

18.21 hrs.

## MARRIAGE LAWS (AMENDMENT) BILL

**Title:** Consideration and passing of the Marriage Laws (Amendment) Bill, 2003. (Bill passed)

MR. CHAIRMAN: Now, we move on to Item No.23.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): Sir, I beg to move:

"That the Bill further to amend the Special Marriage Act, 1954 and the Hindu Marriage Act, 1955, as passed by Rajya Sabha, be taken into consideration."

Mr. Chairman Sir, this is a very small amendment which is being made pursuant to some observations made by the Supreme Court in some judgements.

In the Special Marriage Act and the Hindu Marriage Act, there is a provision with regard to the place where the petition for a matrimonial dispute can be presented at High Courts or otherwise. It does not include the place where the wife resides at the time of the presentation of the petition. As a result of which, at times she has to go to the place where the marriage took place or where the husband is residing, travel long distances and we know women in India are, in terms of economic and social factors, handicapped on account of this fact. So, it was a suggestion in some of the judicial views that this should also be taken into consideration and acting upon that we have decided to amend both these Acts to say that where the wife is now residing is also one of the places where a petition can be presented. The earlier places, which were there, all continue to be there.

Secondly, instances of *ex-parte* divorces by either wrongly serving the other spouse or not serving them or through this kind of mischievous tactics have been increasing. The period for filing an appeal after that divorce is only 30 days. What has been happening is that after obtaining an *ex-parte* divorce behind the back of the other spouse, the person who obtains a divorce can get married and it is only then that the other spouse comes to know of this. So, it has been recommended that this period of 30 days be increased to 90 days so that the possibility of larger information being obtained with regard to this and the aggrieved party can move to court. Therefore, the second part of this amendment is that the 30-day period for filing an appeal, in both the laws, is proposed to be increased to 90 days.

These are essentially beneficial legislations, which help the women and therefore, I propose to this House that this Bill can be passed, if necessary, even without a discussion, if my friends agree.

MR. CHAIRMAN : Motion moved:

"That the Bill further to amend the Special Marriage Act, 1954 and the Hindu Marriage Act, 1955, as passed by Rajya Sabha, be taken into consideration."

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Chairman Sir, this amendment will certainly help those women who because of the prevailing circumstances against women in our society found it extremely difficult to present a petition at a place where the marriage was solemnised or at a place where they last resided together or even, as the hon. Minister said, if the petition was to be filed by the husband, to travel to those places. So, this provision is certainly a beneficial one. I suppose everyone would certainly support it as also the one relating to enhancing the period of appeal.

Sir, while I support these two provisions, I fail to understand why he has included proviso to this clause 6. Once you have agreed that even the pending cases would be covered by this, then I think, that even those cases where on the date of the commencement, when this Bill commences, even if the period of 30 days had expired but still 90 days had not expired, in that I suppose the benefit of this Bill should have been extended to them also as he has done in the main provision of clause 6. This proviso should not have been included and if somebody could get the benefit, he should have got the benefit of it.

I understand you will go by the legal interpretation of the existing provision. I am saying something more than that. By an explicit provision, you should have extended that period of 90 days to all the cases beginning from the day of the passing of the judgement. Anyone who could get the benefit of it should have been given the benefit thereof on the basis of the merit of the provision you thought of giving that benefit.

Having said that I would only like to say one thing more. It is fine that we are making provisions like this. But we do find in real practice that in a large number of cases, women find it extremely difficult to pursue their cases because of the hardships of life. They are discarded by their husbands. The interim relief is not given to them and they are, in fact, on the verge of starving. For those cases you have got to strengthen your legal aid system. That is not being done. If we mean business, if we want these beneficial provisions to be extended to women, who are somehow dragged to litigation for no fault of theirs, there should be some provision to ensure that they are able to fight out their cases in the court unhindered by their economic conditions. That certainly is not a part of this it could not have been a part of the Bill. But, I do want to take the opportunity to say so. I would like the hon. Minister to make a solid provision in that regard in the other relevant provisions.

SARDAR SIMRANJIT SINGH MANN (SANGRUR): Mr. Chairman, Sir, I stand on the combined strength of the Shiromani Akali Dal Badal and Mann to oppose this Bill because this Bill governs the Hindu religion. It is a revolutionary step for us, both the Akali Dals to get together and the leader of the Akali Dal Badal, Sardar Tirlochan Singh Tur has written to you that I will represent the case of the Sikhs on this matter. We are thoroughly opposed to this Bill because it ties us without our consent to the Hindu religion. Sikhism is a separate religion having a separate history, culture, language, script, traditions, territory and all the other requisites that make us a complete and wholesome religion. We may have some similarities with Hinduism but, on the other hand, Ibrahim and Moses are the common Godfathers of the Christians, Muslims and the Jews, yet they do not constitute one religion. They are poles apart. The history of the Middle East today will show you that all these three religions who accept Moses and Ibrahim as their Godfather are at daggers drawn and fighting with each other. Though we are not fighting with one another we are as different from Hinduism as the Muslim is from Judaism or of Christianity. How can Hindu leadership arbitrarily, without proof of convention, tradition and history include a separate Sikh religion within the folds of Hinduism? We consider this an insult to our pride and religious feelings. We fear that if legally and constitutionally we are not detached from the folds of Hinduism, we will be devoured into the omnivorous belly of Hinduism. To give you an example, Mr. Chairman, in the preparation of the Census population totals in the country, Sikhs are classified separately. Under the National Commission for Minorities Act, 1992, Sikhs are the distinct minority in the country....(*Interruptions*)

श्री अरुण जेटली : आपकी बात इस बिल के स्कोप में नहीं आती है। महिलाओं का अपील पीरियड कितना है, उसका इसके साथ कोई ताल्लुक नहीं है।

SARDAR SIMRANJIT SINGH MANN : We are separate from you. I am trying to plead my case.

SHRI ARUN JAITLEY: You plead it at the appropriate time. But whether women should have 30 days to appeal or 90 days to appeal is not an issue as to what the larger view of the religion is.

SARDAR SIMRANJIT SINGH MANN : Mr. Law Minister, you can have your views after I have spoken. ...(*Interruptions*)

SHRI ARUN JAITLEY: You can speak on the Bill. You cannot give an essay on some other subject which is not the subject of this Bill. ...(*Interruptions*)

SARDAR SIMRANJIT SINGH MANN : You cannot muzzle up our voices. ...(*Interruptions*)

\*SHRIMATI SANTOSH CHOWDHARY (PHILLAUR): You should accept the facts regarding women. ...(*Interruptions*)

SARDAR SIMRANJIT SINGH MANN : Madam, our women are affected. How can we be a part of your religion? ...(*Interruptions*)

\*SHRIMATI SANTOSH CHOWDHARY : Whenever there is a case regarding women, you divert it. â€¦  
(*Interruptions*)

SARDAR SIMRANJIT SINGH MANN : Do you want to muzzle my voice? ...(*Interruptions*)

Mr. Chairman, Sir, this is extraordinary. This is a dictatorship by the Hindu religion that if we want to break the umbilical cord, they just stand up and muzzle our voices. ...(*Interruptions*)

SHRI MADHUSUDAN MISTRY (SABARKANTHA): Sir, I take strong objection to that sentence. ...(*Interruptions*)

SARDAR SIMRANJIT SINGH MANN : Sir, I am speaking and building up my case to be separated from the Hindu Marriage Act and by so doing, why should the Congress people always oppose us? You have trespassed into our

Golden temple, you have destroyed our culture, you have committed our genocide. ...(*Interruptions*)

SHRI RAMESH CHENNITHALA (MAVELIKARA): Whatever you are saying is not within the scope of the Bill. ...(*Interruptions*)

SARDAR SIMRANJIT SINGH MANN : Maybe it is not but what I am talking is within the scope and ambit of the Bill. ...(*Interruptions*)

**सभापति महोदय :** बिल के प्रावधानों के अनुसार ही बोला जाए।

SARDAR SIMRANJIT SINGH MANN : Yes, Mr. Chairman, Sir, I am speaking according to the fact that we do not want to be a part and parcel of the Hindu religion. And for Heavens' sake, just detach us. That is what I am saying. That is why, I am saying that the Sikhs are a distinct minority in the country. Under various legislation relating to religion, the Punjabi language in *gurumukhi* script spoken by the Sikhs is recognised. The Constitution of India recognised separate status for the Sikh religion. Whatever anomaly is there in Section 25, the Constitution Review Committee has proposed that such anomaly should be removed and the Sikhs should be given the separate status and recognition. This proposal has been made in the early part of 2002.

Sir, my Party and I have demanded many times in Parliament and outside the premises that the NDA Government introduce a Constitution (Amendment) Bill to amend article 25 of the Constitution and alter it to include the recommendations of the Constitution Review Committee, which was constituted by the NDA Government. We are not asking for something more and we will not accept anything less. Why is this reluctance by the Government and you, Sir? If all religious denominations in India, the Hindus, the Parsis, the Christians, and the Muslims have separate and their respective marriage laws, why not the Sikhs? Therefore, I pray that the Anand Marriage Act of 1909 become a legal tender for the Sikh marriages and we be separated from the Hindu Marriage Act once and for all and for all times to come.

The Sikh people all over the world want this forcefully tied umbilical cord unilaterally by the Hindu religion to be cut for ever, and legally and constitutionally we wish to be freed as we were by our first Guru Nanak in the 15<sup>th</sup> and 16<sup>th</sup> Centuries. That is all I demand. We will not accept to be governed by the Hindu Marriage Act at all. You may call it a rebellion or revolt or anything but we will not accept to be governed by an alien religion, another religion and have our marriages solemnised under an alien religion.

**श्री सुरेश रामराव जाधव (परमनी) :** सभापति महोदय, मैं विशेष विवाह अधिनियम 1954 और हिन्दू विवाह अधिनियम, 1955 में और संशोधन करने वाले विधेयक पर बोलने के लिए खड़ा हुआ हूँ। आप विवाह विधि विधेयक में संशोधन करने जा रहे हैं। मैं अपनी और अपनी पार्टी की तरफ से मंत्री महोदय का अभिनन्दन करना चाहता हूँ। इसमें दो बातें हैं - इसके द्वारा जूरिस्टिक्शन बढ़ा दी गई है। जिस कोर्ट में पति ने याचिका दायर की है, उसमें दुखी और पीड़ित महिला याचिका दायर कर सकती हैं। इसके अलावा उस महिला के पेरन्ट्स द्वारा भी पेटिशन दाखिल की जा सकती है।

आपने अपील बढ़ा दी है। मैं इन दोनों बातों का अपनी पार्टी शिवसेना की तरफ से पुरजोर समर्थन करता हूँ। एन.डी.ए. सरकार का इरादा यही है कि उसने दुखित महिलाओं के समर्थन के लिये और उन्हें सशक्त बनाने के लिये यह कदम उठाया है। इसके लिये सरकार और मंत्री दोनों धन्यवाद के पात्र हैं।

SHRI ARUN JAITLEY: Sir, a few questions have been raised by the hon. Members. But one important question, which requires a response, which was raised within the ambit of this Bill by Shri Pawan Kumar Bansal is to why the proviso to Section 6 is there. The legislative reason why the proviso has been introduced, excluding those cases where decrees have already been passed annulling marriages or otherwise, and time for appeal has expired, that this will not apply to them because the rights of parties would have been created under the old law. Now, by this legislation to take away those rights, which have accrued themselves, would create a legal complication.

I give an example. Supposing 30-day period, after the divorce has expired, and the person who has obtained a divorce decree has gone and re-married on the 50<sup>th</sup> or 60<sup>th</sup> day, then what will happen? Now, by retrospectively extending the limitation, you are giving to the other spouse, who is aggrieved by that divorce, to challenge that divorce itself which would have complications on subsequent rights and the third party rights which have been created. Therefore, very carefully the proviso has been introduced. It does not take away the existing rights that have been created on the basis of decrees that have already been passed. That is the rationale behind the proviso of Section 6.

Sir, some other views have been taken. I respect the hon. Member who has given this view. There is no question of anybody trying to throttle anybody's voice. Since those views are wholly outside the ambit of this Bill, I do not think there is any necessity for me to respond to that.

With these few words, I commend to the House that the Bill be accepted.

SARDAR SIMRANJIT SINGH MANN : Mr. Law Minister, you respond to our demand. You say yes or no. This is the

tyranny of the majority. We do not accept it. ...(*Interruptions*)

MR. CHAIRMAN : The question is:

"That the Bill further to amend the Special Marriage Act, 1954 and the Hindu Marriage Act, 1955, as passed by Rajya Sabha, be taken into consideration. "

*The motion was adopted.*

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

The question is:

"That clauses 2 to 6 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 6 were added to the Bill.*

*Clause 1, the Enacting Formula and the Long Title were added to the Bill.*

SHRI ARUN JAITLEY: Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*

MR. CHAIRMAN: The House now stands adjourned till 11.00 a.m tomorrow.

**18.38 hrs.**

The Lok Sabha then adjourned till eleven of the clock on  
December 10, 2003/Agrahayana 19, 1925 (Saka)

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