

**Session : 8**

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**Participants :** [Chakraborty Shri Sujan](#), [Vijay Krishna Shri](#), [Prabhu Shri Suresh](#), [Singh Shri Mohan](#), [Rawat Prof. Rasa Singh](#), [Radhakrishnan Shri Varkala](#), [Kharventhan Shri Salarapatty](#), [Kuppusamy](#), [Chaliha Shri Kirip](#), [Owaisi Shri Asaduddin](#), [Panda Shri Brahmananda](#), [Chowdhury Shri Adhir Ranjan](#), [Selvi Smt. V. Radhika](#), [Chakraborty Shri Ajay](#), [Mahajan Smt. Sumitra](#), [Yerrannaidu Shri Kinjarapu](#), [Lagadapati Shri Rajagopal](#), [Banerjee Kumari Mamata](#), [Kumar Shri Shailendra](#), [Jaiswal Shri Shriprakash](#), [Nikhil Kumar Shri](#), [Nayak Smt. Archana](#), [Hamza Shri T.K.](#)

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Title : Further discussion on the motion for consideration of the Protection of Human Rights (Amendment) Bill, 2006 moved by Shri Shriprakash Jaiswal on behalf of Shri Shivraj V. Patil on 23<sup>rd</sup> August, 2006 (Bill Passed).

MR. SPEAKER: Now, item no. 15 – Protection of Human Rights (Amendment) Bill, 2006. Shri Adhir Chowdhury – not present.

Dr. Sujan Chakraborty.

DR. SUJAN CHAKRABORTY (JADAVPUR): Mr. Speaker, Sir, I am thankful to you for giving me the chance to speak on the Protection of Human Rights (Amendment) Bill, 2006. Generally and broadly, I agree with the contents of the Bill. In general, I agree to it, but some amendments have been proposed in it that are basically technical in nature. ... (*Interruptions*)

**15.45½ hrs.**

(Shri Varkala Radhakrishnan *in the Chair*)

But these amendments have an overall impact on the entire functioning of the National Human Rights Commission (NHRC). Therefore, these are very important in its overall activity.

All of us know that it is based on the suggestions and recommendations of Justice Ahmedi Committee, and they have made six or seven important points. Though, I broadly agree to the basic amendment of the Bill, yet I have some four or five points to make on this issue.

Firstly, it intends to replace the ex-Chief Justice by the ex-Justice of either Supreme Court or High Court with some years of experience, may be three years or five years. I feel that this amendment will not be proper in view of the fact that the status of the NHRC will be degraded. Therefore, this amendment should not be made. The ex-Chief Justices are available upto the age of 70 years, and it will be better for the status of Human Rights Commission if they are taken. I am saying this because they can act on a holistic view.

Secondly, the Bill empowers the Commission to visit any jail or detention centre without even informing the State Government. It may not be required to do so in case of exigency, but as a provision it is not a good practice to visit the jail or the detention centre without informing or

intimating the State Governments. The States also have their own structure and rights. It is always logical to intimate and inform and then act on the States. Obviously, this provision should not be made in the fashion in which it has been made. It should be made in a manner that whenever there is an exigency like whenever a State is not acting or the State is not interested or does not want to divulge something, then this scope of exigency should be there.

Thirdly, the human rights include the fundamental rights, and it is not the question of individual liberty. We all know that in the western world the question of individual liberty is more important. It is because the type of social inequality that is prevalent in our case is not dominant there. In our case, some type of social inequality and injustice in the society is prevailing over individual liberty. Therefore, social equality or social justice should also be a very important component of any justice, and it is already there. Our NHRC is rated this way, namely, that they are functioning in a better way. Similarly, Right to life, right to education, right to health, etc. are compromised and jeopardized in our country. Should the question of distress and discomfort among the people not come in the arena?

Thousands of farmers have committed suicide. Is it not a question of human rights violation? Why are you not in a position to protect the human rights of the farmers? Why are you not able to help them maintain their lives? I believe that committing suicide is also definitely a violation of the human rights. How is the Commission going to deal with all these fundamental rights?

About right of work, right of employment and right of health, the provisions are not at all clear in the entire Bill or in the amendment. That should be clarified, in my opinion.

My next point is very important that the human rights of all should be protected, but it is again ambiguous, particularly on the question of terrorism and the rights of the killer. How will you look into it? How will it be differentiated? Such ambiguity should not be there. That is not clear and is not well defined in the Bill. These points should be taken note of.

In fact, world over, USA is shouting for human rights in other countries, but it is the major violator of human rights, and there is no doubt about it. In the name of searching deadly arms, the way they have invaded Iraq, is it not a total violation of human rights? Look at the way things are happening in Lebanon, the way Israel is being sponsored by USA, and the way Lebanon is being treated. Is it not a case of violation of human rights? I believe, from that central point, history will provide a number of instances where it will be seen that sponsored by USA or by USA itself, violation of human rights are continuously happening the world over. But they are moving in a manner as if they are the preachers of human rights.

I will not take much time of the House. I will conclude by saying that some components are obviously there in the amendment, but still, it is not foolproof. The People of Indian Origin who are working and living abroad, should they not be covered by our Human Rights Commission? Should they also not be protected? I would propose that the protection of human rights of all those People of Indian Origin, who may be staying abroad, should be considered by our Human Rights Commission. On the issue of how it can be done, I believe, while replying, the Minister will answer that.

My last point is that there are some provisions for compensation to be awarded by the Human Rights Commission, but there are no provisions for enforcement of it. That should be there and the Commission should have more teeth so that it can categorically ensure that. Besides, the Chairmen of the SC/ST Commission and OBC Commission are there as members in the Human Rights Commission, and I would propose that the Chairmen of the National Minorities Commission and National Women Commission should also be inducted as *ex-officio* members in the National Human Rights Commission.

With these suggestions, I support the Bill.

MR. CHAIRMAN : Now, I give the floor to Shri Adhir Chowdhury. Before you speak, let me say that you were called earlier, but you were not there. If you apologize to the House, I will allow you to speak. If you want to speak, you make a regret; you apologize to the House, which is a sovereign body.

SHRI ADHIR CHOWDHURY: I offer my unqualified apologies to the House.

MR. CHAIRMAN: There is nothing wrong in it. The House is supreme. I myself offered apologies, sometimes.

SHRI ADHIR CHOWDHURY : I was so thirsty that I went out to have a glass of drinking water.

MR. CHAIRMAN: From now onwards, you should be very prompt.

SHRI ADHIR CHOWDHURY : Sir, I rise to support the legislative document under the nomenclature of Protection of Human Rights (Amendment) Bill, 2006.

Sir, the Bill reflects the sentiments of our society and the inclination of this Government to add more weaponry to the existing human rights arsenal. Before we come to dwell on the tone and tenor of this legislative document, I would like to delve into tangentially into the evolution of human rights in the world.

As we are aware, in the aftermath of the World War II the United Nations proclaimed the Universal Declaration of Human Rights and various templates were contrived. At that time, the world had in a situation wherein all the basic tenets of human rights had been trampled upon by the deprecation of imperialist forces. In the year 1776, the concept of human rights first surfaced in the US Declaration of Independence. Again, in the year 1789, during the French Revolution, the rights of citizens were again proclaimed. In the year 1948, the Universal Declaration of Human Rights was proclaimed by the United Nations. In the year 1966, the International Covenants of Civil Rights and Political Rights were proclaimed. Other social, cultural and economic rights were also proclaimed in the year 1966.

In Teheran, the United Nations' Declaration was formalised. There are more than 90 pieces of human rights declarations and covenants which are available with us.

As far as India is concerned, we have enacted the Human Rights Act in the year 1993 and after the lapse of 14 years. The Amendment bill has been moved by this Government. Basically the amendment Bill is aimed to restructure the composition of the Human Rights Commission at the national level and in the State level in the name of the State Human Rights Commission and other definitive clauses have been amended.

The salient features of this Bill are that through this amendment the Human Rights Commission is being bestowed upon the additional powers so that the Human Rights Act could be implemented in the right manner. In this legislation, amendments have been proposed by the Advisory Committee led by Justice Ahamed. He observed over the years and it has been pointed out in the Annual Report also that Human Rights Commissions are incapable of implementing the objective which is called the human rights protection.

MR. CHAIRMAN : Please conclude. After all there is not much in this Bill. This is only an amendment Bill.

SHRI ADHIR CHOWDHURY : Sir, I am the first person from my Party to speak on this.

MR. CHAIRMAN: This is not a parent Bill. This is only an amendment.

SHRI ADHIR CHOWDHURY : In the year 1993, the Human Rights Commission was set up. After 14 years, as per the recommendations of Justice Ahamed Committee, the amendments have been brought forward.

**16.00 hrs.**

Seventeen Sections of the principal Act have been amended but only Section 40(b) has been inserted. What I would like to propose through you to this Government is, here, in this amendment it is stated that retired Judge of the Supreme Court is eligible to become the Chairman of the National Human Rights Commission. The eligibility criteria has been introduced in this amendment. The Judges of the Supreme Court with at least three years experience are said to be eligible to become the Chairman of the NHRC. It has left a scope to misconstruing as a dilution of the authority of the Chairman of the Human rights Commission, which has been in existence in the principal Act. Here, it is found that instead of the Chief Justice of the Supreme Court, any Judge can be appointed as the Chairman of the Human Rights Commission.

MR. CHAIRMAN : Please conclude. If you continue like this, we will not complete the discussion on this Bill.

SHRI ADHIR CHOWDHURY : The Chairperson of the National Commission for Scheduled Castes and the Chairperson of the National Commission for Scheduled Tribes shall be deemed to be the Member of NHRC. Here, I must plead for the inclusion of the Member of the Commission for Women and Minorities Commission to be deemed to be a Member of NHRC. Dialectic of law and society of our country have been determined by the long historical experiences with the passage from colonialism to nationalism. Our Constitution has assigned Fundamental Rights. It has guaranteed the individuals of our country free expression and free existence. No law of our country

basically aims to make a resolution of the existing conflict between various sections of our society where the elite sections try to dominate the society by the use of law. And the law itself is intended to moderate the domination of the elite class through the access of people's participation in our democratic society. As we have observed that the incidents of violence against women have been galloping. Only 25 per cent increase of human violence has been observed by the Human Rights Commission itself. Minorities are being discriminated. They are being stigmatised in our country. In view of the fact, I would like to propose to the Minister also to include one Member of Minorities Commission and one Member from the Commission for Women to be included as a deemed Member of the Human Rights Commission.

To implement the tone and tenor of this amendment, we should require establishment of Human Rights Commission Courts in each and every district because without the adequate infrastructure, the objective of this amendment as well as the Bill could not be implemented. Throughout the country, atrocities are committed against common people by Police. Atrocities against various sections of people have been reported.

I hail from West Bengal where custodial deaths have been reported to be the highest in the whole of country. Custodial deaths involving not only political workers but also involving those belonging to the opposition parties have been reported. They have been subjected to various kinds of torture, persecution and oppression. Not only that, they have been forced to leave their own houses....  
(Interruptions)

MR. CHAIRMAN : Nothing will go on record.

*(Interruptions)\*\**

MR. CHAIRMAN: Nothing will go on record.

*(Interruptions)\*\**

MR. CHAIRMAN: I have tried my level best to control you but I have failed. The amendment Bill is a short one.

*... (Interruptions)*

SHRI ADHIR CHOWDHURY : Sir, I may be allowed to lay my speech on the Table of the House.  
*... (Interruptions)*

MR. CHAIRMAN: Shri Kharventhan's speech may be treated as laid on the Table of the House.

*... (Interruptions)*

MR. CHAIRMAN: Shri Adhir Chowdhury, if you have anything more to say, you can lay it on the Table of the House.

\*SHRI ADHIR CHOWDHURY : The Legislative document under the nomenclature of "The Protection of human rights (Amendment) Bill 2006 reflects the inclination of this Government to

add more weaponry to the existing human rights arsenal.

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\* Speech was laid on the Table.

\*\* Not Recorded.

The objective of this bill is seemed to have essentially injected a structural reforms in the Composition of human rights commission and its mandate as well.

Before dwelling on the tone and tenor of the said amendment bill, I do prefer to dwell into the evolution of human rights which was formally conceived after world war II as a sequel of depredation perpetrated by Nazi German. Europe had witnessed all the basic tenets of human rights was trampled on in a devilish manner including holocaust unprecedented in the annals of history. In the year 1948 one historical instrument had come into existence by the endeavor of United Nations States under the template “Universal Declaration of human rights”. However Human rights which adopted in the 20<sup>th</sup> Century are believed to derive from of the previous expression known as Natural rights. Every civilization since its birth evolve the concept of natural rights incorporated into the human life.

Human values and human dignitaries are an integral part of Indian culture and our civilization since the time immemorial. Even holy “VEDAS” referred the entire world is one family and address the concern of human rights.

In the modern times “Human rights captivated the attention of the people by the US war of independence in the year 1776.

In the year 1789 another landmark revolution in France called French war had given to the declaration of rights of man and citizen.

U.N. also proclaimed the universal declaration of human rights in 1948.

It is evident that the history of human rights is a perpetual phenomenon, a never ending exercise which has been enlightening our society, consolidate the foundation on moral, legal and social fabric.

Indian people had their subjugated by mighty British Colonial power for centuries which virtually torn apart all established institutions. We were ruined economically, culturally, politically and spiritually. Indian people put together all form of resistance to get rid of four-fold disaster which after manifested in the form of demand for fundamental freedoms including civil, political rights for the people. It was vehemently express through the struggle of swaraj.

Human rights as the rights relating to liberty, equality and dignity of the individual guaranteed by the Indian Constitution embodied in the fundamental rights and international covenants.

Eventually fundamental rights including social and economic rights acquired wide recognition.

Whatever adds to the dignity of human life whatever strengthen free existence of human life inter-alia free expression free association should be regarded human rights.

The legislative document has sought to amend 17 sections of the said act while inserting a new section 40 B to that act.

The nature of amendments as are observed can be categorized 1. substantial, 2. Consequential, 3. Clarificatory.

Human rights act in India came into being in 1993 as a signatory of UN declaration of human rights.

The Commission experienced some shortcomings and identified some deficiencies into the instrument and proposed some amendments in their annual report. As a result of which an advisory committee was set up under the Chairmanship of justice. A.H. Ahmedi former Chief Justice of India in order to evaluate the entire spectrum of the act and proposed amendments.

Based upon the recommendations of the Advisory Committee a few amendments are proposed in this act to widen the scope and ambit of this act. Salient features of those amendments pertain to “J. Composition and restructuring of National human rights Commission.

2. State human rights Commission.

3. Amendment to the definition clause for the appointment of Chairman of the N.H.R.C. eligibility criterion has then identified a little departure from the existing one.

Henceforth judges of the Supreme Court with at last three years service as such to the eligible to be appointed as the Chairperson of the N.H.R.C.

This provision may offer scope to construe the dilution of the chair which was meant for Chief Justice of India in the principal act.

May I request the Hon'ble Minister to clarify the inflection in regard to the Chairman.

For State Human Right Commission any judge of the high courts with at least five years of service as such to be appointed as Chairperson of the S.H.R.C. and for that matter a district judge with at least seven years of experience in that capacity to be a member of S.H.R.C.

To this said amendments N.H.R.C. has been enabled to inquire into cases of human rights violation and abatement referred by the Court. In addition to the suo-motto inquiry into a complaint lodged by the victim. It is very healthy proposition as it has widened the purview of the Commission to discharge the mandate.

The bill has further bestowed upon the Commission to recommend award of compensation on interim relief to the victims during the pendency of inquiry which was now done after the completion of inquiry.

The bill provides that the Chairperson of the National Commission for the SC and ST respectively shall be deemed to the members of the N.H.R.C.

The incidences of violence against women have been galloping alarmingly. It has been increased by 25% in the recent year.

Even appointment of women judge for the trial of rape victim it has been actively considered. Our population consists of 49% of female.

Keeping in view of this, May I propose the Minister to include a member from women as deemed member of N.H.R.C. Furthermore in view of the diversity of our country where discrimination against minority community often reported much to the discomfiture of us for example Gujarat Riot. In Dang Anti-Christian violence and in Kashmir anti Kashmiri Pandit and so on. Therefore, I propose member from commission should be included as a deemed member in the composition of NHRC.

The dialectics of law and society in India has been determined by the historical experience during the passage from colonialism to nationalism. In this process both legal and social systems have been evolved. Constituent Assembly of India had an exhaustive deliberation in order to strike a balance in view of conflicting interest of our society where elite class exercise their influence by the use of law to keep themselves dominant in the society while constitution strives hard to moderate the domination by providing more avenues of participation for the disadvantaged. N.H.R.C. has been empowered to delegate certain powers and functions to the Secretary General of N.H.R.C. which smacks of bureaucratic interference into the institutional affairs.

All said and done the fact remains that H.R. still is in a vacant stage in India.

Relevant international covenants are:



1. Universal declaration of human rights, 1948
2. International covenant on civil and political rights, 1966
3. International covenant on economic social and cultural rights, 1966.
4. Optional rights in addition to international covenant go other declarations and other relevant documents known as instrument of human rights including Paris Principle which India has ratified subject to notification.

Government by notification may specify economic, social and cultural rights are difficult to complement in toto. Approach of U.N. declaration was formalised as Teheran Declaration.

While dwelling on human rights we should remember the contribution of Raja Rammohan Rao in the context of evolving human rights aspiration. He was the exponent for abolition of obnoxious "Sati Culture" in India, he vociferously pleaded for widow marriage advocated for equal rights for women in India.

I do dare to offer few suggestions normally.

1. Exclusive distinct human rights courts for each district should be established or at least human rights camps should be organized by Commission.
2. District human rights commission should be set up to realize the spirit of human rights act. The infrastructure of N.H.R.C. is quite inadequate to cover the rural and semi-urban population though N.H.R.C. now can transfer the complaints received by it to S.H.R.C.
3. The incidents of custodian deaths have been increasing in our country due to the resorting to the Third degree method by unscrupulous police officials. As per rules an accused can not be detained in P.C. more than 24 hours. But this rule is violated in a rampant manner. When relative of the victim approached the court it is often found that the accused shift to other places under police control. Therefore, even if person under custody often visits the detention centre he may be hoaxed by the police.

In this provision commission entrusts the power to visit the detention centre without prior intimation. But what I feel accessibility to the Commission should be made more easier for the victims relatives. Atrocity and physical torture by the police might be referred to the Commissioner but the investigation is held by the police officers who are pretty sympathetic and prefer to exonerate their brothers.

4. Chairman of the concerned S.H.R.C. should be appointed from other state to avoid any political favour and he/she should well conversant with the local language. Last but not the least I will propose to introduce human rights literacy in every educational institution and to create public awareness by waging human rights movement. People are more and more depending on judiciary to get relief and judiciary also through its activism giving shape to the rights. The enforcement of human rights by the judiciary has become an integral part of jurisprudence. By virtue of Article 32 and 226 the court greatly extend the ambit of judicial review and devised methods by opening the door for poor and downtrodden through P.I.L.

Status of refugees is still unsettled in spite of 1951 and 1967 U.N. protocol which India has ratified.

The wonder that was India as written by BASAM.

The overall impression is that in no other part of the ancient world the relation of man and man and of man and the state fair and human.

In no other civilization were slaves so few in numbers and in no other ancient law book are their rights so well protected as in Arthashastra no other ancient law given proclaimed such noble ideas of fair play in battle as did "MANU" to us the most striking feature of ancient Indian civilization in the humanity.

I must praise the Government for bringing in such legislation and without any reservation. I support the bill and thus concluding my speech.

श्री मोहन सिंह (देवरिया) : सभापति जी, मैं इस संशोधन विधेयक का समर्थन करने के लिए खड़ा हुआ हूँ। यह बहुत ही मामूली संशोधन है। जो ह्युमन राइट कमीशन का कंपोजीशन है कि कौन उसका जज बन सकता है, उनकी योग्यता में परिवर्तन करने का सुझाव है, इस सुझाव का मैं स्वागत करता हूँ। काफी परिश्रम के बाद, एक कमेटी बनाकर, किसी सुप्रीम कोर्ट के रिटायर्ड जज की कमेटी बनाने के बाद, उसकी संस्तुति को स्वीकार किया गया है। स्टैंडिंग कमेटी और राज्य सभा के बहुत से सम्माननीय सदस्यों ने इसको लम्बी बहस के बाद स्वीकार कर हमें दिया है। इसलिए चर्चा लम्बी न करते हुए, हमारे कुछ मित्रों ने बहस के दौरान कहा कि मानव अधिकार की दृष्टि, भारत को संयुक्त राष्ट्र संघ से मिली और कहा कि तेहरान में कोई सम्मेलन हुआ, वहां से भारत ने कुछ सीखा, इसीलिए मैं मजबूर हुआ कि इस पर कुछ कहूँ। संयुक्त राष्ट्र संघ और तेहरान डिक्लेरेशन का जब पता भी नहीं था, तब से मानव अधिकार के संबंध में, भारत का राष्ट्रीय आंदोलन उससे जागरूक था। सन् 1925 में लखनऊ में पंडित मोती लाल नेहरू ने ऑल इंडिया कांग्रेस की, जिसमें कांग्रेस से मतभेद होने के बावजूद, मौहम्मद अली जिन्ना ने भाग लिया, पंडित मदन मोहन ने भाग लिया और जवाहर लाल नेहरू ने सैक्रेट्री की हैसियत से उस कांग्रेस में शिरकत की थी। सबसे पहले भारत के राष्ट्रीय आंदोलन के साथ, मानव अधिकार के जितने नियम हैं वे हमारे दस्तावेज के रूप में जुड़े और लखनऊ डिक्लेरेशन के नाम से, एक मानव अधिकार चार्टर भारत के सभी नेताओं ने स्वीकार किया जो हमारे राष्ट्रीय आंदोलन का मुख्य मुद्दा बना। उसके बाद सन् 1929 में कांग्रेस का अधिवेशन कलकत्ता में हुआ और पंडित मोती लाल नेहरू कांग्रेस के अध्यक्ष हुए। उस समय ह्युमन राइट्स के संबंध में एक वृहद दस्तावेज, जो लखनऊ ऑल पार्टीज कांग्रेस के द्वारा तय किया गया था, उसको कांग्रेस पार्टी ने स्वीकार किया। फिर 1930 में लाहौर अधिवेशन में, जो जवाहर लाल नेहरू की अध्यक्षता में हुआ, कांग्रेस पार्टी ने फिर से मानव अधिकारों के उसी चार्टर को स्वीकार किया। जब सन् 1931 में कराची का अधिवेशन हुआ, जिसमें सरदार पटेल कांग्रेस के अध्यक्ष बने, तो उसी चार्टर को कांग्रेस ने अपने संकल्प के रूप में स्वीकार किया।

महोदय, इसीलिए जब हमने अपने संविधान का निर्माण शुरू किया तो उन्हीं मानवाधिकारों का प्रस्ताव संविधान सभा में आया, जिसे सरदार पटेल ने प्रस्तुत किया था। भारत के राष्ट्र निर्माताओं ने स्वीकार किया था कि जो मानवाधिकार का जज्बा आधुनिक भारत में है, वह राष्ट्रीय आंदोलन की उपज है। हमने ह्यूमन राइट्स के अध्याय को संयुक्त राष्ट्र संघ से नहीं ओढ़ा है, न हमने उसके चार्टर को स्वीकार किया है, बल्कि हमारे बनाए चार्टर को संयुक्त राष्ट्र ने स्वीकार किया है, इसलिए इतिहास के इस कथन को दुरुस्त करके हमें इस संसद में देखना चाहिए।

संविधान निर्माताओं ने हमारे जो बुनियादी अधिकार हैं, उनकी निगरानी करने का अधिकार भारत के सर्वोच्च न्यायालय और भारत के उच्च न्यायालयों को दिया है। बाबा भीमराव अम्बेडकर ने कहा कि दुनिया के किसी संविधान में व्यवस्था नहीं है कि यदि किसी व्यक्ति विशेष द्वारा मानवाधिकारों का अपहरण होता है तो वह सुप्रीम कोर्ट और हाई कोर्ट का सीधा दरवाजा खटखटा सके। हैबियस कार्पस पेटिशन की मान्यता और प्रावधान भारत की मुख्य विशेषताओं में गिनी गई है। इसलिए हम कहना चाहते हैं कि ह्यूमन राइट्स के प्रति हमारे राष्ट्र नेताओं ने सबसे अधिक ध्यान दिया, वे हमारे संविधान का प्रमुख अंग बने और इसकी निगरानी करने के लिए सुप्रीम कोर्ट और हाई कोर्ट में सीधा दरवाजा खटखटाने का अधिकार हमारे देश के नागरिकों को दिया गया है। हमने अपने निजी अनुभव से देखा कि अंग्रेजी जमाने का सिविल क्रिमिनल अमेंडमेंट एक्ट था, हमारे फौजदारी की धारा 109, 110 थी, हमारे देश में समय-समय पर बार-बार यह सवाल उठाया जाता है कि पोटा क्यों नहीं? हमारे देश में इस तरह का ड्रेकोनियन लॉ जिससे सिविल लिबर्टी का नुकसान होता है, वह क्यों नहीं आता। हमारे देश में जब रौलेट एक्ट आया, जिसे आज हम कह सकते हैं कि वह पोटा का जन्मदाता है, पितामाह है या हम कह सकते हैं कि वह टाडा का बाप है, वह हमारे देश में रौलेट एक्ट के जरिए आया था, जिसके विरोध में जलियांवाला कांड हुआ था। उस समय भारत की संसद को पंडित मोती लाल नेहरू को, खास तौर से महात्मा गांधी ने टेलीग्राम करके कहा था कि यह राक्षसी कानून का भारत की संसद में जितना जबरदस्त विरोध हो सके, किया जाना चाहिए।

हमारे देश के अंदर नागरिक अधिकारों को खत्म करने वाले ज्यादातर कानून अंग्रेजी जमाने में लाए गए। यह दुर्भाग्य की बात है कि भारत के आजाद होने के बाद मानवाधिकारों के प्रति पूरी जागरूकता के बाद हमने कुछ ऐसे कानून इस देश में बनाए रखे जो हमारी सिविल लिबर्टी का सीधा नुकसान करते हैं। हम निजी अनुभव से कह सकते हैं, उस समय हम श्री मधु लियमे साहब के साथ तिहाड़ जेल में बंद थे, उन्होंने कहा कि सर्वे करो कि बिहार के कितने लड़के, जो नौकरी करने के लिए दिल्ली स्टेशन पर आए थे, बंद हैं। 147 लड़के थे, जिन्हें धारा 109 के अंतर्गत तिहाड़ जेल में बंद करके झाड़ू लगवाया जा रहा था। मधु लियमे जी ने जेल से चिट्ठी लिखी और सुप्रीम कोर्ट ने जब नोटिस जारी किया तो डेढ़ साल के बाद फौजदारी धारा 117, 151 सिविल क्रिमिनल लॉ अमेंडमेंट एक्ट के तहत गिरफ्तार बच्चे जेल से रिहा किए गए।

हमारे देश के अंदर यह जो प्रणाली है, जिसे हम अफसरशाही कहते हैं, इसका कोई आदर, कोई सम्मान सिविल लिबर्टी के प्रति नहीं है। उसकी निगरानी करने के लिए सुप्रीम कोर्ट और हाई कोर्ट अपर्याप्त है, इसलिए हमने ह्यूमन राइट्स कमीशन का अलग से गठन किया। लेकिन वह ह्यूमन राइट्स कमीशन भी हमारे देश के मानवाधिकारों को सम्पूर्ण रूप से लागू करने में उतना प्रभावशाली नहीं हुआ, क्योंकि उसमें सुप्रीम कोर्ट के रिटायर जज बैठा दिए जाते हैं, जिनकी सुनवाई नीचे का अधीनस्थ नौकरशाही का कोई आदमी नहीं करता। यह बहुत अच्छी बात सोची गई है कि सुप्रीम कोर्ट और हाई कोर्ट के एक्टिव जजों को पदाधिकारी बना कर बैठा दिया जाए, सम्भवतः उनकी सुनवाई कंटेम्प्ट आफ कोर्ट के डर से सबको करनी चाहिए। इसलिए इसमें यह सुझाव आया है, जिस का हम स्वागत करते हैं। संभवतः इसमें शेड्यूल्ड कास्ट्स और शेड्यूल्ड ट्राइब्स के कमिश्नर को भी रखने की बात कही गई है। शायद इसलिए कही गई है कि उसका एक संवैधानिक स्टेटस है लेकिन इसी के साथ-साथ मैं सुझाव देना चाहता हूँ कि बहुत अच्छी बात कही गई है कि माइनोंरिटीज कमीशन और महिला आयोग के सदस्यों को भी इसमें स्थान देना चाहिए। एक नया आयाम देश में आया है। जब नक्सलवाद पनप रहा है, आतंकवाद बड़ी तेजी से सिर उठा रहा है, उग्रवादी तत्व देश में बहुत जोर से कदम उठा रहे हैं, वे आम और निर्दोष लोगों की हत्या करते हैं जो मानवाधिकार का हनन है। इसलिए मैं सुझाव के तौर पर कहना चाहता हूँ कि हम मानवाधिकार के संरक्षण के जबरदस्त हिमायती हैं क्योंकि मैं आपातकाल के दौरान 21 महीने बिना मुकदमा चलाए मीसा जैसे राक्षसी कानून के अन्तर्गत बरेली केन्द्रीय कारागार में निरुद्ध रहा हूँ। राक्षसी कानूनों का कितना जबरदस्त आक्रमण निजी स्वाधीनता के ऊपर होता है, मैं उसका भुक्तभोगी रहा हूँ। इसलिए इसका जबरदस्त समर्थक हूँ।

इसी के साथ-साथ जो लोग आतंक पैदा करते हैं, साम्प्रदायिक हिंसा में लोगों की हत्या करते हैं, जो लोग हथियार उठा कर, अपने सवाल को लेकर संघर्ष करने के लिए उठते हैं, उनको अपना सिविल राइट क्लेम करने का किसी भी लोकतांत्रिक देश में अधिकार नहीं होना चाहिए। यह भी कानून होना चाहिए।

इसी के साथ मैं इस विधेयक का समर्थन करते हुए ह्यूमन राइट्स क्लेम का जबर्दस्त समर्थन करता हूँ। जो लोग ह्यूमन राइट्स को शस्त्रों के जरिए वॉयलेट करते हैं, उन्हें ह्यूमन राइट क्लेम करने का अधिकार नहीं होना चाहिए। यह सुझाव देते हुए अपनी बात को समाप्त करता हूँ। आपने मुझे बोलने का समय दिया, इसके लिए धन्यवाद देता हूँ।

SHRI S.K. KHARVENTHAN (PALANI) : Sir, the Protection of Human Rights Act 1993 came into force on 24-9-93. The above Act concentrates three areas viz.,

- (i) Formation of National Human Rights Commission (NHRC);
- (ii) Formation of State Human Rights Commission (SHRC); and
- (iii) Constitution of Human Rights Courts in each District throughout the country.

National Human Rights Commission set up an Advisory Committee under the Chairmanship of Justice Shri A.M. Ahmadi, Former Chief Justice of India to further amend the above Act. Based on the recommendations of Justice Ahmadi Committee and upon the recommendations Inter-Ministerial Committee comprising Ministries of Home Affairs, Defence, External Affairs and Law, the amendments are put forth by the Hon'ble Home Minister. I am congratulating the Home Minister for bringing this Amendment Bill to amend The Protection of Human Rights Act 1993.

This Amendment Bill 2005 seeks to amend 17 sections of The Protection of Human Rights Act 1993 and introduced new Sec. 40B.

The proposed Amendment in Sec. 3(2)(a) proposes modification in the eligibility criteria for the appointment of Chairperson of NHRC. As per Existing Act, Retired Chief Justice of India is eligible to become Chairperson of NHRC. Now the present Amendment authorise the Union of India to consider a retired Judge of Supreme Court having a minimum of three years of experience to appoint as the Chairman of NHRC. This is a welcomable amendment in the Act. This Amendment is trying to avoid the delay of appointment of Chairman due to non-

availability of Retired Chief Justice of Supreme Court of India. As per Sec. 3(3) deemed members of NHRC is increased from 3 to 4 in view of bifurcation of National Commission for Scheduled Castes and Scheduled Tribes into two separate Commissions, one for Scheduled Castes and the other for Scheduled Tribes.

One of the salient features in this Bill is that the NHRC is authorised to make surprise visits to jails and other institutions under the control of the State Government where persons are detailed or lodged for purpose of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations to the Government.

A new sub-section is proposed in Section 13 to enable the NHRC to transfer cases to SHRC when NHRC feels that the complaint falls within the jurisdiction of SHRC.

Another welcomable amendment in this Bill is the NHRC is authorized to recommend award of compensation (or) interim relief to the victims even during the inquiry which at present can be done only after the completion of inquiry. But it is a recommendatory nature. It must be altered as a mandatory one. Most of the Government agencies are not considering the recommendations of NHRC or SHRC.

Sec. 21(2) of the Amendment Bill 2005 pave way to the appointment of Chairperson and members of SHRC. In the present Act only Retired Chief Justice of the High Court is eligible to be appointed as Chairperson of SHRC. So many States are not able to appoint Chairpersons due to language problem. Based on the proposed amendment a retired Judge of High Court having minimum five years experience is eligible to become the Chairman of the SHC. Hence, this is also a welcome amendment.

Furthermore, Sec. 21(2) is proposed to reduce the strength of the members in SHRC from five to three. It will reduce the expenses of the State Governments. Another salient feature of Sec. 21 is authorising the Government to appoint Common Chairperson - Common Member of SHRC for two or more States. This amendment is welcomable for small States like seven sisters in North Eastern States.

As per Sec. 21 of The Protection of Human Rights Act 1993, the State Governments are authorised to constitute of State Human Rights Commission and Sec. 30 of Chapter VI authorise State Government to Constitute Human Rights Courts with the concurrence of the Chief Justice of the High Court by notification specify for each District.

In this juncture, I am sorry to mention that most of the States failed to constitute State Human Rights Commission. On 19-8-2006 there was a conference held at Vigyan Bhawan organised by NALSAS. During the discussion, Hon'ble Chief Justice of India, Y.K. Sabharwal who presided over the Conference has regretted that "even after 13 years of the coming into force of The Protection of Human Rights Act, only 14 States had set up State Human Rights Commissions and four of them become defunct. Among those functional only few were operating in letter and spirit of law". This is the situation all over the country. Government of India has to take effective steps to constitute State Human Rights Commissions throughout the country.

I want to mention certain facts about Human Right Courts in District Level. District Judges are designated as Judges to deal complaints with respect to the violation of Human Rights in the respective Districts. Throughout the country, none of the courts are functioning properly. Most of the District Courts are not having any infrastructural facilities to conduct their cases, how will they conduct the cases under this Act? Our Hon'ble Prime Minister, Dr. Manmohan Singh also emphasised in the 19th Conference as "The rule of law can become a reality for millions and millions of our people only if the rights of Law-abiding citizens are protected". Only if justice is seen to be delivered. Only if the rights of the weak and the dispossessed are protected. For this, we need a more efficient and effective judiciary.

In this juncture, I am emphasising the Union Government to allocate necessary funds for providing necessary facilities to SHRC and District Level Human Rights Courts. Then only we can provide speedy and effective justice to poor victims.

Once again I want to congratulate and thank the Hon'ble Home Minister, Shri Shivraj Patilji for bringing suitable and necessary amendments in Protection of Human Rights Act 1993.

With these words, I am supporting the Bill.

**श्री निखिल कुमार (औरंगाबाद, बिहार) :** महोदय, मैं मोहन सिंह जी की तकरीर की भूरि-भूरि प्रशंसा करता हूँ, सराहना करता हूँ। उन्होंने जो इतिहास की बात इतने सुन्दर ढंग से रखी है और बैकग्राउंड दिया है, उसके लिए मैं उनकी भूरि-भूरि प्रशंसा करता हूँ। इस विधेयक में जो संशोधन करने की बात है, मैं उसका तहेदिल से समर्थन करता हूँ।

**श्री विजय कृष्ण (बाढ़) :** सभापति महोदय, आदरणीय मोहन सिंह जी ने ऐतिहासिक परिप्रेक्ष्य में इस विधेयक के बारे में अपनी बात रखने का काम किया है और राष्ट्रीय आन्दोलन से लेकर आज तक का ऐतिहासिक विवेचन किया है। मानवाधिकार संशोधन विधेयक के जरिए इसे और ताकतवर बनाने की कोशिश की गई है और इस कोशिश की पहली कड़ी में सुप्रीम कोर्ट के जज या जो प्रस्तावित है कि भूतपूर्व मुख्य न्यायाधीश को सम्मिलित किया जाएगा, उन्हें रखने का काम किया है। आरक्षण के प्रावधान सही ढंग से लागू हों, इसके लिए शेड्यूल्ड कास्ट्स कमीशन के सदस्य और चेयरमैन को भी शामिल करने की बात कही गई है। माइनोंरिटीज कमीशन और महिला आयोग की भी सदस्यता ली जाएगी, मैं समझता हूँ कि वह और भी ज्यादा सार्थक कदम होगा। इस समय दुनिया आतंकवाद से जूझ रही है, अमेरिका साम्राज्यवादी नीतियों की ताकत से आगे बढ़ रहा है और इस्राइल लेबनान में न जाने कितनी हत्याओं को अंजाम दे रहा है। इस तरह से पूरी दुनिया में आतंकवाद पनप रहा है। एक तरफ अमेरिका सिविल राइट्स के लिए चिल्लाता है और दूसरी तरफ उनका हनन कर रहा है। ऐसे समय में भारत को मजबूती से खड़े होने की जरूरत है। इसका जो राष्ट्रीय इतिहास और राष्ट्रीय परिप्रेक्ष्य है, उसे देखते हुए इस संशोधन विधेयक का बहुत महत्व है। नागरिक आजादी के लिए जो काम करने वाले लोग हैं, उनके लिए यह विधेयक बहुत ताकतवर बन कर आएगा।

नक्सलवादी मूवमेंट और उग्रवाद के जरिए जो हत्याएं होती हैं, उनके बारे में भाई मोहन सिंह जी ने जो सुझाव दिये हैं, मैं उनका पुरजोर समर्थन करता हूँ। मैं मानता हूँ कि आए दिन जो हत्याएं हो रही हैं, खास तौर पर हिरासत में हत्याएं हो रही हैं, वे साधारण हत्याएं नहीं हैं। अकेले जम्मू-कश्मीर में चालीस से अधिक लोग हिरासत में मारे गये हैं। उत्तर प्रदेश में पिछले दो सालों में सबसे अधिक लोग हिरासत में मारे गये हैं। इस तरह से यह सारी स्थिति बनती जा रही है। इसलिए हिरासत में मौत पर रोक लगाने के बारे में जो बातें कही जा रही हैं कि अब सीधे कमीशन के लोग जेल में जा सकेंगे, उन्हें किसी की इजाजत लेने की जरूरत नहीं रहेगी। इसमें यह प्रावधान भी किया गया है कि मुआवजे की राशि अब कमीशन तय कर सकेगा तथा निदेशित कर सकेगा कि मुआवजे की कितनी राशि उन्हें दी जाए। मैं समझता हूँ कि यह बहुत ही ऐतिहासिक कदम है और सभी लोगों को इसका समर्थन करना चाहिए।

SHRIMATI V. RADHIKA SELVI (TIRUCHENDUR): Sir, I thank you for giving me an opportunity to speak on this Bill and I thank our beloved leader Doctor Kalaignar Karunanidhi and Tamil Talapathy, Shri M.K. Stalin without whom I would not have been here today.

The amendment of the Protection of Human Rights Act, 1993 comes into effect after a period of 12 years. Even though the PHR (Amendment) Bill is mentioned as PHRA, 2005, it comes into effect only from 2006. Under the PHRA Bill, the National Human Rights Commission can visit jail or other institutions under the control of the State Government. They cannot visit detention and interrogation centres used by the Army and paramilitary forces across the country.

I welcome the increase of deemed members of NHRC from three to four and a separate Commission can be formed for Scheduled Castes and Scheduled Tribes.

About 70,000 complaints of HR violation are received every year. Is there any plan of the Government to solve these problems quickly?

I want to mention my own experience in this august House. My husband was a backward community leader. In 2003, Jayalalitha Government killed my husband in the name of an encounter but it was a well-planned and not an encounter. It was 100 per cent politically motivated by the then Jayalalitha Government and it was a violation of human rights. I had given a complaint for human rights violation during 2003 and I am still awaiting its result. Till date, there is no inquiry and action taken. Will my complaint be examined?

At least now, I request the Home Minister to bring up a fast track Commission to examine the complaints pending before the National Human Rights Commission. I also request him to direct the HR Commission to take up my complaint on priority.

Sir, whenever such human rights violation take place, usually women and children are affected very badly as women lose their husbands. Most of them suffer in bringing up their children. Most of the children do not even make any complaint of human rights violation due to fear or other reasons. Such children get into depression for various reasons. Due to the injustice caused to them, they become anti-social elements when they reach their teenage.

Therefore, I humbly request the Government to make suitable amendments so that one of the members of the Commission should be a person having good knowledge of childhood problems.

Further, the members of the HR Commission are all men. When we speak of 33 per cent women participation, why not we have at least one woman in the HR Commission itself? Previously, the Chairman of the National Human Rights Commission used to be a retired Chief Justice of the Supreme Court. Whereas now, he is a retired Supreme Court judge. Even in the States, it is amended as the retired High Court judge instead of Chief Justice of High Courts. It is a welcome step.

Earlier, the victims of the violation used to get their compensation after the inquiry gets completed. Whereas now, the National Human Rights Commission has got the power to recommend

compensation during the course of inquiry which is a very welcome action. The Commission should determine the percentage of amount that should be distributed during the course of inquiry. This will help the victims' family. In our country, maximum human rights violations happen in police stations.

The Tamil Nadu Government, under the Chief Ministership of Dr. Kalam, is strictly following the Supreme Court ruling that no women should be inquired after 6 p.m. The Tamil Nadu Government has also abolished child and bonded labour in the State to protect human rights.

Only sixteen States have set up Human Rights Commission whereas other States do not have Human Rights Commission. As there is an increase in the number of complaints in regard to human rights violations, every State should have a Human Rights Commission.

I hope the Government will take positive steps to curb human rights violations in this country.

With these words, I conclude my speech and support this Bill on behalf of the DMK Party.

**16.26 hrs.**

(Shri Mohan Singh *in the Chair*)

SHRIMATI ARCHANA NAYAK (KENDRAPARA): Hon. Chairman, Sir, thank you for giving me an opportunity to participate in the discussion on the Bill to amend the Protection of Human Rights Act, 1993. On behalf of the Biju Janata Dal, while supporting the move to amend the Act, I would like to give some suggestions which the Government may consider.

In the field of human rights, the last thirteen years have been a very challenging period for this country. For a majority of Indians, some of the rights got further strengthened and additional protection and guarantee came to our citizens.

While inaugurating the All India Inter Departmental Cooperation, Dialogue and Meeting on Social Justice, the hon. Prime Minister, Dr. Manmohan Singh, on 19<sup>th</sup> August, 2006 expressed concern over the denial of human rights to the weaker sections of the society and called upon the judiciary to be more sensitive to the needs of the poor.

Hon. Chief Justice of India, Justice Y.K. Sabharwal, who presided over the above function, regretted that even after thirteen years of the coming into force of the Protection of Human Rights Act, only fourteen States have set up State Human Rights Commission and even among them four are defunct. He stated that among those functional, only a few were operating in the letter and spirit of the law.

Now, I would like to come to the points on the move to amend the Protection of Human Rights Act, 1993. The proposed amendment to clause 3 in Section 3 of the Principal Act is dubious. The original Act stipulates that the National Human Rights Commission shall be headed by a former Chief Justice of India. The present amendment proposes that Judges of the Supreme Court with at least three years of service to be eligible for appointment as Chairperson of the NHRC. Similarly, it



makes eligible a Judge of the High Court with at least five years of service for appointment as Chairperson of the State Human Rights Commission. The reason suggested for such an amendment is to have wider choice while recommending a suitable person for the post of Chairperson.

Normally, a former Chief Justice would be a person who has, between the High Court and the Supreme Court tenure, a judicial experience of more than two decades. His seniority, his experience, his stature, and his vision are unique. Therefore, if the amendment is made, the value and the credibility of the reports of the NHRC and SHRC will come down. The stature and royalty of the Commission will be downgraded by this amendment.

As per the new amendment, Human Rights Commission has been empowered to visit any jail or other institution without prior intimation to the State concerned. This will enable the Commission to make surprise visits. This is a welcome move. But, at the same time, if an order made by the National Human Rights or State Human Rights Commission is not obeyed by the concerned Department or the Government, what is the remedy for it? Therefore, a powerless Commission is of no use.

The next amendment is to bring the Chairperson of SC and ST Commission as *ex-officio* member of the Human Rights Commission,. I do not understand why they have left out the Chairpersons of Minorities Commission and the National Commission for Women into this Human Rights Commission. They should be included as member of the Human Rights Commission.

MR. CHAIRMAN: Please conclude. You have already taken six minutes.

... (*Interruptions*)

SHRIMATI ARCHANA NAYAK : Sir, I am the only speaker from my Party. So, please allow me some more time. ... (*Interruptions*)

The reports of Human Rights Commission should be made public; this should be made available to every person. The Commission sends some reports to the State Government, and if these reports are not made known to the people, if these reports are not published, then what purpose will they serve? The Human Rights Commission has neither men nor the required infrastructure nor required powers to enforce the law. Without giving the required teeth to implement the legislation, the very purpose of constituting the Human Rights Commission, will remain only on paper. Therefore, would I request the Government to see that the required infrastructure is given and the required money is provided to the Commission to make it more functional and more effective. ... (*Interruptions*)

MR. CHAIRMAN: Please lay your rest of the speech on the Table of the House.

... (*Interruptions*)

SHRIMATI ARCHANA NAYAK : Sir, I will complete my speech within two minutes.

Amendment to clause 8 in Section 10 of the principal Act proposes power to any Munsiff court to refer cases to the NHRC. It may not serve the purpose it is intended to. It will only dilute the status and

authority of the NHRC. It may also open the floodgates for a large number of cases, which will become unmanageable for the NHRC. Hence, I oppose the move for such an amendment.

Section 18 (c) of the Act deals with interim relief to the affected parties. Interim relief could be given by the NHRC earlier also. There is no change which is good. However, earlier the compensation could not be specifically given. Now, we have provided that compensation can be awarded. It seems to be a good move.

Sir, another provision, which has been brought forward, is one member of State Human Rights Commission of a particular State can be member of State Human Rights Commission of another State. I do not think this can be workable if the States have a large number of cases pending with them. Most of the States had no Chairpersons and in some States, there are vacancies.

Now, no court would interfere in case of exploitation of a poor man; only the National Human Rights Commission can intervene; only the National Human Rights Commission can work effectively. The rule of law can become a reality for millions and millions of our country only if the rights of law-abiding citizens, the rights of the weak and the oppressed are protected.

Sir, once again, I thank you for giving me the opportunity to participate in the discussion.

SHRI AJOY CHAKRABORTY (BASIRHAT): Mr. Chairman, Sir, I am very much proud that today I will speak in my mother tongue 'Bangla'. ... (*Interruptions*) The language of Jana Gana Mana Adhinayako and the language of Vande Mataram[R1] are Bangla.

\*Hon. Chairman, Sir, I am very proud that today I will speak in my mother tongue Bengali. The language in which Gurudev Rabindranath Tagore wrote Jan Gan Mana; the language in which Bankim C. Chatterjee wrote Vande Mataram; 'Oh my dear Bengali language' – In this language I will briefly speak on Protection of Human Rights (Amendment) Bill, 2006 that has been introduced.

Sir, today, the question arises that the Bill which has been introduced – whether it is a farce or whether it is a genuine attempt to protect human rights. In our country and outside, as my colleague said that in USA, Lebanon, Iraq, human rights are being violated. If we look at India, there is a National Human Rights Commission – time and again recommendations have been made by the Commission. But who will implement those recommendations? The State Governments and their agencies. Firstly, the Police Department is expected to protect human rights – but are they performing their duties properly? Whenever a person is arrested, he is detained for more than five days. He is not produced before the law courts. Suppose a boy commits a crime – his father is arrested and detained until the boy surrenders. They just refuse to function logically.

Law and order should be protected by the police but they are the major violators of the same. What steps are taken to curb this menace? I don't want to name any State Government here, otherwise there will be misunderstanding. But there are certain States where the Human Rights Commissions are non-existent or defunct. We have seen that in the name of suppressing the Naxalbari Movement,

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\*Translation of the speech originally delivered in Bengali.

police used to arrest young people. They were our batch-mates; we used to study together. They were brilliant students of colleges and universities. They have been arrested, detained and brutally tortured, physically assaulted.

Let us talk about prisons or jails. Now-a-days they are termed as reformatories. Sir, I don't know whether you have ever visited a prison or not. I have been detained in prisons many a times, not as a criminal but as a political activist. Under various Acts, I have been booked and arrested when I was a student. I have witnessed how brutally the inmates are tortured everyday. The jail wardens and jail police torture the convicted prisoners day in and day out. The food which is supplied to the inmates are not fit for human consumption.

Boarder Security Force (BSF) is there who are not covered by the Human Rights Commission – I do not want to malign the BSF but I am compelled to say that since my constituency is in the border areas and I am a resident of Indo-Bangladesh border. I have seen in what manner human rights are violated there by the BSF. Only people residing in that area know it. A lady was coming with her family by boat, the BSF personnel drowned the boat, abducted the woman and gang raped her in the BSF camp. BSF officers committed rape upon that lady and that Commander was identified by the lady. I have written a letter to Hon. Home Minister, Shri Shivraj Patil, but there was no reply for 6 months. After 6 months he replied that the matter is under the jurisdiction of the High Court. The Govt. of India kept mum as a student of deaf and dumb school when a lady was gang raped in the BSF camp. Her husband and children were drowned – a very sensitive issue and Hon. Home Minister took such a long time to reply.

Without the help of the common people, it is not possible to combat the enemies. No steps are taken to punish the violators of human rights. Human Right Commission is nothing but a force. The State Govts. and their agencies like the police department have to sincerely perform their duties, otherwise there will be no positive outcome.

The child labourers, who are working in the restaurants, hotels, tea stalls till night, washing the plates, cups and dishes, boys of 10 years or 12 years of age, they suffer from anything and everything. We can make laws – as many laws as possible – but that will not serve the purpose. The socio-economic condition of the country should be improved first; or else the human rights will continue to be violated.

The children who are orphans, who are kept in the orphanages, they are also deprived. Maximum number of orphans are not getting chance for admission in the orphanages. Most of the orphans are not getting seats. But those who are getting admission, they know what is the situation like. We compare children with flowers of the garden, they are very much neglected in the orphan homes. Thus, I would like to request the Government to ask the State Governments and their various departments to protect human rights. The recommendations of the Human Rights Commission should not be ignored in any manner. This work will be undertaken by the Central Government in right earnest – this is what I expect from you. With these words I conclude.

**सभापति महोदय** :बांग्ला भाा बहुत अच्छी है, इसमें कोई शक नहीं। देश की सभी भााएं अच्छी हैं, लेकिन सभी भााएं एक साथ नहीं बोली जातीं। एक समय में एक ही भाा बोली जाती है।

**श्रीमती सुमित्रा महाजन (इन्दौर)** : सभापति महोदय, आज यहां मानव अधिकारों की रक्षा के लिए आए संशोधन के प्रस्ताव पर हम विचार कर रहे हैं। मानव अधिकारों की रक्षा, कभी मैग्नाकार्टा के रूप में, कभी पिटीशन ऑफ राइट और कभी बिल ऑफ राइट के नाम पर, साल-दर-साल होती आई है। हिन्दुस्तान में हम मनुय को एक अलग प्रकार से देखते हैं और अलग मानते हैं। हमने जो

कल्पना की है कि “आहार निद्रा भय मैथुन च” इसमें भी एक कल्पना है। हम मनुय हैं। इसलिए हमारे कुछ अधिकार हैं और अधिकारों के साथ-साथ कुछ कर्तव्य भी हैं। संविधान में भी अगर हम देखें, तो फंडामेंटल राइट्स के साथ-साथ हमारी कुछ ड्यूटीज भी दर्शाई गई हैं। दोनों बातें साथ-साथ चलनी चाहिए। तभी हम एक-दूसरे के अधिकारों की रक्षा कर सकते हैं। जब हमारे कर्तव्यों की बात आती है, तो इस बिल का वास्तव में अपना एक महत्व है।

महोदय, मैं छोटी-छोटी दो-तीन बातों की तरफ सदन के माध्यम से सरकार का और आपका ध्यान आकर्षित करना चाहती हूँ। इसमें आज जो संशोधन आया है कि सुप्रीम कोर्ट या हाईकोर्ट का जज चेयरपर्सन होना चाहिए, उसे देखकर मुझे लगता है कि जजेज पर कहीं हमारी डिपेंडेंसी बढ़ती तो नहीं जा रही है। हालांकि मैं इसका विरोध नहीं कर रही हूँ। यह सामाजिक समस्या के रूप में हमारे सामने है और यह लीगल समस्या से ज्यादा सामाजिक समस्या है। **This is not a legal problem. This is a social problem.** यह विया सामाजिक सम्वेदना से जुड़ा हुआ विया है। इसलिए मुझे लगता है कि जो व्यक्ति ज्यादा से ज्यादा समाज में घुलता-मिलता है, जो व्यक्ति ज्यादा से ज्यादा समाज के मानस को पढ़ने की कोशिश करता है, जो व्यक्ति ज्यादा से ज्यादा समाज के हित-अहित से सतत रूप से जुड़ा हुआ है और सक्रिय सामाजिक कार्यकर्ता है, वह ट्यूमन राइट्स कमीशन का चेयरमैन क्यों नहीं हो सकता।

महोदय, हम हमेशा कल्पना करते आए हैं और यह कहते आए हैं कि चूंकि जज को निपक्ष रूप से न्याय देना है, इसलिए वह समाज से थोड़ा कटा रहता है। जज समाज में ज्यादा घुलता-मिलता नहीं है। वह समाज से थोड़ा दूर रहता है। इसलिए जजेज को चेयरपर्सन बनाने की बात कह कर हमारी डिपेंडेंसी कहीं जजेज के ऊपर बढ़ती तो नहीं जा रही है, यह हमें देखना होगा। जजेज न्याय करने में सक्षम होते हैं, होना भी चाहिए, लेकिन यह जो एक सामाजिक मामला है, इसलिए हमें किसी ऐसे व्यक्ति को जो समाज से ज्यादा से ज्यादा घुलता-मिलता हो, उसे इस पद पर बैठाना चाहिए।

महोदय, आज हम देखते हैं कि यदि महाराष्ट्र में अन्ना हजारे राइट टू इन्फर्मेशन की लड़ाई लड़ते हैं, तो पूरे समाज का उस बात की तरफ तत्काल ध्यान जाता है और उनकी कही हुई बात का समाज के ऊपर ज्यादा वजन होता है। वह सोचता है कि इस व्यक्ति ने सतत लड़ाई लड़ी है। कोई श्रेष्ठ सामाजिक कार्यकर्ता हैं, कोई सोशलोजी के प्रोफेसर हैं, पूर्व सांसद या विधायक हैं, वे क्यों इस कमीशन के चेयरमैन नहीं हो सकते ? सांसद या विधायकों को राजनीति ही नहीं करनी चाहिए, बल्कि जो पूर्व सांसद या विधायक हैं, वे इसके चेयरमैन हो सकते हैं। इसलिए मेरा निवेदन है कि इस दृष्टि से भी इस पर थोड़ा सोचने की आवश्यकता है। हमारा इन चीजों पर सोचना आवश्यक है, क्योंकि यह सामाजिक समस्या है, ऐसा मेरा मानना है।

एक बात और है कि जब हम मानवाधिकार आयोग की बात करते हैं और इसमें जो बात आयी है कि जेल को विजीट करने का अधिकार होना चाहिए, यह आज के बिल में संशोधन के रूप में दिया भी हुआ है, लेकिन उसमें एक बात सोचनी होगी कि जब हम मानवाधिकार आयोग इस बिल के माध्यम से बना रहे हैं तो उसका काम केवल जेलों में सुधार करना नहीं है। जेलों में सुधार तो आवश्यक है, लेकिन जेलों में सुधार के साथ-साथ वहां जो कैदी रहते हैं, उनके मन से आपराधिक प्रवृत्तियों का निर्मूलन किस तरह से हो सकता है, इस पर भी एक सोच बनना बहुत आवश्यक है।

महोदय, एक बात और मैं कहना चाहूंगी कि मानवाधिकार आयोग के बारे में कई बार ऐसा होता है कि जहां कहीं भी सामाजिक अपराध होते हैं, उसके लिए संवेदना जगाने का इनका काम होना चाहिए न कि किसी निरपराध को फंसाने का काम होना चाहिए। इनकी भी एक सीमा होनी चाहिए। कई बार ऐसा होता है, मैं किसी को इंगित नहीं कर रही हूँ, लेकिन घटनाएं घटती हैं और वे घटनाएं घटते समय किसी को कुछ काम करना पड़ता है, अंकुश लगाने के लिए, उसका इन्टेन्शन खराब नहीं होता है, जैसा कि पंजाब में घटनाएं हुईं, आतंकवाद पर काबू पाने के लिए कुछ हुआ। एक बार एक बीएसएफ का आफिसर मुझ से चर्चा कर रहा था। हम बहुत ही फार्मल बात कर रहे थे। चर्चा करते समय मैंने यूं ही उससे पूछा कि कश्मीर में इतना आतंकवाद बढ़ रहा है, आतंकवादी आते हैं और गोली चलाकर के चले जाते हैं। कई बार ऐसा लगता है कि आप हेल्पलैस हैं, आप कुछ नहीं कर पाते हैं। ऐसा कैसे हो सकता है? उन्होंने मुझ से कहा कि आतंकवादी अपना निशाना भीड़ में से लगाता है। उसका निशाना या तो हम हैं या कोई नेता है या कोई ईमारत है। लेकिन वह जो काम करता है, वह भीड़ में से करता है, भीड़ में छिपकर करता है। हम उसे मारने के लिए गोली चलाएं और यदि गलती से भी गोली उसके पास वाले किसी निरपराध व्यक्ति को लग जाती है तो हो सकता है कि हम पर मानवाधिकार की कार्यवाही शुरू हो जाए। यह वास्तविकता भी है। कई बार इस प्रकार की चर्चा होती है। मैं कहना चाहूंगी कि इस तरह की कार्यवाहियों में उस समय की घटना की इन्टेन्शन को भी ध्यान में रखना चाहिए। कई बार दांत से जीभ

कट जाती है, वह अनायास ही कट जाती है, लेकिन हम दांत को नहीं गिराते हैं। इसलिए मानवाधिकार आयोग में जो लोग काम करते हैं, उनका समाज के प्रति संवेदनशील होना बहुत आवश्यक है। कई बार उनकी जिस तरह की स्थिति बनती है, उससे लगता है कि यह दंगा जांच आयोग बन गया है। कहीं भी दंगा हो गया तो ये वहां पर पहुंच जाते हैं। इसका राजनीतिक उपयोग होने से रोकना भी बहुत आवश्यक है। मानवाधिकार आयोग सत्ता हितार्थ नहीं है, यह बात मानव हितार्थ है, इस बात को प्रमुखता से ध्यान में रखना बहुत आवश्यक है।

एक बात और ध्यान में रखना आवश्यक है कि घटनाओं की पुनरावृत्ति नहीं होनी चाहिए। घटना होने के बाद जांच करो, किसके हाथों मानवाधिकारों का हनन हो गया, इसकी जांच करो, उसको इंगित करो। उसके भी आगे कहीं न कहीं काम करने की आवश्यकता है। इसलिए घटनाओं की पुनरावृत्ति न हो, इसके लिए कुछ सुझाव भी मानवाधिकार आयोग को अभ्यास करके देने चाहिए।

कई बार देखने में आया है कि अधिकारों के बारे में जनता में जागृति ही नहीं होती है। आज जिस घटना का यहां उल्लेख हो रहा था, मैंने जब अपनी आंखों से टीवी पर वह पूरी बात देखी तो वास्तव में मुझे लगा कि यह तो एक प्रकार से हमारे भी अधिकारों का हनन हो रहा है। मेरे पास यदि मेरा बेटा बैठा हुआ है या वहां भी मैंने जिस तरीके से देखा कि छोटे-छोटे युवा लड़के थे, कुछ लड़के हंस रहे थे, कुछ इसको देख रहे थे, कुछ चौंक रहे थे। वहां उपस्थित लोगों पर इस घटना का क्या असर हुआ होगा? इस तरह के संस्कार पाने के लिए उन्होंने थोड़े ही जन्म लिया था। उनके लिए मैं कहूंगी कि उनको जो भीड़ में अच्छे संस्कार मिलने चाहिए थे, उनके भी अधिकारों का वहां हनन हो गया है। अपराध हुआ, वह अलग बात है, लेकिन यह जो हमें देखना पड़ता है, उसकी भी कहीं न कहीं चर्चा होनी चाहिए। मैं चाहूंगी कि जागृति का कार्यक्रम सबसे ज्यादा अगर यह आयोग अपने हाथ में ले तो अच्छा रहेगा, क्योंकि लोगों को मालूम ही नहीं है कि हमारे अधिकार क्या हैं। इसीलिए महिलाओं के लिए तो बोला ही जाता है, महिलाएं हैं या अशिक्षित लोग हैं, ऐसे लोगों पर ज्यादा से ज्यादा अपराध होते हैं जिनको अपने अधिकारों की जानकारी ही नहीं है। वे अपना कर्तव्य करते रहते हैं। दूसरी तरफ कुछ लोगों को केवल अपने अधिकारों की जानकारी है या उसके लिए वे जागृत हैं और अपना कर्तव्य भूल जाते हैं, यह एक प्रकार की डिस्पैरिटी जो समाज में दिखती है, इसको भी कहीं न कहीं खत्म करने का काम मानवाधिकार आयोग को करना चाहिए, यह मेरा अपना सुझाव है।

हमारी ज्यादा डिपेंडेंसी केवल जजेज़ पर नहीं रहे, यह भी कहीं न कहीं दिखना चाहिए। कम से कम आयोग बनाते समय यह दिखना आवश्यक है, ऐसा मुझे लगता है। सोशल फील्ड के लोग ज्यादा से ज्यादा उसमें समाहित किये जायें, यह मेरा निवेदन है।

**THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI PRIYA RANJAN DASMUNSI):** Mr. Chairman, Sir, may I make a request, through you, to this House? Today, after passing the Protection of Human Rights (Amendment) Bill, we have to pass the Pondicherry (Alteration of Name) Bill, 2006 and also Wild Life (Protection) Amendment Bill, 2006. उसके बाद किसानों की बहस है। I appeal through you, Sir, to this House that after this Bill is passed, then we can pass the Pondicherry Bill. We can take up the Wife Life (Protection) Amendment Bill tomorrow as there is no Private Members' Business tomorrow. Today, after passing these two Bills, we can take up the Discussion under Rule 193 regarding widespread distress among the farmers in the country and Shri Sharad Pawar can conclude his reply today as this discussion is languishing for a long time.

**सभापति महोदय :** यह सुझाव ठीक है, इस पर सदन की सहमति है।

श्री किरिप चालिहा, आप बहुत संक्षेप में बोलिये।

SHRI KIRIP CHALIHA (GUWAHATI): Sir, I shall try to be as brief as possible. I rise to support the Protection of Human Rights (Amendment) Bill, 2006. I shall be short because this has been extensively dealt with in the Rajya Sabha. This Bill has passed through the Standing Committee. It has been discussed in the other House quite thoroughly. The only reason I would like to say a few words is because one of my previous speakers, who is now occupying the Chair, has brought certain very significant matters to light, and I thought that I must also discuss in general briefly the subject of human rights and its history before coming to the details of the amendments proposed in this Bill.

Sir, I entirely agree with Shri Mohan Singh when he said that India does not need any certificate about its commitment to human rights from anyone. Rights of an individual, rights for an individual, and steps needed to protect human rights are ingrained in the very civilization ethos of our country since time immemorial, since the time civilization dawned in this country. In this country, Sir, as you have very rightly pointed out, we worship animals. We talk of *nara* as *Narayana* and we consider human beings to be part manifestations of God. This is the land where some of the humanist of religions like Jainism and Buddhism got established. In these, Sir, we do not need any teaching from anyone.

Sir, as you have rightly pointed out, long before Magna Carta was born, India knew what human rights are. Long before the United Nations was born, India debated and talked about human rights. Sir, you have rightly pointed out about the Karachi Resolution, in 1931, of the Indian National Congress. I just looked at the history. I was just reading those Resolutions. I have got the Congress Resolution, which talked about *Swaraj* at that time. It says:

“*Swaraj*, as conceived by the Congress, will mean to them and it is desirable to state the position of the Congress in a manner easily understood by them. In order to end the exploitation of masses, political freedom, political freedom must include real economic freedom for the starving millions of Indian populace.”

आपने सही बताया, उस समय जब चार्टर ऑफ राइट्स बनाया गया था, जिसे कांग्रेस के रैजोल्यूशन में डिक्लेयर किया गया था।

### **17.00 hrs.**

Freedom of Association and Combination, Freedom of Speech, Freedom of the Press, Freedom of Conscience, Freedom of Profession, Practice of Religion, Protection and Culture of Language, Scripts of Minorities -- all these rights were included in the Congress Resolution taken long back, before the Universal Declaration of Human Rights was taken up in the United Nations.

Mr. Chairman, Sir, you had very correctly placed the things in a right perspective. Rightly so, the main emphasis has been laid on various human rights today. All these various human rights, which had been taken up in various international covenants and conventions were in fact debated and discussed by the Indian people in various Congress Sessions long before Independence. These have been expressed in our independent Constitution in the form of Fundamental Rights, Directive

Principles of State Policy, and in our very legal system, in the CrPC, IPC, in various provisions of writs in the High Courts and in various other provisions. Everything has been covered as to what should be done and how it should be done.

Sir, about the Human Rights, I would say that it was already a part of the Indian law. That is a fact. Moreover, we have, after Independence, chosen a democratic system of governance. In this democratic system, there was a strict separation of powers between the Legislature, the Executive and the Judiciary. India always had an independent Judiciary whom nobody could influence.

Sir, we have been committed to the freedom of Press. We have such a vibrant Press today. In fact, I think, today's Press in India is more independent than in any other parts of the world. Violation of any type in this country can be taken up by the Press in India today, be it the electronic media or the print media. In fact, their freedom – we sometime feel – is more than that is necessary. But it is a tribute to our commitment to the Human Rights and to the fact that we want every institutional practice to be the watchdog of any aberration that may take place.

Sir, India's respect for Human Rights emanates from our civilisational allegiance to tolerance and harmony. This has been enhanced by our democratic system, and this foundation has been strengthened with the establishment of the Human Rights Commission both at the national level and at the State level.

Mr. Chairman, Sir, if you remember correctly, both of us were the Members of this august House in 1993, and both of us were witness to the Human Rights Bill that was passed in the Lok Sabha in 1993. At that time, we had said that this Bill should be passed to remove certain apprehensions of certain quarters. Since 1993, the credentials of our National Human Rights Commission and the State Human Rights Commission have been greatly acknowledged and recognised not only within the country but also outside the country.

Sir, India had hosted the Asia Pacific Forum of Human Rights in 2002. You would agree that the concept of the Human Rights, as it existed at that time, and that was discussed in 1993 has changed today.

Sir, the incident of 9/11 when terrorism started growing into US and other western countries have changed the connotation of many of the Foreign Policy Objective Terms of those days including the Human Rights. Is it not a fact? Is it not a fact that those Western countries and the US which had been blaming India about the violation of the Human Rights at one point of time have today agreed that terrorism is a very dangerous element to all civilisations; and there must be a proper balance between tackling terrorism and maintaining Human Rights. India has been the worst victim of terrorism right from the beginning. You must agree that due evolution has started taking place only in the recent years. It is in this context, as you also rightly pointed, that we must understand it and we must ensure to remove the feelings that the Human Rights relief is given only to organisations supporting or perhaps taking up the cause of terrorist/law breakers. The biggest violators of Human Rights are the terrorists. But how many of them have been taken to task by the Human Rights Commission? This question would be asked, if not today, 10 years from now.

Without going into further details, I would only say this. Now, I come to the specific points regarding clauses. Under clause 12(c)—the Minister will take note of this—I am sure, one can visit other institutions under the control of the State Government. There will be a demand for amending this clause. People will demand that one must be allowed to visit army detention and paramilitary detention centres because you cannot exclude them. You allow people to visit jails. But in the extremist-infested areas, what about visit to those places where the captives are taken? That might come.

I have no objection to the other clauses. But there is one point to which, through you, I would like to draw the serious attention of the Minister. Many of the States do not have Human Rights Commission. You must know that it is a very praiseworthy clause that the Chairman of the Human Rights Commission must understand the local language and the local conditions.

In North-East, where human right violations are quite in abundance because of the peculiar political situation, it is very difficult to have a Chief Justice who will understand the local language. Many other States do not have Chief Justices because we have only the High Court as the combined court of legal head of the entire seven or eight North-Eastern States. It will be very difficult to find Chief Justices. Retired Chief Justices may not be there. Even now the Chairman of the Human Rights Commission in my State, Assam, is a retired Supreme Court Judge and not a retired Chief Justice. Many other retired Chief Justices have come from outside. They do not know the local language. They remain there for a term and then they go back. So, there will be problem in finding out retired Chief Justices in the case of North-Eastern States.

Sir, I went through the proceedings of Rajya Sabha. I found that nobody from North-East participated. That is why, most probably this difficulty of North-Eastern States in finding Chief Justices as the Head of the State Human Rights Commission was not focussed upon. I appeal to the Minister that at least in the case of State Human Rights Commission, there should be a provision or there should be some sort of leniency or some ground so that not only the retired Chief Justices but also the retired Justices of the Supreme Court with three years experience or the retired Justices of High Court with five years experience should be kept because otherwise many of the State Human Rights Commissions will remain headless or defunct, and we will not get Human Rights Commissions in the States where the Human Rights Commissions are very much needed.

Sir, through you, I would like to make this fervent appeal and I would request the House to accept this amendment so that we have a little more choice than what is available. . . .  
(Interruptions)

सभापति महोदय : अभी नहीं। अभी समय नहीं है।

...(व्यवधान)



सभापति महोदय : आपकी बात रिकार्ड में नहीं जा रही है। आप नोटिस दीजिए और कल बहस करवाइए, आज कुछ नहीं लिखा जा रहा है।

...(व्यवधान)

सभापति महोदय : आप भाग दे चुके, लेकिन दूसरे माननीय सदस्य को बोलने नहीं दे रहे हैं। Please take your seat.

... (Interruptions)

सभापति महोदय : आप इस विषय पर बोल चुके हैं और दूसरे माननीय सदस्यों को बोलने नहीं दे रहे हैं। आपकी कोई बात रिकार्ड नहीं हो रही है।

...(व्यवधान)

MR. CHAIRMAN: Please take your seat.

SHRI KINJARAPU YERRANNAIDU (SRIKAKULAM): Sir, the Protection of Human Rights (Amendment) Bill, 2006 is further to amend the principal Act of 1993. After 13 years of our experience, the Government is bringing some amendments to the principal Act.

I rise to support all the amendments but I want to make some suggestions. Most of the human right violations that take place are against women, children, weaker and poorer sections. Women constitute more than 50 per cent of the population. There is no mandatory provision for the woman member in the National Human Rights Commission in the proposed amendment Bill. You are including the Chairmen of the SC and ST Commissions as *ex officio* members but the Government has not included the Women or Minority Commissions.

The minorities are 14 per cent of the population in this country. That is why my humble request through you to this Government is that you have to include the chairpersons of the National Women's Commission and the National Minorities Commission. More atrocities are against women and children. They will also take care of these. They know the ground realities and all these things. We are receiving around 70,000 of the complaints every year. Naturally, even the promotion and protection of the Human Rights Act depends upon the Government of the day. If the Government is so honest and they are interested to implement the principles of the Human Rights Commission in letter and spirit, the complaints will reduce. Otherwise, if you bring so many amendments, if the Governments are not very particular then these atrocities and violation of human rights and everything will continue.

For example, in Andhra Pradesh, in the tribal areas more than 2,000 people died due to malaria, dengue and other diseases. We have represented this issue to the National Human Rights Commission. The Human Rights Commission asked for the information from the Government of Andhra Pradesh. For so many months they did not send the information. This is the state of affairs in

the country. There is no mandatory provision in this Act like it is in the case of State Election Commission. Like in the State Election Commission, we have to give mandatory provisions to the National Human Rights Commission so that they could control the State administration also. Now, they cannot do anything. The reports of the National Human Rights Commission should be made public. The people will also read as to what type of reports they are giving. If they have full knowledge, they can use the provisions of the National Human Rights Commission and everything to their advantage.

There is no financial independence. Even for the State Human Rights Commissions we have to make it mandatory. By this time all the States have to establish State Human Rights Commissions. Why are they delaying it? It is because there are no mandatory provisions. After the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments it is said that there shall be an Election Authority. Every State shall hold elections every five years. In this case there are no such provisions. That is why if any State wants to establish its State Human Rights Commission they will establish; if they do not want, they will delay. But there is no specific provision in this. There is no time-bound programme. Even now some States have not established the State Human Rights Commissions.

In Andhra Pradesh political murders, detentions, lockup deaths and everything are taking place. The Government is not taking any action. If they are approaching the National Human Rights Commission and if they ask for information and if they go for enquiry, they are not being supplied with the records. What the National Human Rights Commission can do?

Now, by bringing this amendment, we have given powers to the Secretary-General of the National Human Rights Commission. Who is being appointed as the Secretary-General of the National Human Rights Commission? He is a civil servant from the Government of India. Even the staff also are on deputation from various Governments. Where is the independence? Where is the autonomy for the National Human Rights Commission? Where is the autonomy for the State Human Rights Commissions?

Like in the case of Election Commission of India, there should be independent recruitment. You have to frame rules etc. for the National Human Rights Commission, for the State Human Rights Commissions so that according to their needs they could recruit the officers. That should be an independent Commission. Now, other than the Chairman and Members, everybody is taken on deputation from particular State Governments as well as the Central Government. These are all the loopholes in this Bill.

With these experiences, we have to rectify all these things. Otherwise the purpose will not be served. Sir, you are a senior member. You know all these things. You are also arguing on the civil liberties side. Everywhere this problem is there. That is why the Government should control it. The National Human Rights Commission should be given more powers, even autonomy and even the financial powers also. We have to give it a lot of infrastructure. Otherwise it would be difficult to take all the complaints.

Thirdly, we have given powers to any court to refer any petition to the National Human Rights Commission. In our country, thousands of courts are there. So, they are directly sending

petitions to the National Human Rights Commission. If you specify that only District Court, High Court or even the Supreme Court can refer the matter to it, it is okay, but you have not specified which court can refer the matter to it. Even the 1<sup>st</sup> Class Magistrate's court is also a court. They can also refer the matter to it. Like this, hundreds and thousands of representations will come to the National Human Rights Commission. Considering the machinery available with them, they cannot dispose of all these petitions and they cannot do justice to all these complaints.

Finally, it should also be applicable to the Army. They may be given the power to inspect and verify their detention centres and other centres like they do for jails and other State Government institutions. Why should we leave the Army? A violation of human rights is a violation of human rights irrespective of where it happens in the country and in which Department it happens. That is why, you have to include the Army also.

With these words, I conclude.

KUMARI MAMATA BANERJEE (CALCUTTA SOUTH): Sir, I rise to support this Bill. This Bill is an amendment Bill on some technical points and nothing else is there. So many Members have spoken before me and they have covered different types of points. They have expressed their views and sentiments.

I think, my favourite subject is human rights. We love human rights because we are the members of the human family. If we were not the members of the human family, we would not know what the human rights are and what the human cause is. I feel that 'human right' is our third eye. We have our two eyes because we are not God or Goddess; we are human beings. I think, our third eye is the eye of creativity and that is the eye by which we see the human rights and realise how human beings should be treated in a very good manner.

Article 1 of the international covenant Universal Declaration on Human Rights states that all human beings are free, equal in dignity and rights. They are really born free. It is a fact. Of course, India's role is very good in this regard because of the NAM and all the leaders who have born in India.

The fact is that we set up our National Human Rights Commission in the year 1993. In 1995, I sat on a dharna for about 21 days on the road in order to protect the human rights because I used to see everyday the poor people being killed inside the lock-ups. In protest of this, I sat on a dharna on the road. At that time, I had written a book *Manvik*. Till date, my 32 books have already been published. I am not saying that. What I am saying is that in the field of human rights, we have the scope to work, but we are lagging behind because of lack of infrastructure, lack of publicity and lack of co-ordination also.

National Human Rights Commission is a separate body. Of course, we support this amending Bill. I am happy that they have said in the Bill that the Chairman of the National Scheduled Caste

Commission and Chairman of the National Scheduled Tribe Commission will be included as *ex officio* Members of the National Human Rights Commission. But they have not mentioned so about the National Minority Commission and the Nation Women Commission. I think, there must be included minority and women. We can also have Chairman from the OBC and the linguistic minority. I am saying this because I may be the majority in one particular State, but I may be the minority in the other State. This is specially the case of linguistic minority because the Christian people are mostly the linguistic minority in different States. I am not telling about change of their linguistic status from one State to another State. Of course, in my State, they are the linguistic minority. Similarly, if I stay in Gujarat, of course, we are the linguistic minority there. Like this, everywhere such a provision is there. I think, to protect the interest of the minority and women – you have covered everything about the employees – linguistic minority has also to be covered by this Bill.

Sir, we feel that the rights of humans are suffering, and it is because of ... (*Interruptions*)

गृह मंत्रालय में राज्य मंत्री (श्री श्रीप्रकाश जायसवाल) : सभापति महोदय, कई माननीय सदस्यों ने कहा है इसलिए मैं थोड़ा स्पटीकरण देना चाहता हूं। हो सकता है कुछ और माननीय सदस्य भी बोलें। यहां पर कहा गया है कि माइनोरिटी कमीशन के सदस्य को और वूमन कमीशन के सदस्य को शामिल नहीं किया गया है। मैं सदन को बताना चाहता हूं कि अगर आप रूल देखेंगे, तो मालूम होगा कि माइनोरिटी कमीशन के चेयरपर्सन और वूमैन कमीशन के चेयरपर्सन ऑलरेडी इसमें शामिल हैं। इसलिए इस बारे में कोई भ्रम नहीं होना चाहिए।... (व्यवधान)

KUMARI MAMATA BANERJEE : It is all right if it is there. We are happy, and we have nothing more to say about it.

SHRI KINJARAPU YERRANNAIDU : If it is there, then we are very happy, and we have no problem with it.

श्री श्रीप्रकाश जायसवाल : एस.सी. और एस.टी. का प्रावधान किया गया है, लेकिन वे पहले से ही हैं। कई माननीय सदस्यों ने कहा था इसलिए मैंने इसे स्पट किया है।

सभापति महोदय : आपने बहुत देर से सफाई दी, पहले ही बता देते।

SHRI KINJARAPU YERRANNAIDU : But it is not there in the Bill.

KUMARI MAMATA BANERJEE : The Scheduled Castes and Scheduled Tribes are there in it. All right. It may be in your Act because you did not mention it here. Hence, we all have been mentioning about it. Perhaps, it is included in the Act. It is good that you have clarified about this issue. I would appeal for the inclusion of linguistic minorities also in it, as it is also an important factor.

I am not going to discuss this issue in detail because we all know what all are the human rights. If I have to speak on this issue, then I will have to speak about Mahabharata, Ramayana, Quran, Bible, etc, and I will not be able to conclude. ... (*Interruptions*) I would have to say about everything because human rights have no certain boundary. It crosses all the boundaries, and there is no specific boundary for the human rights. It touches issues like the girl child, children, male, female, farmers, labours, etc. This is a very broad-based issue.

I feel that they have some lacunae because they can only recommend the case. I am saying this because we have seen these things. There is no mandatory power for them to take any action. If you do not give them the mandatory powers, then they cannot act on the cases that are registered. There is only name, but no fame. It is very nice to hear the name of human rights, but I am sorry to say that there is no fame. Please give them some fame by giving them some infrastructure. I am saying this because the cases of human rights are suffering as a result of shortage of manpower, infrastructural constraints and procedural delays also. Therefore, I will request you to please go into the details of this matter. I cannot say that you decide about it right now, as you cannot do it. Perhaps, you have to consult your officials and other agencies also on this matter.

We have set up so many *Lok Adalats* to sort out the local issues. Our country has set up some human right *adalats* in different districts of the States. We feel that there should be coordination between the judiciary and the human right *adalats* also because we are fed up with our system. I am saying this because thousands and thousands of cases are pending since long, and as there is no result or implementation to be seen. Therefore, I would request you to review the situation, and set up some human right *adalats*.

The Chairman of the Human Rights Commission and its Members can only make requests. Placing a request or giving recommendations is something, but taking action on the same is another thing. If there is no action, then there will be no reaction and that will ultimately result in no action. We were speaking, we are speaking and we will continue to speak, but ultimately the result will be zero. Therefore, I would request you to please take care of this issue because this is a very serious matter.

I would also like to place one more point before all of you. We may accept some suggestions and we may reject some of the other suggestions. ... (*Interruptions*)

MR. CHAIRMAN: Madam, please conclude your speech.

KUMARI MAMATA BANERJEE : Sir, I am speaking only for the past four minutes or so. Kindly give me a couple of minutes more to speak on this issue.

Sir, I have some specific suggestions. I may belong to a political party, and somebody else may not belong to any political party. The attitude of one political party may be something, and in case of others, it may be something else. This is obvious in a democratic system. There may be farmers' movement, there may be workers' movement, or there may be some other democratic movements. What is happening today? The students might be protesting against something. You may or may not accept their demands, but you cannot push them away by using tear-gas, bullets or by using *lathis*. It is the same case with doctors and children. They have something in their minds. Why do you not talk to them? Why do you not take them into confidence so that they can give you some information? ... (*Interruptions*)

PROF. M. RAMADASS (PONDICHERRY): You are diverting.

KUMARI MAMATA BANERJEE : It is very much related to the issue of human rights. I said that human rights have no specific boundaries, and I stick to that. The issue may be different, but we

should not act in an inhuman way as it will not protect the life, but only proves to be the darkest day. In this regard, please send a message to all the State Governments also.

In regard to appointments, there is a problem. In a State, it is the Chief Minister, the Speaker of the Assembly, and the Leader of Opposition who recommend the names of the members who constitute the Human Rights Commission. Out of these three, if the Chief Minister and the Speaker recommend the names, obviously, it means two out of three are in favour of it and, therefore, there is a majority. But what is your intention? Your intention is to see that the Chairman of the Human Rights is very impartial. In that regard, do not lay stress on the majority, but lay stress on credentials and sincerity.

With these words, I would request the hon. Minister to bring in a comprehensive Bill to cover all the aspects so as to protect the lives, property and everything else belonging to the people of this country, and to also show to the world that our mind is without fear, and our head is held high.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): I support the amendment in many ways. It is not complete by itself. We all know that in a democratic society, human rights will have a vital role to play. Without human rights, there can be no democracy. So, it is a wide term covering all aspects of a day-to-day human life. I am not going into those details. Here is a case where we have decided to appoint a Committee at the State level as well as at the national level. The appointment is made by the Prime Minister along with the Leader of the Opposition and the Speaker, and they appoint the Committee. The National Committee will have a Chairperson, who is the Chief Justice of the Supreme Court of India. So, there cannot be a Committee higher than this, and it is admitted. In the States also, the Chief Minister along with the Leader of the Opposition and the Speaker of the Assembly constitute this Committee, and there also the Chief Justice of the High Court or a Judge of the High Court with five years experience, that is the provision here, will be the Chairperson of that Committee. We are giving the job of protecting the human rights to the Committees so constituted. Basically, the Human Rights Commission remained an advisory body. That position has not been changed.

I will refer to some of the provisions in this Bill. When we appoint such a very high-level Committee, why should they not be given some teeth to implement their decisions? They must be provided with sharp teeth to implement their decisions, whenever it is found necessary.

Fortunately, the Government has already accepted one thing and that is they have given the power to initiate prosecution proceedings. The Commission is given the power to initiate proceedings whenever there is any violation.

I am referring to Clause 18. Clause 18(a)(ii) says, “to initiate proceedings for prosecution or such other suitable actions as the Commission may deem fit ...” This is all right. But, why should not this Commission be given the right to take some remedial action also? Clause 18(a)(i) says, “to make payment of compensation or damages to the complainant or to the victim or to the members of his family as the Constitution may consider necessary;”. Why should not the Commission be given the right to award compensation also? It is a Committee headed by a retired Chief Justice and Chief Justice is taking a decision. Should that recommendation go to the bureaucracy, to the IAS officer to

scrutinise and then take a final decision? This is not just. At the same time, it is uncalled for in the nature of the case.

Since you have given the power of initiating prosecution, I would suggest that you should give the power of awarding compensation or relief as an incurring measure. It should not be left for the National Commission just to recommend to the Government. That is why I am very much aggrieved, if I may put it that way.

The words used are, “recommend to the concerned Government”. The concerned Government here means an IAS officer who will have to take a decision. Clause 18(c) says, “recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary”. Why cannot the Commission be given that power? Will the heavens fall if that power is given to the Commission itself?

You have given *suo motu* the power for prosecution. Why do you not give the power to the Commission for awarding the interim relief also? Should the recommendation go to an IAS officer? Or should it go to the State Secretariat, or the Central Secretariat, or to the Ministry concerned? The Chief Justice and another judge of the High Court whose age has to be between 65 to 70 are men of experience. They are men who have adorned high offices of the Supreme Court. It is they who are taking a decision. Should it be taken as just a recommendation?

I would request the Government to give statutory powers to the Commission to award compensation whenever it is found necessary. Otherwise, the victim may not get any compensation. It can only shed tears. The recommendation has to go to a Secretary of the Government for his consideration and again a final order will have to be issued. That will take months and years. Who knows if it will be awarded? Interim relief is meant for immediate release. That is not provided for in the Act. So, the amendment should be made in such a way that the Commission must be given the power to award interim relief or compensation in any case whenever it is found.

I do not want to go into all the details. But these are some of the things which I have to point out to the persons who are concerned. Coming to recommendations regarding the rights, Clause 18(a) says, “where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority:-”. Here again, why cannot the Commission take a decision? Why cannot the Government take a decision and give the power to the Commission?

It is chaired by the Supreme Court Judge of three years experience or the Chief Justice of the Supreme Court in the State Commission, it is presided over by the Chief Justice or a Judge with five years experience. They are men of experience. They must be given the power to resolve these things by themselves. You have given the power of *suo motu* prosecution. That is good. I fully agree, appreciate and applause. Why not give that power to other Members also? When the enquiry is conducted, in regard to interim relief or many other things, the power of final order should be given to the Commission. It is the highest body in the imagination that the Government can

constitute. The appointing authority is the Chief Minister or the Leader of the Opposition or the Speaker. Can any other committee be constituted in such a way? So, when that committee is constituted, it should not be made a recommendatory body or an advisory body when it comes to the basic issue of human rights. Moreover, a lot of custodial deaths and lock-up deaths are prevalent in our country. In those cases, immediate relief will have to be given by the Commission. We can do so if we amend this provision.

I would request the Government to give the Commission the statutory power of doing something. Otherwise, it would be a futile exercise, pending representation. Hence, I would request the Government to give more powers to the Commission because it involves protection of human rights. With these words, I support the Bill and conclude.

प्रो. रासा सिंह रावत (अजमेर) : महोदय, मैं मानवाधिकार संरक्षण संशोधन विधेयक 2006 का समर्थन करता हूँ। मान्यवर, मानव परमात्मा की सर्वश्रेष्ठतम रचना है। वेद कहता है - मनुर्भव अर्थात् मनुय बनो। महाभारत में कहा गया है कि न हि मानुगात् हि श्रेष्ठतरं किञ्चित्, अर्थात् मानव से श्रेष्ठ कोई वस्तु नहीं है। उस मानव के अधिकारों की रक्षा होनी चाहिये। श्रीमान भारत के लिये यह मानवाधिकार की रक्षा कोई नयी बात नहीं है। हमारी संस्कृति कहती है कि सर्वेभवंतु सखिनः सर्वेसन्तु निरामयाः। सर्वेभद्राणि पश्यन्तु, माकश्चिद्, दुखभाग्वेत, अर्थात् सब सुखी हों, सब रोग रहित हों। सब कल्याण को देखें। किसी भी व्यक्ति को किसी प्रकार का दुख नहीं हो।

मान्यवर, इस मानवाधिकार संरक्षण विधेयक के सभी प्रावधानों का समर्थन करता हूँ। मान्यवर, मानवाधिकार आयोगों की स्थापना सभी राज्यों में शीघ्र होनी चाहिये। अभी केवल 16 राज्यों में ही ऐसी व्यवस्था है। राष्ट्रीय मानवाधिकार आयोग को और भी अधिक सुदृढ़ एवं सक्षम बनाये जाने की आवश्यकता है। मानवाधिकार आयोगों के अध्यक्ष राष्ट्रीय स्तर पर सर्वोच्च न्यायालय का सेवानिवृत्त मुख्य न्यायाधीश तथा राज्यस्तर पर राज्यस्तर पर राज्य का सेवानिवृत्त मुख्य न्यायाधीश ही हो।

इसके सदस्यों में एस सी एवं एस टी आयोगों के अध्यक्षों के साथ साथ राष्ट्रीय महिला आयोग, राष्ट्रीय पिछड़ा वर्ग आयोग के अध्यक्ष, राष्ट्रीय अल्पसंख्यक आयोग के अध्यक्ष भी हों। मानवाधिकार आयोगों के संवेदनशील सदस्य हों। महिलाओं की संख्या ज्यादा हो। मान्यवर, आज मानवाधिकार आयोग नखदंतविहीन है। इसे दण्डात्मक प्रावधानों का अधिकार हो। जांच करने का अधिकार है परन्तु कार्यवाही का नहीं।

महोदय, कश्मीर में आतंकवादी मानवाधिकारों की आड़ में बचने तथा अधिकारों का दुरुपयोग कर रहे हैं। कश्मीर में लाखों कश्मीरी पंडित घरबार, जायदाद सबकुछ छोड़ कर दिल्ली, चण्डीगढ़, जम्मू में दर दर की ठोकरें खा रहे हैं। उनके मानवाधिकार कहां हैं ? क्यों नहीं मानव अधिकारवादी उनके बारे में आवाज उठाते हैं ।

सामाजिक समता और सामाजिक न्याय, दलित उत्पीड़न, महिला उत्पीड़न आदि को रोकने बालश्रम/बेगार, बंधुआ मजदूर प्रवृत्ति रोकने, कैदियों की दुर्दशा, जेलों की जांच, वृद्धों की देखभाल, अशक्त लोगों के प्रकरण आदि का भी दायरा मानवाधिकार आयोग को दिया जाना चाहिए। नागरिकों को बुनियादी सुविधायें मिलें, जीने का अधिकार हो। सामाजिक भेदभाव नहीं हो आदि भी इसमें होने चाहिये।

मान्यवर, पुलिस हिरासत में जेलों में मरने वालों की संख्या में वृद्धि चिंताजनक है। मानवाधिकारों का हनन करने वालों के विरुद्ध कठोर कार्यवाही हो।

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\*The speech was laid on the Table.

कर्तव्य एवं अधिकार एक दूसरे के पूरक हैं। अधिकार के साथ कर्तव्यों का पालन भी हो।



SHRI SURESH PRABHAKAR PRABHU (RAJAPUR): The Human Rights (Amendment) Bill, in fact, emanates from the recommendations of the former Chief Justice of India, Justice Ahmedi Committee Report.

My general point is that whenever we are framing the legislation based on the recommendation of the Report, it is really required that the same Report should be circulated to all the Members of Parliament. When we are considering the Bill, the Report should be circulated to us to understand which are the recommendations have been incorporated and which are not. If they are not recommended, it should be mentioned these are not incorporated and as to what are the reasons for the same. I think, generally, I would like to request the Secretariat that in future whenever we are framing the law based on the recommendations of the Committee, the Report should be circulated. When it is specifically mentioned and it is also stated in the object that you are framing this law on the recommendations of Justice Ahmedi Committee Report, it would have been proper if you have circulated it. I am sure, the Minister would be able to tell us which recommendations have been accepted and which have not been accepted and the reasons for the same.

Generally, human rights are very important because human beings together as a part of the society, to protect the interests and rights, create a State. It is expected of the State to treat all the human beings equally and will not cause any injustice to them. But as we have seen over a period of time, the strong arm of the State is in the violation of human rights. That is why, we actually need human rights protection law to protect the citizens from the atrocities of the State. In fact, the human right is treating a fellow human being, giving him the same treatment that we feel should be given to us. Mahatma Gandhi himself has said that you treat others in a manner that you expect yourself to be treated by him and this has been part of our ethos and culture. But over a period of time, the hon. Minister has been responding in Parliament time and again about increasing incidents of atrocities of some individuals causing damage to the self and the fellow citizens is also a form of terrorism and the same needs to be taken into account. I am sure, law would be able to capture the new growing phenomenon which is emerging and will be able to deal with this as effectively as we expect the State to treat the citizens

At the same time you must ensure that no group of citizen will be able to take the other citizen for a ride and also cause damage to the State. That is a challenge, I am sure you will be able to deal with it.

I would now come specifically to some of the provisions of the Bill. Clause 16 states that the salaries paid to the Central Human Rights Commission should be at par with the State Human Rights Commission. If you make a provision like this, some of the States may not have the capacity to do so. Your intention is good, noble, that is, all should get similar salaries so that they will have some independence. If that is what you really want to attain, the salary should be provided from the Central pool because it is not going to cost much. Otherwise, you might be burdening the States to pay such salaries as may be required.

High Court judges are to be appointed on the State Human Rights Commission. Normally, we follow a system whereby the Chief Justice of a High Court in a particular State is not from his home State. A Gujarat citizen will be appointed as a High Court judge probably in Karnataka or

Tamil Nadu. Therefore, we should also follow a system that the High Court judges, to be appointed as the Chairmen of the State Human Rights Commission, should be appointed in a manner that they should not be from the home State so as to ensure that they can exercise better control over the State Government whose authority they are going to examine.

सभापति महोदय : बिल में ऐसा ही है, जैसा आप कह रहे हैं।

SHRI SURESH PRABHAKAR PRABHU : The third point is on the Selection Committee. Shri Varkala Radhkrishnan has also pointed out that there are three members who are going to constitute the Selection Committee. It says that absence of one member should not vitiate the proceeding of selection. The point is, probably all the three members may not come together. But basically it vitiates the spirit of creating three persons. Three persons have been put in to ensure that there is no partisan attitude. Suppose, for some reason one person is not present, that means the proceeding will not be vitiated but it will vitiate the spirit of the law. Probably, you are putting a condition that if for some reason one of the three members is not present, it should not vitiate the proceeding but you must make sure and make all precautions that two are present, otherwise it will vitiate the spirit of the law and the purpose will really get defeated.

The other point is about the visit of the jail. The Central Commission has to visit certain jails. It is specifically mentioned now that it can be done without intimation to the State Government. I can appreciate that point because, otherwise the States who have committed certain crime against an individual, may not allow the Central Commission to come in. That is why this provision is required. At the same time you should make sure that there should be some enabling provision in the law which will make State Governments to cooperate. Otherwise, you might land up there without intimation but may not be able to see them. You may go without intimation but having gone there, how does the Central Commission be able to visit and inspect the jail in the absence of this enabling provision. Therefore, this provision also should be made properly.

The Action Taken Report on the recommendations of the Human Rights Commission should be filed before the Parliament and there should be a specific time limit, otherwise it will be a mockery. We will just be making one more law.

In the Bill, it is stated that the Chairmen of the Minorities Commission, Commission on Scheduled Castes and Scheduled Tribes and Women Commission will be the ex-officio members. We have recently passed a law against domestic violence. That is a very peculiar case. I welcome that Act and in fact I support such legislation. If you really want to bring about synergy of operation then it is also important that the domestic violence related issues also should be dealt with by this Commission.

SHRI ASADUDDIN OWAISI (HYDERABAD): At the outset, I stand to support the Bill. I have a few points and I would like the hon. Minister to clarify those.

The first point is, in July 2006 a Conference took place in Bhopal wherein all the State Human Rights Commissions assembled. Particularly in relation to this Bill, all of them were unanimous that when it comes to the Chairman of the Commission, he has to be a retired Chief Justice of the Supreme Court or of the High Court.

The second point is that they were of the opinion that what this Bill does is that it reduces the number from five to three wherein a District Magistrate is being denied the right to become a member of the State Human Rights Commission. I would like to know from the hon. Minister whether he is going to give any weightage or consideration to the State Human Rights Conference which took place in July in Bhopal.

As far as the National Human Rights Act is concerned, the biggest human rights violation that takes place is in relation to child labour. Now as far as this Act is concerned, it relates only to public servants. Will the hon. Minister or this Government consider bringing in such a legislation or amending this particular Act wherein the NHRC can go into the violations in relation to child labour also? Many reports have come out in this regard. Various international organisations have submitted reports in recent days wherein it has been shown that the highest number of child labour is there in our country. It is very important and I hope the hon. Minister will respond to.

The third point is in relation to having ex-officio members of the Scheduled Castes and Scheduled Tribes Commission. Unfortunately, the National Minorities Commission has not been mentioned. Will the Minister agree to it?

Fourthly, as far as the recommendatory nature of compensation is concerned, I can understand about the problems of giving an interim order because you cannot have what is called in legal terminology, the dual remedy and dual damages in the same court of action. But as far as compensation is concerned, you make it mandatory. What is the point when NHRC or SHRC comes to a conclusion that the rights of 'x' or 'y' or 'z' have been violated and he deserves a compensation but the compensation is not given. The compensation does not bring back ones self esteem or integrity. But at the same time it goes a long way in sending a strong message to the violators of human rights. So, at least make the compensation aspect mandatory.

Fifthly, I would like to know from the hon. Minister when it comes to the removal section what is the difference between a person of unsound mind and infirmity of mind. Though I am not very good in my English but I really do not see any difference between infirmity of mind and an unsound mind.

Will the hon. Minister be kind enough to enlighten all of us why is it that various State Governments have established the State Human Rights Commissions, but the Gujarat State has not yet established a Human Rights Commission? What steps is the Central Government going to take to ensure that the Gujarat State establishes a Human Rights Commission? When you talk about transparency and that everybody is equal before law, unfortunately, the State Human Rights Commission is not working in Gujarat?

Finally, taking from what the hon. Member from Shiv Sena has said, what happened in Mumbai is condemnable but what is happening now is also condemnable. There are many people from Muslim community who are being kept in illegal confinement in Mumbai from 25 days or 30 days or 40 days. They are not being released. The State Government says that they are being released but there is a difference between the Maharashtra Government releasing people and Tripura Government releasing people. When the Government of Tripura arrested six to seven Muslims, they apologized publicly that they are sorry that they arrested wrong people. But what is happening in Maharashtra? Illegal confinement is taking place. Yesterday, we had brought this to the notice of the hon. Prime Minister also. A 68 year old man was kept in illegal confinement for 20 days. He was stripped. His daughter-in-law was forced to take off her *burkha* and she was threatened that if she does accept a particular crime in regard to Mumbai blasts, then she would also be stripped. So, these are very important things. As has been said just now by my senior colleague, unless and until you give teeth to NHRC, all our exercise will be of no use.

With these comments, I thank you for giving me this opportunity and I support this Bill.

**सभापति महोदय :** मुझे खेद है कि एजेंडा में आज बहुत सारे विषय हैं और लगता है कि हम लोगों को बहुत देर तक बैठना पड़ेगा। कुछ माननीय सदस्यों ने अपने नाम इसी विषय पर बोलने के लिए दिए थे- प्रो रासा सिंह रावत, श्री टी.के.हमजा, श्री शैलेन्द्र कुमार और श्री ब्रह्मानन्द पंडा - सभी माननीय सदस्य अपने भाग यहां टेबल पर दे सकते हैं, इसे प्रोसीडिंग का हिस्सा मान लिया जाएगा। अब इस बहस को समाप्त करते हुए मैं माननीय मंत्री जी से आग्रह करता हूं कि वह इसका जवाब दें।

SHRI BRAHMANANDA PANDA (JAGATSINGHPUR): Hon'ble Sir, The Protection of Human Rights Amendment Bill, 2006 seeks to amend the Protection of Human Rights Act, 1993 (PHRA), which had led to the establishment of the Internationally revered institution like National Human Rights Commission of India (NHRC). It is beyond doubt that the change in the time, the PHRA need some amendment. However, the proposed amendment in the Act as expressed in the Bill – 2006 has been reportedly criticised by independent NGOs and the NHRC itself for the limitations it places on the NHRC's powers, independence and effectiveness. This shows that the Amendment Bill fails to address to concerns expressed by civil society and by the NHRC itself during the past 13 years of the existence of PHRA. In fact, apart from attempts to improve the monitoring powers of NHRC, the Amendment Bill in reality contains a few regressive provisions that may undermine independence and functioning of the NHRC. Some of which are discussed below:

## Visits to Prison

The Amendment Bill proposes to do away with the requirement of prior intimation to prison authorities [Section 12 (c) of PHRA, 1993] ahead of prison visits, thereby enabling surprise visits to jails or other institutions under the control of State Governments and empowering the NHRC to form an opinion on the actual conditions inside prisons. This is a commendable proposition as the amended PHRA, could facilitate in obtaining accurate picture in these institutions. This amendment,

however, will give a very limited power to the NHRC to conduct inspections only in jails and other institutions under the control of State Governments. The amendment should have empowered the NHRC to inspect without advance warning jails and institutions under the State Government, detention and interrogation centres used by the Army and paramilitary forces

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\*The speech was laid on the Table.

across the Country. Sufficient provisions should also be made to empower the NHRC to effectively investigate the existence of illegal detention centres in States like Jammu and Kashmir

## **International Conventions**

Under the PHRA, the definition of ‘International Covenants’ is restricted to the International Covenant on Civil and Political Rights (ICCPR) and the on Economic, Social and Cultural Rights (ICESCR). This provision in the PHRA falls short of the conditions prescribed by the United Nations ‘Principles relating to the status and functioning of national institutions for the protection and promotion of human rights’, (‘the Paris Principles’). The Paris Principles calls for harmonisation of national legislation with the international instruments to which the State is party.

The Amendment Bill which seeks to expand on the PHRA by extending the definition to cover “such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify” should fulfill the Paris Principles.

## **Empowerment of Secretary General**

One of the amendments empowering the Chairperson to delegate functions to the Secretary-General of the NHRC, generally a serving civil servant and appointed directly by the Central Government may prove as detrimental to the protection of human rights concerns. This may also challenge the independence and credibility of the NHRC since an overwhelming proportion of its staff is on deputation from other government departments, including, notably, from the Intelligence Bureau.

### **Inquiries**

While there is a provision enabling the NHRC and the State Human Rights Commissions (SHRCs) to make interim recommendations during an inquiry of a Human Rights Case is welcome, it is of restricted utility as the Commissions can only play recommendatory role which are largely persuasive in nature. Thus, the amendment should make an attempt to make the Human Rights Commissions’ recommendations legally binding by the concerned authorities.

## **Empowerment of NHRC**

We are proud that the Protection of Human Rights Act, 1993 in conformity with 'Paris Principles' has resulted in the establishment of the National Human Rights Commission (NHRC) of India as an autonomous institution to ensure protection of Human Rights of the people of the country. The popularity of the NHRC is on the rise. In the first year of its establishment, the Commission has estimated to have received only 496 complaints of violation of Human Rights which rose to 74,444 during the year 2005-06. Further, the complaints to the Commission are on the rise. The receipt of huge number of complaints is generally carried forward from earlier years. Under these circumstances, provisions should also be made to prepare a road map for quick disposal of large number of pending cases relating to human rights in the country.

Apart from the recorded and published human rights violation issues, it is reported that a large number of such issues are either suppressed or hidden. The lack of general awareness about fundamental rights and the ignorance about the prowess of rights protective institutions like NHRCs and SHRCs have led to under-reporting of the human rights violation cases in building mechanism so that the common people are well-aware of their constitutional and legal rights.

The NHRC, over the years since its formation, has underlined the weaknesses in the PHRA, 1993 to the Central Government in its various issues of annual reports. The amendment provisions of the PHRA Bill-2006 should be seen along with the suggestions of Hon'ble Justice A.M. Ahmadi constituted by NHRC to review the PHRA, 1993.

The Amendment Bill should empower the NHRC to independently inquire into human rights violations by the armed forces. Considering the credibility of the NHRC efforts to be made to empower the Commission to initiate proceedings for prosecution and grant interim compensation as it may deem necessary.

### **Economic, Social and Cultural Rights**

Massive inequalities exist in developing countries like India which restrain the citizen from enjoying their rights as enshrined by the Constitution through fundamental rights. At the time when more than 26% of the country's population are reeling under poverty and mass destitution, effective and purposeful implementation of acts and rules related to protection of human rights should realize that freedom in its true sense would not be achieved unless economic, social and cultural rights are assured to these people. Thus intense, purposeful and solemn efforts should be ensured through the protection of Human Rights towards realization of citizens' economic, social and cultural rights.

Any amendment to the Human Rights Act should keep in mind the provisions as enshrined in Part -III and Part -IV of our Constitution. Civil and Political Rights ensured in Part III and Economic, Social and Cultural Rights listed in the Part IV of our constitution constitute the conscience of the Indian Constitution. While amending the provisions a detailed study has to be undertaken to assure right to life and right to live with human dignity. In this context let us hope that our effort to amend the PHRA, 1993 will preserve and protect the human rights in its true letter and spirit.

SHRI T.K. HAMZA (MANJERI): Sir, In fact the human rights are nothing but the fundamental rights of the citizen, guaranteed by the Constitution of India.

We have got many rights guaranteed by the Constitution such as right to live, earn livelihood, possess wealth, conduct business, move throughout the country, speech and expression etc. When the rights given by our Constitution, are infringed by violating by anybody, any authority or Government, the question fo protection of rights come into operation. Violation of rights of persons can be brought to light and discussed for remedy in three ways.

First of all, we can bring to the notice of the Government by way of discussion either in the Parliament or in the Assembly of States. We have utilized these opportunities in several occasion for many years.

Secondly, we go to the court of law, fight against any infringement or violation. But this can not be availed by all people due to financial stringency and other reasons.

Thirdly, when we could not utilize the two above said ways, a poor man can bring to light, his grievances, to public opinion. Fortunately we got many strong media, the newspapers as well as the visual media. They are playing very important role in this field now-a-days.

The infringement of human rights or violation of rights any kind, is a very serious and heinous crime, no doubt. In our country, there are number of authorities and laws to check the violation and protect the human rights. But, the situation is not improved so far. That is why we were compelled to think of having these human rights commissions in the Centre as well as in the States. Even then we are not satisfied by the existing law and the functioning of the Commissions. Therefore, we have, to think of the amendments for the powerful and smooth running of the commissions.

The amendments now moved are three important aspects. One is the eligibility criteria for appointing the chairperson of NHRC and SHRC may be the

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\* The speech was laid on the Table.

Reted. Chief Justice of Supreme Court and the High Courts, I agree with the suggestions in the amendment, any judge having 3 years service in SC/HC as the case may.

Second important amendment is that the Commission can inspect the jail or place of suspected retention without the previous intimation to the concerned. This amendment is highly appreciated.

An important amendment was that the chairperson is empowered to delegate some of the powers and functions of NHRC to its Secretary General. This is something serious according to me. Because the Secretary General is an employee appointed by the concern governments. If this amendment is approved, Government can influence in any case so delegated. Then the independent nature of the judicial function of the commission will be affected.

When Government have such powers in certain cases the rights of the people can not be protected independently. For example, I say one case:-

In Coimbatore Central Jail in Tamil Nadu, a person Abdul Nazer Mahdani is tribal prisoner for the last 8 years. Our Constitution as well as the well settled law of the land says "that person can not be put in jail without trial". So far, his case, trial is not over. For the last 8 years, he apply bail several times but rejected as the State opposed.

Another instance Y. Gopalswami (YKO) in Tamil Nadue was put in jail for 3 years without trial. After three years he was realized and himself and his party were taken to the ruling party alliance.

After all, these are infringement and violation of human rights. Therefore, the amendment that the delegation of the power of the chairperson of the Human Rights Commission can not be agreed to.

Anyway, after 60 years of independence, the human rights of our citizen could not be protected. Therefore, the need of strengthening the Commission are highly appreciated and I stop my words.

श्री शैलेन्द्र कुमार (चायल) : महोदय, मानवाधिकार के बारे में सबसे ज्यादा शिकायतें उत्तर प्रदेश, दिल्ली, बिहार राज्यों से है। सदस्यों को बगैर पूर्व सूचना के घटना की जांच करने में स्वतंत्र होंगे, पहले राज्य की सरकारों को विश्वास में लेकर जांचें की जाती रही हैं। राष्ट्रीय अध्यक्ष, राज्य का अध्यक्ष, राज्य के सदस्यों को योग्यता एवं अनुभवों के आधार पर रखकर बनाया गया है, इससे आयोग को शक्ति प्राप्त होगी। हिरासत में जो मौतें हो रही हैं, उनसे आयोग काफी चिंतित रहा है। उत्तर प्रदेश में 199, महाराष्ट्र में 148, बिहार में 134, गुजरात में 20 मौतें इस तरह से हुई हैं। आज देखा जाए तो जेलों की स्थिति बहुत खराब हो गयी है, यह मानवाधिकारों का खुला उल्लंघन है। पूरे देश में 2,34,462 कैदियों की क्षमता वाली जेलों के विपरीत 3,24,852 कैदी जेलों में हैं। अब तक आयोग में 1,18,502 मामले आए, जिनमें से 57,694 का निपटारा हुआ है। अक्टूबर, 1993 में इसके गठन से अब तक 8,84,10,634 रूपए मुआवजे के रूप में दिए गए हैं। एमनेस्टी इन्टरनेशनल की रिपोर्ट में गुजरात सबसे ऊपर है। पेटा वापस लेने के एक वा बाद भी इस अधिनियम के तहत पकड़े गए लोगों के मामलों पर पुनर्विचार नहीं किया गया है। गोधरा कांड, जम्मू-कश्मीर में ज्यादा हुआ है। एमनेस्टी इन्टरनेशनल की वार्षिक रिपोर्ट हाल ही में पेश हुई है। इस रिपोर्ट में सुरक्षा अधिनियम को निरस्त करने के लिए सरकार की तारीफ की गयी है। महिलाओं, दलितों, आदिवासियों के साथ भेदभाव जारी रहने से सरकार की विफलता दिखती है। आयोग के अधिकारों के बारे में अगर न्यायमूर्ति ए.आर. अहमदी समिति की रिपोर्ट लागू हो तो आयोग सशक्त होगा। इस आयोग में अल्पसंख्यक आयोग, राष्ट्रीय महिला आयोग, अनुसूचित जाति आयोग और अनुसूचित जनजाति



आयोग के अध्यक्षों को इसमें सदस्य बनाया गया है, इससे उल्लंघन पर विराम लगेगा। साथ ही जेलों एवं अन्य संस्थानों का दौरा करने के अधिकार से लोगों को राहत मिलेगी।

इसी के साथ मैं इस विधेयक का समर्थन करता हूँ।

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\*The speech was laid on the Table.

SHRI L. RAJAGOPAL (VIJAYAWADA): Sir, this Bill that has been brought before this House by the hon. Home Minister with laudable aims and objectives. And, one of them is to quicken the process of disposal of cases before the NHRC and SHRCs. Sir, India is one of the major countries in the world where a large number of human rights violations are taking place. In spite of having a provision and power with the NHRC to make **suo motu** inquiries into the human rights violations, there are more than 70,000 cases of human rights violations reported every year. It is because that in spite of enacting the Protection of Human Rights Act in 1993, there are as many as 16 States which have failed to set up the SHRC. But, this Bill has a good solution to both the problems i.e. to reduce the number of cases and setting up of SHRCs. Sir, Clause 12(6) of the Bill says, "Two or more State Governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Member consents to such appointment." This is a very good more which, I am sure, will lessen not only the number of cases, but also reduces huge expenditure which otherwise has to be incurred by States in setting up of SHRC. Since the Government, through this Bill, is allowing two or three or four States to set up one Commission, I suggest for consideration of the hon. Minister that SHRCs and NHRC should also be mandated to inquire into violations on the directions or orders of the respective courts i.e. SHRC will look into the violations pertaining to matters within the State and the NHRC will look into the violations which come within the purview of the SC.

Now, Sir, now, I come to Clause 3 (a) which deals with the constitution of the NHRC. It is good that the Minister has made a provision for giving

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\* The speech was laid on the Table.

representation to SC Commission and the ST Commission in view of having a separate Commission for both SC and ST, along with the National Commission for Women and the National Commission for Minorities. But, I fail to understand the rationale behind not giving any representation to the backward classes in the Commission. Sir, we have the National Commission for Backward Classes which looks after the welfare and well-being of the backward class people who constitute a major chunk in the country. Hence, I request that the Chairperson of the National Commission for Backward Classes also be made as a Member of the NHRC. The other point I wish to make is, if I recollect correctly, only one woman, in the last 13 years, has become a member of the Commission. The Government is giving so many opportunities to women in various fields. But, it is disappointing that no woman is represented on the NHRC, except the Chairperson of the National Commission for Women who is a *de facto* Member of the Commission. Hence, I request that one member of the Commission be reserved for woman, apart from NCW.

Then, Sir, I welcome Clause 9(c) which makes a provision and allows the Commission to visit any jail without any intimation to the respective State Government. Earlier, if the Commission wish to visit any jail, it is mandatory to give intimation to the respective State Government. And. By the time the Commission reaches there, everything would have been 'managed' by the local jail authorities. The new provision really helps to find out as to how the human rights violations are taking place in our jails. It also helps to study the living conditions of the inmates. I welcome this move of the Government. This move, I am confident, will definitely have improvement in the living conditions of the inmates.

Sir, now, I come to Clause 11 which proposes to amend Section 18 of the parent Act. The laudable feature of this Clause is that the Commission, even during the course of inquiry or investigation, will have the right to direct the respective Government to pay compensation or damages where the inquiry discloses the commission of violation of human rights or negligence or abatement to the complainant or the victim or the members of the family. This provision was never there before and I congratulate the Government to bring this amendment to Section 18 of the Protection of Human Rights Act. This facilities the victims, or, at least, will have some solace against the violation of human rights, unlike earlier

system where compensation, etc. would be given only after the process was completed, which is quite often after so many years.

Sir, there is also apprehension that the State Governments, while so opting for Chairperson or Members of the Commission under Clause 12 of the Bill, may be-pass the Selection Committee under Clause 22(1) of the Bill. This loophole has been kept open in the Bill which was introduced in the Rajya Sabha. The point I wish to make is that if you give any elbow room for the States they will exploit that loophole and ultimately the purpose of protecting the human rights in the country is

defeated. The Standing Committee has gone into this issue thread-bare and recommended that the appointment of Chairperson or the Members of the SHRC should be on the basis of the recommendation made by the Selection Committee. And rightly so, the Government has accepted this recommendation and incorporated the same in the Bill before us.

The next point is with regard to delay in submitting information by various departments to the Commission. There is nothing about this, either in the Bill or in the parent Act to penalize them. Even the Pakistan Human Rights Commission Bill, which was passed recently, contains a provision to penalize any official who fails to produce required documents before the Commission within a prescribed period. But, in our Act, we do not have any such provisions. In the absence of such a penal provision, it gives an elbow room for our officials to delay in submitting the necessary documents to the Commission and also get away from the delay. Due to this, the work of the Commission hampers. So, I request the Hon. Minister to make it mandatory that information should be submitted within two or three months or as he deems fit. If anybody fails to submit the same within the prescribed period, the Commission should have the power to punish the official concerned for his lapse.

The next point I wish to make is that after working so hard the Commission submit its Report to the Government. But, as per this Act, the recommendations made by the Commission are not binding on the Government. They are only recommendatory or persuasive in nature. And, it is up to the Government either to accept or reject the recommendations of the Commission. So, I request the hon. Minister for his consideration to see that the recommendations of the Commission be made binding on the Government, rather than leaving it to the free will of the Government of the day.

Sir, nation has no meaning without its people. The worth of a nation is the worth of individuals constituting the nation. This is the emphasis laid in our Constitution which holds out promise to secure both simultaneously – just as there can be no peace without justice; there cannot be any freedom without human rights.

But, these human rights have been hit for a six in Godhra riots by the local Government there. Hundreds of people have been massacred, burnt to death in Gujarat. The human rights have been stifled. Even recently, the NHRC has issued a notice to CBI to submit a Report, because there is a plot to tamper with the evidence recovered from the mass graveyard on the Panam riverbed. The relatives in this case are frantically looking for the remains of their family members all these years so that they could perform the last rites and give them a decent burial. This basic human right is not being given to the riot victims by the Government of Gujarat.

We are also seeing how human rights violations are taking place in Uttar Pradesh. Just to give an example, recently, an under trial was burnt to death in Banda district jail in Uttar Pradesh. He was not even given a proper healthcare and the NHRC has expressed its anguish at the utter lack of sensitivity towards his basic minimum human rights by jail authorities. Now, with the inclusion of a provision that the NHRC and SHRC visit jails without any intimation, I hope the situation would improve.

We have also seen how some of the mentally retarded people in Tamil Nadu were shackled, I think in 2004 and charred to death due to fire accident in a thatch shelter where they have been kept. This clearly shows that even in some of our States do not have human rights for mentally retarded people, leave alone sane.

We had also seen how Graham Staines were burnt to death in Orissa and the human rights violations that are taking place, day-in-and-day-out, in Madhya Pradesh, etc.

So, finally, I would urge this House that there is no better religion than protection of human rights of a human being by a human being. There is no better service to mankind than respecting the human rights of a human being. Therefore, let us all pledge today that we will endeavour to educate our people to honour and respect each other's human rights without any violation.

With these few words, I once again support this Bill.

गृह मंत्रालय में राज्य मंत्री (श्री श्रीप्रकाश जायसवाल) : सभापति महोदय, मुझे खुशी है कि मानव अधिकार संरक्षण (संशोधन) विधेयक, 2006 पर बहुत सारे माननीय सदस्यों ने अपने विचार रखे हैं। हालांकि इस विधेयक में संशोधन हेतु चर्चा के लिये एक घंटा समय निर्धारित किया गया था और यह संशोधन कोई बड़ा संशोधन नहीं था लेकिन मानव अधिकारों के बारे में हमारे माननीय सदस्य इतने जागरूक हैं कि हमें केवल इस बात से ही संतो नहीं होता है बल्कि ऐसा लगता है कि हमारे देश का भविष्य और भविष्य के साथ साथ हमारे देश के हालात भी कहीं ज्यादा बेहतर होंगे। जिन चीजों को हम आज देखते हैं या महसूस करते हैं या जिस तरह से अत्याचारों को मानवाधिकार के हनन के संदर्भ में अपनी आंखों से देखते हैं या कानों से सुनते हैं, मेरा मानना है कि आने वाले दिनों में हमारे देश में यह बहुत दूर की बात होगी।

सभापति महोदय, आप अभी आसन पर हैं और मैं आप द्वारा शुरू की गई बात को लेता हूँ। आपने जो वक्तव्य यहां दिया या जिन लोगों ने यहां बात कही कि यू.एन.ओ. में मानवाधिकारों की चर्चा हुई और उसके प्रत्युत्तर में जो साक्ष्य दिया और यह बताया कि 1929 में जब कांग्रेस पार्टी देश की आजादी के आन्दोलन का नेतृत्व कर रही थी, उस समय पं. मोती लाल नेहरू की अध्यक्षता में मानवाधिकार के संबंध में एक प्रस्ताव पारित किया गया था। उसके बाद यह प्रस्ताव 1930 और 1936 में भी पारित किया गया था। आपके इस कथन से इस बात का ट्रैक रिकॉर्ड मिलता है कि दुनिया के दूसरे विकसित देशों की अपेक्षा हमारे देश में मानवाधिकारों की चर्चा करना बेहतर रहा है। हमारे भारतवासी जैसे गुलाम, गरीब और पिछड़े देश ने 1929 और 1930 में मानवाधिकारों के बारे में चर्चा की और एक प्रस्ताव पारित किया गया था। यह इस बात का संकेत है कि हमारे देश में मानवाधिकारों के बारे में आज से नहीं बल्कि अंग्रेजों की गुलामी के समय से मानवाधिकारों का बीज प्रस्फुटित हो रहा था। यह बात अलग है कि हमारे देश को आजादी 1947 में मिली। हम मानवाधिकारों के प्रति सतर्क रहते हुये भी मानवाधिकारों का हनन अपनी आंखों से देखते रहे और उसके लिये हम बहुत कुछ नहीं कर पाये। यह बात सही है कि 1929 से ही हम लोगों ने इस आशय का प्रस्ताव पारित करके यह काम शुरू कर दिया था। यह बात भी सही है कि आज वा 2006 में हमारे देश में मानवाधिकारों के उल्लंघन की घटनायें दूसरे विकसित देशों की अपेक्षाकृत ज्यादा हो रही हैं। इस आशय के प्रस्ताव का बीजारोपण 1929 में हमारे देश में हो चुका था। हमें उम्मीद करनी चाहिये कि जिस देश का संस्कार मानवाधिकार रहा हो, जिस देश का इतिहास मानवाधिकारों की रक्षा के लिये शानदार रहा हो, उस देश के मानवाधिकारों की रक्षा के लिये भविष्य भी शानदार होगा। हम सब लोगों को इस बात पर पूरे तरीके से यकीन होना चाहिये।

सभापति जी, इस विधेयक पर चर्चा की शुरुआत श्री बी.के. देव जी ने की थी। मैं समझता हूँ कि ज्यादातर माननीय सदस्यों ने इस विधेयक का पुरजोर समर्थन किया है।

**सभापति महोदय :** सभी ने किया है।

**श्री श्रीप्रकाश जायसवाल :** सभी ने किया है। कुछ तकनीकी बातों पर अपनी-अपनी राय माननीय सदस्यों ने रखी है। श्री देव ने कल कहा था कि 16 राज्यों में ही अभी तक आयोग गठित हो पाए हैं। इसमें कोई शक नहीं कि यह दुर्भाग्यपूर्ण है कि हमारे देश के केवल 16 राज्यों में ही ये आयोग गठित हो पाए हैं, अब शायद 16 से 17 में हो गए हैं क्योंकि मुझे जानकारी दी गई है कि गुजरात में भी मानवाधिकार आयोग हाल के दिनों में गठित कर दिया गया है। लेकिन यह 16 या 17 राज्यों का प्रश्न नहीं है। प्रश्न यह है कि हमारे देश के प्रत्येक राज्य में मानवाधिकार आयोग गठित होना चाहिए, इस बात का प्रयास केन्द्र सरकार निरंतर करती रही है, करती रहेगी और हम उम्मीद करते हैं कि आने वाले समय में प्रत्येक राज्य में मानवाधिकार आयोग गठित हो जाएगा। जो हमारे देश के छोटे राज्य हैं, जिनके पास अर्थ की समस्या है, बजट की समस्या है, जिसके कारण अपने राज्यों में मानवाधिकार आयोग गठित करने में उनको मुश्किलें आ सकती हैं, उनको यह लिबर्टी इस विधेयक के माध्यम से दी गई है कि वे अपने पड़ोसी राज्यों के साथ ही अपने मानवाधिकार आयोग भी सन्निहित कर दें। छोटे-छोटे राज्यों में घटनाएं भी कम होती हैं और उनको अलग से इन्फ्रास्ट्रक्चर बनाने और आयोग बनाने में मुश्किल भी होती है। वे अपने पड़ोसी राज्यों के साथ इसको सन्निहित कर सकते हैं। ...(व्यवधान)

**सभापति महोदय :** मंत्री जी को अपनी बात कह लेने दीजिए।

**श्री विक्रम केशरी देव (कालाहांडी) :** सभापति महोदय, मंत्री महोदय ने अभी कहा कि छोटे राज्यों में मानवाधिकार का हनन बहुत कम होता है। मुझे उसके आंकड़े मंत्री जी से चाहिए। मैं समझता हूँ कि जो छोटे राज्य हैं, खासकर नॉर्थ ईस्ट के राज्य हैं, वहां मानवाधिकार का हनन ज्यादा होता है।

**सभापति महोदय :** देव जी, आप इस पर एक प्रश्न लगा दीजिए।

**श्री श्रीप्रकाश जायसवाल :** मैंने जो बात कही है, उसके आंकड़े कुछ भी हो सकते हैं। मेरा तात्पर्य केवल इतना था कि छोटे राज्यों में बजट की समस्या होती है, पैसे की समस्या होती है, इसलिए वे दूसरे राज्यों के साथ अपने को सन्निहित करके अपने बजट की समस्या का समाधान कर सकते हैं। हो सकता है किसी राज्य में ज्यादा होती हो, किसी राज्य में कम होती हो, लेकिन माननीय सदस्य का कहना भी सही है कि छोटे राज्यों में मानवाधिकार उल्लंघन की संख्या भले ही ज्यादा न हो, लेकिन कम भी नहीं है। यह बात तो हम स्वीकार करते हैं।

श्री सुजान चक्रवर्ती ने इस विधेयक का पुरजोर समर्थन करते हुए एक बात कही थी कि बिना राज्य सरकार की जानकारी के जेलों में विजिट करना उचित नहीं है क्योंकि इससे बहुत सारी दिक्कतें पैदा हो सकती हैं। मेरा इस पर यह कहना है कि यह प्रावधान किया गया है कि बिना राज्य सरकार की अनुमति के मानवाधिकार आयोग जेलों को विजिट कर सकता है, लेकिन यह बैन नहीं किया गया है। यह कोई जरूरी नहीं है कि वह राज्य सरकार को सूचित नहीं करे। अगर वह चाहते हैं, बेहतर समझते हैं कि राज्य सरकार को सूचना देकर जेलों में जाएँ तो वे ऐसा कर सकते हैं जिससे उनके अधिकारी खड़े होकर हमें बतलाएँ कि कौन कौन सी चीजों की कमी है, कौन सी चीजों की कमी नहीं है जिससे हम उनसे वार्ता कर सकें कि आपने यह व्यवस्था क्यों नहीं की। वे चाहें तो राज्य सरकारों की जानकारी में जा सकते हैं, लेकिन यह प्रावधान किया गया है कि राज्य सरकारों की जानकारी के बिना भी आयोग के सदस्य जेलों में विजिट कर सकते हैं।

**कुमारी ममता बैनर्जी :** जो प्रावधान आपने रखा है, वही ठीक है।

**श्री श्रीप्रकाश जायसवाल :** यही किया जाएगा लेकिन अगर कोई आयोग यह समझता है कि हमें जानकारी देकर जाना चाहिए तो जानकारी देकर जाए।

**कुमारी ममता बैनर्जी :** वह मैनडेटरी होना चाहिए।

श्री श्रीप्रकाश जायसवाल : श्री अधीर चौधरी ने महिला आयोग और अल्पसंख्यक आयोग के सदस्यों को इसमें शामिल करने की बात कही थी। वह मैंने पहले ही स्पष्ट कर दिया है। रूल्स में देखा जाए तो महिला आयोग की अध्यक्ष और अल्पसंख्यक आयोग के अध्यक्ष, दोनों ही इस आयोग के सदस्य होंगे। माननीय सदस्य ने प्रत्येक जिले में मानवाधिकार आयोग स्थापित किये जाने पर भी बल दिया था। मेरा इस संबंध में यही अनुरोध है कि अभी तक तो देश के सारे राज्यों में भी मानवाधिकार आयोग स्थापित नहीं हो पाये हैं।

SHRI BRAJA KISHORE TRIPATHY (PURI): All hon. Members have unanimously requested to include women members in the Commission..... (Interruptions)

सभापति महोदय : वह उन्होंने कह दिया है। उन्होंने पहले ही सफाई दे दी है। उनके नियमों में प्रावधान है।

श्री श्रीप्रकाश जायसवाल : वह रूल्स में है। हम उम्मीद करते हैं कि वह दिन जल्द आए, जब प्रत्येक जिले में ट्यूमन राइट्स कमीशन स्थापित हो जाए।

**18.00 hrs.**

सभापति महोदय : आपके रहते आ जाए, तो बहुत अच्छा होगा।

श्री श्रीप्रकाश जायसवाल : अगर हमारे और आपके जैसे लोग रहेंगे तो जरूर आएगा, इस बात की हम कल्पना करते हैं। आपने जो बातें कही थीं, उनका मैंने पहले ही जिक्र कर दिया था। मैं माइनोरिटीज और महिला कमीशन के बारे में क्लेरीफाई कर ही चुका हूँ। एससी, एसटी के लिए अलग से कमीशन बनाने के लिए श्रीमती राधिका सेलवी जी ने कहा। श्री विजय कृष्ण ने कहा कि एससी, एसटी के लिए मानवाधिकार उल्लंघन का अलग से कमीशन बनाया जाए, लेकिन अभी हमारे देश में यह संभव नहीं है। श्रीमती अर्चना नायक जी ने कहा था कि इन्फ्रास्ट्रक्चर मजबूत किया जाए, आफिस बनाया जाए और महिलाओं को भी आयोग का सदस्य बनाया जाए, वह ऑलरेडी इसमें है। श्री अजय चक्रवर्ती जी ने इस संशोधन का समर्थन किया है। जेलों में भोजन आदि की सही व्यवस्था नहीं होती है, ऐसी बहुत सारी छोटी-छोटी चीजें बताई गई हैं, जिनके बारे में सरकार हमेशा भविष्य में ध्यान रखेगी और जो कुछ भी संभव हो सकेगा, उसके लिए उपाय किया जाएगा। बाल श्रमिकों की समस्याओं के बारे में बताया गया, बीएसएफ के अधिकारियों के बंगलादेश बार्डर के बारे में चक्रवर्ती जी ने बताया था, वे शायद चले गए हैं, चूंकि वे बंगाल के प्रतिनिधि हैं, इसलिए स्वाभाविक है कि उन्होंने बंगलादेश बार्डर पर बीएसएफ की कहीं जुल्म और ज्यादाती देखी होगी।... (व्यवधान) अगर इस तरीके की कोई कमेंट आप लोगों के पास आए, तो हमें बताएं।... (व्यवधान) उसका निदान अवश्य किया जाएगा। श्रीमती सुमित्रा जी ने बड़ा अच्छा सुझाव दिया था।... (व्यवधान)

सभापति महोदय : मंत्री जी, अब आप समाप्त करिए।

श्री श्रीप्रकाश जायसवाल : महोदय, हम नाम तो सब के ले लें, नहीं तो ये माननीय सदस्य कहेंगे कि हमारा नाम नहीं लिया। श्री किरिप चालिहा जी ने बड़े अच्छे सुझाव दिए हैं। श्री के. येरननायडु जी ने हमारा मार्गदर्शन किया है, वे इस समय यहां उपस्थित नहीं हैं।... (व्यवधान)

सभापति महोदय : आप उन्हीं माननीय सदस्यों का नाम लीजिए, जो यहां मौजूद हैं।

श्री श्रीप्रकाश जायसवाल : कुमारी ममता बैनर्जी हमारी दीदी हैं और यह आज से नहीं, बल्कि बहुत पहले से हमारा मार्गदर्शन करती रही हैं। इन्होंने भी बड़ा अच्छा मार्गदर्शन किया है। छात्र आंदोलन, किसान आंदोलन और राजनैतिक आंदोलन में ताकत का प्रयोग न किया जाए।

सभापति महोदय, आप चाहते हैं कि इस विधेयक को जल्दी पारित किया जाए।... (व्यवधान)

सभापति महोदय : पूरा सदन चाहता है।

श्री श्रीप्रकाश जायसवाल : मैं आप सब माननीय सदस्यों से अनुरोध करता हूँ कि इन संशोधनों को स्वीकार किया जाए।... (व्यवधान)

सभापति महोदय : मंत्री जी के जवाब के बाद कुछ नहीं होता। आप पुराने सदस्य हैं, आपको तो मालूम है कि मंत्री जी के जवाब के बाद कुछ नहीं होता।

... (व्यवधान)

श्री श्रीप्रकाश जायसवाल : सभापति महोदय, मुझे एक मिनट के लिए बोलने की इजाजत दी जाए। श्रीमती राधिका सेलवी जी ने हमें बहुत बड़े अन्याय की बात कही। मैं आपसे अनुरोध करता हूँ कि आप हमें अपना रिप्रजेंटेशन व्यक्तिगत रूप से दे दें, मैं आपके केस की पूरी छानबीन कराऊंगा और आपको न्याय दिलवाने की कोशिश करूंगा।

MR. CHAIRMAN : The question is:

“That the Bill further to amend the Protection of Human Rights Act, 1993, as passed by Rajya Sabha, be taken into consideration. ”

*The motion was adopted.*

MR. CHAIRMAN: Now, the House will take up clause by clause consideration of the Bill.

The question is:

"That clauses 2 to 19 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 19 were added to the Bill.*

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

SHRI SHRIPRAKASH JAISWAL: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*

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