

Seventeenth Lok Sabha

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Title: Discussion on the motion for consideration of the Repealing and Amending Bill, 2019 (Bill Passed).

माननीय अध्यक्ष : आइटम नम्बर 4, निरसन और संशोधन विधेयक, 2019. माननीय मंत्री जी ।

विधि और न्याय मंत्री; संचार मंत्री तथा इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी मंत्री (श्री रवि शंकर प्रसाद): मैं प्रस्ताव करता हूँ:

“कि कतिपय अधिनियमितियों का निरसन और कतिपय अन्य अधिनियमितियों का संशोधन करने वाले विधेयक पर विचार किया जाए ।”

सर, मैं बहुत संक्षिप्त में, यह जो रिपीलिंग बिल है, इसके माध्यम से हम 58 कानूनों को रिपील कर रहे हैं । पूर्व में मोदी जी की सरकार आने के बाद अब तक हम 1428 पुराने कानूनों को रिपील कर चुके हैं । आज 58 कर रहे हैं, 229 राज्य के कानूनों का भी रिकमंडेशन किया है, 75 हो चुके हैं । वर्ष 1950 से 2004 के बीच में लम्बे अर्से में केवल 1929 पुराने कानून रिपील किए गए, जबकि हमने पिछले साढ़े 5 वर्षों में अब तक 1428 कर दिए हैं, 58 आज कर रहे हैं । ये सभी कानून अधिकांश अंग्रेजों के समय के हैं । कुछ अमेंडिंग बिल बाकी हैं ।

मैं इस सदन से विनम्रता से आग्रह करूँगा कि बिना ज्यादा बहस के, यह एक बहुत ही ऐतिहासिक काम है, सर्वानुमति से इसे पारित किया जाए ।

माननीय अध्यक्ष : प्रस्ताव प्रस्तुत हुआ :

“कि कतिपय अधिनियमितियों का निरसन और कतिपय अन्य अधिनियमितियों का संशोधन करने वाले विधेयक पर विचार किया जाए ।”

अगर सदन की सहमति हो तो इस विधेयक को पारित किया जाए ।

अनेक माननीय सदस्य : हाँ ।

माननीय अध्यक्ष : शशि थरूर जी, इसे पारित किया जाए ।

डॉ. शशि थरूर (तिरुवनन्तपुरम): महोदय, मैं इस पर बोलूँ?

माननीय अध्यक्ष : बोलकर क्या करेंगे? विधेयक को पारित करते हैं ।

डॉ. शशि थरूर : नहीं-नहीं ।...(व्यवधान)

माननीय अध्यक्ष : यह सभा की सहमति है ।

...(व्यवधान)

डॉ. शशि थरूर: महोदय, मैं बोल लेता हूँ ।

माननीय अध्यक्ष : आप दो मिनट बोल लीजिए ।

डॉ. शशि थरूर : महोदय, दो मिनट में कुछ बोला नहीं जाएगा ।

माननीय अध्यक्ष : चलिए, पाँच मिनट बोल लीजिए ।

डॉ. शशि थरूर : सर, दस मिनट का समय दे दीजिए ।

माननीय अध्यक्ष : आप पाँच मिनट बोलिएगा ।

...(व्यवधान)

DR. SHASHI THAROOR : Sir, the point is, you had allotted an hour for discussion on this Bill. We can take it up tomorrow; we can speak more peacefully. We do not have to do it now. Members are waiting for the 'Zero Hour'. It is my humble request. Our leaders also made the

same request; many Parties have made the request; let us defer this Bill to tomorrow. Give us one hour for discussion. ...(*Interruptions*)

माननीय अध्यक्ष : आप बोलिए ।

...(व्यवधान)

माननीय अध्यक्ष : आप अभी संक्षिप्त में बोल लीजिए ।

डॉ. शशि थरूर : सर, मुझे दस मिनट बोलना है । इस पर एक घंटे की चर्चा होनी थी ।...(व्यवधान)

माननीय अध्यक्ष : आप बोलिए । सुरेश जी बैठ जाइए ।

...(व्यवधान)

माननीय अध्यक्ष : आप दस मिनट बोलिए । क्या अन्य माननीय सदस्यों की इस पर सहमति है कि शशि थरूर जी के बोलने के बाद इसे पास करा देंगे?

अनेक माननीय सदस्य : हाँ ।

माननीय अध्यक्ष : शशि थरूर जी, आप बोलिए ।

...(व्यवधान)

DR. SHASHI THAROOR : Sir, we agree, in principle, with the aims and objectives of the Bill. In fact, we feel, if anything that it does not go far enough. The fact is that the effort by the Government is laudable. It is very good for us to have something to agree with that the Government has put forward in the House. But, at the same time, the fact remains that there is some real missed potential here. The Australian Government has an annual repeal day and they actually repeal many more Bills every year. They have saved a billion dollars in red-tape every year. We have not been able to achieve that with these Bills necessarily. May be, we should seriously consider doing that.

The fact is this. I had initially risen to oppose the introduction of the Bill because it did not give the Members two days' notice as required by the law and as required by our Rules, to consider the Bill.

It could also have benefited from Parliamentary Committee scrutiny which sadly has been absent for all the Bills that have been rushed through this House by the Government. It could have gained from even wider public consultations. But the fact is this. It is striking that more than almost half the Bills that they are trying to repeal now are the Bills that they have passed after 2014 in the previous Government. These are the Acts which prove that sometimes this Government has a habit of passing a legislation in haste and then having to repeal it a couple of years later. That is a very serious concern.

The Statement of Objects and Reasons says the Bill is a periodical measure to do away with obsolete laws. But it ignores some of the most archaic laws in India as a result of which various inequities still persist. It is easier to do away with obviously irrelevant laws such as the Public Accountants' Defaults Act, 1850. Those are laws which actually are about situations that no longer exist. But what about when laws are still applicable but embody outdated notions such as those related, for example, to social customs or attitudes towards women which society has outgrown or political attitudes reflective of the British era. These are the things which unfortunately this Bill has chosen not to deal with.

Take, for example, the Indian Penal Code. President Pranab Mukherjee on the 155th Anniversary of the Indian Penal Code said that the Penal Code reflects completely the British interest, the colonial interest. Our criminal law was enacted to meet their colonial needs and it should be revised our President said to reflect our contemporary

social consciousness so that it can be a faithful mirror of our contemporary civilization.

The Code was drafted by Lord Macaulay. He wrote it in 1835. It was enacted a generation later in 1860. We are still saddled with it today. It is full of obsolete and archaic ideas and attitudes, patriarchal towards women and contemptuous towards marginalised sections of our society. This should not be allowed to continue. If you look, for example, to Exception 2 to Section 375 of the IPC, it still gives legal sanction to marital rape. The point is that it removes the exemption now for those who are under 15, it is already illegal to marry a girl under 15. So, the point is to have a law that takes for granted the consent of a woman is simply no longer acceptable in the 21st century. We still have the laws about conjugal rights on our books which are extremely archaic. The Justice Verma Committee Report on Amendments to Criminal Law had recommended that India should take into account the view of the UN Committee on the Elimination and Discrimination against Women which has requested India and other countries to widen the definition of rape to reflect the realities of sexual abuse experienced by women and to remove the exception of marital rape. The Verma Committee recommended that; it has not come in. The fact is that we are in a position now that there are two problems with the whole argument that this actually protects marriages. Rape does not only happen in loving marriages. It happens principally when separated husbands, estranged husbands come back and rape the women and take shelter with impunity under this kind of law. The Government has to understand that marital rape is not about sex. It is about violence. It is about force - forcing an unwilling woman. It should have been removed.

Similarly, we know that the Section 124A of the Indian Penal Code was written by the British to stop Indian nationalism. The whole sedition law, I have got detail after detail about this. I know that you do not have time today but the fact is that it was written in order to suppress Indian nationalism and when they tightened it further in 1898, the British Lieutenant Governor of Bengal admitted:-

“It is clear that the Sedition Law which is adequate for the people ruled by the Government of its own nationality and faith may be inadequate or in some respects unsuited for a country under foreign rule.”

So, it was explicitly toughened in India because we were their subjects and today, we are not changing this law which was used against Mahatma Gandhi, against Lokmanya Tilak, against Jawaharlal Nehru, against Bhagat Singh and instead we are keeping this law and using it against JNU students and against Human Rights Organisations like Amnesty. So, this kind of things should be repealed. It has to be dealt with but unfortunately, our Government has not been doing that. And the irony is that the Supreme Court has already re-read the definition of ‘Sedition’. But in fact, arrests are still continuing.

Last year, according to the National Crime Records Bureau, over 200 arrests have been made on the sedition charges in the last five years. That is far too many. Two hundred are too many. It needs to be repealed.

Section 295A of the Indian Penal Code has the similar story. It is anti-blasphemy law. Fundamental Right of Freedom of Speech and Expression is being violated by preserving a law which essentially denies people the freedom to criticise on the basis of religion. So, for example, we have seen that Christian Priests singing Christmas carols in Madhya Pradesh were arrested under the blasphemy law for allegedly

hurting Hindu sentiments. There is a subjective element to the law that has been misused. We should not have this in our democracy.

I do want to add very briefly that the Government talks about 'Ease of Doing Business'. What have they done about some of the ridiculous requirements of the Indian Factories Act, 1948? For example, a journalist has pointed out that every factory or establishment in India has to maintain a lime register. Why? It is because in the old days, you had to white-wash your walls with lime. Now, obviously, no one does that any more. But even if today, your walls are made up of tile or wood or paint, an inspector can come, under the Factories Act, and say where is your lime register. If you cannot show lime register, you can actually be fined or at least give some *chai pani* money so that he would not prosecute you. Why cannot we get rid of such laws? Then, 'Ease of Doing Business' will be very much better. I have also given the example of the Cinematograph Act which obviously has been a severe constraint on artistic freedom in our country. I have much more detailed arguments but the fact is that the right to cut, to mute words, to ban words and even ban the entire films has created a genuine problems to our film makers in the country and that Act too needs to be repealed and revised. The Government's own Shyam Benegal Committee recommended it but they have taken no action.

The Sarais Act has also to be repealed. All the hotels in India still have to do bizarre things because this Act of 1867 has not been repealed. You have to repeal it Ravi Shankar Ji. Honestly, we are now in a position where a lot of laws exist. I am just giving examples because this is a good initiative the Government has taken but they have to follow it through logically. I have left half of my speech. I am just giving you the main points.

In conclusion, the fact is that more repeal and more amendments are required but the real question still remains. What is the Government doing after repealing these laws to educate the police, to educate the lower judiciary and communicate the information about repeal. Similarly, with the Supreme Court Judgements, the meanings of many laws have been changed. But the police do not know. They still arrest the people on the basis of their own understanding of sedition. Since 1962 in *Kedarnath Singh Vs. the State of Bihar*, the Supreme Court has said, it should only apply where it involves incitement to acts of violence or incitement to actions which actually are punishable by life imprisonment or death.

19.00 hrs

Now, when somebody is just protesting the actions of the Government, sedition does not apply. But no one has bothered to explain that to the policemen and to the lower judiciary. So, my challenge to you is, not only should you bring this law which we are going to support, but you should have more laws repealed. Do an exercise every year to repeal these laws. But equally, you make sure that this is followed by a systematic directive to all police stations. The Home Minister is sitting here. We should educate the police and convey the instructions throughout the country so that how the laws are meant to be still upheld and which laws are no longer valid can be communicated effectively.

With these words, I just want to point out that the Minister has done a great job in bringing this, but there is much more that could have been done. I do want to repeat that Bills that have been passed as recently as 2017, are being repealed, which suggests that, in fact, we should not actually have passed them in the first place. Thank you.

SHRI RAVI SHANKAR PRASAD: I am grateful that you have supported the Bill. You need to understand that in this Bill there are many Acts, including amending Acts. As I have said, till date we have already repealed 1428 old Acts.

Regarding the Penal Code, you may see in the wake of Nirbhaya, lots of changes are made. Our Government made it a capital punishment in the event of rape of a girl child below 12 years. That is an on-going process. You mentioned a lot about sedition. मैं बड़ी अदब से बोलूंगा कि उसमें हमारे और आपके बीच में अंतर है । ... (व्यवधान) ‘भारत तेरे टुकड़े होंगे, इंशा अल्लाह-इंशा अल्लाह ।’ ... (व्यवधान) ऐसे लोगों को हम देशद्रोह मानते हैं और कार्रवाई होगी । उस विषय पर हम लोग बाद में चर्चा करेंगे ।

डॉ. शशि थरूर : उस विषय को हम लोग भी कभी सपोर्ट नहीं करते हैं ।

संसदीय कार्य मंत्री, कोयला मंत्री तथा खान मंत्री (श्री प्रहलाद जोशी): लेकिन आपके नेता उधर बोलते थे । ... (व्यवधान)

श्री रवि शंकर प्रसाद: इस देश को तोड़ने वालों के खिलाफ सख्त कार्रवाई होगी और हम इसमें हिचकेंगे नहीं । इन्हीं शब्दों के साथ मैंने उत्तर दे दिया है । मैं उम्मीद करूंगा और आपसे आग्रह करूंगा कि इस बिल को पास किया जाए । यही मेरी विनती होगी ।

माननीय अध्यक्ष: प्रश्न यह है:

“कि कतिपय अधिनियमितियों का निरसन और कतिपय अन्य अधिनियमितियों का संशोधन करने वाले विधेयक पर विचार किया जाए ।”

प्रस्ताव स्वीकृत हुआ ।

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माननीय अध्यक्ष: अब सभा विधेयक पर खण्डवार विचार करेगी ।

प्रश्न यह है:

“कि खण्ड 2 से 4 विधेयक का अंग बने ।”

प्रस्ताव स्वीकृत हुआ ।

खण्ड 2 से 4 विधेयक में जोड़ दिए गए ।

पहली अनुसूची को विधेयक में जोड़ दिया गया ।

दूसरी अनुसूची को विधेयक में जोड़ दिया गया ।

खण्ड 1, अधिनियमन सूत्र और विधेयक का पूरा नाम विधेयक में जोड़ दिए गए ।

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श्री रवि शंकर प्रसाद: महोदय, मैं प्रस्ताव करता हूं:

“कि विधेयक पारित किया जाए ।”

माननीय अध्यक्ष: प्रश्न यह है:

“कि विधेयक को पारित किया जाए ।”

प्रस्ताव स्वीकृत हुआ ।