploitation and exploration of the zone, (b) Jurisdiction, as provided in the Convention, with regard to the establishment and use of artificial islands, marine scientific research and protection of the marine environment, (c) Such other rights and duties as provided for in the Convention.

It is important to note that by contrast with the territorial sea, the EEZ is not subject to the full sovereignty of the coastal State: a coastal State enjoys only sovereign rights and not sovereignty.

With these observations, I support this Bill.

SHRI SHANKAR ROY CHOWDHURY (West Bengal): Sir, to begin with, I welcome the Bill which is a long overdue one. I have certain comments to make because India, as such, faces certain peculiar problems, I do not know if they are covered by the provisions of the Act and whether it also includes how to go about various offences and how to include these? Now, Chapter II, which lays down the offences is fairly comprehensive. It caters to piracy, terrorism, sabotage, suicide bombers, demolitions as well as obstruction of off-shore platforms. Specifically, do these provisions also relate to attempts to destroy off-shore pipelines passing through Indian waters? I am not very clear on this. If it is clarified, it will be for the good.

Secondly, I do feel that amongst the list of offences, the perennial problem faced by India of gun-running should be included so that under offences using ships, this type of offences is also included. Perhaps a clause should be there which would state: "Whoever unlawfully or unintentionally, in addition to all the other offences placed here conveys weapons, explosives or other war-like stores intended to carry out acts of terrorism, war or sabotage against the Indian territory or against Indian interests or against that of any conventional or protocol States..." These are specific cases because as far as India is concerned, the territorial waters of neighbouring countries are being used to land weapons, explosives, other war-like stores, which are then smuggled into India and utilised for terrorism. Similarly, Indian waters are being used for passage of ships carrying such war-like equipments, explosives and stores to be used by terrorist organisations in neighbouring countries. The Minister might like to consider whether such offences could also be placed in the category of maritime offences under Chapter II. My third comment is regarding trial of maritime offences. I think, these offences are as yet in a totally new environment in which our legal system is, perhaps, not oriented. Increasing number of countries are now setting up Maritime Boards in their coastline States. I know that West Bengal is, certainly, trying to set up a Maritime Board. I do not think it has been established yet. But would the Central Government like to consult and advise the maritime States of India regarding the constitution of Maritime Security Boards, the Maritime Safety Boards,

which will look after specifically the security of the Indian coastline just as many other countries? I am not naming them. They have got such Boards tohich are oriented towards detection as well as trial of offences which take place in their maritime limits up to the extended economic zone.

With these words, Sir, I welcome this Bill and I support it. And I also compliment the Minister for bringing forward this Bill.

<sup>f</sup>SHRI R. KAMARAJ (Tamil Nadu): Mr. Vice - Chairman, Sir, I rise to speak on the Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Bill, 2002 on behalf of AIADMK. This Bill has been brought in pursuance of the International Conference of the International Maritime Organisation held in 1988.

The purpose of this Bill, in general, is to protect the life and property in the sea. In the prevailing situation it is essential to deal with terrorism across the sea border. This Bill also seeks to protect the structures built upon our continental shelf for the exploration of oil. It also safeguards our interest in exploiting the sea resources for the economic development of our country. However, it is possible only if all the member nations enact domestic laws to this effect. I would like to know from the Hon'ble Minister as to how many countries have so far enacted law to this effect. As we are discussing our sea limits, I wish to seek some clarifications from the Hon'ble Minister.

Sir, according to a survey conducted in 1978 by a United Nations Agency, India in due to get over 1 million square kilometres of Continental Shelf, and getting that would mean that our sea limits would extend to over 2000 kms from the shore. That will benefit our nation by yielding enormous sea wealth. The Hon'ble Minister should not say that it pertains to department of Ocean Development. I say so because this Bill will apply to the Continental Shelf that is likely to be acquired. There is a stipulation that by the year 2005, we have to submit our claims on the extension of sea limits to the UN Convention on the Law of the Sea. I hope the Government will take care of this.

Mr. Vice-Chairman, Sir, India has 7516.5 kms long coast. Our coastal borders are vulnerable to terrorists and out side forces. That is why our leader, the Hon'ble Chief Minister of Tamil Nadu, Puratchi Thalaivi Amma took a series of steps to protect the Tamil Nadu Coast from 1991 to 1996.

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\*English translation of the original speech delivered in Tamil.



Even now our Amma is taking various stern measures against terrorism. Sir, when we speak of our sea borders. I must make a mention of the Indo-Sri Lankan Agreement of 1974. It was on 28<sup>th</sup> June 1974 that our Kachathevu Island was given to Sri Lanka under that Agreement. But that Agreement has turned out to be disastrous for the Tamil Nadu fisherman.

We say that our sea limit will be extended to 2000 kms by the year 2005. But we are not able to protect the lives and properties of our fishermen who go for fishing to a place just 12 kms from the shore. The Sri Lankan Navy has been killing them. So far more than 200 fishermen have been killed. Under the 1974 Agreement, our fishermen enjoy the rights of fishing near Kachathevu, drying up fishing nets and taking rest in the Island. Their traditional rights have been protected by the Agreement. But the Tamil Nadu fishermen cannot even go near the Island for the fear of being killed. This is the situation today. Just before a month, some 48 fishermen were arrested and had been taken into custody. Their boats and nets have also been seized.

Mr. Vice-Chairman, Sir, The Hon'ble Chief Minister of Tamil Nadu, our leader Amma has appealed to the Centre umpteen number of times to protect the life of our fishermen. It is only to protect the life and property of our fishermen that our leader has been demanding, to take back Kachathevu Island. I have a clarification to seek from the Hon'ble Minister. Section 3(3) of this Bill takes cognizance of unlawful activities such as the threat to endanger safe navigation etc. So, I would like to know from the Hon'ble Minister, whether this law will protect our fishermen who go for fishing lawfully and lend them a helping hand. If a foreign Government itself unleashes terror on the sea and kill the citizens of a neighbouring country, it is a crime or not! I request the Hon'ble Minister to make the position clear.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): The Bill is meant for the suppression of illegal acts by anti-social elements at sea, as well as on fixed platforms. I am sure, the entire House will support this Bill, because we are all against terrorism of any form, committed by anybody. That is why it is a non-controversial Bill. At the same time, I want to enlighten myself and seek certain clarifications from the hon. Minister. In Chapter III, clause 13, it is mentioned at the end, "the designated court shall presume, unless the contrary is proved, that the accused had committed such offence" This means that the burden of proof now is on the accused. It is like what we had in the TADA, MISA, or the POTA now. The accused has to prove that he has not committed the offence. Then, it says, "...unless

the contrary is proved". By whom? It is to be proved by the accused. Suppose, a person comes from foreign country and he is arrested. What legal remedy has he got is not mentioned here. Also, it is not obligatory on the person who made that accusation to prove that the accused committed such an offence. The burden of proof is on the shoulder of the accused, not on the prosecutor. I want to know whether the burden of proof is on the prosecutor or on the accused. That is what I want to know.

. Another thing is if terrorist acts are being carried out by individuals and organisations, it can be taken care of by law. But, if it is being committed by a nation, like our country has been facing, what happens then? For example, we have been facing cross-border terrorism from our neighbour since 1983. Everytime we bring the issue of terrorism to the notice of this House, we get the assurance from the Treasury Benches, whoever may be in power, that the Government will see to it that it is not repeated. Now, what is terrorism? Sir, you have given the definition of 'ship', and, among other things, you have mentioned the word "any other floating craft", which means, fishing boats also come under this definition. I want to know from the hon. Minister whether terrorism committed by the neighbouring country is covered by this Bill. Our neighbouring country is indulging in terrorism- Every fortnight or every month, they are catching our fishermen. Sometimes they capture the vessels, sometimes they shoot at them point blank. More than 200 people have died in these incidents. When Mr. MISA Ganesan was a Member of this House, he had given the complete list of persons who had been killed by the Sri Lankan Army. Further, cutting across party lines, several parties have advocated for this issue. If a nation commits terrorism, is this Bill going to catch those people? If it is not going to catch those people, then what is the purpose of this Bill? If an individual indulges in terrorism, the law will take its own course, and the individual will be punished. But, when a country indulges in terrorism, how are we going to save the Indian fishermen?

Sir, this has happened particularly after the agreements for the Katchathevu. There are two agreements for the Katchathevu. The Second Agreement was made at the Secretary-level. The First Agreement was made on the principle of Government-to-Government. Whatever rights were given through the First Agreement was nullified by the Second Agreement which was made between the two Secretaries belonging to India and Sri Lanka. Therefore, whatever Bill you bring here to suppress terrorism, we, from Tamil Nadu, want to see to it that terrorism committed by a nation is treated as terrorism. Our people are perpetually being tortured by the

neighbouring country's Army. Therefore, I want to know from the hon. Minister whether this Bill will cover the terrorism committed by the neighbouring nation. If it is not so, we feel that it is not a comprehensive Bill. We, therefore, request you to bring forward another amendment to see to it that terrorism committed by other nations is also brought under this convention. With these words, I conclude my speech.

SHRI VED PRAKASH GOYAL: Sir, I will not take much time. If you like, I can reply tomorrow. ...*(Interruptions)*... Just a few points are there. I will answer them.... *(Interruptions)*...

THE VICE-CHAIRMAN (SHRI RAJU PARMAR): Are you going to give a comprehensive reply?... *(Interruptions)*...

SHRI VED PRAKASH GOYAL: I will answer them.

श्री मूल चन्द मीणा (राजस्थान): आज के दिन ही पूरा हो जाए। सभी सपोर्ट करते हैं।

SHRI VED PRAKASH GOYAL: If it is not finished in ten minutes, then it will spill over tomorrow. ...*(Interruptions)*....

THE VICE-CHAIRMAN (SHRI RAJU PARMAR): So, you want to reply tomorrow. ...*(Interruptions)*...

AN HON. MEMBER: Tomorrow.

THE VICE-CHAIRMAN (SHRI RAJU PARMAR): Okay, Goyalji. The discussion on this Bill remains inconclusive. The House now stands adjourned till 11.00 a.m. tomorrow, Thursday, the 21<sup>st</sup> November, 2002.

The House then adjourned at fifty-three minutes past four of the clock till eleven of the clock on Thursday, the 21<sup>st</sup> November, 2002.