

15.36 hrs.

Title: Further discussion on the Juvenile Justice on the (Care and Protection of children) Bill, 2000 moved by Shrimati Maneka Gandhi on 15.12.2000 (Bill passed).

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Chairman Sir, last Friday, I had referred to some of the forms of child abuse and the situations that render children disabled, orphaned, homeless, traumatised, defenceless and shattered.

This legislation takes cognisance of and provides for some of those situations but is completely silent on the punishment for crime against child. This is a serious infirmity which should have attracted the attention of the Government when it set out to revamp the law on the subject in the light of the covenants of the Convention on the Right of the Child.

Sir, one shudders at the very thought of it, but there are cases where a child is sexually abused by a father, a father with animal instincts. Then there are cases and I think, the scope of a legislation like this should be enlarged to cover those cases of infanticide and of foeticide. Nothing do we hear about that from the Government side.

Coming to the running of the special homes, the children homes, etc. under this legislation, while I appreciate the spirit of according recognition, though belatedly to the Panchayats and the Municipalities under this legislation as instrument and catalyst of social welfare and social defence, also I do support the need to put greater trust in these bodies and to encourage them to work as vibrant tools of grass root democracy. At the same time, I do feel that the inclusion of the representatives of these bodies in these committees to inspect children homes and in the advisory board is a welcome step. They should also be associated with the Social Auditing stipulated under this legislation. But I do, however, feel that the conferring on them of the power to discharge and transfer inmates from one place to another could cause problem, particularly in the case of such transfers from one State to another. These functions, I feel, could be better performed by the Juvenile Justice Boards or the Children Welfare Committees which are the competent authorities under this legislation.

Sir, voluntary organisations have also been assigned a vital role in many important matters and it is desirable to do so but it may be very difficult for them to run special homes and manage the affairs of say, 17 year and 18 year olds, who have been found to be involved in commission of serious offences. Such functions, I would suggest, could be better performed by the State through well trained, public spirited, sensitised child friendly officials who would otherwise symbolise authority. For all other matters including running of children homes and after-care centres, inspection and also social audit, etc., the association of voluntary organisations of repute will, I hope, serve a salutary purpose and I do support that measure.

As I said briefly that day, I feel this Bill has been drafted in a hurry without visualising the legal implications of many provisions. For instance, clause 33 read with clause 32 leaves some scope for confusion and duplication of an inquiry and making of a report thereafter. Sir, having placed the police at par with the various other individuals regarding the entitlement or eligibility to produce a child before a Welfare Committee, I think there was no reason to provide for making of a report to the police by anyone who wishes to produce the child before a Committee much less for the police to hold an inquiry therein before the production of the child before the Committee. Such inquiry initially has to be before the presentation of the child before the committee. I suppose it is only to the Committee that you should have to report and thereafter it is for the Committee to authorise any Social Worker or any institution to go in or hold an inquiry into the matter before finally taking a decision on that matter. Sir, for this, I have suggested one amendment, No.27 to clause 33 of the Bill.

Then, under clause 32(i) (iv), a Social Worker or a public-spirited citizen has to first seek authorisation by the State government before producing a child before a Committee. I could not understand the rationale behind this. This would unnecessarily delay the matter, particularly, in those cases where time is of critical importance. All that this Bill should have provided for is that a person who wishes to produce the child before a Committee should have to seek only the authorisation or the permission of the Committee concerned and not beyond that. I did wish that these amendments would be taken note of by the Government but I am sorry that despite the fact that I had given a notice of amendment quite a few days back, perhaps, those have not been considered necessary by the Government.

Sir, adoption of abandoned or orphaned children is a responsibility of the society more than that of the State because it is in families and not in institutions that the development of an infant can be adequately achieved. Happily, today families are coming forward to even adopt girl children. This has to be encouraged by the Government, the media, the NGOs and other organisations. But at the same time, steps have got to be taken to check and punish for rackets involving adoption of innocent children who are ultimately targetted for inhuman and sadistic pastimes like camel races with frightened and crying children tied on their backs as it was reported sometime back.

I find another thing missing in this Bill. It is good that the composition and the nature of the Welfare Committees has been changed. They have been made more humanistic than bureaucratic or court-like. But there is no provision of payment of honorarium, etc., to the Members of these Committees and Boards. I think that has to be provided for.

I do appreciate the anxiety of the hon. Minister to bring and seek the passing of this Bill without delay. But, given only a little more time for drafting or by referring it to the Standing Committee that could have been done earlier, I am not advocating now, but had that course been followed, certain shortcomings, lacunae and mistakes could have been avoided and we could have come out with a piece of legislation that would have always stood the scrutiny of court. That is, again I have submitted an amendment to that effect. For instance, the appointment of a Member of a Welfare Committee or a Juvenile Board is liable to termination under clauses 4 and 29 respectively if he fails to attend a minimum of three-fourths of the sittings in a year. The phraseology used there is, 'fails to attend less than three-fourth of the sittings in a year'. Sir, this term gives a contrary meaning to these provisions, gives a contrary meaning to the intention of the Government. I think there is need to illustrate this. The provision as it now stands in the Bill is "if he fails to attend less than three-fourth". 50 per cent or one half is less than three-fourths, but the intention is not to say that a Member would lose his membership, or his membership would be terminable if he fails to attend 50 per cent of the meetings. The stipulation is that he must at least attend 75 per cent of the meetings. And, therefore, the words that should have been used – should have been, I emphasise with all humility – are that if he fails to attend at least that three – fourths of the sittings.

The Government has to consider this aspect. If a matter ever is taken to a court, I think, it could lead to some problem. If a Member says, that he attended 50 per cent of the meetings in a year, that would meet the provision here – even if he fails to attend less than three fourths. He could say, "Well, the word is 'less than three-fourths; I have not failed to attend less than three-fourths". This would be his reply.

Sir, I think this could have been taken note of and instead of 'less than' it should have been 'at least' and that would have met the problem.

Along with this, there is another provision. When the Bill provides for the terminability of the membership on failure to attend three consecutive meetings, it is qualified by the words, 'for valid reasons'. That is all right. I think that provision or qualification should have also been added, in case of failure to attend at least 75 per cent of the meetings because there could be valid reasons for a person not to attend the meetings. There could have been a valid reason for a person to have been sent abroad, by none other than the Government itself and then if he fails to attend at least 75 per cent of the meetings, because there is no provision for him to explain the validity of his absence, he could lose the membership.

I hope the hon. Minister takes note of this submission of mine.

To conclude, while I commend this Bill I do want to add that these objectives cannot be achieved simply through legal measures. The community, the NGOs and the media need to be sensitised in these matters so that the issues relating to infants and children attract our closest attention. Public-spirited individuals and NGOs have to be encouraged to participate enthusiastically in this important national task so that the children in need of care are assured that there is somebody to care for them. Similarly, children in conflict with law have not only to be provided accommodation, maintenance and protection against moral danger or exploitation but also facilities for education and vocational training – and when I say 'vocational training', it should be according to their aptitude and option because, long back when I happened to visit one of these institutions, I found that a young boy was being made to work as barber, a work in which he had the least possible interest. So, vocational training should be according to the aptitude and option of the child and it should also equip him to get some sort of a diploma thereafter and given him some right or eligibility to apply for a job thereafter. Also, facilities should be provided for development of character and ability to ensure an all round growth and development of his personality. .

I conclude with a hope that the hon. Minister looks into some of the suggestions I have made today and the other day when we began this discussion and also, I want to urge the Government of India that it takes a holistic view of the

1550. entire matter concerning the children and considers the desirability of bringing all these matters under one Ministry. Because then, we could deal with the various problems relating to children, maybe in a better way and that approach could be more result-oriented. Thank you very much.

श्री गिरधारी लाल भार्गव (जयपुर) : माननीय सभापति जी, भारतर्वा प्रतिर्वा 14 नवम्बर को पंडित जवाहर लाल नेहरू की याद में बाल दिवस मनाता है और मुझे प्रसन्नता है कि आज जो बिल माननीय मंत्री जी द्वारा सदन में पेश किया गया है, वे भी उसी परिवार की पुत्रवधू हैं। उन्होंने बालकों के दर्द को समझा है। किशोर न्याय अधिनियम 1986 का बना हुआ है। दो प्रकार के बालक हैं - एक जिन्होंने विधि या कानून का उल्लंघन किया है और दूसरे वे हैं जिनकी देखरेख और संरक्षण के लिए उन जरूरतमंद बालकों पर अधिक ध्यान देना जरूरी है। इस तरह से दो प्रकार के बालक हैं। अब इनकी आयु 16 वां की गई है, पहले इनकी आयु 14 वां थी, इन बालकों की आयु दो वां और बढ़ाने के लिए मंत्री जी बधाई की पात्र हैं। कुछ प्रतिष्ठित और सक्षम स्वैच्छिक संगठन बनें जो जरूरतमंद बालकों को आश्रय दे सकें, ऐसे संगठन स्थापित किये जाएं और राज्य सरकार उन्हें मान्यता दे। उनका खर्चा चलाने के लिए आपने जो प्रावधान किया है कि वह राज्यों की संचित निधि में से पूरा

किया जायेगा, जो कि 50 प्रतिशत के बराबर होगी और केन्द्र सरकार भी उसे मदद करेगी। दोनों मिलकर बालकों के उत्थान का काम करेंगे। परंतु मेरा कहना यह है कि अभी भी बालकों के साथ अमानवीय व्यवहार किया जा रहा है। उनके साथ ठीक प्रकार का व्यवहार नहीं किया जा रहा है। चाहे वे अपराधी बालक हों या उपेक्षित बालक हों, यद्यपि उन दोनों बालकों को अलग-अलग रखने का प्रावधान है, लेकिन उसका भी पालन नहीं हो रहा है। अपराधी बालक और उपेक्षित बालक दोनों को एक ही जेल में और एक ही कक्ष में रखा जा रहा है। यह एक गम्भीर बात है।

सभापति महोदय, मेरा कहना है कि कोई अधिनियम नहीं है, पुलिस वालों को भी इसकी जानकारी नहीं है। बस बालक आ गया, उन्होंने उसे पकड़कर बैठा दिया, चाहे वह लड़का हो या लड़की हो, 16 वां का हो या 18 वां का हो। इसलिए मेरा कहने का मतलब यह है कि पूरे देश के लिए एक प्रावधान होना चाहिए, एक अधिनियम होना चाहिए। माननीय मंत्री जी ने उस दर्द को समझा है और एक कानून बनाने का उन्होंने प्रावधान किया है जिसके लिए मैं उन्हें धन्यवाद देना चाहता हूँ।

सभापति महोदय, प्रत्येक थाने में अधिनियम की प्रतिलिपि का होना भी बहुत जरूरी है। पुलिस वाला जो वर्दी पहन लेता है, उसके बाद उसके सामने चाहे छोटा आ जाए या बड़ा आ जाए, लड़का आ जाए या लड़की आ जाए, मैं समझता हूँ कि वह गाली देने और थपड़ लगाने के अलावा और कुछ नहीं करेगा। वहां बच्चों को कोई स्वादिष्ट भोजन मिल जाए, ऐसी कोई व्यवस्था नहीं है। समाज कल्याण के द्वारा चलने वाले जो संरक्षणग्रह हैं, उनमें भी चाहें वे अपराधी बच्चे हों या उपेक्षित बच्चे हो, उन्हें उनकी क्षमता से अधिक रखा जाता है। इसके अलावा मान्यवर दिल्ली में तिहाड़ जेल मशहूर है, उसमें भी उन अपराधी और उपेक्षित बालकों को चाहे वह लड़का हो या लड़की हो, एक साथ, एक ही बैरक में रखा जाता है। छः वां तक के बच्चों को एक साथ रखा जाता है।

सभापति महोदय, मेरी माननीय मंत्री जी से मांग है कि इसके लिए राष्ट्रीय स्तर पर एक आयोग बने और वह आयोग उच्चतम न्यायालय के अधीन हो। इसी प्रकार से राज्यों में भी आयोग बने और जिलों में भी आयोग बने। जो वहां के न्यायालयों के प्रति उत्तरदायी हो। यदि ऐसा कर दिया जाए तो मैं समझता हूँ कि देश में कुछ काम हो सकेगा। वरना यह बहुत मुश्किल काम है और इस मुश्किल काम को करने के लिए मैंने आपके सामने सुझाव रखा है कि एक राष्ट्रीय आयोग बने, जो उच्चतम न्यायालय के नीचे हो, राज्यों में आयोग बने जो हाईकोर्ट के नीचे हो और जिला न्यायालय के नीचे आयोग बने, तब कहीं यह काम ठीक से हो सकता है। आज भी लाखों बच्चे अनपढ़ हैं, वे कल-कारखानों में काम करते हैं, कहीं होटलों में चाय के प्याले धोते हैं, कहीं बुनाई का काम करते हैं। अधिकतर बच्चे छोटे-मोटे कार्यों में लगे हुए हैं और एक प्रकार से उन सबकी स्थिति दयनीय है। वे बच्चे भूखे सोते हैं, भूखे मरते हैं। यदि इन उपेक्षित बच्चों को गोद लेने की प्रथा हो जाए, कुछ एम.पी.साहेबान भी जिन्हें लड़का या लड़की गोद लेनी हो, यदि वे भी गोद ले लें तो मैं समझता हूँ कि निश्चित रूप से हम बहुत बड़ा योगदान कर सकेंगे। यह मेरी आपसे प्रार्थना है।

इसके बाद मेरा मानना है कि कई जगह डाक्टर्स ही नहीं हैं। डाक्टर्स आते हैं तो दिन में, रात में यदि बच्चों की तबीयत खराब हो जाए तो बच्चों की देखभाल करने वाले डाक्टर्स और कर्मचारियों का अभाव है। भारत सरकार ने एक योजना प्रारंभ की थी कि स्कूल के बच्चों को नाश्ता और भोजन दिया जाएगा। मेरा मंत्री जी से अनुरोध है कि भारत सरकार ने जो प्रयास किया था बच्चों को नाश्ता देने का, उस कार्यक्रम को पुनः चालू किया जाए और सही खाना बच्चों को नाश्ते में दिया जाए। इस संबंध में निश्चित रूप से आप विचार करें। मेरा निवेदन है कि एक आयोग बने और बाल मजदूरी प्रथा जो देश में लागू है, वह समाप्त हो। आंकड़ों के आधार पर भी यदि आज हम देखते हैं तो एक सर्वे के अनुसार बच्चों में बढ़ते अपराध का चेहरा स्पष्ट नज़र आता है। 1997 में 16 वां से कम आयु के बच्चों के बलात्कार के 4414 मामले दर्ज हुए, बाल हत्या के 107 मामले दर्ज हुए और भ्रूण-हत्या के 57 मामले दर्ज हुए। आठ बच्चों को हत्या के लिए बाध्य किया गया। इसलिए भारतवा में बच्चों की ठीक से देखरेख हो क्योंकि बच्चे ही भारत के भावी नागरिक हैं और वे ही भारत का भविष्य हैं। बच्चों की देखभाल ठीक होगी तो भारतवा के भावी नागरिक ठीक से उन्नति कर सकेंगे और प्रगति कर सकेंगे।

इसलिए मंत्री जी जो बिल लाई हैं, मैं उसका पुरजोर समर्थन करता हूँ और निश्चित रूप से, बालकों के हित के बारे में जो कमियां इस बिल में रह गई हैं, उनको मंत्री जी ठीक कर लें। मैं समझता हूँ कि जब माननीय मंत्री जी जानवरों के प्रति — कुत्ता, बिल्ली, गाय, बैल के प्रति — दयावान हैं तो बच्चों के प्रति उनके मन में जो ममत्व है, उसके लिए मैं आपको धन्यवाद देता हूँ और इस बिल का समर्थन करता हूँ।

श्री बालकृष्ण चौहान (घोसी) : माननीय अध्यक्ष महोदय, यह विधेयक किशोर न्याय विधेयक जो बालकों की देख-रेख के लिए प्रस्तुत है, जिस पर बोलने के लिए आपने समय दिया, मैं आपका आभारी हूँ।

किशोर न्याय विधेयक 1986 को निरसित करते हुए एक नये रूप में जो विधेयक लाया गया है, वह सरकार की इस मंशा को उजागर करता है कि बालकों के प्रति सरकार सोच रही है। लेकिन पूरी तरह मेरा यह मानना है कि यह सोच दिखावटी और बनावटी है। संविधान में मूलभूत अधिकारों के अलावा डायरेक्टिव प्रिंसिपल्स के तहत दिया गया है - 14 वां तक के बालकों के लिए अनिवार्य और मुफ्त शिक्षा। लेकिन उसको अब तक लागू न करने के कारण जो गरीब घर के लड़के हैं, जिनके मां-बाप बेरोज़गार हैं या जो अनाथ हैं, वे सड़कों पर घूमते हैं, कूड़ा बीनते हैं, छोटे-मोटे उद्योगों में -- बीड़ी उद्योग, माचिस उद्योग या पटाखा फैक्ट्रियों में काम करते हैं। उनका शोण होता है। फिकी के सभागार में माननीय प्रधान मंत्री जी ने जो वक्तव्य दिया कि हर वां 10000 नौकरियों को समाप्त किया जाएगा और आप ही की सरकार जो उत्तर प्रदेश में बैठी है, वह भी दस दिन पहले कह चुकी है कि 10000 नौकरियों को खत्म किया जाएगा। मैं सरकार से पूछना चाहता हूँ कि जिन अभिभावकों की नौकरी हट जाएगी - उसका प्रभाव किस पर पड़ेगा? उसका सीधा प्रभाव बालकों पर पड़ेगा। सरकार का यह कदम सरासर अनुचित है। यदि हम बच्चों का हित चाहते हैं, बालकों का हित चाहिए तो पहले उनके अभिभावकों को भी रोज़ी से जोड़ना होगा। इनका यह कहना कि वे प्राइवेट नौकरियों में अपनी रोज़ी रोटी तलाश करें, संविधान की मूल समाजवादी भावना के विपरीत है, उससे सरकार दूर हट रही है। समाजवादी भावनाओं के अंतर्गत जो भी इंफ्लाइज़ काम करते हैं, उसे वे अपना काम समझकर करते हैं जबकि प्राइवेट नौकरी करेंगे तो किसी मालिक के अंतर्गत मजदूर होकर नौकरी करेंगे - न उसको ग्रेच्युटि मिलेगी, न बोनस मिलेगा, न मैडिकल, न अर्न लीव, न कैंजुअल लीव और न पेन्शन मिलेगी। उसके बच्चे भूखें मरेंगे।

16.00 hrs.

सभापति महोदय, इस तरह से विधेयक लाकर के बच्चों के लिए केवल दिखावा और नाटक हो रहा है, लेकिन मैं इसका विरोध इसलिए नहीं करूंगा क्योंकि कुछ नहीं होने से कुछ होना तो अच्छा है। इसलिए मैं इसका विरोध न करते हुए माननीय मंत्री महोदय से निवेदन करूंगा कि इसमें और संशोधन होना चाहिए और इस हेतु यदि सरकार कुछ और समय लेना चाहे, तो वह और समय ले ले ताकि बच्चों के जो हित मारे जा रहे हैं, उनके साथ जो अन्याय हो रहा है उसे दूर किया जा सके।

सभापति महोदय, 18 साल से कम उम्र के बच्चों के लिए जो विधेयक लाया गया है, वह सरकार ने अच्छी प्रकार से सोच-विचार कर के पेश नहीं किया है। इसमें किशोर न्याय के दो हिस्से किए गए हैं अपराधी बालकों और वंचित तबकों के बालकों को अलग-अलग श्रेणियों में रखा गया है। जो वंचित तबकों के बालक हैं वे ही सुविधा विहीन बालक हैं। मैं कहना चाहूंगा कि वे सुविधा विहीन और वंचित क्यों हैं, इस बारे में सरकार विचार करें और ऐसे बालकों के लिए आप चिल्ड्रन होम बनवाएं और आवास के लिए समितियों को ले जाएंगे। उससे इनका कल्याण नहीं होगा। मेरा सुझाव यह है कि सबसे अच्छा तो यह होगा कि आप ऐसे बालकों के अभिभावकों को इंगेज करें और उनको आर्थिक मदद और बच्चों को अनिवार्य और मुक्त शिक्षा दे देते हैं, तो ऐसे बच्चे लावारिस होकर सड़कों पर नहीं घूमेंगे और ऐसा करने से सरकार पर भी ज्यादा बोझ नहीं पड़ेगा।

इन्हीं शब्दों के साथ, सभापति महोदय, मैं यह निवेदन भी करना चाहता हूँ कि इस विधेयक में और संशोधन लाते हुए बच्चों के अधिकारों का संरक्षण किया जाए और बच्चों का जो लैंगिक दुरुपयोग होता है, उसको बलात्कार की श्रेणी में लाया जाए। अभी स्थिति यह है कि लैंगिक दुरुपयोग को प्राकृतिक मैथुन करार देते हैं और उसे

बलात्कार की अवधारणा में नहीं लेते हैं जिससे उन बच्चों का लैंगिक और यौन शोण हो रहा है। दूसरे प्रकार का एक अत्याचार बच्चों पर यह भी हो रहा है कि उनका अपहरण कर के उनके गुर्दे और अन्य अंग-प्रत्यंग निकालकर उन्हें बेच दिया जाता है। बच्चों को भीख मांगने के लिए प्रेरित करते हैं और भीख मंगवाने के लिए उन्हें स्थाई रूप से विकलांग बना देते हैं। इसलिए मेरा मंत्री जी को सुझाव है कि बच्चों यानी किशोरों के ऊपर अत्याचार रोकने के लिए ठोस कानून बनने चाहिए ताकि उनका उद्धार हो सके। इन्हीं शब्दों के साथ मैं इस बिल का समर्थन करते हुए अपनी बात समाप्त करता हूँ।

SHRI ADHI SANKAR (CUDDALORE): Mr. Chairman, Sir, I rise to heartily support the Juvenile Justice (Care and Protection of Children) Bill, 2000 which has been brought before the House by the hon. Minister of State for Social Justice and Empowerment for consideration and passing. On behalf of my DMK Party, I heartily support this Bill.

At the outset, on behalf of the children of India, I would like to thank the hon. Minister Shrimati Maneka Gandhi.

I am very grateful to the hon. Minister because it is only due to her enthusiastic role that this Bill could possibly be passed today. It is a normal practice that Parliament passes several Bills, but there are certain Bills which become milestones for the Government. Such Bills, like this Bill which changes the life-style of the children, change the life-style of a particular section of the society.

It is a good Bill. While taking serious note of issues as to whether the children have been properly guided and protected, whether there is a friendly approach to the children, certain strong measures have been taken.

The provision relating to 'child in need of care and protection' has been well defined in almost all aspects both in the Statement of Objects and Reasons and also in Clause 2(d) of the Bill.

The penalties that we have proposed in this Bill are not a severe one. Clause 25 says:

"Whoever gives, or causes to be given, to any juvenile or the child any intoxicating liquor in a public place or any narcotic drug or psychotropic substance except upon the order of duly qualified medical practitioner or in case of sickness shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine."

In this regard, I would like to say that some severe punishment is necessary. A mere three-year simple imprisonment is not sufficient; it is a very lenient punishment.

Sir, I would like to appreciate the hon. Minister for clause 21 which has a provision for prohibition of name, address or school of juvenile involved in a proceeding. It is a welcome step that has been proposed by the hon. Minister.

Sir, then again inclusion of a clause like 34 is also a welcome step. It is regarding the children's home. It states that the State Governments may establish and maintain either by itself or in association with voluntary organisations one children's home in every district. It would be a good system for proper care of the children.

Sir, clause 35 clearly states:

"The inspection Committee of a State, district or a city shall consist of such number of representatives from the State Government, local authority, Committee, Voluntary Organisation and such other medical experts and social workers as may be prescribed."

It is a welcome step.

Sir, this Bill has been introduced to repeal the Juvenile Justice Act, 1986. This Bill pays much greater attention towards the child and the juvenile. The system of justice that is now applied to the adults is not suitable for the juvenile. It is also necessary to see that juvenile justice reaches the needy juveniles.

Sir, the other proposals as contained in the Bill are, uniform age of eighteen years for both boys and girls and speedy disposal of cases pending against the juveniles. It is heartening to note that there is a time limit for disposal of the cases and also there is a provision for creation of special juvenile police units. All these are welcome steps.

This Bill has been introduced for the purpose of achieving proper care and protection of the juvenile or child. On behalf of the DMK Party, I support this Bill.

***SMT. SANDHYA BAURI (VISHNUPUR):** Mr Chairman Sir, thank you for giving me an opportunity to speak on the Juvenile Justice (Care and Protection of Children) Bill, 2000. I also thank the Hon. Minister for Social Justice and Empowerment for bringing this important Bill. After supporting the Bill I would like to express some views regarding the condition of children in our country. As per clause 3 of article 15, E and F of article 39 and articles 45 and 47A of our Constitution some rights and protection have been provided to women and children. Both women and children should not be occupied in any job which is harmful for health and body. We have provisions in our Constitution for better opportunity fruitful programmes so that the children have holistic development and spend

their childhood and young age properly. Keeping this in view our Constitution provided certain rights and protection and felt the motto education for all should be fulfilled within 10 years after we got independence. But what is there in reality? A large number of children has been deprived of the fundamental right for primary education. But why these children have been denied to learn and write and remain educationally challenged. We must explore the reasons for the non-fulfilment of Constitutional rights even after 52 years of independence. When we achieved freedom our first Education Minister realised that the advancement and development of the country depends on education. Human resource is the most valuable resource in our country. We cannot prosper until and unless we utilise our human resource by providing proper education and training for their over all development. It was also felt that there should be equal budgetary allocation for defence and education. But what do we find in reality. There is just one percent budgetary allocation for education. When a demand is made to enhance the budgetary allocation for education to six percent it is enhanced only by three percent. As a result a large number of children do not get the opportunity to have _____*

Translation of the Speech Originally delivered in Bengali.

education. Moreover due to the economic system and condition prevailing in the country 40 percent of population in our country are below poverty line and as such are not in a position to afford education to their children. I must also mention that only two percent budgetary allocation is provided for health. As a result most of the under privileged children suffer from malnutrition. Since these children lack facilities in every aspect, whether food, education or entertainment or other facilities, they do not have normal development. The uncongenial atmosphere in the surroundings often drives these children to criminal activities. The children are epitome of God. A child is not a criminal when it is born. But lack of proper education, normal atmosphere, lack of proper food, clothing, the basic needs of life, make the child indulge in criminal activities. This happens because of our faulty economic and social system. These children of lesser God are also compelled to work in factories harmful for their health. When they just cannot continue in the hazardous job, they are driven towards criminal world for easy money. So they are not born criminals. They are the victims of their surroundings and this only compels them to become criminals. We must try to explore the reasons that compel these children to attract to criminal world. The economic factor is one of the main reasons for these children to become criminals.

After independence our country was progressing slowly. But since a decade after globalisation our market has been flooded with all foreign articles. As a result our people are becoming poorer day by day. They are losing their jobs and becoming unemployed. As a result these people have been struggling just to have the bare necessity for their survival and do not have the opportunity to provide education to their children. So we have to find out the real reason why these children are not getting education. There is an urgent need to provide education to these children. It is our primary responsibility to ensure that all the needs of the children are met and their basic human rights are fully protected. We have the Juvenile Justice to provide care and protection for the children enacted in 1986. We also have Juvenile homes in different parts of our country. Unfortunately though these homes are meant for providing care and protection these have been transformed into a business centre and as such fail to fulfil their duty to safeguard the interest of the child. Sometimes the children in the shelter home undergo mental and physical torture. I am mentioning this because we have come across many incidents of children being killed in the juvenile homes and sometimes they just run away from shelter home because they cannot bear the torture inflicted on them. I urge upon the Government to take appropriate action against the guilty. We also should have a drastic change in our social system. Until and unless we are able to alter the prevailing social system, we cannot achieve our aim of providing the basic Constitutional rights to our children. I also urge upon the Government to adapt appropriate measures to bring certain changes so that there is a perceptible decline in people below poverty line.

I once again thank the Hon. Minister for bringing such an important Bill and thank you Sir for giving me an opportunity to participate in the discussion.

श्री प्रमुनाथ सिंह (महाराजगंज, बिहार): सभापति महोदय, मेनका जी द्वारा जो बिल लाया गया है, मैं उसके समर्थन में बोलने के लिए खड़ा हुआ हूँ। मैं उनकी भावनाओं का समर्थन कर रहा हूँ। बच्चों के प्रति, किशोरों के प्रति उनके मन में एक भाव है, उनके मन में एक पीड़ा है।

सभापति महोदय, इस कानून को वृहत्त बनाना चाहिए। वृहत्त हम इसलिए कह रहे हैं कि अरुण जेटली जी भी बच्चों से सम्बन्धित कानून के विषय में एक-दो बातें कह गए हैं। इस तरह टुकड़ों-टुकड़ों में कानून बनाने से बहुत बड़ी राहत नहीं मिल पाएगी। इसलिए दोनों मंत्रालयों को एक जगह बैठकर समीक्षा करके किशोरों के सम्बन्ध में एक वृहत्त कानून बनाना चाहिए, ताकि उन्हें इसका लाभ मिल सके। वैसे मैं तो यह मानता हूँ कि कानून चाहे जितने भी बनें, जब तक इस देश में आर्थिक विमता और सामाजिक विमता बनी रहेगी, तब तक इस तरह की गड़बड़ी और अपराध की प्रवृत्ति बनी रहेगी। मैं आपको एक उदाहरण देना चाहता हूँ। एक फिल्म आपने देखी होगी रोटी, जिसमें राजेश खन्ना थे। किस तरह गरीबी की मार आदमी को मजबूर करती है गलत काम करने के लिए, उस फिल्म में इसका बहुत अच्छा चित्रण किया गया था। गरीबी की मार का ही कारण है कि आर्थिक दृष्टिकोण से जो टूटे हुए, कमजोर परिवार होते हैं, जाति के आधार पर नहीं होते, हालांकि पिछड़ी जाति में इनकी तादाद काफी होती है। जब बच्चों के खेलने और पढ़ने का समय होता है तो उस समय ये बच्चे मजदूरी करने को बाध्य होते हैं। उस मजदूरी का लाभ गलत ढंग से पैसे वाले लोग उठाते हैं।

मैं भी चाहता हूँ कि कानून बने। लेकिन इसके साथ ही इस बात की हमें चिन्ता करनी चाहिए कि समाज में ऐसे वर्ग के जो लोग हैं, जो आर्थिक रूप से कमजोर हैं, उनका उत्थान कैसे हो सके। आप कानून बनाते हैं कि 14 साल तक के बच्चे को शिक्षा मुफ्त देंगे। यदि बच्चा स्कूल जाने की स्थिति में होगा, तभी आप मुफ्त शिक्षा देंगे। उसको घर में एक समय का भोजन भी नहीं मिलता। वह मजदूरी करता है और उसकी कमाई से परिवार वाले भोजन करते हैं, तब वह कहां से शिक्षा लेगा। आज शिक्षा भी दो भागों में बंटी हुई है। पैसे वालों के बच्चे गांव के स्कूल में नहीं पढ़ते। सामाजिक और आर्थिक रूप से जो टूटे हुए लोग हैं, उनके ही बच्चे वहां जाते हैं। आप कानून तो बना रहे हैं, लेकिन बच्चों को जो परेशानी होती है, उस पर भी गौर करना चाहिए। कभी-कभी गांव में मुकदमें होते हैं, उसके बहुत से कारण होते हैं। सारे लोग ही अपराधी नहीं होते। गांव में आपसी तनाव या झगड़े से किसी परिवार को परेशान करने के लिए, बर्बाद करने के लिए लोग झूठे-सच्चे मुकदमें बना देते हैं। जो कानून व्यवस्था है, जिनके हाथ में प्रशासन चलाने की जिम्मेदारी है, जो कानून को सम्भालते हैं, उसे पुलिस कहते हैं। उसकी नैतिकता पर हमें भाण नहीं देना, क्योंकि उससे एक-एक व्यक्ति अवगत है। इस तरह उन जालिमों के हाथ में वे छोटे-छोटे बच्चे पड़ जाते हैं, जिन्होंने भले ही अनजाने में अपराध कर दिया हो या किसी ाडयंत्र से बच न सकें, तो उनका उत्पीड़न किया जाता है। जेल में जुवीनाइल बनी होती है। उसमें कम उम्र के बच्चों को रखने का प्रावधान है। लेकिन वहां क्या स्थिति है, नर्क की जिंदगी होती है। न बच्चों के लिए भोजन की व्यवस्था होती है, न उनके सोने का प्रबंध होता है। उनको तरह-तरह की कठिनाइयों और उत्पीड़न से गुजरना पड़ता है। इसलिए हम मेनका जी से कहना चाहेंगे आप सामाजिक संस्थाओं को साथ में लेकर चलने की बात करती हैं। मैं नहीं समझता कि ये संस्थाएं कितनी कारगर होंगी। इस देश में बहुत सी ऐसी संस्थाएं चल रही हैं और उनका क्या-क्या ह्रास हो रहा है, यह भी एक सोचने का विषय है। लेकिन अगर आपको विश्वास है कि सामाजिक संस्थाओं से आप उन बच्चों की देखभाल कर सकती हैं, तो जरूर करिए, उस पर हम कोई टिप्पणी नहीं करना चाहते।

बच्चों की गलती कभी-कभी क्षमा कर दी जाती है। उन्हें सिर्फ कानूनी रूप से नहीं देखा जाता है। देखा गया है कि जब रामायण में लक्ष्मण जी ने परशुराम जी जैसे लोगों को अपने वाक्य से मानसिक उत्पीड़न दिया था तो भगवान राम ने उस समय भी यही कहा था कि बच्चों की गलती समझकर क्षमा करिएगा। उस समय भी क्षमा करने का प्रावधान था और उन्हें क्षमा किया गया था लेकिन आज जो कानूनी प्रावधान हम बनाते हैं, यह मकड़जाल है। क्षमा के नाम पर, नये रास्ते पर ले जाने के नाम पर, उनका मार्ग-दर्शन करने के नाम पर उन्हें कानूनी जाल में फंसाकर, तिकड़म और झंझट में फंसाकर बच्चों की जिंदगी को बर्बाद किया जाता है।

दिल्ली जैसे शहर में इतनी कम उम्र के बच्चे बिहार और यूपी. के इलाके से आये हैं और अब यहां उद्योग-धंधे बंद हो रहे हैं, पता नहीं इसके बाद उन बच्चों का क्या होगा? दिल्ली जैसे शहर में 1000 रुपये या 1200 रुपये माहवार पर कोई बच्चा बर्तन मलने का काम करता था, कोई नाला साफ करने का काम करता था, कोई किसी के यहां रोजगार करता था। आप समझ सकते हैं कि दिल्ली जैसे शहर में 1000 रुपये या 1200 रुपये महीना कमाकर .ये बच्चे अपनी जीविका किस तरह से जी पाते होंगे, किस तरह से पैसा भेजकर अपने परिवार के लोगों को जिंदा रखते होंगे और आज वे उद्योग-धंधे भी बंद हो गये हैं। सुप्रीम कोर्ट को इसके लिए हम बधाई देते हैं कि उसने 8-10 लाख लोगों का रोजगार छीन लिया। इसके लिए हम सुप्रीम कोर्ट को बधाई देते हैं। प्रधान मंत्री जी के यहां इस बारे में चर्चा चल रही है। इन 8-10 लाख लोगों में कम से कम एक लाख लोग जरूर उस उम्र के होंगे जिस उम्र के लिए आज कानून पर हम चर्चा कर रहे हैं और जिनका रोजगार समाप्त होने जा रहा है।

मैं एक बिन्दु पर निवेदन करूंगा कि माननीय मंत्री जी और लॉ मिनिसटर जी एक साथ बैठकर इस कानून को बृहद बनावें और बृहद बनाकर किशोरों को ज्यादा से ज्यादा लाभ कैसे पहुंचा सकते हैं, इस पर ध्यान दें। इसके साथ ही मैं कहना चाहता हूँ कि जब तक उनकी शिक्षा तथा उनकी पारिवारिक और आर्थिक विमता को समाप्त नहीं किया जाएगा, तब तक कोई कानून उन बच्चों की देखभाल नहीं कर सकता। इसलिए हम पुनर्निवेदन करेंगे कि आर्थिक विमता को दूर करने के लिए अगर आपके पास कोई प्रयास हो, अगर आपके पास कोई कानून हो तो आप उस पर विचार-विमर्श कीजिए। इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

DR. V. SAROJA (RASIPURAM): Hon. Chairman, Sir, at the outset, I oppose this Bill for the following reasons.

What is the right of the child? The rights of a child are survival, development, protection and participation. This Bill is not taking care of the rights of the child.

This Bill deals with the children between ages six and fourteen. The children up to five years of age are not dealt with in this Bill.

The Children's Code Bill, 2000 has already been formulated and presented to the hon. Prime Minister of India by a Special Experts' Committee under the Chairmanship of no less a person than Justice V.R. Krishna Iyer in consultation with UNICEF. It is going to come up shortly for discussion. It has dealt with children up to 18 years of age at length and breadth. I fail to understand the hasty introduction of this Bill.

I would say that the concluding observations made by the United Nations' Convention have not been taken into consideration. The Convention recommended the full implementation of the Child Labour (Prohibition & Regulation) Act, 1986; the Bonded Labour System (Abolition) Act, 1976; and the Employment of Manual Scavengers Act, 1993. All these recommendations have not been taken care of in this Bill.

The constitutional rights of children below 18 years are not taken care of. As far as this Bill is concerned, it does not reflect the spirit of CRC. The guiding spirit of any law or any policy must be in the best interest of children, and children must have the right to participate in the decision-making process. In this Bill, children were not given the opportunity to participate in it.

Finally, constitutional rights of children are described under articles 15 (3), 39 (e) and (f), 45 and 47. I do not want to go into the details. But those factors are totally neglected in this Bill.

There are about 375 million children in this country and they constitute more than one-third of the population. A country's budget is the most solid expression of its Government's priorities, performances, decisions and intentions. It will not be out of place if I say that there are about 11 million children living on the streets. Forty-five per cent of the children in India are employed, which is the largest number of working children in the world. The Government estimates that of the nine-lakh prostitutes in India, four lakhs are child prostitutes. There are about 15,000 children orphaned due to Kargil war. Every third rape victim is a minor. In the last ten years, rape of children below 16 years has accounted for more than 25 per cent of the reported cases. Rape of children below the age of 10 years has increased by 10 per cent. According to the Budget allocation for children, it has come down from six per cent of GDP to 3.2 per cent. All these factors are not taken care of in this Bill.

Coming to this Bill as such, Chapter II deals with Juvenile Justice Board. It seems that even this Board is not going to take care of the demands of children. In that Board, there is not going to be any lady member, there is not going to be any counsellor, there is not going to be a psychiatrist and there is not going to be a lady police personnel posted on the Board. We are discussing about a very important Bill and there is no interpreter in the Board to understand what the children are going to say in their local languages. This is the ultimate failure of this Bill. Participation of children is, as I said earlier, neglected in this Bill. ...(*Interruptions*)

MR. CHAIRMAN : Please conclude now.

DR. V. SAROJA : Sir, I have not yet started. Please give me a few minutes more.

Childhood is the foundation of a person and if you neglect children of 0-6 years of age, will we go in the right direction? The Government of India has now formed a separate Ministry for Primary Education. But this Bill does not say anything about primary education, about nutrition, about health care conditions, formation of juvenile homes, etc. This Bill is going to increase and encourage child labour. At page 9, clause 22 talks about punishment. It should be increased at least to five years, because the duration given is very less. Since the punishment is not severe, it will encourage more criminals only.

In this Bill we are going to deal with the children, mostly below the age of 14. During Madam *Puratchi Thalaivi's* regime in Tamil Nadu, she introduced all-women police station who had taken care of not only children but also the women. All-women police station will be a solution to render justice children.

I urge upon the Minister to circulate this Bill for public opinion. Thank you.

SHRI TRILOCHAN KANUNGO (JAGATSINGHPUR): Mr. Chairman, I rise to support The Juvenile Justice (Care and Protection of Children) Bill, 2000. At the outset I would like to draw the attention of the hon. Minister, through you, to the following. In the Bill it is said;

"And whereas, the General Assembly of the United Nations has adopted the Convention on the Rights of the Child on the 20th November, 1989."

I think it should be 1959 instead of 1989. I think it should be corrected as 1959. Kindly verify and correct it.

It is not a new Bill. This has been re-enacted. This Bill seeks to replace the Juvenile Justice Act, 1986. The purpose of this new enactment is to make the law more juvenile and child friendly. The new enactment has two parts. One part deals with juvenile offenders. Second part deals with juvenile child who deserve care and protection.

It is not a punitive law. It is a reformatory one. It is not an ordinary piece of law to be adjudicated in the courts but it is a message and guideline for a high culture and compassion. These are the ingredients of this enactment. This has drawn inspiration from our Constitution. Article 15 gives the right against discrimination. In article 15, clause 3, it is said that special provision may be made for women and children.

Article 39 (e) and (f) comes under Directive Principles of State Policy. Sub class (e) states:

"That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength."

Sub-class (f) says:

"That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

Article 45 has not yet been fulfilled. It also comes under Directive Principles of State Policy. Sir, you know pretty well that article 45 provides for free and compulsory education for children within ten years of the adoption of this Constitution.

Forty years have lapsed. 'After 10 years of the Constitution, the State shall endeavour to provide within a period of 10 years', this has not yet been achieved. Doubts would definitely arise whether the message given in this enactment will be achieved. Section 47 is for nutrition and prohibition. It has not been achieved. So far as section 39 is concerned, the hon. Member, Shri Bansal had said yesterday that the 'child abuse' should be defined. He had also given a model definition for that. If it has not been defined, then we go by the dictionary meaning of the term. 'Child abuse' is amply defined in the dictionary.

The second point with which we are more concerned is, this enactment is in conformity with a number of international conventions. For this reason, this enactment deserves consideration and implementation. When I say 59 or 89, it is the United Nations declaration of the rights of the child: 'The child, by reason of his physical and mental immaturity, needs special safeguard and care, including appropriate legal protection before as well as after the birth. Mankind owes to the child the best it has to give'. That is the message, that is the guiding principle, that is, we should carefully deal with the juvenile offenders or those juveniles who are in conflict with the law. The child shall enjoy special protection and shall be given opportunities and facilities by law and by other means to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of proud and dignity. In the enactment of laws for this purpose, the best interest of the child shall be of paramount consideration. This is the declaration of the rights of the children. While giving a model enactment for the signatory States to follow, the United Nations has made it abundantly clear, 'that all the signatory nations are alarmed of the conditions and circumstances under which juveniles are being deprived of their liberty world wide – not only in India but world wide. Those vulnerable, who are deprived of that liberty are highly vulnerable to abuse, victimisation and violation of their rights. Therefore, because of their high vulnerability, the juveniles deprived of their liberty, require special attention and protection and that their rights and well being should be protected during and after the period when they are deprived of their rights'. This is the message.

The question is not of the enactment of law but care is necessary while implementing the law. The United Nations has given more consideration to the personnel, those who will administer the law. 'The personnel should be qualified and include sufficient number of specialists such as educators, vocational instructors, councillors, social workers, psychiatrists and psychologists.' These are the things that are necessary. If you do not take them in, this enactment will be of no value at all. The administration should provide for the careful selection and recruitment of every grade and type of personnel.

Since the proposed management of detention facilities depends on their integrity, humanity, ability and professional capability to deal with juveniles as well as the personnel suitability for the work, more attention should be paid on the personnel who deal with these juvenile offenders or those who are in conflict with law.

I have my own experience as far as care of the children is concerned. I may take only two minutes to explain this point. I have seen that the street children in the cities pick rags and plastic materials, sell them, earn two-three rupees a day and take it to their parents or guardians. They do not have access to education; nor do they have access to nutrition. They should be taken care of in such a manner - not the way they are being drawn by the NGOs nowadays - that they should feel that they are not away from their homes and that they are not deprived of the affection of their parents. They should feel that they are part and parcel of the society and they are not being looked down upon. These things are to be essentially kept in mind while administering the law.

I support the Bill. It is a very good Bill, no doubt. But, if there is some deficiency at the time of the enactment, as it happens in many of the cases, then the entire intention of the Bill will go futile and will serve no purpose. Therefore, I would request the hon. Minister to look into this fact so that the personnel who deal with this part of the law should have a human face, should be properly educated, trained and should possess all the qualities to deal with juveniles in conflict with law and the children who deserve care and protection.

श्री चन्द्र मूण सिंह (फरुखाबाद) :माननीय सभापति महोदय, आपने बोलने का मौका दिया, मैं इसके लिए आपको धन्यवाद देता हूँ। सर्वप्रथम इस कानून में आप जो परिवर्तन करने जा रहे हैं, इसमें मैं आपको सहयोग देता हूँ लेकिन अगर इस पर गम्भीरतपूर्वक विचार किया जाए कि बच्चों में ऐसी प्रवृत्ति क्यों आई तो इसके दो मुख्य कारण रहे हैं। हमारे संयुक्त परिवार होते थे। बच्चों में यह भावना रहती थी कि हमारा कोई बुजुर्ग है जो हमारी कुछ मदद कर सकता है। संयुक्त परिवार में जब से बिखराव आया उसमें मैं विशेष तौर पर मीडिया का प्रभाव पड़ा और दूसरा पठन-पाठन में परिवर्तन होने के कारण प्रभाव पड़ा। पहले पठन-पाठन इस किस्म का होता था और किताबें ऐसी होती थीं जिससे बच्चों के संस्कार बनते थे। आज मीडिया के प्रभाव से और सारे के सारे पाठयक्रम के बदलने से संस्कार बनने की कोई बात नहीं है। जो भी विकृतियाँ आज बच्चों में हैं चाहे वे आपराधिक प्रवृत्ति के हों या और भी जो कारण हों, उसका मुख्य कारण यही है। शुरुआती दौर में हमारी धार्मिक संस्थाएँ चाहे मंदिर हो, मस्जिद हो, गुरुद्वारा हो या चर्च हो ये संस्थाएँ निराश्रित बच्चों की मदद करती थी और सरकार भी उनकी मदद करती थी लेकिन देखने में यह आया है कि सरकार द्वारा प्रदत्त पैसे का दुरुपयोग होता है और वह व्यक्तिगत कार्यों में पैसा खर्च किया जाता है। उसमें बच्चों के हित को नहीं समझा गया। हरिद्वार और दूसरी जगहों में बड़े-बड़े आश्रम खुले हुए हैं। हरिद्वार में 1998 में एक बहुत बड़ा काम हुआ। मीडिया ने बड़ी-बड़ी हैड लाइन में इसे छापा। यहां दिल्ली में बहुत से बाल गृह चल रहे हैं।

एक बालगृह है जहां विगत पांच वर्षों में 100 बच्चों की मृत्यु हो गई है। बच्चों की देखरेख के लिये जो संस्थायें होती हैं, उनमें ईमानदारी से कार्य का निर्वहन नहीं किया जाता। इसका नतीजा यह होता है कि बच्चों का शोण होता है और वे अपराधी बनते हैं।

सभापति महोदय, कानून बनाना अच्छी बात है और कानून बनाना जितना आवश्यक है, उससे ज्यादा, जैसा माननीय सदस्यों ने कहा, उसका इंप्लीमेंटेशन होना जरूरी है। मूल अधिनियम, 1952 में स्टैंडिंग ऑर्डर हैं कि इसकी एक कॉपी थाने में और एक पुलिस कप्तान के पास रहे। मैं दावे के साथ कहता हूँ कि आप किसी भी सब इंस्पेक्टर या एस.एच.ओ. से पूछ लीजिये, उनको इस अधिनियम की जानकारी नहीं होगी। होता यह है कि थाने में बच्चों के साथ दुर्व्यवहार किया जाता है और जो अपराधियों के साथ व्यवहार होता है, वहीं उन्हीं के साथ किया जाता है। मेरा निवेदन है कि इस तरह के नियम बनाइये जिससे बच्चों को शोण न हो। आपकी सोच निश्चित रूप से देश के लिये अच्छी है और मंत्री महोदय पर्यावरण और जानवरों के लिये बहुत योगदान देती हैं। यह देश और समाज के हित में है। इसी बात को दृष्टि में रखते हुये बच्चों के हित के लिये कानून बनाइये। इन कानूनों का सही ढंग से इंप्लीमेंटेशन भी हो। इसके लिये जागरूक रहने की आवश्यकता है।

सभापति महोदय, मैं मीडिया का भी जिक्र करना चाहूंगा। सरकार एक होती है लेकिन उसके विभिन्न मंत्रालय होते हैं। टी.वी. या सिनेमा में अपराध के ज्यादा मामले नहीं दिखाये जाने चाहिये। इससे बच्चों में अपराधवृत्ति कम होगी।

सभापति महोदय, 1997-98 में बच्चों के अनुसंधान और विकास हेतु 10 लाख रुपया दिया गया जिसमें केवल साठे चार लाख रुपया खर्च किया गया। 1999-2000 के लिये पांच लाख रुपया दिया गया था जो सारे का सारा वापस किया गया। क्या इससे यह समझा जाये कि अनुसंधान में विभाग की कोई रुचि नहीं है जबकि सभी विभागों की अनुसंधान और विकास में रुचि होनी चाहिये। लगता है कि बच्चों के पोषण, विकास दर और अनुसंधान के लिये जो पैसा दिया जाता है, वह कम है। इसके लिये ज्यादा पैसा दिया जाना चाहिये ताकि अच्छी-अच्छी जानकारी मिल सके।

सभापति महोदय, एक बात और बताना चाहूंगा कि जिन बच्चों को ग्रहण किया जाता है, उनमें कुछ विदेशों में भी जाते हैं और अपने देश में भी दत्तक पुत्र के नाम से लिये जाते हैं। इस कार्य के लिये देश में 20 और विदेशों में 6 अधिकृत एजेंसियाँ हैं। मैं जानना चाहूंगा कि जो बच्चे बाहर जाते हैं, क्या इस बात का पता लगाया गया कि उनका भरण-पोषण ठीक ढंग से किया जाता है या नहीं, क्या उन बच्चों से घरेलू काम तो नहीं लिया जा रहा है? क्या वे मालिकों के व्यवहार से परेशान तो नहीं हैं? मेरा सुझाव है कि सरकार को इन सब कामों के लिये निगरानी करनी चाहिये।

सभापति महोदय, इसी वा फरवरी में 'जनसत्ता' समाचार-पत्र में इंडियन बॉर काँसिल की एक राय छपी थी कि जिस तरीके से बच्चों के लिये विभिन्न कोर्ट बनाये हुये हैं, उसी तरीके से एक आयोग का गठन होना चाहिये जो सुप्रीम कोर्ट के अधीन हो। हर जिले में एक आयोग का गठन हो ताकि उनके कार्यक्रमों की क्रियान्विति आसानी से हो सके और बच्चों को न्याय मिल सके।

SHRI KHARABELA SWAIN (BALASORE): Sir, I am here to support this very well-intentioned Bill. The hon. Minister has earned a very good name in this country for showing genuine concern for animals and I think only a person like her could have brought a Bill like this.

The basic issue is, how do we mould the future of our children because juvenile delinquency is the gateway for adult crime.

In our country, the justice system as available for the adults now is not considered suitable for being applied to the juvenile or the child. I will give you a very good example.

Everybody in this House knows that the Christian missionary Mr. Graham Steins along with his two sons was burnt alive about two years back in Orissa in Manoharpur. The main accused, Dara Singh, was arrested after more than one year. He is now in jail. The trial of the main accused, Dara Singh, has not yet commenced. It was supposed to start on the 1st of last December itself but it did not start. In the meantime, in the case of a boy, whose name is *Chenchu*, who is only fourteen years old, who probably accompanied Dara Singh, his trial is over and he has been sentenced to fourteen years of jail imprisonment. I do not deny that *Chenchu* might have accompanied and he might have participated in it. I do not deny it. But he is not the main accused. Because he is a child, because nobody came forward to speak for him and there was no lawyer for him, he could not arrange a lawyer for him, he is the first person who has been sentenced to imprisonment for fourteen years. Will he not cherish a grouse against the society? Will he not cherish a grouse against the country and against the judicial system? So, this is how it happens in India.

I am very happy that Shrimati Maneka Gandhi has brought forward this Bill. She has brought it forward because juvenile justice will be accessible to the juvenile and it will create an infrastructure for the juvenile justice system just like this Board. It will be a child-friendly law. I do not want to narrate all the things which have already been in this Bill because they have already been narrated by the other hon. Members. So, I do not want to go into them because there is not much time available to deliberate upon them. So, I will come to some other points.

I am very happy that Shrimati Saroja has said that there are so many lacunae. I agree with her that there is no lady police. There is no provision for a doctor. There is no provision for health-care. I agree with her in this regard. But there must be a beginning made in this direction. If there is any lacuna, it could be addressed later on. Amendment could be brought about later on. In the initial stage, everything cannot be thought of. So, it is good that she has brought forward this Bill.

Everywhere there is a talk about the introduction of the National Commission for Children. But I am asking one question. We might be having a National Commission for Children. But will it be a toothless institution like the National Commission for Women? It might be like that. I say so because you may see that there is a National Policy on Child Labour introduced in 1987. It envisages stringent and rigorous enforcement of the relevant laws preventing and regulating child labour. But let it be any Government for that matter, they have not yet kept children out of the hazardous industries. If there should be a National Commission for Children, it should have teeth. It should have a development strategy. It should have a preventive strategy. It should also have long-term strategies like the policy for the street children for whom Shrimati Maneka Gandhi has also shown concern. She has already taken steps to look after the street children.

I will quickly make two or three points. I will conclude my speech within two or three minutes. There should be access to education for the street children. It should improve the quality of teacher training. It should improve the school environment. The quality of non-formal education schemes should be monitored and guaranteed. The children who participated in such schemes should be integrated into the mainstream education. She should also look after the status of the girl child. Of course, it has also been mentioned.

There are 20 lakh destitute children in India. Fifteen thousand adoptions take place every year. But, there is no proper adoption law. In India, as per the adoption law, only a Hindu can adopt a child. No Christian, no Muslim and no Parsi can adopt a child. If you have a boy, you cannot adopt another boy. Same is the case with the girl. If you are having a girl, you cannot adopt another girl.

Finally, at any time, a child can be taken away or the parents can reject the child. After any length of time, say, after

20 years, there shall be no relationship between the adopter and adopted child. So, there shall be good adoption law if we do not want the children to become delinquent.

With these words, I conclude.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, किशोर न्याय से संबंधित विधेयक सरकार द्वारा लाया गया है। इसमें बड़े-बड़े दावे किये गये। 1986 में जो अधिनियम बना था, उस अधिनियम में जो संशोधन था उसका विस्तार करके ये लाए हैं। 1985 में बीजिंग में यूएनओ ने रूल बनाया था, उसके बाद 1990 में यूएनओ की जो रूलिंग हुई उसको देखकर इनकी ज्ञानवृद्धि हुई और इनको करुणा आ गई। हमारे यहां कहते हैं कि -- 'क्षमा बड़न को चाहिए, छोटन को उत्पात।' यह पुराना दर्शन है। इस विधेयक में बड़ा ह्यूमन राइट्स और किशोरों का बड़ा भारी कल्याण करेंगे, ऐसा दावा इन्होंने किया है। मुझे एक कहानी याद आती है। दारोगा बाबू बराबर ये कहानी कहते थे।

श्री राजीव प्रताप रूडी (छपरा) : दारोगा बाबू कौन हैं बताइए।

डॉ. रघुवंश प्रसाद सिंह : दारोगा बाबू मुख्य मंत्री थे सब जानते हैं। जिनको सामान्य बुद्धि का अभाव है, वह अपनी जेनेरल नॉलेज बढ़ा सकते हैं। गांव में एक ओझा भगत थे जो मंत्र पढ़ रहे थे -- उत्तर बांधू, दक्षिण बांधू, पूरब बांधू, पश्चिम बांधू, आकाश बांधू, पाताल बांधू, गंगा बांधू, जमुना बांधू, सबको बांधू। उनकी पत्नी सुन रही थी। उनकी पत्नी ने काली हंडिया से अपने पति को मारना शुरू किया। काली हंडिया से मारने पर बड़ा अपमान होता है। पंचायत बैठ गई और पंचों ने पूछा कि इतनी भरी सभा में पति का अपमान क्यों किया। महिला ने कहा कि हमारा मढ़ाई का घर था, टूटी फूटी छप्पर है। उसकी रस्सी तो इनसे बंधती नहीं और कहते हैं कि गंगा बांधू, जमुना बांधू।

महोदय, जब हम सड़कों पर गाड़ी में निकलते हैं और गाड़ी लाल बत्ती पर रुकती है तो लड़के अखबार लेकर घूमते दिखते हैं, कोई गोद में बच्चा लेकर भीख मांगता दिखाई देता है, कोई खिलौने लेकर घूम रहा है और कोई लता लेकर गाड़ी पोंछ रहा दिखता है। उनको लोग डांट-फटकार देते हैं। और ये कहते हैं कि सबको न्याय देने के लिए आए हैं, सोशल जस्टिस और ह्यूमन राइट्स की बात करते हैं। बड़ा भारी पाखंड है।

17.00 hrs.

सभापति महोदय, जिस प्रकार ओझा कहता है कि मैं आकाश बांधू, पाताल बांधू और वह अपने घर के छप्पर को भी नहीं बांध सका, उसी प्रकार यह सरकार कर रही है। मैं तो मंत्री जी से कहता हूँ "तू कहता कागज की लेखी मैं कहता आंखिन की देखी" देश में बच्चे भूखे मर रहे हैं और भूख से बचने के लिए भीख मांग रहे हैं, लेकिन उनके लिए कोई कानून नहीं है।

सभापति महोदय, बच्चों से जो भीख मंगवाएगा, उसे क्या सजा दी जाएगी, इसका कोई प्रावधान कानून में नहीं है। इस देश के सात करोड़ बच्चे आज भी प्राथमिक शिक्षा से वंचित हैं, उनके लिए सरकार ने क्या व्यवस्था की है, उसका कोई उल्लेख नहीं है।

सभापति महोदय, इस देश में आई.पी.सी. और सी.आर.पी.सी. 16 वां के बच्चों पर लागू नहीं है। 18 वां या उससे ऊपर के बच्चों पर यह कानून होगा। इसका सीधा मतलब यह है कि यदि 16 वां के बच्चे से कोई बदमाश अपराध कराए या हत्या कराए, तो उसे कोई सजा नहीं होगी। बच्चे को तो कोई सजा होगी ही नहीं बल्कि जो उस बच्चे से ऐसा कुकृत्य कराएगा उसे भी किसी भी प्रकार की सजा नहीं दिए जाने का प्रावधान है। इसलिए मैं कहता हूँ कि इस विधेयक को स्टैंडिंग कमेटी को भेजा जाना चाहिए जिससे वह समिति इसके उम्र गहन और गंभीरता से विचार कर सके और एक संपूर्ण एवं सम्यक विधेयक लाया जा सके।

सभापति महोदय, 16 वां या इससे कम उम्र के बच्चे स्वयं अपराध की ओर प्रवृत्त नहीं होते, बल्कि समाज के कुछ असामाजिक तत्व उन्हें ऐसा करने के लिए प्रेरित करते हैं। यदि कोई बदमाश, हत्यारा या मुजरिम किसी 16 वां के बच्चे से कोई अपराध कराए, कोई हत्या कराए, तो उसको कोई फांसी, उम्र कैद की सजा का प्रावधान नहीं है। आप ऐसे आदमियों के लिए, जो किशोरों से अपराध कराएं उनके लिए कोई कानून लेकर नहीं आए।

सभापति महोदय, इस देश में छोटी उम्र में भी बहुत मेधावी बच्चे हुए हैं। रानी मदालसा का पांच वां का बच्चा, ब्रह्मज्ञानी था। नचिकेता का बालाश्रम ऐसे बच्चों के लिए जगप्रसिद्ध था। भगवान कृष्ण बालपन में ही ऐसी लीलाएं किया करते थे जो सामान्यजन के वश के बाहर की बात है। आप जानते हैं कि यह सरकार जो दावा कर रही है वह सिर्फ खोखले दावे हैं।

सभापति महोदय, मैं माननीय मंत्री महोदय से निवेदन करना चाहता हूँ कि देश की तो छोड़िए पहले दिल्ली की सड़कों और चौराहों पर भीख मांगने वालों को ही रोक कर उनकी स्थिति को सुधारने के उपाय सरकार क्यों नहीं करती। कहा गया है कि हम बच्चों को सुधारगृह में ले जाएंगे। ये सुधारगृह ही बिगाड़गृह बन रहे हैं। (व्यवधान)

सभापति महोदय, अज्ञानता की कोठरी में और आंशिक क्षमता के लहजे में जो चाटुकारिता में माहिर हैं, उनसे यह बहस प्रभावित नहीं हो सकती है। इस देश में करोड़ों बच्चे प्राथमिक शिक्षा से महरूम हैं। डॉ. लेहिया ने उस समय कहा था- यह शासन डोल रहा है, उसी प्रकार केन्द्र की सरकार है, बच्चों की सुक्षा का कोई कानून नहीं, उनकी पढ़ाई का कोई प्रबन्ध नहीं, उनके रोजगार का कोई प्रबन्ध नहीं और सरकार कहती है कि भिखमंगेनी बन्द करा देंगे। (व्यवधान)

श्री राजीव प्रताप रूडी (छपरा) : सभापति महोदय, यह "भिखमंगेनी" क्या होता है? (व्यवधान)

सभापति महोदय : रघुवंश प्रसाद सिंह जी, आप तो प्रोफेसर हैं। इतने समय में तो आप अपनी बात कह ही सकते हैं। कृपया अब समाप्त कीजिए और अपना स्थान ग्रहण कीजिए।

...(व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : सभापति महोदय, हम भोजपुरी शब्दों का इस्तेमाल कर रहे हैं और हमें इस बात का गर्व है कि सदन में हम लोक भाषा में बोल रहे हैं। संसद में जब लोक भाषा गूजेगी, तो हमारी भाषा और भोजपुरी बोलने वालों का सीना गर्व से फूल जाएगा और यहां जैसी बनावटी अंग्रेजी बोलने वाले कुछ माननीय सदस्य हैं वे देश के साथ धोखा करने वाले लोग हैं। उनसे सावधान रहना चाहिए।

(व्यवधान)

सभापति महोदय, अभी मेरी बात समाप्त नहीं हुई है। हरियाणा में डी.जी.पी. के द्वारा रुचिका के साथ बलात्कार किया गया, वह देश भर में चर्चा का विषय बना।

श्री प्रमुनाथ सिंह (महाराजगंज, बिहार) : सभापति जी, आप रघुवंश जी से कहिये कि वे भोजपुरी भी पढ़ लें, नहीं तो भोजपुरी का अपमान न करें क्योंकि उनको भोजपुरी बोलनी नहीं आती है। (व्यवधान)

श्री राजीव प्रताप रूडी : जोन हिसाब से आप भोजपुरी बोलत रहेन, हमी की भोजपुरी खराब हो जाईन।

सभापति महोदय : आप बैठ जाइये।

...(व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : सभापति जी, आप इनका व्यवहार देख रहे हैं। जब ये धरे गये हैं तब इन्होंने भोजपुरी में बोलना शुरू कर दिया। प्राकृतिक ढंग से जो हृदय से बोलता और जो बनावटी बोलता, जो अंग्रेजी जुगाड़ से लिप्त होकर बोलता या जो व्यक्ति भोजपुरी होकर भोजपुरी में बोलता, उन सभी में फर्क है। (व्यवधान)

सभापति महोदय : अब आपका भाण समाप्त हुआ।

...(व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : इसलिए जो असलियत होगी, वह स्पष्ट होनी चाहिए। (व्यवधान)

अब कड़िया मुंडा जी उठ गये हैं। आपको यहां भी नहीं बनाया और झारखंड में भी कोई नहीं पूछ रहा है फिर भी आप उठकर खड़े हो रहे हैं। (व्यवधान) तुम लोगों को कौन पूछता है ? (व्यवधान)

मंत्री नौकरी करते हैं और ये चाकरी करते हैं। (व्यवधान)

सभापति महोदय : अब आपका भाण समाप्त हुआ।

...(व्यवधान)

सभापति महोदय : अब आपकी कोई बात प्रोसीडिंग में नहीं लिखी जायेगी इसलिए आप बैठ जाइये।

...(व्यवधान)

SHRI ADHIR CHOWDHARY (BERHAMPORE, WEST BENGAL): Sir, this piece of legislation under the title 'Juvenile Justice (Care and Protection of Children) Bill' has been introduced with an explicit aim of repealing the earlier defined Act, 1986. However fundamental aspects of the Juvenile Justice Act, 1986 have been more or less reflected in this bill therefore it would have evoked my affirmative nod, provided the amendments mooted by our party are incorporated therein.

This Bill consists of two separate segments, namely, one, the child in need of care and protection; and the other, juvenile in conflict with law. By resorting to some terminological alterations along with some euphemistic expressions of earlier defined Act, this Bill has sought to impress upon us 'child friendly', 'stigma free', if not holistic.

According to Rabindra Nath Tagore, civilisation must be judged and prized not by the amount of power it has developed but by how much it has evolved and given an expression to it by its laws and instituting the love of humanity. Child is our love. Child is a supreme national asset of our country. Child is the picture of our future.

However, it is regrettable to say that India is pathetically lagging behind in achieving the objective for a safer world of our future generation. As morning is the harbinger of a day, so, the state of the children is a precursor of our national health. But children belong to the most vulnerable segment of our society. Whatever is in blossom is in jeopardy. According to Mayall, the children are regarded as an under-valued entities in the contemporary society. They are treated 'not yet knowing', 'not yet person', 'not yet responsible', etc. They are viewed not as 'human beings' but as 'human becoming'. They are understood as in completely vulnerable beings. They are not accorded full respect for which they are intrinsically entitled to as human beings. They are treated as marginal community of our society whose activities and experiences matter less than that of an adult.

Therefore, if we look around us, it may come out that in our country, more than 73 per cent of children under the age of three are anaemic. Fifty-five per cent of our children under the age of five are malnourished. Fifty-three per cent of our children under the age of five are under-weight. Fifty-two per cent of children under the age of five are moderately or severely stunted. India has the highest mortality rate of 49 per cent under the age of five in the world.

1710 hours (Dr. Laxminarayan Pandeya *in the Chair*)

Therefore, mere legislation would not serve the purpose. This Bill has emphasised the need of undertaking reform measures vis-à-vis juvenile in conflict with law through informal institutions rather than strict application of rules and punishment. But, I would like to propose to this Government to ponder over the alarming ascendancy of delinquent juvenile in the world. At present, three lakh children across the world are engaged in war. Therefore, if a child is engaged in war, he should not be provided of the child rights and human rights. We should be circumspect enough so that nobody can exploit the palliative measures that the Bill has intended to the children.

Sir, as far as the child labour is concerned, it is the most nauseating aspect. India has the highest concentration of child labour. Now, in India, we are having 55 million bonded labour. If you go to Tamil Nadu, if you go to lock factories in Aligarh, if you go to carpet manufacturing units in Varanasi and Kashmir, if you go to bidi factory in Nizamabad, you will observe the sordid plight of our future assets.

MR. CHAIRMAN: Kindly conclude now. Please cooperate with the Chair, we do not have much time to discuss this.

SHRI ADHIR CHOWDHARY : Sir, to achieve the twin objectives, this Bill has proposed rehabilitation and social reintegration. To achieve this purpose the Bill has resorted to aftercare organisation, sponsorship, foster care adoption and other programmes. May I ask the hon. Minister whether any foreign national would be debarred from taking adoption or not?

Sir, as far as restoration of a child to his parents is concerned, I would like to suggest to this Government to make a deep insight into the problems which are being faced by those hapless mothers in our society. We are living in a male dominated society and male chauvinism is ruling the roost.

MR. CHAIRMAN: Kindly conclude now. We have to conclude this before 5.30 p.m.

SHRI ADHIR CHOWDHARY : Sir, flirtation and deception are in galore in India...(*Interruptions*) which often gave birth to illegitimate child.

MR. CHAIRMAN: Please take your seat. I have called the name of Shri Murthi. Please cooperate with the Chair.

SHRI ADHIR CHOWDHARY : Sir, I think those hapless mothersâ€¦ (*Interruptions*)

MR. CHAIRMAN: Nothing should go on record, except Shri Murthi's submission.

(*Interruptions*) â€¦*

SHRI ADHIR CHOWDHARY : Sir, I am concluding please.

Those children often develop demoralisation and inferiority complexes, which often manifest in rebellion against the society. Therefore, juvenile delinquency is growing up. Those hapless mothers who have been deprived of their own legitimate right should be accorded such constitutional guarantee so that they can hold heads high in our society...(*Interruptions*)

MR. CHAIRMAN: Nothing will go on record, except Shri Murthi's submission.

(*Interruptions*) â€¦*

SHRI ADHIR CHOWDHARY : Sir, I am opposing this Bill.

* Not recorded

SHRI M.V.V.S. MURTHI (VISAKHAPATNAM): Sir, because of the time constraint, I do not want to take more time. I would make only one or two points because many speakers have already spoken on this subject.

This is a very welcome Bill. In the name of the Bill itself, the words "Care and Protection" are there. So, it is not to punish any child. Why are the children suffering today? There are two extremities in our country. One is poverty because of which the children are committing small crimes. So, they have been put under juvenile criminality in the jails.

The second extremity is the urban affluency. Because of the urban affluency they are committing crimes and many of the time they escape.

They go scot-free. But in these cases, treatment is required for abnormality. Social justice empowerment is required. Juvenile is in conflict with law because of poverty mainly in our country. So, when they are put in these

juvenile homes, they should be treated properly and they should also be allowed to earn while learning. Let them earn while learning. So, let them also be put into the mainstream. So, the purpose of this Bill is to put these juvenile criminals to come into the mainstream. It is the beginning of the first step towards that direction. Once you take care, give them proper care, affection and love, many of these crimes would have been avoided. So, I sincerely hope that they should be put into the mainstream as gentlemen again. This is a first step towards that direction. I welcome this Bill. Thank you very much.

MR. CHAIRMAN : Now, the hon. Minister.

...(Interruptions)

MR. CHAIRMAN: Shri Athawale, I have called the hon. Minister. Please resume your seat. Please co-operate. The allotted time is over.

श्री रामदास आठवले (पंढरपुर) : मेरे ऊपर हर बार अन्याय होता है।

MR. CHAIRMAN: I will not allow. I am not allowing you. आप किसी अन्य बिल पर बोल लेना, अभी बैठिए।

SHRI P.H. PANDIYAN (TIRUNELVELI): Mr. Chairman, Sir, before the Minister replies, the Minister may also answer these clarifications because they have defined...(Interruptions)

MR. CHAIRMAN: Shri Pandiyan, we have to dispose it of before 5.30 p.m.

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THE MINISTER OF STATE OF THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (SHRIMATI MANEKA GANDHI): Mr. Chairman, Sir, I would like to thank everybody for participating. I would take up most of the points and I will tell you why we have put them in. In the beginning, I would like to tell you that when I took over as Minister, the first programme we did was for street children, for looking after street children as to what was happening to them. We established something which is now appreciated internationally. In fact, we got international award last year. This is the first time this award is ever given to a country outside Britain from the Lottery Board there for appreciating this programme, called, 'child line' where we pick up children who have been in trouble on the road, who want to come into the system and we rescue them. So far, we have picked up a couple of lakh children. So, we realised the need for an Act that was less punitive and more compassionate. Some of you have been intuitive enough to realise the compassion intended in this Bill.

When we started making this Bill, we handed it to a number of people known for their expertise in both law and children. Dr. Saroja has talked about Justice Krishna Iyer. Justice Krishna Iyer was very actively involved in this Bill as well, along with a large number of other judges, namely, Justice Bhattacharya, Justice Jeevan Reddy, Justice Leela Seth and Professor Madhav Menon. We have taken people from all over and finally, after all these discussions, we gave it to the Bangalore Law Institute to make it into a Bill. After that it was again sent on rounds. We entered into consultation with the Law Ministry. It has taken almost two years for me to bring this here. I have only brought this and I have been convinced myself that we have done the best job that we possibly could. I have no doubt that people who will come after me will do even a better job. But at this point of time, this is possibly the best that could have been done.

I am going to take the points one by one. Dr. Raghuvansh Prasad Singh has talked about the adult who has caused the child to commit crime. Now, this, as you may realise, is a Bill for children and for the punishment of offences not committed by the child. Regarding the adult, they will be punished under the IPC after due inquiry. There, we do not need to provide for this in this Bill. Regarding the point Dr. Saroja made, as I said, Justice Krishna Iyer was consulted in the Bill.

Also, she has mentioned that psychologists were not involved and that nurses were not involved. They will be involved in the running of the homes. They will be involved in what comes later. If they are not involved in the Board, they will be at various places. We cannot make this Act work unless we have the kind of the people that she has mentioned who are needed to be there.

I am happy that Shri Kharabela Swain has realised that this is a child-friendly Bill. Children are powerless. The previous statute or Act treated all the children as criminals. It is given as a basis of a reform-protection system from which we have learnt.

I am coming to Shri Pawan Kumar Bansal in the last because he has given most of the details.

Yogi Aditya Nath has talked about penalty for giving alcohol and drugs and said that the punishment is too little. Punishment has been provided for, after due consultation with experts. However, it is for the first time that all offences against children have been made cognizable. So, this in itself is a step forward.

Dr. Raghuvansh Prasad Singh has talked about the need for the two Ministries to come together. That, as I explained, has been done. We have consulted lawyers, legal experts and the Ministry of Law on other points.

Shri Girdhari Lal Bhargava talked about a proposal for the Commission for Children at the national and the State level. I could have considered this. However, the Department of Women and Child Development is already in the process of setting up a National Commission for Children. Once such a Commission is set up, obviously they will be looking into this Act as well.

Shri Chauhan has talked about universal education up to 14 years. Unfortunately, the Department of Elementary Education is under the HRD Ministry. It does not relate to this Act which is more in the nature of an offence committed rather than education.

And regarding Children's literacy again, that is separate. The interests of children which have been administered come under the Ministry of Labour.

Shri Trilochan Kanungo has talked about 1959 or 1989 Declaration. The Declaration of 1959 is a different one. The 1989 Declaration is the right one. It is the U.N. Convention on the Rights of Child for which we have committed to change our laws to be in conformity with them.

Shri Chandra Bhushan Singh has asked how this Act is going to be implemented. Clause 68 provides for implementation through the state Governments and by making the rules.

Regarding the role of the Police, as many people have pointed out and quite rightly and what may be the law in the world, unless the Police become more sensitised, it will be difficult to make any difference.

For the first time in this law it makes us as if to read it like this that as if a provision has been made for a Special Juvenile Police Unit, which will be sensitised under Clause 63.

Shri Adhir Chowdhary has asked – I could not understand what he said but the only thing I could make out was – whether children could be adopted by foreigners. Already they are being adopted.

SHRI ADHIR CHOWDHARY (BERHAMPORE, WEST BENGAL): I wanted to know whether foreign nationals will be debarred from adopting children or not because India is under population explosion.

SHRIMATI MANEKA GANDHI : I will certainly not debar them from adopting children. We encourage adoption because children, whether foreign or Indian, belong to the world. It is spelt out very clearly. I have a special adoption unit called CARA. This year we have had more children being adopted than last year. In a quicker, shorter and safer time we have got very strong safeguards for children. I am very happy when every time a child finds a home foreign, or Indian.

...(Interruptions)

Shri Bansal has made a number of amendments and changes. I just want to discuss a few of them. I must start with the smallest one regarding honorarium to the members of the Board. This, for instance, could be provided in the rules. We do not necessarily have to have it in the Act. So, that will depend on the kind of Board we make and the honorarium gets decided in the rules.

Regarding vocational training for children in various Homes, of course, they would have to have vocational training, and as Shri Bansal pointed out, this vocational training should be something that they want to do other than something that we feel that they should do, which is the most menial of all.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): In one case I found the person being forced to work as a barber. I asked him a particular question, he said, this was being forced upon him.

SHRIMATI MANEKA GANDHI: Yes, it is true. This is the reason why we brought these Homes. This Act actually provided for foster-homing, adoption and 50 other reasons why children should go into various Homes other than Juvenile Detention Centres.

There are a large number of amendments which, I am afraid, I will not be able to accept. In my Ministry when the amendments came, we studied them deeply and instead of just allowing the bureaucrats or me to make it a political issue and say that because we brought them in, therefore, we would not accept the amendments. I believe that this is for our children – yours, ours, India's – and, therefore, we had it studied not only by the Law Ministry but by the same people who had drafted these initial amendments, to see whether we could make it any better. They have advised us to stay with the same and, therefore, I regret, I cannot accept any of them.

I would urge the Members now to pass this Bill.

SHRI PAWAN KUMAR BANSAL : Only half a minute I shall take, Sir....(*Interruptions*)

समापति महोदय : Just a minute, Shri Bansal. इस विधेयक के पारित होने में 10-15 मिनट लग सकते हैं। चूंकि आधे घण्टे की चर्चा 5.30 बजे ली जानी है, इसलिए यह चर्चा 10-15 मिनट बाद ली जाएगी। Does the House agree to this?

SOME HON. MEMBERS: Yes.

MR. CHAIRMAN: Now the question is:

"That the Bill to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House will now take up clause-by-clause consideration of the Bill.

Clause 2 Definitions

MR. CHAIRMAN: Shri Bansal, are you moving your amendments?

SHRI PAWAN KUMAR BANSAL : Sir, before I move my amendments, I would like to make only two small observations. I shall make the points only once and not on every amendment. One is that the hon. Minister was pleased to point out that the provision for honorarium etc. payable to the members of the Juvenile Justice Board, as also the Children Welfare Committees, would be or could be provided under the rules. If she were to kindly see the rules can not really provide for it. They have to take a power by law that under the rules they can provide for such and such a thing. Only thereafter they can make rules under the Act, to cover all the aspects which are enumerated therein. That has not been done. That is one point, Sir.

My second point is about the amendments. None of my amendments is in the nature of a political amendment. I am not saying that this is the policy of our party and, therefore, you please incorporate it. I concede that to the ruling party. In my opinion, my amendments, I thought, could help overcome, at times a stalemate and I took time to explain one very small amendment in detail because if ever the matter were to come to the court, in my opinion, that could lead to problems. The hon. Minister has not said that my argument was fallacious. She only says that this cannot be accepted.

MR. CHAIRMAN: Shri Bansal, the hon. Minister has already said that she has not accepted any of the amendments. If you want to move your amendments, kindly move them.

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 2, line 44,--

omit "grossly" (5)

Page 3, line 4,--

after "conflict",

insert "terrorism", (6)

MR. CHAIRMAN: I shall now put amendments No.5 and 6 moved by Shri Pawan Kumar Bansal, to the vote of the House.

The amendment nos 5 and 6 were put and negatived.

MR. CHAIRMAN : Shri Ramesh Chennithala – not present.

The question is :

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 4 Juvenile Justice Board

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move :

Page 4, line 41, --

for "less than",

substitute "at least", (7)

MR. CHAIRMAN : I shall now put the Amendment No. 7 moved by Shri Pawan Kumar Bansal to the vote of the House.

The amendment no. 7 was put and negatived.

MR. CHAIRMAN : Shri Ramesh Chennithala - not present.

The question is :

"That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 and 6 were added to the Bill.

Clause 7 procedure to be followed by a

Magistrate not empowered under the Act

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move :

Page 5, line 18, --

after "this Act",

insert "or any other law for the time being inforce", (8)

Page 5, line 18, --

for "the child",

substitute "child", (9)

MR. CHAIRMAN : I shall now put the Amendment Nos. 8 and 9 moved by Shri Pawan Kumar Bansal to the vote of the House.

The amendment nos 8 and 9 were put and negatived.

MR. CHAIRMAN : The question is :

"That clause 7 stand part of the Bill".

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8 Observation homes

MR. CHAIRMAN : Shri Ramesh Chennithala - not present.

The question is :

"That clause 8 stand part of the Bill".

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9 Special Homes

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move :

Page 5, lines 44 and 45, --

omit "either by itself or under an agreement with
voluntary organisations," (10)

Page 5, line 46, --

for "juvenile"

substitute "juveniles" (11)

MR. CHAIRMAN : I shall now put the Amendment Nos. 10 and 11 moved by Shri Pawan Kumar Bansal to the vote of the House.

The amendment nos. 10 and 11 were put and negatived.

MR. CHAIRMAN : The question is :

"That clause 9 stand part of the Bill".

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

Clause 11 Control of custodian over Juvenile

MR. CHAIRMAN : Shri Ramesh Chennithala - not present.

The question is :

"That clause 11 stand part of the Bill".

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12 was added to the Bill.

Clause 13 Information to parent,

guardian or probation officer

SHRI RAMDAS ATHAWALE (PANDHARPUR): Sir, I beg to move :

Page 6, line 41, --

after "appear"

insert "failing which departmental action shall be taken
against the concerned officer" (1)

MR. CHAIRMAN : I shall now put the Amendment No. 1 moved by Shri Ramdas Athawale to the vote of the House.

The amendment no 1 was put and negatived.

MR. CHAIRMAN : The question is :

"That claus

e 13 stand part of the Bill".

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14 Inquiry by Board regarding Juvenile

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move :

Page 7, line 2, --

for "four months"

substitute "three months" (12)

MR. CHAIRMAN : I shall now put the Amendment No. 12 moved by Shri Pawan Kumar Bansal to the vote of the House.

The amendment was put and negatived.

MR. CHAIRMAN : The question is :

"That clause 14 stand part of the Bill".

The motion was adopted.

Clause 14 was added to the Bill.

Clause 15 Order that may be passed regarding Juvenile

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 7, line 9,--

omit "inquiry against and" (13)

Page 7, line 24,--

for "seventeen years"

substitute "sixteen years" (14)

Page 7, line 25,--

for "two years"

substitute "three years" (15)

MR. CHAIRMAN : I shall put amendment Nos. 13, 14 and 15 moved by Shri Pawan Kumar Bansal to clause 15 to the vote of the House.

The amendment nos 13 to 15 were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

**Clause 16 Order that may not be passed
against Juvenile**

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 8, line 9,--

for "sixteen years"

substitute "fourteen years" (16)

Page 8, line 12,--

for "other juvenile"

substitute "any other juvenile" (17)

MR. CHAIRMAN: I shall put amendment Nos. 16 and 17 moved by Shri Pawan Kumar Bansal to clause 16 to the vote of the House.

The amendment nos 16 and 17 were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 16 stand part of the Bill."

The motion was adopted.

Clause 16 was added to the Bill.

Clauses 17 to 21 were added to the Bill.

Clause 22 Provision in respect of escaped Juvenile

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Sir, this amendment is actually intended to overcome a shortcoming in the Bill.

Sir, I beg to move:

Page 9, line 12,--

after "special home"

insert or from protective custody" (18)

Page 9, line 18,--

after "Clause 22", insert--

"Chapter II-A

OFFENCES AGAINST THE CHILD" (19)

MR. CHAIRMAN: I shall put amendment Nos. 18 and 19 moved by Shri Pawan Kumar Bansal to clause 22 to the vote of the House.

The amendment nos 18 and 19 were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 22 stand part of the Bill."

The motion was adopted.

Clause 22 was added to the Bill.

Clause 23 Punishment for cruelty to Juvenile or child

SHRI RAMDAS ATHAWALE (PANDHARPUR): Sir, I beg to move:

Page 9, line 23,--

for "six months"

substitute "two years" (2)

MR. CHAIRMAN: Shri Ramesh Chennithala is not present.

I shall put amendment No. 2 moved by Shri Ramdas Athawale to clause 23 to the vote of the House.

The amendment no. 2 was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 23 stand part of the Bill."

The motion was adopted.

Clause 23 was added to the Bill.

Clause 24 Employment of Juvenile or child for begging

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 9, line 24,--

for "purpose"

substitute "purpose of" (20)

MR. CHAIRMAN: I shall put amendment No. 20 moved by Shri Pawan Kumar Bansal to clause 24 to the vote of the House.

The amendment no 20 was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 24 stand part of the Bill."

The motion was adopted.

Clause 24 was added to the Bill.

Clause 25 Penalty for giving intoxicating liquor or

Narcotic drug or psychotropic substance to

Juvenile or child

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 9, line 31,--

for "the child"

substitute "child" (21)

MR. CHAIRMAN: I shall put amendment No. 21 moved by Shri Pawan Kumar Bansal to clause 25 to the vote of the House.

The amendment no. 21 was put and negatived.

MR. CHAIRMAN: The question is:

"That clause 25 stand part of the Bill."

The motion was adopted.

Clause 25 was added to the Bill.

Clause 26 Exploitation of Juvenile or child employee

MR. CHAIRMAN: Shri Pawan Kumar Bansal, are you moving amendment No. 22 to clause 26?

SHRI PAWAN KUMAR BANSAL : I am not moving the amendment.

MR. CHAIRMAN: The question is:

"That clause 26 stand part of the Bill."

The motion was adopted.

Clause 26 was added to the Bill.

Clauses 27 and 28 were added to the Bill.

Clause 29 Child welfare committee

SHRI RAMDAS ATHAWALE : Sir, I beg to move:

Page 10, lines 8 and 9,--

*for "woman and another, an expert on matters
concerning children"*

*substitute "woman, one an expert on matters
concerning children and one from*

SC or ST community" (3)

SHRI PAWAN KUMAR BANSAL : Sir, I urge once again the Minister to consider this. This will lead to difficulties otherwise.

Sir, I beg to move:

Page 10, line 19,--

for "less than"

substitute "at least" (23)

MR. CHAIRMAN: I shall put amendment No. 3 moved by Shri Ramdas Athawale, and amendment No. 23 moved by Shri Pawan Kumar Bansal, to the vote of the House.

The amendments nos 3 and 23 were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 29 stand part of the Bill."

The motion was adopted.

Clause 29 was added to the Bill.

Clause 30 was added to the Bill.

Clause 31 Powers of Committee

MR. CHAIRMAN: There is an amendment to clause 31 to be moved by Shri Ramesh Chennithala.

Shri Chennithala is not present.

The question is:

"That clause 31 stand part of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

Clause 32 Production before committee

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 10, lines 49 and 50,--

for "authorised by the State Government"

substitute "permitted by the Committees" (24)

Page 11, line 2,--

omit "to the police and" (25)

Page 11, line 3,--

after "children's home"

insert "or shelter home" (26)

MR. CHAIRMAN: I shall now put amendment nos. 24, 25 and 26 moved by Shri Pawan Kumar Bansal to vote of the House.

The amendment nos 24 ro 26 were put and negatived.

MR. CHAIRMAN: The question is:

"That Clause 32 stand part of the Bill."

The motion was adopted.

Clause 32 was added to the Bill.

Clause 33 Inquiry

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 11, lines 4-7,--

omit "or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32" (27)

Page 11, line 8,--

after "children's home"

insert "or shelter home" (28)

Page 11, line 9,--

for "four months"

substitute "three months" (29)

MR. CHAIRMAN: I shall now put amendment nos. 27, 28 and 29 moved by Shri Pawan Kumar Bansal to vote of the House.

The amendment nos 27 to 29 were put and negatived.

MR. CHAIRMAN: The question is:

"That clause 33 stand part of the Bill."

The motion was adopted.

Clause 33 was added to the Bill.

Clauses 34 to 36 were added to the Bill.

Clause 37 Shelter homes

MR. CHAIRMAN: There is amendment no. 60 to Clause 37 be moved by Shri Ramesh Chennithala.

Shri Chennithala is not present.

The question is:

"That clause 37 stand part of the Bill."

The motion was adopted.

Clause 37 was added to the Bill.

Clauses 38 to 40 were added to the Bill.

Clause 41 Adoption

MR. CHAIRMAN: Shri Chennithala is not present in the House.

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move:

Page 12, line 21,—

for "children"

substitute "a child or an infant" (30)

Page 12, line 27,—

for "Board"

substitute "Committee" (31)

Page 12, line 32,—

omit "an" (32)

MR. CHAIRMAN: I shall now put amendment nos. 30, 31 and 32 to the vote of the House. The amendment nos 30 to 32 were put and negatived.

MR. CHAIRMAN: The question is: "That clause 41 stand part of the Bill." The motion was adopted. Clause 41 was added to the Bill. Clause 42 Foster care

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move: Page 13, line 3,—after "another family" insert "or a recognised public spirited institution" (33) Page 13, lines 4 to 6,—for "circumstances where the child's own parent usually visit regularly and eventually after the rehabilitation, where the children may return to their own homes." substitute "circumstances of the case" (34)

)
MR. CHAIRMAN: I shall now put the amendment nos. 33 and 34 moved by Shri Pawan Kumar Bansal to the vote of the House. The amendments were put and negatived.

MR. CHAIRMAN: The question is: "That clause 42 stand part of the Bill." The motion was adopted. Clause 42 was added to the Bill. Clause 43 was also added to the Bill.

Clause 44 After care organisation

MR. CHAIRMAN: There is an amendment no. 63 to clause 44. Shri Ramesh Chennithala ---- not present The question is: "That Clause 44 stand part of the Bill." The motion was adopted. Clause 44 was added to the Bill. Clause 45 Linkages and co-ordination

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move: Page 13, line 40,- add at the end – "after his discharge from

the special home or children's home." (35)

MR. CHAIRMAN : Shri Ramesh Chennithala - not present. I shall now put Amendment No.35, moved by Shri Pawan Kumar Bansal, to the vote of the House. The amendment no 35 was put and negatived.

MR. CHAIRMAN: The question is: "That clause 45 stand part of the Bill."The motion was adopted.Clause 45 was added to the Bill.Clauses 46 and 47 were added to the Bill.

Clause 48 Commital to approved place Of Juvenile or child suffering from Dangerous diseases and his future disposal

SHRI RAMDAS ATHAWALE : Sir, I beg to move: Page 14, line 10.- add at the end – "and proper medical facilities shall be provided to them" (4)

SHRI PAWAN KUMAR BANSAL : Sir, I beg to move: Page 14, line 14, - omit "or under the relevant laws as such" (36)

MR. CHAIRMAN: I shall now put Amendments No.4 and 36, moved by Shri Ramdas Athawale and Shri Pawan Kumar Bansal respectively, to the vote of the House. The amendment nos 4 and 36 were put and negatived.

MR. CHAIRMAN: The question is: "That clause 48 stand part of the Bill."The motion was adopted.Clause 48 was added to the Bill.Clause 49 Presumption asnd determinastion of ageMR. CHAIRMAN: Shri Pawan Kumar Bansal, are you moving your Amendments No.37, 38 and 39?

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): No, Sir.

MR. CHAIRMAN: The question is: "That clause 49 stand part of the Bill."The motion was adopted.Clause 49 was added to the Bill.Clauses 50 and 51 were added to the Bill.

Clause 52 AppealsSHRI PAWAN KUMAR BANSAL : Sir, I beg to move: Page 14,- omit lines 49 and 50. (40) Page 14, line 51,- omit "(b)" (41)

MR. CHAIRMAN: I shall now put Amendments No.40 and 41, moved by Shri Pawan Kumar Bansal, to the vote of the House. The amendment no 40 and 41 were put and negatived.

MR. CHAIRMAN: The question is: "That clause 52 stand part of the Bill."The motion was adopted.Clause 52 was added to the Bill.Clauses 53 to 55 were added to the Bill.Clause 56 Power of competent authority to discharge and transfer juvenile or child

MR. CHAIRMAN: Shri Pawan Kumar Bansal, are you moving your Amendment No.42?

SHRI PAWAN KUMAR BANSAL : No, Sir.

MR. CHAIRMAN: The question is:"That clause 56 stand part of the Bill."The motion was adopted. Clause 56 was added to the Bill.Clause 57 Transfer between children's homes, under the Act, and Juvenile homes, of like nature in different parts of India

MR. CHAIRMAN: Shri Pawan Kumar Bansal, are you moving your Amendment No.43?

SHRI PAWAN KUMAR BANSAL : No, Sir.

MR. CHAIRMAN: The question is: "That clause 57 stand part of the Bill."The motion was adopted.Clause 57 was added to the Bill.Clause 58 was added to the Bill.Clause 59 Release and absence of Juvenile or child on placement

SHRI PAWAN KUMAR BANSAL : Sir, this is only to correct a mistake in the Bill. Even then they are not agreeing to it. I beg to move: Page 16, line 14,- omit "or juvenile" (44)

MR. CHAIRMAN: I shall now put Amendment No.44, moved by Shri Pawan Kumar Bansal, to the vote of the House. *The amendment no 44 was put and negatived.*

MR. CHAIRMAN: The question is:"That clause 59 stand part of the Bill."*The motion was adopted.Clause 59 was added to the Bill.Clauses 60 to 62 were added to the Bill.*

MR. CHAIRMAN : Now, Amendment Nos. 48 and 49 -- Shri Ramesh Chennithala – not present.

MR. CHAIRMAN: The question is:"That clause 63 stand part of the Bill."*The motion was adopted.Clause 63 was*

added to the Bill. Clause 64 Juvenile in conflict with law undergoing sentence at commencement of this Act

.MR. CHAIRMAN: Now, Amendment Nos. 45 and 46 – Shri Pawan Kumar Bansal. Are you moving them?

SHRI PAWAN KUMAR BANSAL I am not moving them.

MR. CHAIRMAN: Good. The question is: "That clause 64 stand part of the Bill." *The motion was adopted. Clause 64 was added to the Bill. Clauses 65 to 70 were added to the Bill.*

MR. CHAIRMAN: Shri Ramesh Chennithala - not present. The question is: "That clause 1 stand part of the Bill." *The motion was adopted. Clause 1 was added to the Bill. The Enacting Formula, the Preamble and the long Title were added to the Bill.*

MR. CHAIRMAN: Now, the Minister may move that the Bill be passed.

SHRIMATI MANEKA GANDHI: Sir, I beg to move: "That the Bill be passed."

MR. CHAIRMAN: The question is: "That the Bill be passed." *The motion was adopted.*-----