

Sixteenth Lok Sabha

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Title: Combined discussion on the Statutory Resolution regarding Disapproval of Criminal Law (Amendment) Ordinance, 2018 And Criminal Law (Amendment) Bill, 2018.

HON. DEPUTY-SPEAKER: The House will now take up item nos. 19 and 20 together.

Shri N. K. Premachandran.

SHRI N.K. PREMACHANDRAN (KOLLAM): Sir, I beg to move:

“That this House disapproves of the Criminal Law (Amendment) Ordinance, 2018 (No.2 of 2018) promulgated by the President on 21st April, 2018.”

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI KIREN RIJJU): Sir, I beg to move:

“That the Bill further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and Protection of Children from Sexual offences Act, 2012, be taken into consideration.”

Sir, with the moving of this Bill I would like to make a few remarks at the beginning. This is a very important occasion for all of us to come

together without taking any political party line and speak on this Bill.

Sir, in the recent times we have seen so many cases of rape, especially committed against minor girls, girls below 16 and even 12 years of age which has shaken the conscience of this nation. So, with a view to bringing in stringent measures to punish those criminals, the Government had promulgated an Ordinance on 21st April, 2018. Now, to replace that Ordinance, the Government is moving the Criminal Law (Amendment) Bill, 2018.

Sir, I, once again, would like to appeal to the House to support the provisions of the Bill and give encouragement to the Government to take more steps to ensure the safety of women and girls in this country.

HON. DEPUTY SPEAKER: Motions moved:

“That this House disapproves of the Criminal Law (Amendment) Ordinance, 2018 (No.2 of 2018) promulgated by the President on 21st April, 2018.”

“That the Bill further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and Protection of Children from Sexual offences Act, 2012, be taken into consideration.”

SHRI N.K. PREMACHANDRAN : Sir, I rise to oppose the Ordinance route of legislation but support the contents of the Bill subject to certain reservations.

16 35 hrs

(Shri Kalraj Mishra *in the Chair.*)

Most of the times, we have discussed in this House regarding the promulgation of Ordinance and its impact. I need not repeat all those things once again because it is a well-established constitutional position that Article 123 does not permit promulgation of Ordinance unless and until there are some extraordinary situations in the country.

This is an independent legislation brought out by the Executive and further Article 123 of the Constitution does not speak of the replacement of an Ordinance by an Act of Parliament. The Constitution does not permit even His Excellency the President or the Governor as a parallel law-making authority independent of the Legislature. I oppose the Ordinance route of legislation because six Ordinances were promulgated during this two-and-a-half months by this Government. This is highly unfortunate. So, I once again oppose this Ordinance.

Coming to the Bill, I fully endorse the views expressed by the hon. Minister in his opening remarks regarding stringent punishment which is to be provided to the culprits who are committing the offence of rape especially on girl students or women below the age of 16 years and below the age of 12 years.

The Ordinance and the Bill are intended to address the issue of incidents of rape and gang rape on women under the age of 16 years and 12 years. I fully agree with the hon. Minister and the Government that effective deterrence of this heinous crime through legal provisions of stringent punishment is highly essential; it is the need of the hour; there is no doubt about it and I fully endorse the views of the hon. Minister.

To make the penal provisions more stringent and effective, punishment is required. Immediate arrest of the accused is highly essential and speedy trial in such cases should be ensured. Only then we will be able to address the situation.

In order to achieve the aforesaid goals, four statutes like the Indian Penal Code, the Indian Evidence Act of 1872, the Criminal Procedure Code as well as Protection of Children from Sexual Offences Act, 2012 are proposed to be amended by this Ordinance or by this Bill.

Sir, by virtue of this amendment, death penalty for the offence of rape of a woman below the age of 12 years and again death penalty for the offence of gang rape on a woman under the age of 12 years and below 16 years, a term not less than 20 years of imprisonment, which may be extended up to life imprisonment in certain conditions, are proposed. Further, there is a stringent punishment of imprisonment for life for gang rape on a woman below 16 years.

Regarding the rape offence, minimum imprisonment was seven to ten years. It has now been made as life imprisonment. These are the amendments which are being proposed by the Government in this Amendment Bill.

I fully agree with the other amendments because investigation should be completed within two months. On whether it is practicable to see that the criminal investigation on a rape case could be completed within two months from the date of commission of offence has to be seen. Anyway, I fully accept and endorse it.

This issue of completion of trial within two months, completion of a criminal case and especially a criminal offence which involves a rape within two months either from the date of commission of offence or from the date of filing the charge-sheet in a court of law has to be clarified.

Regarding appeal to be disposed within six months, I fully agree with this provision also. In most of the cases, even though the Magistrate Court or the trial court convicts a culprit or an accused, even then the appeal or the second appeal will go on like anything, the final verdict will be against the victim.

Another important provision that has been incorporated is, there will be no anticipatory bail in the case of rape or gang rape on women below the age of 16 years and 12 years. This is also a welcoming provision by the Government because nowadays, in any court of law be it in the High Court or any other court, one is getting anticipatory bail and he will be out of jail. I fully endorse or agree with these relaxations or the speedier trial. This is a comprehensive Amendment Bill which we are going to discuss.

The first point which I would like to make or highlight before this august House is whether there is any urgency to issue an Ordinance and whether this Amendment Bill is sufficient to meet the purpose or not.

This is the point I would like to elaborate and discuss. In this case, we all know that this Ordinance was promulgated on 21st April, 2018. The date is very pertinent and this Ordinance was issued on the aftermath of the Kathua incident in Kashmir. I am of the view that the Government of Jammu and Kashmir as well as the Government at the Centre are fully in defence in respect of the Kathua incident of the rape of a minor girl below

the age of 8 years and murder of that girl in the premises of a temple. This is quite unfortunate as far as this country is concerned.

Sir, where is this country moving? In which direction the biggest democracy in the world is moving? A girl below the age of 8 years has been harassed, sexually assaulted, raped and finally she has been murdered in a brutal manner.

श्री रमेश बिधूड़ी (दक्षिण दिल्ली) : इसी के लिए तो यह बिल ला रहे हैं। आप बिल पर बोलिएगा।

SHRI N.K. PREMACHANDRAN (KOLLAM): Why are you so much afraid of Kathua incident? ... (*Interruptions*)

THE MINISTER OF CHEMICALS AND FERTILIZERS AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI ANANTHKUMAR): Mr. Chairman, Sir, nobody is afraid. But my dear friend Mr. Premachandran should understand that he is speaking only on his Resolution. The Bill has to be considered. When the Bill is considered, he can have his speech. He need not give his speech now because he is not the initiator of this debate.

SHRI N.K. PREMACHANDRAN : Sir, I want to know whether the Bill and the Statutory Resolution have been taken up together.

माननीय सभापति: प्रेमचन्द्रन जी, यह कम्बाइंड डिस्कशन है, आप इस बात का ध्यान रखिए।

SHRI N.K. PREMACHANDRAN : So, I am having full liberty to speak on the Bill.

SHRI ANANTHKUMAR: No Sir. He has no authority to speak about the Bill. While moving the Resolution opposing the issue of the Ordinance, he can only mention as to why he is opposing the Ordinance on technical and constitutional grounds. He cannot go into the merits of the Bill and refer to the Kathua incident and other things.

माननीय सभापति : आप इस बात का ध्यान रखें और उसके अनुसार बोलें तो ठीक रहेगा।

SHRI N.K. PREMACHANDRAN : Sir, I am very fortunate that you are in the Chair now. I cannot understand the observation of the Minister. The contents of the Ordinance and the contents of the Bill are one and the same. The hon. Minister of Parliamentary Affairs may kindly see this. So, I have to speak on the Bill also. Therefore, Kathua and Unnao incidents have to be mentioned.

The Kathua incident of gangrape and murder of a minor girl in the premises of a temple has shaken the conscience of the entire nation.

माननीय सभापति : आप बिल पर बोलिए। आपने रेफर कर दिया, यह पर्याप्त है।

... (*Interruptions*)

माननीय सभापति : अब आप समाप्त कीजिए। आप बिल पर बोलिए।

SHRI N.K. PREMACHANDRAN : Sir, the opening sentence of the Statement of Objects and Reasons of this Bill says that the recent incidents of rape has shaken the conscience of the entire nation. This is the opening sentence.

माननीय सभापति : अब आप समाप्त कीजिए।

... (*Interruptions*)

माननीय सभापति : प्रेमचन्द्रन जी, अब आप अपनी स्पीच समाप्त कीजिए।

SHRI N.K. PREMACHANDRAN : Yes Sir. I am speaking on the Bill. ... (*Interruptions*) Why is the Government so much intolerant?

SHRI ANANTHKUMAR: Nobody is intolerant. You are not understanding the rules and regulations. You are one-member party and you should know your limitation. You have limited time and you are going to speak again on the Bill. This is not the way.

SHRI N.K. PREMACHANDRAN : This is not proper. Let the Chair give a ruling. ... (*Interruptions*)

SHRI ANANTHKUMAR: He cannot make a speech on the Bill now. ... (*Interruptions*)

SHRI N.K. PREMACHANDRAN : Sir, this is quite unfortunate. I am on my legs only because I am the mover of the Resolution. This is a privilege on the part of a Member to move a Resolution. It means I can very well speak. ... (*Interruptions*) If you do not want to hear, that is different.

श्री अनन्तकुमार : महोदय, आप इनसे कहिए कि ये रेजोल्यूशन को कंसीडर करें।
... (*Interruptions*)

माननीय सभापति : अब आप अपनी बात समाप्त कीजिए।

SHRI N.K. PREMACHANDRAN : Sir, it is quite unfortunate to see that after the Kathua incident, this has been brought. ... (*Interruptions*)

श्री अनन्तकुमार : महोदय, आप इनसे रेजोल्यूशन को कंसीडर करवाइए।

SHRI N.K. PREMACHANDRAN : If you are so much concerned about the Kathua and Unnao incidents ... (*Interruptions*)

माननीय सभापति : प्रेमचन्द्रन जी, आप अपने रेजॉल्यूशन को कनक्लूड करें।

...(व्यवधान)

माननीय सभापति : आपने इसे पहले ही मूव कर दिया है। अब आप इसे कनक्लूड करें।

SHRI N.K. PREMACHANDRAN : Yes, Sir.

Sir, the recent incidents of rape and murder on girls below the age of 12 years and 18 years ... (*Interruptions*)

माननीय सभापति : इसे आप कई बार कह चुके हैं। अब अपने प्रस्ताव को कनक्लूड करें।

SHRI N.K. PREMACHANDRAN : Sir, it has tarnished the image of the country. That is why I am supporting the Bill. It has tarnished the image of the country. So, this has to be combated. ... (व्यवधान)

HON. CHAIRPERSON: Please conclude, now.

SHRI N.K. PREMACHANDRAN : What is this, Sir?

माननीय सभापति : प्लीज, आप इसे जल्दी कनक्लूड करें। जब एक बार आपने इसे रेफर कर दिया। उसमें सारी बातें आ गईं। अब अपने प्रस्ताव को आप कनक्लूड करें।

...(व्यवधान)

SHRI N.K. PREMACHANDRAN : Sir, then, I will come to the other part of my speech.

HON. CHAIRPERSON: Now, you have no time.

SHRI N.K. PREMACHANDRAN : Sir, I am the mover of the Resolution.

SHRI ANANTHKUMAR: Sir, he is not the initiator. He is only the Mover of the Resolution.

माननीय सभापति : आपको बोलने के लिए दस मिनट का समय था। आप इसके मूवर थे। इसलिए आपको इतना समय दिया गया। कृपया अब इसे समाप्त करें। आपका दस मिनट से ज्यादा समय हो गया।

...(व्यवधान)

HON. CHAIRPERSON: You have already taken more than 10 minutes.

SHRI N.K. PREMACHANDRAN : Sir, I have just started.

HON. CHAIRPERSON: You started at 16.34 hours.

... (*Interruptions*)

HON. CHAIRPERSON: Now, please conclude.

... (*Interruptions*)

माननीय सभापति : कृपया आप लोग बैठ जाइए।

श्री निशिकान्त दुबे (गोड्डा): सर, मेरा इसमें पॉइंट-ऑफ-ऑर्डर है।

माननीय सभापति : ठीक है, आप बोलिए।

SHRI NISHIKANT DUBEY : My point of order is under Rule 179 of the Rules of Procedure and Conduct of Business in Lok Sabha, which says: “The discussion on a resolution shall be strictly relevant to and within the scope of the resolution.”

सर, इनका रिजॉल्यूशन क्या है? इन्होंने किसी कंस्टीट्यूशनल वैलिडिटी के ऊपर रिजॉल्यूशन दिया होगा। ये पूरे बिल के ऊपर चर्चा नहीं कर सकते। रूल-179 के आधार पर यह चर्चा नहीं हो सकती। जब वे इसकी डिस्कशन में भाग लेंगे, फिर वे पूरे बिल के कॉन्टेंट के ऊपर चर्चा करेंगे। इसमें नियम-179 पूरा क्लियर है। यदि यह क्लियर है तो उन्होंने रिजॉल्यूशन का जो रिजन दिया है, वे अपनी डिबेट का स्कोप केवल उसके ऊपर करेंगे।...(व्यवधान)

HON. CHAIRPERSON: Now, Premachandranji, please conclude.

PROF. SAUGATA ROY (DUM DUM): Sir... (*Interruptions*)

माननीय सभापति: सौगत जी, आप बैठ जाइए।

PROF. SAUGATA ROY : Sir, I am on a point of order.

श्री अनुराग सिंह ठाकुर (हमीरपुर): दादा, आप रूल बताइए।

PROF. SAUGATA ROY : It is Rule 376.

Sir, the hon. Member, Shri Nishikant Dubey has quoted Rule 179. Shri Premachandran’s Resolution is not a Resolution under Rule 179. If you look into the Article 123(2)(A) of the Constitution, it deals with Statutory Resolutions. Now, the Statutory Resolutions refer to say that ‘the Ordinance will be passed as a Bill unless a Resolution against that Ordinance is passed by the House.’

So, what he has pointed out is a rule under the Constitution. It does not deal with Rule 179.

SHRI ANURAG SINGH THAKUR : But he should move the Resolution. Nobody is stopping him to move the Resolution.

PROF. SAUGATA ROY : So, इसलिए उसे करने दिया जाए।...(व्यवधान)

माननीय सभापति: अनुराग जी, सौगत जी, आप लोग बैठ जाइए। मैं इस पर अपनी बात बता रहा हूँ।

...(व्यवधान)

माननीय सभापति: इस पर डिबेट नहीं होता है।

सौगत जी, कृपया आप अपना आसन ग्रहण करें। मैं इस पर अपनी बात बता रहा हूँ।

...(व्यवधान)

माननीय सभापति: इन्होंने पॉइंट-ऑफ-ऑर्डर उठाया है। मैं इस पर अपनी बात बता रहा हूँ।

...(व्यवधान)

माननीय सभापति: प्रेमचन्द्रन जी, यह बिल है। इस पर आप बोल सकते हैं, इसे रेफर कर सकते हैं। आप अपनी बात कनक्लूड करके बैठिए।

...(व्यवधान)

SHRI N.K. PREMACHANDRAN : Sir, can I respond to Shri Nishikant Dubey?

माननीय सभापति: अब वह समाप्त हो गया। आप बिल पर डिस्कशन के अन्तर्गत इसे रेफर कर सकते हैं। आपने जो रेजॉल्यूशन दिया है, वह इस बिल के ऊपर दिया है। इसलिए रेफरेंस की दृष्टि से यह बात आ गयी। इसके बाद आप बिल पर बोलिए। आपका जो समय था, उससे बहुत ज्यादा समय हो गया है। इसलिए कृपया अब अपनी बात कनक्लूड करके बैठ जाइए।

...(व्यवधान)

SHRI N.K. PREMACHANDRAN : Sir, I have already moved the Resolution. ... (*Interruptions*)

HON. CHAIRPERSON: You cannot take more than ten minutes.

... (*Interruptions*)

SHRI N.K. PREMACHANDRAN : Sir, let me point out. I have already moved the Resolution. What is my Resolution? It is to disapprove the Ordinance.

What is the Ordinance? ... (*Interruptions*) If the Government is not ready to hear me, I am concluding. ... (*Interruptions*)

SHRI ANANTHKUMAR : It is not the question, Sir. His time is over.... (*Interruptions*)

HON. CHAIRPERSON: Now, Shrimati Kirron Kher.

SHRIMATI KIRRON KHER (CHANDIGARH): Thank you, hon. Chairman, Sir.

First of all, I would like to say that Shri Premachandran was saying: “What is the need to bring in an Ordinance on the 18th of April.” If only the hon. Opposition had allowed the House to function during the Budget Session, we would not have been forced to do so with so many things. And also, I would like to say that you keep referring very selectively to one or two cases, which, I think, is politicising a matter that pertains to the entire country and all women and children in general. I take strong objection to your bringing up or picking and choosing one or two areas. You do not talk about other areas which I will not be dignified by replying too.

I rise to support this historic piece of legislation today. These are times when we are confronted with a gruesome reality of an increasing number of innocent children in the country, especially, girls, in the danger of losing their childhood to unspeakable violence. The Criminal Law (Amendment) Ordinance was a rightly timed promulgation and the Bill that we are discussing today, is, indeed a welcome piece of proposed legislation by the Home Ministry. Before 2014, we had the horrific case of Nirbhaya’s gang rape and brutal murder. We saw the entire country rising as one against it and this Parliament passed a stringent law against it. In spite of this, we see climbing dark statistics coupled with horrifying details in newspapers. This Bill reflects the long-awaited hope of the country, for a safer future for our young girls and children.

It is an indisputable fact that cases relating to sexual offences require handling with extreme sensitivity, every step of the way. Keeping with this principle, this Bill comprehensively amends relevant laws relating to rape, to explicitly extend coverage to victims who are minors. For instance, this Bill suitably amends Section 53A and the proviso under Section 146 of the

Indian Evidence Act, 1872, to ensure that evidence of character or previous sexual experience has no bearing on cases relating to rape of girls under 12 and 16 years. Contrary to claims of ‘hasty and knee-jerk response’ by some sections, the provisions of this Bill are undoubtedly well-thought out and in sync with current realities. We have all heard the terrible truth about children of two or three years being raped. How can we, as legislators not bring in more stringent laws? And if we do not, how do we reconcile it with our conscience?

Leaving no room for ambiguity, the Indian Penal Code has been amended to insert new Section dealing with the rape and gang rape of women belonging to 12 and 16 years of age. Rightfully so, the penalties for these crimes, for which even ‘heinous’ seems like an understatement, have been strengthened, so that we say with certainty that “the punishment actually fits the crime.” For those who have been expressing a blanket disapproval of the death penalty, I would like to ask, “How can a lesser penalty possibly be justified for repeat offenders?”

For too long, delayed and lengthy trials have exacerbated the trauma of victims and hence the proposed amendments to the Code of Criminal Procedure promises to change this scenario. This Bill recognises that a time-bound investigation and disposal of appeals is the right of every victim and none should suffer the pain of delayed justice. Thus, the provisions reducing the time period of completion of investigations from three to two months and disposal of appeals within six months, have been extended to all cases of rape with no bar on the victim’s age.

We see so much delay in these cases. The judgment on the Nirbhaya case has been delivered after four years. Is this not a case of ‘justice delayed is justice denied’? It is commendable that this Government is already taking important measures in this direction with a great push being given on setting up of special fast-track courts, providing forensic kits to hospitals and dedicated manpower. It is a significant step under the hon. PM’s Beti Bachao mission.

Another noteworthy provision of this Bill, which leaves no room for doubt on this Government’s zero tolerance to these crimes, is the denial of anticipatory bail for persons accused of rape under relevant sections of the IPC. Stories abound of the ease with which accused in POCSO cases are able to obtain bail and the resultant trauma experienced by the victims and their families. While it is true that there is a just purpose behind Section 438 of the Code of Criminal Procedure or anticipatory bail, as we know it, we need to accept that this Section has been widely abused. It has already been long recognised that this has turned into an empowering tool for the accused to circumvent the due process of justice. The newly inserted sub-Section 4 is, therefore, a justified limit to the application of this Section which will ensure that there is no demoralizing effect on the victims.

I believe that these and other provisions of the Bill reflect the will of the people at large and will go a long way in creating a future that see no more of such incidents that shake a nation’s conscience. However, we must not stop at enacting new legislations alone. It is deeply unfortunate that there is still, in some places, such a flagrant disregard for guidelines that requires authorities to respect the sensitive nature of these cases. To be more explicit, in spite of the guidelines issued by the Government to

focus more on victim and witness testimonies, physical examination continues to be heavily relied on in rape cases which, in no uncertain terms, is intrusive and undignifies and violates the girls and children.

In these last four-and-a-half years, I have stood up many times and spoken for the women of this country against rape, against stalking. Many such incidents have happened across the country, not just in certain States as Shri Premachandran would like to emphasise on.

I extend my whole-hearted support to this Bill. It is clearly a step in the right direction. I have full faith that the Government will also appropriately deal with persons who violate its guidelines.

यह बिल नारी के सम्मान का बिल है। लाल किले से आदरणीय प्रधानमंत्री ने नारियों के सम्मान और बच्चियों की रक्षा की जो बात कही थी, यह बिल उसी दिशा में एक ऐतिहासिक कदम है। बहुत-बहुत धन्यवाद।

श्रीमती रंजीत रंजन (सुपौल): सभापति जी, आपने मुझे बोलने का अवसर दिया, इसके लिए मैं आपको धन्यवाद देती हूँ। आज हम लोग एक बहुत ही संवेदनशील मुद्दे पर अमेंडमेंट लेकर आए हैं। कानून को और अधिक सख्त करने के लिए सभी लोग इस सदन में चर्चा कर रहे हैं।

एक मां होने के नाते जब भी मैंने ऐसे केसेज देखे हैं, तो मुंह से यही निकलता है कि उसको फांसी दे दो। मुझे लगता है कि जब हम कानून बनाते हैं, तो हमें जोश में होश नहीं खोना है। मुझे लगता है, जो मेरा एक्सपीरियंस है, जो मैंने देखा है, जो सिचुएशन है, जो हमारा एन्वायर्नमेंट है, जो हमारा सिस्टम है, हम कानून जितने भी कड़े कर लें, लेकिन जब तक हमारी सोसाइटी, हमारा सिस्टम उसे इम्प्लीमेंट करने के लिए ईमानदार नहीं है, एकाउंटबिलिटी नहीं है, तो मुझे नहीं लगता कि

हम फांसी को भी लॉ में लेकर आ जाएं, लेकिन जिस तरह से एक साल, दो साल, पांच साल, छः साल की बच्ची का रेप जघन्य तरीके से होता है, उसका रास्ता सिर्फ लॉ को सख्त करना है।

17 00 hrs

मैं आपको एक एग्जाम्पल देती हूं। मैं अपने निर्वाचन क्षेत्र में थी, दो किलोमीटर की दूरी पर हमारी मीटिंग चल रही थी। मेरे पास एक व्यक्ति भागता हुआ आया और मुझे बताया कि बगल में छह-सात साल की बच्ची से रेप हो गया है। वह थाने में है और अभी तक एफआईआर दर्ज नहीं हुई है। मैं मीटिंग छोड़ कर वहां गई। वहां माँ बच्ची को गोद में ली हुई थी। उसका वैजाइना टीयर हो गया था और ब्लीडिंग हो रही थी। थानेदार उसको वेट करने के लिए कह रहा था। चूंकि एक एमपी वहां पहुंच गया इसलिए आनन-फानन में उन्होंने एफआईआर दर्ज की। मैंने कहा कि एफआईआर दिखाओ कि क्या उम्र लिख रहे हो। उसने कहा, जो भी लिखेंगे, आपको दिखा कर लिखेंगे। पहले इसको डॉक्टर के पास लेकर चलते हैं। डॉक्टर के पास जाने के बाद कहा गया कि मैं गाइनोकोलोजिस्ट नहीं हूं। मैं वैजाइना टीयर लिख दूंगा लेकिन इस बच्ची के साथ रेप हुआ है, इसे देखने के बावजूद नहीं लिख सकता। अगर मैं उस बच्ची को वहां छोड़ कर चली जाती तो उसकी उम्र भी बढ़ जाती, वैजाइना टीयर लिख दिया जाता। रेप उसमें नहीं लिखा जाता, दो दिन के बाद जिस लड़के ने रेप किया था उसकी उम्र भी कम हो जाती। हमारा सिस्टम ऐसा है कि बहुत ईजी तरीके से रेपिस्ट को बचा लिया जाता है। मैं दो घंटे समय लगाकर सदर अस्पताल गई और महिला डॉक्टर से बात की। मैंने उसके कहा कि आप गाइनोलोजिस्ट हैं, आप सिर्फ यह देखना कि यह बच्ची है। हमारी बच्ची इसलिए नहीं है क्योंकि हम वेल सैटल्ड घर से हैं। सिर्फ माँ समझ कर इसका इलाज करना। उस बच्ची को तीन लेयर स्टेचेज लगे। एफआईआर में सात साल की बच्ची को नौ साल लिखा गया, गाइनोकोलोजिस्ट ने कहा कि रेप दिखता है क्योंकि वैजाइना टीयर है। वह लड़का पड़ोस का था और 21 वर्ष का था। उसकी भी पांच बहनें हैं। पांच-छह घंटे सिर्फ थाने की गलती और लापरवाही के कारण

बच्चे को पड़ोस से नहीं पकड़ा गया, क्योंकि हम रेप को गंभीरता से नहीं लेते हैं। दिल्ली या मेट्रो सिटी में हाइलाइट हो जाता है लेकिन गांव में लाखों रेप होते हैं और कोई पूछने वाला नहीं है। मैंने कहा कि उसको पकड़ने क्यों नहीं गए, तब तक उस लड़के को भनक लग गई कि कोई जनप्रतिनिधि उसमें इंटेस्टेड है। वहां नेपाल बार्डर है, वह वहां भाग गया। मैं यह सब इसलिए बता रही हूँ कि हम सब का इनिशिएटिव है। आप फांसी की सजा करके भी रेपिस्ट को फांसी नहीं दे सकते, जब तक हम खुद नहीं सुधरते। मैंने उसको कहा कि अब क्या करोगे, उसे क्यों नहीं पकड़ा, तो उसने कहा कि अब जांच करेंगे। मैंने कहा कि कैसे जांच करोगे? थानेदार को यह भी नहीं मालूम है कि बच्ची का स्वैब लेना है, उसके अंडरगारमेंट्स लेने हैं।

मैंने अपने सामने गारमेंट्स को सील कराया और फॉरेंसिक लैब जो शायद बंगलुरु में है, बिहार में लैब नहीं है, इस तरह के छह-सात स्टेटों में ही फॉरेंसिक लैब हैं, उसमें भेजा गया। चौबीस घंटे के अंदर उस लड़के की गिरफ्तारी हुई, उसके तीन दिन के बाद मुझे सूचना मिली कि उसको स्कूल में अंडर एज दिखाया जा रहा है। तब तक सोलह का कानून नहीं बना था। मैंने वहां कहा हुआ था कि इसके बारे में बताते रहना। मैंने फिर फोन किया और टीचर्स से कहा कि आप क्या कर रहे हैं? उस 21 साल के लड़के की एज को नहीं घटाया गया। आज तक वह लड़का जेल में है अन्यथा वह पन्द्रह दिनों के अंदर बाहर होता। मैं इसे क्यों कह रही हूँ? हम फांसी की सजा कर देंगे। अभी मेरी बहन किरण जी बोल रही थीं कि हम थानों में टेस्ट किट देंगे। क्या थानों की एकाउन्टेबिलिटी है? एक गरीब बच्ची का रेप होता है। दस हजार रुपये में हमारा थाना बिकता है तो क्या वह किट नहीं बिकेगी? यह और ज्यादा गलत होगा। मैं इसलिए नहीं बोल रही हूँ कि मैं अपोजिशन में हूँ, अनुभव के कारण और एक माँ होने के नाते कह रही हूँ। आज जो सिचुएशन है, आप मेट्रो सिटी में बचा सकते हैं लेकिन रूरल एरिया और छोटे शहरों में रेपिस्ट को बचाने और गुमराह करने के ज्यादा चांसेज होते हैं। उसकी एकाउन्टेबिलिटी नहीं है। हम फॉरेन्सिक लैब पर विश्वास रखते हैं, फॉरेन्सिक लैब में जाएगा तो कम से कम पुष्टि होकर आएगा। थाने में 99.9 परसेंट गारंटी नहीं है कि अगर किसी की सेटिंग

नहीं हुई तो वह रेप को रेप घोषित करेंगे। वहीं केस खत्म हो जाएगा। मुझे नहीं लगता है कि आप इस चीज को संशोधन करें। आप थानों में किट दे रहे हैं, जब तक उनकी एकाउन्टेबिलिटी न हो, विश्वास न हो, उनको बिल्कुल नहीं देना चाहिए।

अभी मुजफ्फरपुर की घटना हुई। 29 बच्चों का रेप हुआ है, 34 का रेप हुआ है या 40 का रेप हुआ है, हम इसकी डिसकशन कर रहे हैं, हम इसकी लड़ाई लड़ रहे हैं। रेप हुआ है, यह सही है, 15 संस्थाओं में रेप हुआ है। सीबीआई जांच हो रही है। हम जब तक चिल्ला-चिल्लाकर, कैंडल लेकर बिहार में नहीं जाएंगे, तब तक बाकी की 14 संस्थाओं में जांच शुरू नहीं होगी।

जहां रेप को राजनीति का अखाड़ा बना दिया जाए, जाति का अखाड़ा बना दिया जाए, प्रभुत्व का अखाड़ा बना दिया जाए, बड़े-छोटे लोगों का अखाड़ा बना दिया जाए, वहां हमें कैसे इंसाफ मिलेगा? यह बहुत महत्वपूर्ण बात है।

मैं सिर्फ कठुआ नहीं दोहराऊंगी, मंदसौर नहीं दोहराऊंगी, निठारी कांड भी दोहराऊंगी, गुड़िया कांड भी दोहराऊंगी। हर दिन रेप होते हैं, लेकिन कितने हम लोगों के सामने आ पाते हैं? बड़ी शर्म आती है, हमने कठुआ की बात की, मंदसौर की बात की, उस दिन भी एक रेप हुआ, न मीडिया ने उठाया, न हम लोगों ने उठाया। उसमें थाने भी चुप बैठ जाते हैं। मेरा सबसे पहले यही कहना है कि एकाउन्टेबिलिटी तय होनी चाहिए, जिम्मेदारी तय होनी चाहिए। अगर थाने ने गलत किया है, रेपिस्ट को बचाने की कोशिश की है, डॉक्टर ने रेपिस्ट को बचाने की कोशिश की है, उसे कौन से दंड का भागीदार बनाएंगे, यह देखना बहुत जरूरी है। सिस्टम ही ज्यादातर जगहों पर रेपिस्ट को बचाता है। क्या रेपिस्ट बचेगा या सजा होगी? उसे बचाने वाले पीछे रह जाते हैं, चुपचाप रह जाते हैं। इसमें 96 परसेंट रिलेटिव और जानने वाले होते हैं। आपने उनके लिए फांसी की सजा कर दी, डाटा में साफ दिख रहा है, आप निर्भया कानून लेकर आए, उसे और मजबूत कर दिया, लेकिन उसके बाद क्या हुआ? सजा का परसेंटेज और घट गया। दिल्ली में कन्विकशन 16.8 परसेंट हुई और होस्टाइल 67.5 परसेंट हुए। असम में कन्विकशन

24 परसेंट हुई और होस्टाइल 32 परसेंट हुए। महाराष्ट्र में कन्विकशन 19 परसेंट हुई और होस्टाइल 47 परसेंट हुए। आंध्र प्रदेश में कन्विकशन 11 परसेंट हुई और होस्टाइल 78 परसेंट हुए। कर्नाटक में कन्विकशन 4.5 परसेंट हुई और होस्टाइल 94 परसेंट हुए। क्या सॉल्युशन है कि हम फांसी का प्रावधान लेकर आ रहे हैं और इसलिए लोग रेप करना बंद कर देंगे? मुझे तो डर है कि फांसी की सज़ा 12 साल से नीचे लेकर आ रहे हैं, इसमें विक्टिम पर और प्रैशर बढ़ेगा।

एक तरफ कानून कहता है कि बच्ची का रेप हुआ, उसका टैस्ट हुआ, स्वीब हुआ, फोरेंसिक लैब से आया, रेप की पुष्टि हो गई, लेकिन उसके बावजूद बच्ची से पूछा जाता है। लॉ कहता है कि उसके साथ बैठे होंगे, ये होंगे, वे होंगे, लेकिन फैक्ट यह है और डाटा भी कहता है कि कोई भी नियम कानून नहीं माने जाते हैं, बच्ची से डायरेक्ट पूछा जाता है। उससे बहुत ही गंदे सवाल पूछे जाते हैं। फैक्ट है, डाटा कहता है कि बच्ची घबरा जाती है, डर जाती है, अपनी गवाही से मुकर जाती है। आप खुद सोचें कि 12 साल की बच्ची से आप पूछेंगे कि कैसे हुआ, क्या हुआ, क्यों हुआ, क्या तुम भी इन्वाल्व थी? क्या वह जवाब देगी? क्या हमने यह सिस्टम बनाया है कि उसकी सिक्योरिटी के लिए उसके साथ कौन रहेगा? अगर हम दिल से बच्चियों के साथ रेप को रोकना चाहते हैं, 12 साल से नीचे की बच्ची के रेप की पुष्टि होती है तो बच्ची को दोबारा गवाही के लिए इन्वाल्व नहीं करना चाहिए। यह बहुत जरूरी काम है।

आप फांसी के लिए कह रहे हैं, उसमें चार मेन प्वाइंट्स हैं, जो पहले भी कानून में थे, हमें उन पर ध्यान देना चाहिए, उनकी जिम्मेदारी तय करनी चाहिए। मैं फिर उसी प्वाइंट पर आऊंगी, 12 साल से नीचे बच्ची से रेप के लिए फांसी की सज़ा है। निर्भया कांड के बाद क्या हुआ? ज्यादातर रेप केस में बच्ची को मार देने का प्रयास किया जाता है। अब इसमें क्या होगा?

आपके रिलेटिव्स हैं। फैक्ट है बहुत कड़वा है कि बहुत बार ऐसा होगा। टाउन में नहीं गांव में होता है। जाति को बचाने के लिए लोग रेपिस्ट के साथ चले जाते हैं,

तो जब इसमें फांसी की सजा का आप प्रावधान करेंगे, तब बच्ची पर प्रेशर दिया जाएगा कि नहीं भड़या नहीं करना नहीं तो उसको फांसी की सजा हो जाएगी। कोर्ट में जज को आपने कोई भी राइट नहीं दिया है कि वह उस सजा को कम कर सके या ज्यादा कर सके। बहुत चासेंज हैं, जैसा डाटा बताता है कि जज उसको पॉस्को में लेते ही नहीं हैं। जो चार प्वाइंट्स, जिसमें हम लोगों को गंभीरता से ध्यान देना चाहिए। एक विशेष न्यायालय और सरकारी वकीलों का जो अभाव है, उसकी कमी को हम कैसे पूरा करेंगे वह बहुत अहम है। हर स्टेट में एक फारेंसिक लैब होनी चाहिए। आप कृपया थाने में कीट न देकर फारेंसिक लैब का प्रावधान करें यह बहुत जरूरी है।

इसके अलावा प्रक्रियागत कमियां, जिसमें बच्चों को अक्सर आरोपी से आमना-सामना करा दिया जाता है। इस पर एक संशोधन लाया जाए कि बच्ची को किस तरह से रेपिस्ट है, उससे बचाया जाए। तफ्तीस में कमियां जिसके बारे में मैंने कहा कि तफ्तीस में कमियां ही नहीं है हमारा भ्रष्ट तंत्र अधिकत्तर में रेपिस्ट को बचाता है। उसकी एकाउंटेबिलिटी तय करने के लिए, उसके दंड के प्रावधान को भी आपको इसमें लेकर आना चाहिए। पीड़ितों की सुरक्षा का अभाव, हक सेंटर फॉर चाइल्ड राइट ने पॉस्को कानून के प्रावधानों के अनुसार जिन मामलों में बच्चों सपोर्ट पर्सन के रूप में सहायता दी है, उनमें से 26 परसेंट मामलों में बच्चों को इस हादसे के बाद अपनी पढ़ाई छोड़नी पड़ी है, 20 परसेंट बच्चों को इस घटना के बाद घर बदलना पड़ा है। बहुत सारे ऐसे बच्चे हैं, जो उसके बाद नार्मल नहीं हैं। इस सिचुएशन को हम कैसे हैंडल करेंगे इसका क्या प्रावधान किया है? पुलिस, डाक्टर्स और मेडिकल स्टॉफ की स्पेशल ट्रेनिंग होनी चाहिए। इसके साथ ही मैं एक सौल्यूशन देना चाह रही हूं कि जो हम सिर्फ सजा को बढ़ाने का प्रावधान कर रहे हैं। एक ऐसा माहौल हमें बच्चों को देना चाहिए जो यौन अपराधों के बारे में ओपनली बात कर सकें। उन्हें सुनिश्चित करना होगा कि बच्चों के साथ दोस्ताना प्रक्रियाओं का पालन किया जाए। अदालतों में बच्चों के अनुकूल माहौल सुनिश्चित किया जाए। इससे भी महत्वपूर्ण बात यह है कि यौन उत्पीड़न की रोकथान की कोशिशों

को सख्ती से आगे बढ़ाना चाहिए और एक मॉडल विक्टिम एट विटनेस प्रोटेक्शन स्कीम उसके साथ आप जोड़ें। जो विटनेस प्रोटेक्शन है उसको आप किस प्रकार से देंगे?

SHRI T.G. VENKATESH BABU (CHENNAI NORTH): Thank you, hon. Chairman, Sir. The Criminal Law (Amendment) Bill, 2018 when enacted will replace the Ordinance of April 21st, 2018. This Bill amends the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1974 and the Protection of Children from Sexual Offences Act of 2012 to facilitate the enhancement of punishment as a deterrent.

The speedy trial, compulsory registration of FIRs, failure of which will lead to punishment of respective officials, facilitating better record of evidence, protecting dignity of rape survivors, remunerative compensating of victims, refusal of Anticipatory Bail to the offenders, broadening the ambit and refusing to accept contrary evidences against the victim like tacit consent putting the blame on the victim, past conduct of promiscuous character, etc. etc. – these are all most welcome aspects of the Bill, which reflects the care and widespread opinion and research carried out by the Home Ministry which happens to be the author of this Bill.

The death sentence that may be awarded in this Bill as a deterrent punishment to the most heinous crime, like rape of girl children below the age of 12, may be an eye-sore of the human right activists, who argue for the total repudiation of death as a punishment even for the rarest of rare cases, but this Bill silences them too as the crime is unpardonable and degrades the value system of a civilised society. The perpetrators of this

crime do not deserve any sympathy, human rights and the protection available on the principles of natural justice and equality. Maybe, this is the only case where capital punishment can be imposed, and whether it acts as a deterrent or not is to be reviewed after the implementation of this proposed Act, over a period of time.

The increased rate of rape offences, with the attendant brutality and violence, has shaken the conscience of the entire nation. The *Nirbhaya* case was the last straw on the camel's back leading to unforeseen amendments to all the criminal Acts in 2013. Even that Act has proved to be insufficient, given the rate of increase in rape cases. In our country, one girl or woman is raped in every 29 minutes.

According to the National Crime Records Bureau, there is an increase of 87.3 per cent in rapes. Its report states that in 1997, the total rapes were 2,487 only, the number which increased to 24,206 in 2011. Maybe, social awareness has reduced the number of unreported cases which were rampant due to social stigma and long, tedious process of seeking justice. Social stigma still haunts the rape victims, to which this Bill has not provided any tangible remedy. Totally camouflaging of the rape victims from any exposure and the *in camera* trials are to be provided in this Bill. The castration of the repeat rape offenders or even the first-time offenders may also be looked into this Bill as a corrective measure and end-cure. It is the duty of any Government to protect our girls and women at any cost. This is an area where the right of our girls and women is to be held high, more than anything else.

This Bill has rightly over-looked temporarily the marital rapes, voyeurism and harassment at workplaces from the ambit of this Bill, which requires deep study and probing.

Sir, the problem will arise when it comes to the total implementation of this Bill after it is passed as an Act. In a male dominated, chauvinist society, the implementation will always act at a cross-purpose. The whole official machinery has to be geared up to raise up to face this daunting challenge. Actions contrary to this Act have to be dealt with severely, of course, with a deterrent effect. This Bill should provide for this.

This Bill should also provide for sex education to weed out the taboos existing in the male-female relationship, which is a major contributor to the crime of rape.

Rape is also used as a weapon of supremacy, the supremacy of males over females, the supremacy of a caste against another etc. Setting out egalitarianism will be a potent weapon to end rape crimes.

Finally, equity should be the guiding principle when it comes to genders. Religions, caste divides, creed, race and genders will have no place in enforcing this Bill. This Bill has to necessarily incorporate all this.

The immediate passage of the Women's Reservation Bill, long-pending in the Upper House ...* is the first right step to end up discrimination against women. Our great leader Amma had contributed immensely in this regard of empowering women.

Apart from providing 50 per cent of seats to women in local bodies, she also setup Self-Help Groups; all-women Police Stations; Women

Commando Force; and rendered all feasible help including financial assistance for the girls to come up in education and job. These are all set examples for others to follow.

As a result, most of our cities, towns and even villages are accepted to be safe places for girls and women. Prevention is always better than cure. So, this Bill has to be reformulated to include all these three aspects. Thank you, Sir.

श्री प्रहलाद सिंह पटेल (दमोह) : माननीय सभापति जी, मुझे लगता है, जैसे मैं मध्य प्रदेश से आता हूँ, अगर सशक्त कानून हो, राजनैतिक इच्छा-शक्ति हो तो क्या नहीं हो सकता है? देहली में भी एक केस हुआ था। उसमें 48 दिन में फांसी हुई थी। इंदौर की घटना में 23 दिन में फांसी हुई। अभी ग्वालियर की घटना में 19 दिन में फांसी हुई। लास्ट अभी कटनी की घटना में 5 दिन में फांसी हो सकती है तो मुझे लगता है कि कानून है और राजनैतिक इच्छा-शक्ति है तो हम बाकी चीजों से भी पार पा सकते हैं। धन्यवाद।

PROF. SAUGATA ROY (DUM DUM): Sir, firstly, one clarification from my end. I had given a Statutory Resolution against the Ordinance, but that was only because the Government was taking the Ordinance route, which is anti-democratic. I have nothing against the Bill, which strives to make the punishment for rapes of minor girls more stringent.

Let me say that I speak with a lot of anguish when I speak on this Bill. I feel that as a political class we have failed our women, sisters and mothers. We wait for an incident to happen, which shakes the conscience

of the nation and then we bring a legislation. Legislation should precede social change and not follow it. We had to wait for *Nirbhaya* to be murdered to bring the Criminal Law (Amendment) Act in 2013; we had to wait for the Kathua girl to be raped and murdered before the Government suddenly had a knee-jerk reaction and came out with an Ordinance; and we had to wait for lynching all over the country before the Home Minister announced a Committee to be setup. This is not the job of Parliament. Parliament should always foresee as to what is necessary in society and bring legislation before incidents happen.

Having said this, what happens when the Government brings legislation in a jiffy / hurry is apparent from the Bill. I do not know if the hon. Minister and my young friend, Mr. Rijiju, has read the Bill well. Let me mention where you are saying that : "... when a women under 16 years of age is raped ...". Is a girl under 16 years of age a woman or should she be called a girl? Do not your Departmental officers know any English? Further, it is mentioned that : "... when a woman under 12 years of age ...". Is a girl child under 12 years of age a woman or a girl? Can you not correct these things? Are there no officers to look into these things? But what is worse is where you have talked about gang-rape, which states that : "... when a woman under 12 years of age is raped by one or more persons ...". It means either one or more than one person. Now, when one man rapes it is not a gang-rape. So, it should have been mentioned as 'two or more persons' whereas here it has been written as 'one or more persons'.

What sort of legal knowledge do these people have? Mr. Rijiju, you should look into the legislation before you bring them before the House.

श्री निशिकान्त दुबे: आई.पी.सी. में गर्ल और वूमैन में कोई फर्क नहीं है। ...
(व्यवधान)

प्रो. सौगत राय : नहीं, आप इसको ठीक करिये।

माननीय सभापति : आप बोलिए।

PROF. SAUGATA ROY : A 12-year-old girl child should not be called a woman.

Then, you have talked about fine, which states that : “... provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of victims.”. Now, this is ambiguous. In the Motor Vehicles Act, it is mentioned that the fine will be such and such to compensate, but you do not specify any amount. So, you leave it to the Judge to decide as to what is reasonable.

Why haven't you prescribed minimum fine for every offence? Then, the law would have been right. I have asked the Table of the House officials whether the Government have brought any amendment. You haven't brought any amendment to correct patent and blatant mistakes. I think, you should acknowledge your mistakes.

Before this Bill came, I was approached by several lawyers of the Supreme Court. They came and told me that they are against death penalty, and they do not think that death penalty is a deterrent to rape. I thought for one day, whether what they were saying is right, whether we are proving ourselves to be blood thirsty, thirsty by asking for death penalty for rapists. Then, my conscience told me, no. Those who rape children of 16 or 12 years, do not deserve any mercy. Let them die, if it is proved. That is why,

I support this bill. This is not being blood thirsty. This is being just. What is just?

Think of the Kathua girl raped by several person inside a temple, as it was mentioned, and then, killed. Do these people demand any mercy or sympathy in the name of law? I do not think so. Think of Baba Ram Rahim, Asaram Bapu, and all these godmen turning into rapists. Think what they are doing. They deserve the maximum punishment. Think of the incidents that have taken place in Mandasaur in Madhya Pradesh.

I would tell you what the situation in Madhya Pradesh is. ...
(Interruptions)

माननीय सभापति : आपके एक वक्ता और हैं, इसलिए आप समय का ध्यान रखें।

प्रो. सौगत राय : पंडित जी, आप थोड़ा प्रोटेक्शन नहीं देंगे तो हम कहां जाएंगे।

माननीय सभापति: चूंकि, समय सुनिश्चित है।

प्रो. सौगत राय : मैं समय पर नजर रख कर बोलूंगा।

माननीय सभापति: आप बहुत अच्छा बोल रहे हैं।

PROF. SAUGATA ROY : What I also wanted to tell you is that all this is bringing bad name to our country. India is world's most dangerous country followed by Afghanistan and Syria for women due to high risk of sexual violence, according to a poll of global experts released on 26th June. हमारी यह बदनामी हो रही है।

I would also like to inform you that 43 per cent of rape victims in India are minors. Out of every 20 rape victims in India, one is a child under 12 years. The NCRB Report also says that out of them, 12 to 16

years old victim is 37.8 per cent. So, 37.8 per cent plus five per cent – 42 per cent of those raped are under 18 years. This is a dangerous propensity, if I may tell you.

What are the details about number of rapes? Our friend, Prahlad ji mentioned that Madhya Pradesh was very good. The total number of POCSO cases pending in courts is the highest in Maharashtra, followed by Uttar Pradesh, followed by Madhya Pradesh. ... (*Interruptions*)

श्री प्रहलाद सिंह पटेल : हमारे यहां एफआईआर नहीं होता है।

माननीय सभापति: प्रहलाद जी बोल चुके हैं। कृपया आप इधर संबोधित कीजिए।

प्रो. सौगत राय : मैं आपसे ही कह रहा हूं। If you really look at rape numbers - I would like to mention here the Rape Victims by State 2,000 plus – Madhya Pradesh is 4,908; Uttar Pradesh is 4,817; Maharashtra is 4,216; Rajasthan is 2,657, and Delhi is 2,170.

So, who is the highest? Maharashtra is first with 348, Uttar Pradesh is second.... (*Interruptions*)

माननीय सभापति : आप अपनी बात समाप्त कीजिए।

...(व्यवधान)

प्रो. सौगत राय : यह राजनीति नहीं है, ये आंकड़े हैं। ये एनसीआरबी के आंकड़े हैं।
...(व्यवधान)

माननीय सभापति: आप बैठ जाएं। श्री पिनाकी मिश्रा।

...(व्यवधान)

माननीय सभापति: आप बैठ जाएं। मैंने अन्य माननीय सदस्य का नाम बोल दिया है।

...(व्यवधान)

माननीय सभापति: आप बैठ जाएं, आपकी बात रिकार्ड में नहीं जा रही है।

...(व्यवधान) *

SHRI PINAKI MISRA (PURI): Thank you, hon. Chairperson, for giving me and my Party, the Biju Janata Dal, an opportunity to participate in this very important piece of legislation that this House has brought to pass....
(Interruptions)

माननीय सभापति: आपके पास बोलने के लिए चार मिनट का समय है।

SHRI PINAKI MISRA : This House passed the Protection of Children from Sexual Offences Act, 2012 (POCSO) and the Criminal Law (Amendment) Act, 2013 also to allow the death penalty only in rape cases wherein the accompanying brutality leads to death or leaves the victim in a persistent vegetative state. Our Party supported the Government in both these pieces of legislation.

Today, our Party continues to support the Government in its efforts to enhance the stringent provisions with regard to the punishment for rape. However, our Party has serious concerns that the Government chooses to bring in this kind of legislation to the House without going through what is virtually regarded as a desirable requirement of having the Standing Committee look into some of these provisions. The Government is passing

such a seminal piece of legislation without the Standing Committee or a Select Committee having the opportunity to talk to experts. There are hundreds of very, very sound experts in this field in this country who can give valuable inputs to the Government.

17 32 hrs

(Hon. Deputy-Speaker *in the Chair*)

My speech today will concentrate on three aspects. One is about the structural problems today as a result of which POCSO seems to have failed. As the statistics tell us about child rape cases under Section 4 and 6 of POCSO, 9,533 cases were pending for trial from the previous year. The trial has been completed in 7 per cent of the cases in 912 cases. So, considering this 7 per cent figure, even if it is completion of trial, forget about conviction in POCSO cases, POCSO, therefore, has clearly not succeeded.

Therefore, today, there is a problem with the manner in which we are implementing our laws. There is no lack of laws. The manner of implementation of laws is the fundamental problem.

Secondly, as far as this particular piece of legislation is concerned, I agree with the hon. Member from TMC Party that there is some semantical/syntax problem which should be cured in terms of "rape by one or more persons". It cannot be 'by one or more', it must be 'by two or more'. These semantical problems in any case should be looked into. But apart from that, very importantly, the definition of rape continues to be not

gender neutral. Why are boys being kept out of the loop of this kind of child abuse? Boys are equally gravely abused. Therefore, in POCSO, this House advisedly brought in boys as well within the ambit of abuse law' while the general IPC law continues to exclude boys today which is most unfair. So, the difference between the punishment for girl children being ravished and little boys being ravished is continuing to widen which is not a good thing for society.

I believe that if this went to a Standing Committee or a Select Committee, they would be able to advise the Government that you must make this law gender neutral.

I am not an abolitionist, personally. I believe that presence of the death sentence on the statute book is necessary in our country. The difficulty is that the Supreme Court now has narrowed the ambit of death sentence to such a narrow compass that, forget rarest of rare, it has become the rarest of rarest of rarest of rare cases. After the sessions court has granted death sentence, by the time it goes to the Supreme Court and by the time of a Presidential Reference, I believe about 0.7 per cent apparently is the rate at which people are finally sent to the gallows. Prahlad-ji has said that within five days death sentence was granted in Madhya Pradesh. I ask, when will he eventually be sent to the gallows. The hon. BJP Member Kirron-ji said, and she is right, that it is a shame that people who were so savage in the Nirbhaya case still continue to happily relax in jail. There is no sign of when they are going to be hanged, despite the review petition being dismissed. Now it will go up to the Hon. President and they will come back again by way of a curative petition. All kinds of stratagems will

be employed. Therefore, the implementation of this law clearly leaves much to be desired.

Apart from that, I completely support the Government when it enhances the punishment to 20 years. But if you bring in death sentence here, the difficulty here will be: (1) it will be impossible to implement, and more importantly (2) the statistics in our country show that in 85 per cent of death sentence cases the people who get convicted and or get sent to death are the poorest of the poor. In the last 35 years that I have been practising law in the country, I have never seen a rich man go to the gallows. I have never seen that. It is the poorest of the poor who have always ultimately been hung. Because they have no access to good legal services, they have no access to good jurisprudence, they have no access to any kind of societal help or family help, they are the ones who get the worst end of this. Death sentence in our country unfortunately is geared towards actually affecting the poorest of the poor.

The POCSO actually gave a very significant protection to children who are victims that they could not be cross-examined in court. But if you have death sentence on the statute, it is impossible under the IPC that the children will not be cross-examined because that is a fundamental right of the citizens facing death penalty. Therefore, you will then bring in a whole new area of law. Once they are open to cross-examination in a court of law, that will completely dilute the protection that we gave unfortunate children victims under POCSO.

You have seen that almost 75 to 80 per cent of the child rape cases or molestation cases happen within the family, within close circles. Once

there is death sentence on the statute, the pressure on children to then resile from taking somebody who is a family member or a close associate to the gallows is going to be huge. So, there will be many more cases, than today, of children resiling from their original position as accusers.

Therefore, I would say that these are significant issues which must go to a Standing Committee or a Select Committee. Apart from that, I agree with the hon. Congress Member and with my other colleagues who have said that on the implementation aspect you need more special courts, you need more public prosecutors, you need more forensic laboratories, you need a vast amount of infrastructure in this country in order to more effectively implement the entire procedure of trial and conviction.

Therefore, I would urge the House and I would urge the Government - I would not call it lazy governance but I would say that I understand that the Government must always be sensitive to an outrageous incident as what happened recently because of which this Ordinance was brought about - to give it much greater consideration before you bring in something like death penalty because that is a very important provision which ultimately may have far-reaching consequences.

With these words, I give my party's support but I would urge the Government to once again consider some of the seminal and vital aspects of this law. Thank you very much.

श्री श्रीरंग आप्पा बारणे (मावल) : माननीय उपाध्यक्ष महोदय, मैं दाण्डिक विधि (संशोधन) विधेयक, 2018 का अपनी पार्टी की तरफ से सपोर्ट करता हूँ।

माननीय उपाध्यक्ष जी, आज देश भर में दिनों-दिन क्राइम बढ़ता जा रहा है। गुनहगारों को कानून का डर नहीं रहा है। रोज अखबार खोलने पर पहले पन्ने पर बलात्कार, चोरी, डकैती, छेड़छाड़ जैसी खबरें रहती हैं। सोशल मीडिया में ऐसी खबरों को ऐसे पेश किया जाता है, जिसके कारण जिनके साथ यह घटना घटी होती है या जिन्हें इस प्रकार की घटना का सामना करना पड़ता है, उन पीड़ितों और उनके परिवारों पर इन घटनाओं का बुरी तरह असर होता है। बार-बार इन खबरों को दिखाने से बुरी तरह उन परिवारों की बदनामी होती है। उन्हें बहुत सारा अपमान झेलना पड़ता है।

महोदय, गुनहगारों को पुलिस और कानून का कोई डर नहीं है, इसलिए क्राइम बढ़ता जा रहा है। एक बात यह भी है कि कई गुनहगारों को राजनीतिक सपोर्ट मिलने के कारण गुनाह करने वालों का मनोबल बढ़ता जा रहा है। कई राजनीतिक पार्टियां ऐसे गुनाह करने वालों को बड़ी इज्जत से सपोर्ट करती हैं। मैं सदन के माध्यम से सभी पार्टियों से एक बात कहना चाहता हूं कि गुनहगार किसी मज़हब, किसी धर्म का नहीं होता है। गुनहगार आखिर गुनहगार होता है। आज यह जो बिल पेश हुआ है, इसमें भारतीय दंड संहिता, आई.पी.सी. 1860 में संशोधन कर के अपराधियों के लिए कड़ी सजा का प्रावधान किया गया है। गुनहगारों को इस क्रिमिनल लॉ के तहत ज्यादा से ज्यादा सजा का प्रावधान किया गया है।

महोदय, जब निर्भया और महाराष्ट्र में कोपर्डी जैसी घटनाएं हुईं, तब सभी जाति, धर्म और पार्टी के लोगों ने सामने आकर इसका विरोध किया था। लेकिन एक बात हमारे ध्यान में रहनी चाहिए कि अपराध करने वाले अपराधी, कोर्ट्स में कई वर्षों तक फैसला न होने के कारण, जेल में अपने दिन काटते हैं और उस अपराध की जितनी तीव्रता होती है, वह तीव्रता कम हो जाती है। खून, बलात्कार जैसे केसों के लिए फास्ट ट्रैक कोर्ट्स होनी चाहिए। अपराधियों को जल्दी से जल्दी कम समय में सजा मिलनी चाहिए।

महोदय, आज देश भर में न्याय व्यवस्था की क्या हालत है? देश में लाखों की संख्या में केसिज़ पेंडिंग हैं। कई जगहों में कोर्ट्स में स्टाफ की भारी कमी है। इसके साथ ही साथ देश में न्यायधीशों की भी कमी है। कई जगहों पर न्याय व्यवस्था में इमारतों एवं अन्य सुविधाओं की भी कमी होती है। मैं इस बिल के द्वारा सरकार का ध्यान इस ओर भी आकर्षित करता हूँ कि हम लोग केवल सदन में यह बात उठाते आ रहे हैं कि समय पर न्याय मिलना चाहिए, लेकिन न्याय व्यवस्था के इन पन्नों पर, इन बातों पर भी ध्यान देने की आवश्यकता है। कानून बनाने से अपराधी को सजा मिल जाएगी, लेकिन जिन महिलाओं और नाबालिगों को दुर्भाग्य से ऐसी घटनाओं का सामना करना पड़ता है, उनको भी कानूनी सहायता मिलनी चाहिए।

मीडिया से भी मेरी यह विनती है कि ऐसी घटनाओं को बार-बार ब्रेकिंग न्यूज़ बनाकर दिखाने से पीड़ितों और उनके परिवार वालों को जो बेइज्जती झेलनी पड़ती है, उसके ऊपर भी ध्यान देने की आवश्यकता है। मैं सरकार के इस बिल का समर्थन करता हूँ और आशा करता हूँ कि देश भर में ऐसी घटनाएं न होने के लिए सरकार सख्त कदम उठाएगी। कोई राजनीतिक दल, समाज और कोई राजनेता इस पर राजनीति न करे। गुनहगार आखिर गुनहगार होता है। वह किसी जाति, मज़हब का नहीं होता है। इसी के साथ मैं अपना भाषण खत्म करता हूँ और इस बिल का समर्थन करता हूँ।

माननीय उपाध्यक्ष: डॉ. रविन्द्र बाबू ।

DR. RAVINDRA BABU (AMALAPURAM): Thank you for giving me this opportunity.

This is such a Bill that there cannot be any difference of opinion about this Bill and the intention of the Government. I do not know but somehow nature has discriminated the females from womb to tomb. From

the time they are conceived in the uterus, female infanticide starts; by the time they get menarche, that is, the age of puberty they get the monthlies and other things; pregnancy, delivery, lactation, and all these problems are there for them. In addition to that, there are the brutalities and attacks. This is not a crime; these are acts done by the psychotics and maniacs. We should better give them medieval punishments.

Though we do not agree when something happens in Afghanistan or some Gulf country like whipping, maiming, stoning, or even putting them to death, rape is such a brutal violence against people belonging to a weak sex who cannot defend themselves. A gang-rape is something we cannot even imagine, leave alone seeing at the site!

There is a provision relating to 12-year old girls. Of course, my friend mentioned that since they belong to the same sex, they should have used the word, 'female' instead of using different words like, 'women', 'ladies', or 'girls'. It would have been better if they had used the word 'female'. When she undergoes a rape, she does not even know about it. She would be thinking that it is only a violation. In such a case, when the victim is taken to the hospital, the doctors examine her. They will have to necessarily wait for the gynaecologist, necessarily take the swab, and necessarily send it to the pharmaceutical laboratory. After that, the girl is taken to the police station where they ask such nasty and rubbish questions. We cannot even hear those questions, leave alone facing them! In India, the jurisprudence and judicial system is such that it is heavily against the females.

The nature of the society and religion is such that we have religion wherein we worship gods like Lakshmi, Saraswati and Durga. We also have a festival called Rakshabandhan wherein we give an assurance to the sisters but we perpetrate this type of crimes against females. I do not know where the problem is and what the fault is. The poor people, especially the girls in the villages do not even know what sex is. They still undergo this type of atrocities, including mutilation of the body. They get horrified. This experience is enough for them to get horrified for the rest of their lives, to lead a life of a psychotic, a life filled with hallucinations, delusions and illusions. They will be condemned for ever once they experience rape. They will never remain human beings. They will be condemned to suffer from this trauma. Therefore, the system should be such that when the victim gives a statement to the parents that she has undergone this type of an experience, instead of putting her to all this rubbish, it should be condemned, she should be immediately removed from the place of the crime and offence, she should be taken out of the district to another place where she should be rehabilitated comfortably by giving psychological counselling, medical treatment; that child should be taken care of in the future also by giving free education and suitable employment so that she will get some assurance from the society and the Government.

Of course, rapists are being dealt with in the Act suitably. ...
(*Interruptions*) We support that. It should have been a death sentence. ...
(*Interruptions*) I will conclude shortly. The Nirbhaya case has taken four years and the perpetrators are still to be hanged. So, we have to introduce some type of punishment which could be medieval. I request my BJP friends also to consider and accept some type of harsh punishment to the

rapists to be meted out in the public; not in jails or courts. This way, the future generations of boys and the male-dominated society who prefer sons would be taught a lesson once for all. There should be severe punishment in the public.

With these observations, I support this Bill.

SHRI KONDA VISHWESHWAR REDDY (CHEVELLA): Thank you, Sir. Sir, NCRB data shows more than 1,06,000 cases against children in 2016 and they happened in cities and rural areas. They are happening all over the country. The recent incident is that of Kathua rape. Five years after the brutal gang rape of Nirbhaya in Delhi, the incident still continues.

The Bill proposes amendment to the IPC. We do have POCSO but I think this is very-very necessary. Almost all of us here agree giving up to death sentence because we represent the people of the country and the people of the country have reached the limit of sense and sensibilities. These animals have crossed the limits of sense and sensibilities and that is why this harsh punishment.

The Kathua rape, Asifa Bano case in Rasana village of Jammu and Kashmir has left us totally speechless. We were ashamed of ourselves.

श्री निशिकान्त दुबे : यह नाम रिकार्ड में नहीं जाना चाहिए।

SHRI KONDA VISHWESHWAR REDDY : It is a fact, Sir. It left us speechless. It questions our very conscience. Are we human beings at all in the first place? Not only that, as if this is not sufficient. We are not only ashamed of ourselves, but the foreign Media is rubbing salt into our

unbearable shame that we have brought upon ourselves. Sir, some of the rape cases in J&K make bigger headlines in the New York Times, in USA than take the case of Christopher Paul Conway who raped his own twin child who was nine months old. It was gruesome. It was probably even more gruesome than what we have seen in Kathua case. But that appears in two-inch column whereas Kathua rape case comes in a whole half page in the New York Times.

If a crime is committed, is the criminal solely responsible or is the society partly responsible? Definitely, Sir, society is. But I think the foreign Media is making the entire country responsible. Should we hang the criminal or should we hang the whole society? I think we should hang the criminal and that is the mood of the nation today after seeing these gruesome acts here.

I am the co-Convenor of the Parliamentarians' Group for Children. We discuss children issues like sanitation, education and safety. We were invited to Bangladesh along with 17 other countries' MPs in May this year. We were proudly saying about our country's achievement and what we still need to achieve. One of the Members from Bangladesh raised this issue of the Kathua rape. We were definitely ashamed of it. But all I could muster to say was, 'Yes, we are ashamed, but we will bring a law that will make much more stringent punishment and hopefully prevent such cases'. Sir, today I am proud to stand in the Parliament when an Ordinance is being converted to a Bill. We definitely support it on behalf of the TRS Party.

The UN data says that 27.3 rape cases per lakh are reported in United States; in Brussels there are 21 cases per lakh and in India the figure seems very low, 1.8 rape cases per lakh. So, in USA and Brussels the extent of rape cases is almost 15-20 times higher than in India. Nevertheless, we are projected in the foreign Media. So, it is very good that we are showing the world that the Parliament is here to take action against this.

This also reflects certain under-reporting because I do not think we are solos. There are marital cases and also many unreported cases. In some cases, the police is very efficient and in others it is not.

I think we need to take that into cognizance.

Sir, the Justice Verma Committee in the year 2013 said that the crime has to be proportionate. Who decides that? What is the proportionate crime? Definitely, it is the people who decides? These animals have crossed the limits of the sense and sensibilities. That is why, death being the highest of the punishment, it is being introduced in this Bill.

Sir, besides under-reporting, as has been pointed out by hon. Members, the pendency of cases is another big issue. The fast-track courts which were in the Ordinance, are now removed in this. But, you have put a two-month limit. I think some eminent lawyers have raised this point. I am really confused. Which is better? Is it the fast-track court better or the two-month limit? The definition of two-months is also not very clear, as has been mentioned by Venugopal Ji.

The conviction rates are very low. But, the most important thing is that it is not gender neutral. We have seen in the newspaper that boys being

victims of such animals.

I am not a lawyer. But, one eminent Jurist once told me that law is not about what is moral or what is immoral. It is not about what is good or bad, but, what the people think is good or bad. In our democracy, it is what we the MPs think, the people think, is good or bad. What the people think is proportionate or not? This, I think, all the people think it is proportionate. The punishment is proportionate. We should do it by all means.

On behalf of the TRS Party and Members of my Parliamentary Constituency, I support this Bill.

*DR. A. SAMPATH (ATTINGAL): Thank you, Deputy Speaker, Sir. I hope you will allow me to speak in my mother tongue, Malayalam.

Sir, personally I am against Capital Punishment. As a lawyer and a public servant, I oppose Capital Punishment. But I am compelled to support this bill, I cannot question the good intention behind this bill. I believe that such a bill, is now introduced in this House, because the conscience of the country demands this. But a relevant question remains rape is defined by Section 376 of the Indian Penal Code. Because we award Capital Punishment for rape can we assure that the women and girl children of this country will be safe? We say, women are mothers. They are worthy of worship like Gods. Women have to be given preference, in all walks of life. I believe that all members in this House, will also be parents. Most of the members here, are guardians of girl children. Is the girl child safe? Are the sisters and mothers safe? Where can we trace the

origin of this dastardly act, called rape? Even before she learns to walk, while she is still in the cradle, a girl child is vulnerable. Often, she is sexually abused in her own house. In the school and college where she goes to study, in public places and places of work, in society as a whole, she can be targeted for sexual abuse. There is invasion on her privacy. In English we say "peeping toms", who infringe on her privacy. Where a girl goes, what she does, what does she wear, where she travels, when she leaves her house, what food she eats, all this is monitored by those who do moral policing.

Most unfortunate events have happened even in the capital. We all wept, many of us cried, when the Nirbhaya case happened. Some had the gumption to ask why did Nirbhaya travel at that hour? Why she travelled with her boyfriend. Why she got into that bus. Our society is a patriarchal society. All men in this country, are deep within their mind Male Chauvinists. Sir I hope you are not going to press the button. Sir, matters that have come in social media. I can speak about what happened in Kerala recently.

18 00 hrs

HON. DEPUTY SPEAKER: Now, it is 6 o'clock. If the House agrees, we may extend the time of the House by one hour to see that this Bill is passed.

SHRI ANANTHKUMAR : We can take it for consideration and passing.

PROF. SAUGATA ROY : Do you want to pass the Bill today?

SEVERAL HON. MEMBERS: Yes.

HON. DEPUTY SPEAKER: Mr. Sampath, you come to the point. It is because what the people are thinking about the girl is different. We are discussing what happened to girl. That is more serious. We may think differently. It is a different issue. We cannot say as to why Nirbhaya travelled at that time. She has every right to go anywhere. We are concerned about what happened to her. We are concerned about how horribly she was killed. We have to analyse that.

DR. A. SAMPATH : Sir, in my own state Kerala, an unfortunate incident happened. A poor girl child, in order to pursue her studies and support her family, she wanted to earn money. She went to sell fish, for which she got hate mail through the social media. Is this the uniform of a fish seller? Is this the way, a starving girl should smile and laugh? Whether it is the public places, or the social media, this is the attitude of our society. I just want to point out this attitude.

Sir, if girls below twelve years are subject rape the maximum punishment can be death sentence if girls below sixteen are targeted for rape the punishment is raised from up to ten years of imprisonment to twenty years. Sir, you too would agree that this is an important legislation. This is an amendment to the criminal law that is existing in this country. Such an important amendment should have been referred to the parliamentary standing committee.

May be, the minister would say that this is a mere amendment, often very important bills have been inserted in the finance bill and they have been passed without due discussion. When it happens, it is a violation of the sovereign status of the Lok Sabha. So, this amendment bill, should

have been subjected to the perusal and the taking oral of evidence done by the standing committee. It needed much more discussion and scrutiny by the standing committee.

Sir, when rape occurs, often it is not reported. Due to fear of dishonor people don't report. We lawyers say, "the inviolability of the human body. Without my consent another person cannot touch my body. secondly, evidence is tampered with. Thirdly, charge sheet is not filed in time. It was this very august House that brought in the legislation to set up family courts, sir two minutes more. It is mentioned in the legislation that family courts should not function within the premises of the criminal courts. Today, in our country, family courts are functioning within the premises and buildings of the criminal courts. Over 1 lakh POSCO cases are pending in this country. Places where the POSCO case victims are rehabilitated, often do not even have access to ambulance services.

So, instances of rape should not happen. Because rape cases are not reported in some states it does not mean that such instances do not happen there. We have to consider, the percentage of rape, per one lakh of population to get a true picture. By that yardstick Sikkim is shocking. Madhya Pradesh, Maharashtra, Uttar Pradesh, they may have highest number of rape occurrences. The mute question is can we have a faultless and effective police system. Secondly, before the arrogance to power and money will the police force remain impartial? Can we recruit enough police personnel? Can we insure that the investigation is conducted impartially and also ensure that witness do no turn hostile? Can we ensure material evidences are not destroyed and they are produced before the court without failure? Can we assure that the trial is completed within a

stipulated time? Fourthly, can we ensure that the victim is not mentally tortured time and again. Lastly, can we ensure that just because a girl has been violated, she is not considered, a sinner, but is accepted by the mainstream society. These aspects are not sufficiently covered in the bill. This is a complex issue. But we are trying to handle it, in a simple straight forward way. Sir I would like to point out these matters to the Government, through you, Sir. *It is a very complex situation, it raises complicated questions. And if you are going to handle it, by simple methods, I would say that our endeavors may not be fruitful. So, it needs more collection of evidences, debates discussions, deliberation and consultation with other experts also.*

Sir, through you, I would like to bring these matters to the notice of the Government. It is a very complex and a complicated question. If the Government proposes to handle this through simple methods, then I may say that it will not bear fruit. So, it needs more collection of evidences, data, discussion, deliberation and consultations with other experts.

Thank you.

SHRIMATI SUPRIYA SADANAND SULE (BARAMATI): Sir, thank you for giving me this opportunity. I, on behalf of my party, stand to speak on this very important and critical Bill. I stand here in support of the Bill.

I would first like to say that this is not just a legislation, this is a social trauma and stigma as a society that we live in and exist. I always believe that I represent the 21st century of India where gender was equal. I was born in Mumbai and was the only child of my parents. The society that I grew in was very gender equal and fair and just. But it is unfortunate

that at this stage of our lives when we are talking about digitalisation and a modern world that we are looking at which is looking much smaller, are we really becoming a regressive society that rape and crime and against women has gone up?

Sir, I appreciate and respect what the Government has brought forward as a legislation but this takes me back to the Kopardi incident in Maharashtra which happened where a young girl was raped and brutally killed. Now, what has happened because of this case is not just an isolated incident. The entire society got shaken. If you go to Kopardi today, girls are scared of going to school. Come evening and if they miss a bus, they do not want to go back to school the next day. So, I think, we have to look at the entire holistic picture as a country. I do not think this is about data. I was embarrassed by the fact that so many times the State of Maharashtra was mentioned by saying that the data is so high in the State of Maharashtra. I believe that if there is one rape victim, then it is shameful for all of us as a society. Why are we going all the way up to rape? What about basic eve teasing? Girls drop out of schools and colleges several times because of eve teasing. रेप/बलात्कार तो बहुत गंभीर चीज है, लेकिन लड़कियों से छेड़छाड़ रोकने के लिए हमारा समाज क्या कर रहा है?

I do not remember being eve-teased in Mumbai when we went to college. But today if you go to rural India across anywhere, eve-teasing has become a huge nuisance and girls are dropping out of school and college.

The other thing which as a society and which even earlier Members spoke is about the identity of the victim. The first thing is, media reaches

there. Even people like us reach their homes. We are going to only show solidarity but really the identity of any person who goes through this kind of a torture has to be kept secret. We passed a law after Nirbhaya but it is not followed. Everybody knows the identity of that young lady or the young boy whoever goes through this. In a gender-neutral society, to leave boys out of this is, I think, completely a huge lacuna of the Bill. I would urge the hon. Minister to add 'girls and boys' because every child in India deserves protection.

People have talked about police sensitivity and awareness. Even about the Bill regarding trafficking, the entire implementation of this Bill is going to be done by the States. It is a very good and a strong Bill here unless the States are completely sensitised. We did a very good programme when Shri R.R. Patil was the Home Minister then. He has unfortunately died now. That programme is called the *Tanta Mukti* Programme where every village had a council. There were about ten to fifteen representatives who would try and salvage all the fights and the arguments in the village. So, why do not you start a Villagers Committee where vigilance is done even by people? Only police intervention is not going to help. We, as a society, have to step up to make a difference. You could even take steps to get a vigilance group in every village like we have *Tanta Mukti* in Maharashtra. Why do not you bring in vigilance groups as an authority which make the elders of the village head it and see which girl is coming and which boy is behaving badly? It just becomes as elders of the family. They are not interfering in anybody's life but they are a silent vigilance team. If you could give them some kind of an authority, it will help us. I am not saying that you should give them the power of making a

decision but you should give them the power to protect our daughters. That would make a huge difference.

We have a concept of Vishakha Committees in Maharashtra in every organisation. Even if it is a ten-people office, Vishakha Committees are formed. But are they really implemented? They are not. Even when you are eve-teased or somebody says something which a woman feels as not appropriate, you can go up to that Committee and that Committee takes up that matter. Why cannot we have a pan-India programme like this where a woman has a right outside the police station, where she can go and ask for her rights? Sometimes men are not necessarily aware of these things. I would not say that all men are insensitive. I am so happy that so many male Members have spoken on this issue. It shows the sense of the House and the sensitivity of this House.

Another issue which needs to be expanded and discussed is the issue of cyber crime. A lot of women are highly exploited due to cyber crime. How are we going to look at that part also? It is a ghastly crime. All women-related issues have to be re-looked at. It does not mean that the old legislation was bad but with the new technology coming in today, there is so much exploitation of even married women and young girls by cyber crimes. The entire sexual abuse and the scope of it is getting increased. I would like the hon. Minister to throw some light on this issue so that we can sense and in one voice we should sound of protecting every child and not just the girl child in this House.

I would like to bring to the notice of this House that Maharashtra is going through a very difficult situation. *Beti Bachao-Beti Padhao* is

something which Maharashtra did 25 years ago and we are proud that Governments and Governments are continuing this process. But the data of Maharashtra in the last three years shows that the number of female foeticides has gone up. There is a complete imbalance in the ratio. Obviously, there is something going wrong somewhere.

Legislations do not make social change. In schools, bad touch and good touch are being taught. All these awareness programmes are being brought up. People do not like to talk about sex education in our society but we really need to talk about it. It can be debated openly. I am not saying that it is a right thing or the wrong thing but it can be one of the avenues to reach and find out the reality. In Marathi, there is a word called '*vikshipta*'. Nobody can even think of abusing a child. So, there is some deep psychological problem with this human being who does not deserve to be in the society.

I would like to take up the point mentioned by Prof. Saugata Roy here. Even I was wondering here whether we are regressive in this law but when I put myself and my child in it, of course, no child deserves to be abused in this country, rape is a far thing. So, he must be hanged and must be severely punished.

As a society, we really need to see that no child is abused. Even regarding the PCPNDT Act, the State Committees are not implementing it. The law today will be formed but is it really going to trickle down? I think, as a member of the society, I would like to reiterate that legislation do not make social changes.

Social changes will take generations. I used to always feel that education makes the difference, but education does not make the difference. In a family, even if the husband and wife are educated, they want one child and, unfortunately, they will always say that they want a boy. So, social change just does not come with education. Legislation will enhance the process. But that does not help bringing down the crime to zero.

Therefore, I would like to urge upon the hon. Minister that from the top we have to send a message that there would be zero tolerance against any crime against any women and any child and the Government should implement it to the best of its ability. I would like the Minister to tell us as to what more we can do as a society to make the change.

With these words, I support the Bill and I congratulate the Minister for bringing forward this Bill.

SHRIMATI BUTTA RENUKA (KURNOOL): Mr. Deputy Speaker, Sir, as a woman I am really pained and disheartened that even after 70 years of Independence and spread of literacy across the country, we are facing the need to make our laws more stringent so as to contain atrocities against women, especially the minor girls.

I have always hoped that the country is getting more civilized and women will be treated with utmost respect. It is very sad that in spite of constitutional safeguards and rights provided to women, atrocities are still continuing and Parliament is burdened with the responsibility of protecting women with varied legislation.

Our Constitution, on paper, does not distinguish anybody on the basis of gender and provides equal rights and opportunities. However, in reality, it is very sad that day in day out we keep hearing how women and children are abused and subjected to different forms of violence.

The recent incidents of rape like Kathua and Muzaffarpur have shaken the conscience of this country. I just want to give an example. In my constituency, a girl of 7 years was raped and she was not given justice in spite of me going and requesting the authorities from place to place. When I went and interacted with her, she did not even know what happened to her. Literally I broke down when I saw that girl. It is such a painful incident. When we see such incidents happening, we feel very bad. All Members of Parliament have expressed the same feeling here. When we see such incidents happening, we feel that death penalty is the only punishment that should be given to such cruel people and there is no other punishment for such people.

Sir, Indian women have been victims of humiliation, torture and exploitation since time immemorial. There are different types of violence perpetrated against women at different time periods in a women's life. Apart from this, there are instances when women are also exposed to violence by police when they approach police for redressal of grievances.

It is unfortunate that the disease is spreading and young children are not immune to this. Minor girls are becoming victims of rape and gang rape. A minor girl, who becomes a victim of such rape, carries that stigma for life and it becomes difficult for her to lead a normal and dignified life.

This Bill provides for stringent punishment for the offenders. The punishment period has been enhanced through this Bill. The most important provision in this Bill is that time lines have been set for investigation. Time period has also been prescribed for disposal of appeals such cases.

Having said that, the moment we come to know that a child has been raped, there should not be any punishment other than death. That is what we all, as women, feel. No other mercy should be shown to these offenders.

Criminal action alone will not compensate the victim. Hence, it is necessary that we should also consider rehabilitation of victims.

We have to do much more to end the victimisation and provide speedy justice to the women and children, who have suffered the violence.

The atrocities against women have a great negative effect on the society and the nation as a whole, and has a bearing on the public health, productivity etc. The effects of violence remain with the victims throughout their lives.

Over the years, the share of women has considerably gone up in Legislatures, Government jobs and -- thanks to the information technology -- even in private jobs. In spite of this, I regret to state that this growth in the participation of women in governance does not have much demonstration effect in reducing the atrocities against women. This is because of the minimal presence of women in places where it matters. The presence of women as police officers, prosecutors and judges will not only

strengthen justice for women and child abuse but also act as a deterrent to the potential criminal while infusing confidence in the weaker sex.

So, Sir, again and again, I am insisting that the punishment should be severe. Whatever law, which are bringing into this House, it is its implementation, which really matters. If we cannot make the implementation of such laws properly at the ground level, we are failing in our duties. When we make such good laws, we need to make sure that they are implemented effectively without fail.

With these words, I support this Bill. Thank you.

SHRIMATI MEENAKASHI LEKHI (NEW DELHI): Hon. Deputy-Speaker, Sir, I am thankful to you for giving me this opportunity to speak on this very important Bill.

Sir, I was reminded of a couple of cases. I was reminded of a case of Moinuddin Kutty, the theatre case in which a child was abused, and he was in the forefront opposing the Kathua case.

Then, I was reminded of a case of Madrassa in which Muhammed Rafi, who had raped four minor girls. Subsequently, there is a case of four Padris, who have only last week moved the Supreme Court to get bail in a particular case. We have seen the case of Bishop.

Sir, you would ask: why am I mentioning these cases? I am mentioning these cases that even when we are discussing something as serious as rape of minors and crime against women, some people

constantly remind us of Kathua and forget all other cases. That is why I am mentioning these cases.

There is no place to do politics when it is a crime against women and when it is a crime against children. And, it is in this context that I start, I rise to make my point. My point is that we come from civilisation, which people, of course, wrongly quote, but I will quote the entire *shaloka*, which says:

“यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः।
यत्रैतास्तु न पूज्यन्ते सर्वास्तत्राफलाः क्रियाः। ”

इसका मतलब है कि जहां कहीं आप नारी की पूजा करते हैं, वहां पर देवताओं का वास है। जहां पर आप नारी की पूजा नहीं करते हैं, वहां पर आपकी क्रिया का आपको फल नहीं मिलेगा। देश, दुनिया कितनी तरक्की करे, जब तक इस देश में महिलायें, बच्चे सुरक्षित नहीं हैं, तब तक आपकी तरक्की का लाभ समाज को नहीं मिलेगा। अपने समाज के लिए, अपनी सभ्यता के लिए, अपने संस्कारों के लिए हमें महिलाओं और बच्चों को सुरक्षा देनी है।

इसी के साथ दो लाइनें मुझे और याद आ रही हैं।

“नारी का मत कर अपमान, इसके बल पर चलता जग है।,
इससे पैदा होकर, इसकी कोख में पलता मनुष्य है।”

So, the woman, who is a giver of life, cannot be insulted and humiliated. But I got a representation this morning from a group called ‘Vishwa Nari Abhyudaya Sangathan’ little knowing that I will be speaking this afternoon in this House on this very subject. These ladies, who walked up to me, said किसी को इस देश में कानून का डर नहीं है। मैंने कहा कि आज सरकार पूरी तरह से काम कर रही है। मानव तस्करी के खिलाफ कानून लेकर

आई है। कठुआ जैसी जब हरकतें देश में होती हैं, तो उन्नाव की घटना के बाद देश के अंदर इस तरीके का कानून भी लाया जा रहा है।

प्रेमचन्द्रन जी ने कहा कि आर्डिनैस लाने की क्या जल्दी थी? आर्डिनैस लाने की जल्दी इसलिए थी कि पूरे देश भर में बहुत आक्रोश था। लॉ एंड आर्डर की सिचुएशन थी, अगर आप कानून नहीं लाते तो उन विक्टिम को क्या आश्वासन देते? आप क्या करना चाहते हैं? उन सभी को आश्वस्त करना भी आवश्यक था। अप्रैल के महीने में संसद नहीं बैठती इसलिए आर्डिनैस लाने की आवश्यकता हुई। आर्डिनैस लाने की बात की, आर्डिनैस केवल रूट नहीं है। हम देश का कानून बदलना चाहते हैं इसलिए अब कानून को कानून का रूप देकर लाया गया। जब इन महिलाओं से बात हुई। तब उन्होंने कहा कि बहन जी, जो भी इस तरह की घटनाओं में संलिप्त हों, उन्हें चौराहे पर फांसी दो। I was shocked. My soul was stirred like what are we moving towards. On the one side we see the inhumanity when young children get raped and on the other side, from the victim's perspective, कि वह खुद बंदूक लेकर मारने को तैयार बैठे हैं। वे चाहते हैं कि उनको सजा-ए-मौत चौराहे पर दी जाए। हम किस तरह की ट्राइबल लाइफ की तरफ जा रहे हैं या सिविलाइज्ड सभ्यता की तरफ जा रहे हैं। सभ्यता का मतलब यह है कि कानून व्यवस्था के तहत ऐसे तमाम लोगों को सरकारी तौर पर सजा दी जाए। जब तक सरकारी तौर पर सजा नहीं मिलेगी तो रीट्रिब्यूटिव फार्म ऑफ जस्टिस को मायने हम भूल जाएंगे। इंडियन पीनल कोड की बात होती है। It is penal provision. जो डेथ सैन्टेस और कैपिटल पनिशमेंट के खिलाफ बोलते हैं, मेरा उनसे यही आग्रह है कि जब आपके अपने परिवार में किसी अपने बच्चे के साथ ऐसा हादसा हो तब मन खुद से गोली उठाकर मारने का, खुद से फांसी लगाने का या कानून के तहत उसका निराकरण किया जाए, यही मांग विक्टिम के दृष्टिकोण से देखी जाए। जब निर्भया केस में जस्टिस वर्मा कमेटी बैठी थी, तब मुझे अपनी पार्टी की तरफ से रिपोर्ट ड्राफ्ट करने का सौभाग्य मिला था, हमने उसमें ये मांग की थी और सत्तर प्रतिशत के आसपास हमारी मांगें मान ली गईं

थीं। कुछेक चीजें रह गई थी जो इस कानून के तहत अब पूरी की जा रही है। मैंने इन केसेज का इतिहास शांति मुकुंद केस से लेकर निर्भया केस, एक इवोल्यूशन के रूप में, आर्डिनेंस को कानून बनाया जा रहा है, हमने इस रूप में देखा है। जब मैं इस इतिहास को पढ़ती हूँ तो मुझे लगता है कि समाज का कोई भी व्यक्ति इसकी अनुमति नहीं देगा। जब अनुमति नहीं देते तो इस पर राजनीति न करे। राजनीति से हमारे मन की व्यवस्था खराब होती है। महिला और बच्चों में किसी भी प्रकार का भेद नहीं कर सकते कि वह किस जाति और किस धर्म का है या किस जगह पर यह घटना हुई है। जहां कहीं भी ऐसा हुआ है, उसके खिलाफ आवाज उठनी चाहिए और जिसने किया है उसको सख्त से सख्त सजा मिलनी चाहिए।

इस कानून में बदलाव लाने की कोशिश है। मैं इस सरकार के विषय में कहूँ तो एक बात जरूर कहना चाहती हूँ, मुझे प्रधान मंत्री जी का पहला भाषण याद आता है जिसमें उन्होंने कहा कि यह सरकार गरीब, किसान, मजदूर और महिलाओं को समर्पित है। जितने अभी तक कानून बने हैं, चाहे वह मानव तस्करी के हों, महिलाओं को मैटरनिटी लीव देने की हों, तमाम जगहों पर उसी पक्ष को ध्यान में रखा गया है। विक्टमहुड विक्टम के प्रस्पेक्टिव से देखा गया है और लैंगिक समानता के पक्ष में प्रायोजित हम काम करना चाहते हैं, इसलिए हम लोग इस तरह के कार्यों में एकजुट हैं। मैं कानून के रूप में बताना चाहती हूँ कि क्या बदलाव आया है? बारह वर्ष से कम आयु की बलात्कार की घटना हो, उसमें पहले दस साल न्यूनतम सजा थी अब उसको न्यूनतम बीस वर्ष कर दिया गया है और अधिकतम सजा आजीवन कारावास है। जब बारह वर्ष से कम आयु का सामूहिक बलात्कार हो उसकी न्यूनतम सजा बीस वर्ष थी, अब न्यूनतम सजा को आजीवन कारावास कर दिया गया है और अधिकतम मृत्युदंड है। बलात्कार अगर बारह से सोलह वर्ष के बीच का हो तो उसके लिए दस साल न्यूनतम सजा थी अब उसको बढ़ा कर बीस वर्ष कर दिया गया है और अधिकतम आजीवन कारावास थी, जिसमें कोई परिवर्तन नहीं है। न्यूनतम बारह वर्ष सामूहिक बलात्कार के केस में सजा थी वहां अब आजीवन कारावास कर दिया गया है और अधिकतम सजा में कोई

बदलाव नहीं है। वह आजीवन कारावास ही है। सोलह और अधिक उम्र के बीच न्यूनतम सजा सात वर्ष थी, उसे दस वर्ष कर दिया गया है, अधिकतम सजा में डेथ पैनल्टी एक अग्रैवेटेड फार्म ऑफ ऑफेंस है, उसमें डेथ पैनल्टी भी दी जा सकती है। इसमें कई तरह के संशोधन हुए हैं, आईपीसी में संशोधन हुआ है, इंडियन एविडेंस एक्ट में संशोधन हुआ है। सीआरपीसी, जो दंड प्रक्रिया संहिता है, उसमें संशोधन हुआ है।

पोक्सो अपराध संरक्षण अधिनियम में संशोधन हुआ है। मैंने बहुत सदस्यों की बात सुनी, सब इसे अलग-अलग हिस्सों में देख रहे थे, लेकिन संगठित रूप से इससे संबंधित जितने कानून हैं, उनमें संशोधन है।

आईपीसी की धारा 376 की उपधारा 3 में 16 वर्ष से कम उम्र की बच्चियों के लिए संशोधन किया है। 376एबी को जोड़ा गया है, जिसमें 12 साल से कम बच्चियों की उम्र तक यौन दुष्कर्म के लिए 20 साल की सजा दी गई है। धारा 376डीए और 376डीबी के प्रावधान में 12 से 16 वर्ष की आयु से कम उम्र की बालिकाओं के साथ सामूहिक बलात्कार के लिए आजीवन कारावास की सजा दी जाएगी। धारा 376(2ए) में 12 वर्ष से कम आयु की बच्ची के साथ यौन दुष्कर्म के लिए मृत्युदंड का प्रावधान किया गया है।

HON. DEPUTY SPEAKER: You do not go in detail. Come to the point.

SHRIMATI MEENAKASHI LEKHI : Sir, the point I am making is this. A couple of things have been spoken. One was spoken about the Ordinance route which I have already addressed and then about the appeal. Appeal also could lie for order for many years. Now, it has been decided that if there is a first appeal and second appeal, the same will have to be made within six months. So, urgency in issuing Ordinance was the general hue and cry and anger of the society against such heinous crimes. On the question of whether this law will serve its purpose, I am very sure, this law

is one step which will bring a general sense of security in the minds of people. Some people mentioned about forensic labs not being operative at district level. All I can say is, they were probably not listening to the debate which took place when Trafficking of Persons Bill was being discussed in the House. The Minister had already made a statement that a certain sum of money has already been allocated towards that purpose, with the result, the labs etc. are likely to be made operational concerning this particular aspect.

All I can say is this. When we are discussing the issues pertaining to women, of course, it is a composite thing we are discussing and it is a step-by-step approach. So, one approach is everything related to sexual offences against women and children. I think, these two Bills – today's Amendment Bill and the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, the new Bill which has come – have actually changed the entire perspective of the country.

I discussed about the evolution. Regarding evolution of cases from Shanti Mukund case till now, I would like to say, औरत अपने आप बचाए, तब भी मुजरिम, औरत अपने आप गंवाए, तब भी मुजरिम। So, both ways, the victim and the perpetrator, it is always the woman. Society's idea, ideology and acceptance of woman need to change. आज हम और हमारा समाज उन सभी अबलाओं और बालिकाओं के अपराधी हैं, जो यौनाचार, यौन दुष्कर्म से पीड़ित होकर अपने मन में निराशा का भाव लेकर बैठी हैं। मैं इसके लिए कुछ पंक्तियां कहना चाहती हूँ –

उठो द्रौपदी वस्त्र संभालो, अब गोविंद न आएंगे,

छोड़ो मेहंदी, भुजा संभालो, खुद ही अपना चीर बचा लो।

द्यूत बिछाए बैठे शकुनि, मस्तक सब बिक जाएंगे,

उठो द्रौपदी वस्त्र संभालो, अब गोविंद न आएंगे।

This is to give the strength to women. But, I need to stop and add. यह स्थिति थी जब इस कानून और प्रशासन पर काम नहीं हुआ था, लेकिन मैं उन सभी वंचित महिलाओं को आश्वासन देना चाहती हूँ कि निराश होने की आवश्यकता नहीं है। यह सरकार महिलाओं के प्रति होने वाले अपराधों के प्रति पूर्ण रूप से संवेदनशील है। इन नए संशोधनों से पीड़ित एवं कुंठित महिलाओं को निश्चित ही बल मिलेगा तथा किसी अन्य के साथ ऐसी घटना न हो, इसकी अलख जागेगी। धन्यवाद।

श्री कौशलेन्द्र कुमार (नालंदा): उपाध्यक्ष महोदय, मैं जनता दल (यू) की तरफ से इस विषय पर बोलने के लिए खड़ा हुआ हूँ।

उपाध्यक्ष महोदय, भारतीय दण्ड संहिता, भारतीय साक्ष्य अधिनियम, 1872, दण्ड प्रक्रिया संहिता, 1923 और बालकों का लैंगिक अपराध से संरक्षण अधिनियम, 2012 के संबंध में अभी सरकार की तरफ से अध्यादेश जारी हुआ है, उसे कानूनी प्रावधान देने का प्रस्ताव आया है। यह सरकार द्वारा महिलाओं के ऊपर दिनोंदिन बढ़ते अपराध को रोकने के लिए एक सशक्त कदम है। अब ऐसा कानून बन गया है कि 12 साल की बच्चियों से दुष्कर्म करने वालों को फांसी की सजा होगी। यौन हमलों में सहमति की उम्र सीमा भी 16 वर्ष से बढ़ाकर 18 वर्ष की गई है। यौन हमले की सजा कम से कम सात साल हो सकती है, जो जीवन के लिए कारावास और जुर्माना या दोनों हो सकती है। गैंगरेप की सजा भी आजीवन कारावास की गई है। इसके लिए धारा 376 (डी)(ए) और 376(डी)(बी) जोड़ी गई है। साक्ष्य संबंधी धाराएं भी संशोधित की गई हैं। अपराधियों को जल्द से जल्द सजा मिले, इसकी पक्की व्यवस्था की जा रही है, जिससे न्याय में किसी भी प्रकार की देरी न हो। सजा पर अपील के निपटारे के लिए अधिकतम सीमा छः महीने रहने

का प्रावधान किया गया है। पुलिस को अधिक अधिकार दिए गए हैं। मेरा सुझाव है कि पुलिस की किसी भी प्रकार की कोताही पर उसे भी कठोर सजा मिले। ऐसा मेरा सुझाव है, जिससे समाज में अपराध के प्रति भय पैदा हो और अपराध पर रोक लगे।

महोदय, हमारा समाज पुरुष प्रधान समाज है। इसका कारण यह है कि आज भी समाज में महिलाओं को बराबरी का स्थान नहीं मिला है। यूनिसेफ की एक रिसर्च रिपोर्ट में कहा गया है कि भारत देश में 15 से 19 वर्ष के बीच की लगभग 77 प्रतिशत लड़कियां यौन हिंसा की शिकार होती हैं। उनमें से आधे से अधिक बच्चियां अपने सगे-संबंधियों के हाथों शारीरिक प्रताड़नाओं की शिकार होती हैं। अतः संबंधों की मर्यादाएं भी टूट रही हैं। आज विश्व के प्रायः सभी देशों में महिलाओं को अपने ही देश में अस्तित्व के लिए संघर्ष करना पड़ रहा है।

मेरा मानना है कि मात्र कानून बना देने से अपराध समाप्त नहीं हो सकता है, इसके लिए जागरूकता लानी होगी। कानून का पालन कराना समाज और प्रशासन की जिम्मेदारी होनी चाहिए। आपराधिक न्याय प्रशासन संवेदनशील हो, अभियोजन पक्ष सशक्त हो, चिकित्सा एवं फोरेंसिक लैब की सुविधाएं दुरुस्त हों, पीड़ितों के पुनर्वास एवं समायोजन तंत्र को मजबूत किया जाए और अन्य उपाय किए जाएं। इस बिल का मैं समर्थन करता हूं। धन्यवाद।

SHRI ASADUDDIN OWAISI (HYDERABAD): Sir, I stand to oppose the Bill, reason being that let me remind the Government what was said by the acting Chief Justice of the Delhi High Court on 23rd April, 2018. Justice Gita Mittal had observed that whether the Government knew what is the root cause of rape? Is it educating the people, as the rapists in several cases are juveniles or someone known to girls? Hon. Chief Justice asked, did you carry out a study – any scientific assessment - that death penalty is a deterrent to rape? Have you thought of the consequences to the victim?

How many offenders will allow their victim to survive when rape and murder have the same punishment? This is what was said by the acting Chief Justice of Delhi High Court. It is so true. Why do I oppose this Bill? I am of the opinion that the death penalty cannot be justified on the grounds of retribution, deterrence or proportionality. This notion of eye for an eye, tooth for tooth has no place in our constitutionally mediated criminal justice system. Why do I say that? It is not me who has said, a person who knew the law more than all of us. Justice J.S. Verma Committee said it reviewed laws for sexual crimes. It did not recommend death penalty for rapes.

Law Commission 22nd Report has favoured death penalty for all crimes that led to terror. Now, what can we do? Yes, we need deterrent. As you know very well, in our country, there are 5000 vacancies in judiciary. We require another 15,000 judges. Sir, you know very well that more than 5,000 courts have no judges. Our ratio for judges is that for one million population, we should be having 100 judges but we have only 10 judges. So, this is only just a symbolism. If this Bill is made a law, it will be doing more injustice to our daughters. Why cannot the Government dedicate a special children-friendly court so that in the rape trial, it does not become a traumatic experience for the victim? Sir, 98 per cent of the victims know the perpetrators. Will the victim want the perpetrators to be given the death sentence? That is the question which the Government should answer.

The NCRB data clearly tells us that in 2016, four rapes were reported in India in every hour and only one, out of four rape cases registered, led to conviction. So, my request to the Government is that why they are not improving the female police personnel. In our police stations,

what is the percentage of female police personnel? It is only 7.28 per cent. That is where you require attention so that when a woman who is raped or her child is raped and when the case goes to the police station, you have enough female police personnel and that will create confidence in them. But here a rightist Government is only being reactionary as usual. What is the need of the hour, they do not want to do.

I am concluding, Sir. If this Bill becomes law, I want to congratulate the Government that you will be in the esteemed company of Saudi Arabia, Iran and China. Good luck to you. Maybe, the *Sharia* is on the way. We do not know. I want to know this from the hon. Minister. Since their MP has said that the increase in Muslim population has led to rapes, does he agree with that? An hon. MP from UP has said that. Does he agree with the statement of one of his MLAs from UP? He said, "Can a mother of three children be raped?" Does he agree with his own legislators in a part of our country, who stood for the perpetrators of crime?

So, what we require is the change in the mindset of men....
(*Interruptions*) Sir, I am concluding. This equation of power, which men feel they have, should change. Laws will not stop rape of children. If the mentality of men changes, then that will happen. You bring in change in the judiciary. This is only mere symbolism. The Government is only doing an eyewash. They are not interested in protecting the children. In fact, their track record is, they are supporting the perpetrators of child rape. Thank you, Sir.

*SHRI C. N. JAYADEVAN (THRISSUR): Hon'ble Deputy Speaker, I am speaking in my mother tongue, Malayalam. The Criminal Law Amendment Bill, 2018 is being introduced in the House and I whole heartedly support it. In different states of India, there have been sexual assaults and rape of girl children and women. Therefore, I personally, and my party the CPI, whole heartedly support this bill. Our country has a rich cultural legacy. We are truly proud of our ancient heritage. The poet, Vallathol who wrote about the chastity and purity of Indian woman, hails from my native place, Trichur and my state Kerala. It is a paradox that in our country where the traditions teach us to respect women and see all women as mother and worship her, atrocities against women and girl child are on the rise. Therefore, this philistine culture, has to be fought against. And for this a strong legislation is needed.

Here, members including Owaisi put forward an argument. This question is raised in our country and several other countries. Is Capital Punishment a right thing? Shouldn't we provide circumstances for an offender to bring transformation in his mind? But I am with all those who think that those who perpetuate heinous crimes like rape against children and women, does not deserve mercy. He can be imprisoned for life or other punishments should be awarded to him. There should not be even on percentage dilution in this regard. I do not want to prolong my speech. Perhaps I have got the least time in the House to speak. Though I am a single member party, I keep reminding my friends that the CPI function in all the twenty-nine states of this country. Maybe we have a single member presence in Lok Sabha today but BJP too was only a two-member party

once. Recently even the Prime Minister noted this fact. I am not prolonging my speech.

I support this amendment bill. Thank you.

DR. MAMTAZ SANGHAMITA (BARDHMAN DURGAPUR): Thank you, Sir, for allowing me to speak on this very important Bill. This amendment Bill basically is dealing with increasing the punishment duration from seven to 10 years or extending it further according to the age of victim. It has also tried to cite an example to deter such action.

Through this amendment Bill, the Government has reduced the time for completion of such trials from three months to two months. Then, a provision is also made for disposal of an appeal against conviction or acquittal within a period of six months.

Hon. Deputy-Speaker, Sir, I support this Bill because a rape is a rape whether it is of a minor girl or of a hundred years old lady. But the crime is more heinous when it is committed against a girl below 12 years of age as she does not understand as to what it is.

HON. DEPUTY SPEAKER: Please conclude.

DR. MAMTAZ SANGHAMITA : Then, according to the other provision punishment could be extended to life imprisonment if the age of the girl is below 16 years. In this regard, I have a point to make. Nowadays, we call the prison as a correctional institution. Some hon. Members have pointed out that in most these cases the criminals have psychopathy background.

Why cannot we take help of psychiatrists or psycho-analysts before extending the sentence for these criminals?

Then, I want to say something about the death penalty. There are two schools of thoughts in this regard. But most of them are against death penalty. So, why in our country are we going to the primitive side by having a provision of death penalty in these cases?

Sir, we have not properly thought about the rehabilitation of victims.
... (*Interruptions*)

HON. DEPUTY SPEAKER: Please conclude.

Shri Harish Meena ji.

... (*Interruptions*)

DR. MAMTAZ SANGHAMITA : Sir, we are making provision for gangrape and rape. Both are completely different. Gangrape is purposefully done. There also, there is a point which we have to see. A gangrape is usually done by the low socio-economic, poor people and to the poor people, often to the dalits and other such people, due to some reason. We have to look into this.

Then, there is another matter. As she has already said, there should be women police stations. As a gynaecologist, I also know that it is very difficult to prove a rape. So, for the purpose of a proper investigations, there is a need to have woman policepersons so that she should be able to go wherever the incident happens.

Thank you very much.

श्री हरीश मीना (दौसा): उपाध्यक्ष महोदय, सर्वप्रथम मैं सरकार को धन्यवाद देना चाहता हूँ कि इस महत्वपूर्ण मुद्दे को लेकर पूरा हिन्दुस्तान चिंतित था। ... (व्यवधान) यह मुद्दा व्यक्ति विशेष से जुड़ा हुआ नहीं है, सिर्फ महिलाओं से जुड़ा हुआ नहीं है, यह भारत की संस्कृति, भारत की सभ्यता और भारत की आत्मा पर हमला है। हमारे देश में महिलाओं को देवी, मां और बहन के रूप में पूजा जाता है। हम रोज अखबार में यह देखते हैं कि यह क्या हो रहा है? यह हमारी समाज और सभ्यता के बिल्कुल विपरीत है।

महोदय, सरकार जो बिल लाई है, मैं इसका स्वागत करता हूँ। इसका आना आवश्यक है, पर केवल बिल से समस्या का समाधान नहीं होगा। हमें इसको लागू करना है, फलीभूत करना है। मैं आपके माध्यम से मंत्री जी को कुछ सुझाव देना चाहता हूँ। आप इसको लागू करेंगे, पुलिस मुकदमों की जांच करेगी लेकिन हम देखते हैं कि हर प्रदेश में पुलिस की वैकेंसीज हैं, वहां पुलिस अधिकारी नहीं हैं। कृपया आप उन वैकेंसीज को भरिए, क्योंकि ये गंभीर मुकदमें हैं। जैसे एससी/एसटी के मुकदमें में एक डेप्टी एसपी रैंक का अधिकारी जांच करता है, वैसे ही इसमें भी मेरी प्रार्थना है कि डेप्टी एसपी रैंक के अधिकारी जांच करे। अगर वह महिला पुलिस अधिकारी होगी तो उनके साथ न्याय होगा।

दूसरा, इन मुकदमों की ट्रायल ज्यूडिशियरी में होगी। आप कोर्ट्स की स्थिति देखिए कि वहां कितने कोर्ट्स हैं, वहां कितनी वैकेंसीज हैं और किस तरह के जजेज आ रहे हैं, उनकी क्वालिटी क्या है? अब ज्यूडिशियल रिफॉर्म का समय आ गया है। अगर हमें इस कानून को मूल रूप में लागू करना है तो हमें ज्यूडिशियल रिफॉर्म लाने पड़ेंगे। हमें सहानुभूतिपूर्व, न्यायपूर्वक न्यायपालिका का निर्माण करना पड़ेगा, जहां क्वालिटी जजमेंट हो।

तीसरा, इन मुकदमों की कोर्ट में कौन पैरवी करेगा? हमारे एपीपी, सरकारी वकीलों की क्वालिटी क्या है, हमें उसको देखना आवश्यक है।

उपाध्यक्ष महोदय, मेरा गृह मंत्री जी से सुझाव है कि अगर 12 वर्ष से कम आयु की बच्ची का बलात्कार होता है, उसमें उम्र कैद से लेकर मृत्युदंड तक का प्रावधान है। तेरह साल की बच्ची, चौदह साल की बच्ची या पंद्रह साल की बच्ची के साथ हुए अपराध के लिए यह क्यों नहीं है? मैं मानता हूँ कि अपराधर, अपराध है, दोषियों को समान सजा मिलनी चाहिए। उनको कठोर से कठोर सजा मिले, यह मेरा आपसे अनुरोध है।

महोदय, आज ये घटनाएं क्यों हो रही हैं? जब हमारा जन्म हुआ था तो हम इन चीजों के बारे में नहीं सुनते थे, कल्पना नहीं करते थे। ये क्यों हो रहे हैं, इनके कुछ कारण हैं। आज आप फ्री इंटरनेट पर पाबंदी लगाइए, उसके लिए कुछ तो नियम हो। आप सोशल मीडिया और टीवी पर पाबंदी लगाइए। वे किस तरह की फिल्में देख रहे हैं। आज ही मुझे टेक्निकल ऑफिसर ने कहा है कि 'जिओ' जो टेलीफोन कंपनी है, वह इंटरनेट सर्विस प्रदान करती है, उनके सर्वे में आया है कि 60 प्रतिशत बच्चे रात पॉर्नोग्राफी, अश्लील चीजें देखते हैं। हमारी इस पर रेग्युलेशन होनी चाहिए। उससे हमारी सभ्यता नष्ट हो रही है, हमारे युवा पथ भ्रष्ट हो रहे हैं।

अंत में, मैं पीड़ितों के पुनर्वास के लिए कहना चाहता हूँ। जो पीड़ित हैं, हमें उनका जीवन बर्बाद नहीं करना है। उनकी इज्जत चली गई, लेकिन वे भविष्य में अपना जीवन कैसे जीवन शुरू करें, इसके लिए भी आप चिंता करें। सरकार की मंशा बहुत अच्छी है। मैं इस बिल का पुरजोर समर्थन करता हूँ। जयहिंद।

SHRI NINONG ERING (ARUNACHAL EAST): Hon. Deputy Speaker, Sir, I thank you for giving me an opportunity to speak on the Criminal Law (Amendment) Bill, 2018.

I am grateful to my colleagues who have spoken on this Bill from their hearts, especially Shrimati Supriya Sule, Prof. Saugata Roy, Shri Pinaki Misra and so many others. I am supporting this Bill because this Bill concerns each and every person and their children.

Of course, Madam Lekhi was saying that we should not take into it any political issue and it should not be a political speech for anyone. I think that in all these cases, let it be the cases of madarasas or of churches or let it be the cases of Unnao, Kathua or Naliya, whoever is a criminal or whoever is a perpetrator, he is a perpetrator. So, action must be taken according to that.

Of course, when everyone has spoken on this issue, there is nothing much to cover. I would just like to say three points on this Bill.

Firstly, I would like to mention about the gender-based difference in the definition of rape and punishment, which Mr. Pinaki also referred to earlier during his speech. Now, the POCSO Act is already there, which recognizes both the genders, especially, when a small child is involved. These things occur not only with female children, but also, unfortunately, even with male children. But this provision is not there in this Bill, which is before us.

I would say that this is a public appeasement Bill because in 2013 also because of the Nirbhaya case the Amendment was there, and again because of the Kathua case we have brought this Bill, which imposes death penalty. I have nothing much to say about death penalty, but the thing is this. How are you going to implement it? How are you going to convict

these people? I am asking this because there are so many reasons for action not being taken properly.

The MoS, Home is also from my own State, and we are from the North East. Now, we have a matriarchal society there, and you will see that rapes are very less in the North East. Why is it so? It is because of this reason, and because equality is there. Here, that differentiation is there and there is no equality amongst male and female. So, this issue also has to be taken into consideration.

Another thing that I am afraid of with regard to this Bill is that the victim will not survive to report the crime. Now, when capital punishment is there, automatically the perpetrator will think that अगर हमें मरना ही है और सजा-ए-मौत मिलनी ही है, तो क्यों न मैं इसे ही खत्म कर दूं, so there will be no witness. These things also have to be taken into consideration. It is not that we do not agree with death penalty. Yes, it should be there and even I want it, especially, in the recent cases of Unnao and Kathua where we really felt bad.

Thirdly, I would like to talk about the problem of implementation of existing laws, and not lack of laws. So many stringent laws are already there, but the thing is how we are going to implement them. This is an issue, which the hon. Home Minister has to see.

As a recommendation from my side, I would like to mention that it is essential to recognize that the crisis lies in the precise manner in which the existing criminal justice system unfolds. We should enhance conviction rates through reforms in police and judicial systems. Now, I would like to say that priority has to be given to working on the system; appointment of

Judges; cases in the villages; sensitization of the doctors, police, nurses, etc.

I would like to suggest three methods to our Home Minister that we should at least try, namely, there has to be a preventive method; secondly, how we are going to do the implementation; and thirdly, the rehabilitation. Now, even in Delhi you will see that when ladies travel by bus they feel very unsecure, but when they travel by Metro, then they feel more secure because there is CCTV, Police, etc. If you ask small children, especially, girls in North Delhi who do not feel secure and they do not like to travel by bus, but in the South, they are more secure because there you have Police, CCTV, and the Administration doing the job. So, those factors also have to be seen.

As regards the implementation part, I will say that the police investigation has to be done very quickly; there should be sensitization on this issue; fast-track courts must be there; the medical reports also have to come out very quickly; the forensic reports should be available on time; and the protection of the witness is also very essential because the witnesses feel unsecure. This aspect also has to be taken into consideration.

As regards rehabilitation, there has to be counselling; compensation; medical health of the victim has to be taken into consideration; and the social stigma also has to be dealt with as to what we are going to do after the incident has taken place.

In Arunachal Pradesh, there is a society known as the Women Against Social Evils. Now, this team is doing the awareness programme in

Arunachal Pradesh, and they are going to each school to explain about the POSCO Act and about this Bill also. So, I think that awareness is very much essential, and we have to give more importance to it. Thank you, Sir.

19 00 hrs

HON. DEPUTY SPEAKER: Now, it is 7 o'clock. If the House agrees, we may extend the time of the House till the passing of the Bill.

SHRI ANANTHKUMAR : The time of the House may be extended till the consideration and passing of the Bill.

SEVERAL HON. MEMBERS: Yes.

SHRI KIREN RIJJU : Thank you, Deputy Speaker, Sir, first of all, I would like to extend gratitude to all the hon. Members who had participated in this far reaching, consequential Criminal Law (Amendment) Bill. I would like to mention particularly the names of hon. Members; Shrimati Kirron Kher, Shrimati Ranjeet Ranjan, Shri T.G. Venkatesh Babu, Prof. Saugata Roy, Shri Pinaki Misra, Shri Shrirang Appal Barne, Dr. Ravindra Babu, Shri Konda Vishweshwar Reddy, Dr. A. Sampath, Shrimati Supriya Sule, Shrimati Butta Renuka, Shrimati Meenakashi Lekhi, Shri Kaushalendra Kumar, Shri Ninong Ering, and of course, Shri N.K. Premachandran, who has opposed the Ordinance itself.

First of all, let me tell this august House that what can be more urgent for the Government than to take steps to ensure the safety and

security of women. Many of the hon. Members have raised that there was no requirement or urgency for the promulgation of the Ordinance. I genuinely feel that when the whole nation is feeling pain by seeing our young girls, children below the age of 16 and 12 years becoming victims of brutal rape, then, the Government has to rise to the occasion; the Government cannot remain silent. That is why when the House was not in Session, it was decided by the Government that Ordinance had to be promulgated and brought in force. That is why, on 21st April, 2018, the promulgation of Ordinance was given effect to.

Let me remind this august House that when the hon. Prime Minister of India from the ramparts of the Red Fort made his speech, he made his intention very clear that our sisters, our children, our mothers, and the women of this nation must feel safe in our own country. For that, let every parent question their sons. How are your conduct affecting the morale of the society? So, the intention of the hon. Prime Minister has been taken forward in the form of promulgation of this Ordinance. Now we are here to pass this very important Bill, on which many hon. Members have made their valuable comments and suggestions.

I have taken note of all the important suggestions. I also agree that merely making laws will not be enough. Law is necessary; stringent legal provisions are necessary but much more than that is how we translate those legal provisions into effect. What are the implementation processes? How are we going to strengthen all the agencies and infrastructure that are there in the country? What are the requirements to make changes? These are important. Within a very brief reply to this discussion, I will be mentioning all those provisions which we have made.

Before that, let me come to the provisions of the law wherein we have made changes. In the beginning, let me say that whether it is minor or major, rape is a rape. It is very shameful for the country even if one instance of rape case take place. It is the collective conscience of this nation; we have to come together. This is the platform where we represent the entire nation. This is the platform where we have to regulate and make provisions. That is why in the previous provisions, the punishment was seven years imprisonment for rape. Now in the new provisions, the punishment has been enhanced to 10 years imprisonment, which is extendable to life. This is under Section 376 of the Indian Penal Code.

Now, I am coming specifically to the changes that we have come up with. Let me clarify the point raised by some of the hon. Members about the definition of 'woman'. As per the provision under the Indian Penal Code, it is mentioned as 'woman' because there is no differentiation between a woman or a girl because rape has been defined as rape of a woman of any age. We are discussing the title or concept here in detail. What I am saying is that the IPC has just defined 'woman' as 'woman of any age'.

Regarding the rape of woman who is under the age of 16 years, the earlier provision for punishment was of ten years. Now, it has increased to twenty years of rigorous imprisonment or the rest of his life. That means he will spend his life up to lifetime in jail.

Regarding those gruesome cases which involve the woman below 12 years of age, earlier, the provision was of ten years rigorous imprisonment extendable to imprisonment for rest of his life, now, it has been extended

to 20 years of rigorous imprisonment, to death or rest of life. That means it is extendable up to lifetime. As long as he is alive, he will remain in jail. If it is a gang-rape, the earlier provision for punishment was of twenty years rigorous imprisonment or the rest of life. Now, the provision is for punishment with death or imprisonment for the rest of his life. So, this is a very stringent provision.

Now, in the provisions, there is a consequential effect also. Under the Code of Criminal Procedure, regarding the investigation of rape cases, in the earlier provision, investigation was to be completed in three months from the date of FIR. Now, the timeline is being reduced to two months from the date of FIR. The inquiry or the trials of rape cases in earlier provision was to be completed as far as possible within two months. The intention was there as it says “as far as possible” but now, we have made it mandatory. So, the inquiry or the trials of rape cases are to be completed within two months timeline. It is a clear mandatory provision which is being inserted.

The investigation officer will come to know only when the cases are reported to him. So, we cannot go on that line. Earlier, there was no timeline for the disposal of appeal when a lower court gives a punishable judgment. Then, anybody could have gone to the appellate court and there was no timeline for the disposal of the appeals. Now, the new provision makes it very clear that even in the cases of appeals, it must be decided within six months’ time. These are very important provisions the Government has come up with.

With regards to anticipatory bail, many of the hon. Members were talking about the people having access to good lawyers and good legal services. They manipulate the case and get bails. These are some of the accusations. Earlier, there was a provision for anticipatory bail but now the anticipatory bail is not available to a person accused of rape of a woman under 16 years of age. While the bail petitions are being heard, there are systems which we have to tighten. There was no provision of mandatory notice on the bail application by the person accused of rape of woman under 16 years. Now, it is mandatory for the court to inform the public prosecutor within 15 days of receipt of the notice of the bail application.

Under Section 439 of CrPC, a 15-day period has been made mandatory. In addition to that, there was no provision for association of the victim's side during the hearing of bail application by the person accused of rape of a women under 16 years. Now there is an enabling provision made to provide for representation of the victim's side in the court. That means, when the accused moves an application, the lawyer or the representative of the victim has to be present in the court.

HON. DEPUTY SPEAKER: Mr. Minister, you are giving an elaborate explanation of the provisions that are there. All this must be publicized more. People must be made aware of these provisions. People even in the rural areas must come to know that such provisions exist. Then only they will feel the seriousness. Without publicity if the rules are kept in the books, it would not help. Therefore, you should give more publicity to this.

SHRI KIREN RIJIJU: I very much appreciate, hon. Deputy Speaker, Sir, your advice.

HON. DEPUTY SPEAKER: You have to publicize the seriousness of this in all the regional languages. Then only it will have its effect. Otherwise, there is no use.

SHRI KIREN RIJJU: We need to create more awareness. Mr. Deputy Speaker, Sir, your advice is very well taken. All the hon. Members of this august House also have the bounden duty to take forward this message and the new laws and provisions being made here.

HON. DEPUTY SPEAKER: This should be publicized in all the media.

SHRI KIREN RIJJU: Right, Sir.

Sir, I come to some of the issues which hon. Members have raised earlier. It is not enough to make laws, as I have stated. Our Government knows very well that besides legislation we have to take sufficient steps to combat this. Hence, the Union Cabinet headed by Shri Narendra Modi-ji on 21-4-2018, while approving promulgation of this Criminal Law (Amendment) Ordinance, 2018, also approved a number of other measures. Those measures are for effective implementation of the various provisions of the criminal law that are to enhance the safety of women.

One of the important provisions being given effect to was setting up of fast-track special courts. A Centrally-funded scheme is proposed which will be launched to set up fast-track special courts to exclusively decide on the rape cases and to strengthen such courts where they already exist. Such a scheme will cover strengthening of physical infrastructure and manpower for fast-track special courts, etc., in consultation with the High Court and the State Government concerned.

There is also requirement for the strengthening of prosecution machinery. For that, the States and Union Territories are being asked to strengthen and create dedicated capacity for effective and timely prosecution of cases for fast-track special courts by sanctioning of additional posts of public prosecutors, office infrastructure and supporting manpower.

There is also requirement for quality of investigation. Many hon. Members also have raised this question that the rate of conviction in the cases of rape depends crucially on the quality of evidences collected by the investigating agencies. Therefore, adequate provision of special forensic kits for rape cases are proposed to be made available in all the police stations as well as hospitals where such medico-legal cases are handled, to improve the quality of forensic evidence and thereby strengthen the cases of the prosecution. Dedicated and trained manpower is to be provided for investigation of sexual offences in a time-bound manner.

Hon. Deputy Speaker, Sir, one or more specialized forensic laboratories adequately staffed and equipped are proposed to be set up in each State and Union Territory of India to exclusively deal with the forensic needs of rape cases in an efficient and time-bound manner.

One of the important aspects of the investigation of rape cases is the tracking of the accused persons and the sharing of information. Last year, hon. Minister of Home Affairs Shri Rajnath Singh launched this very important scheme of Crime and Criminal Tracking Network and System in the country. This will ensure that our National Crime Records Bureau will have all the database and profile of those sexual offenders at the national

level and share it with States and Union Territories so that the data can be used by the police for verification of the antecedents of persons for prospective employers and it will be a crucial part of future investigation by any States or any agencies of the country. This will facilitate the entire process. To address the issue from a broader perspective, it was considered necessary to create a National Mission for Safety of Women.

As I have mentioned earlier, besides the fast track courts and strengthening of the forensic laboratories, building of national registry of sexual offenders and thereby appointing additional public prosecutors and providing appropriate medical and rehabilitation facilities to victims are very important steps which are being taken. Issues like sensitization of children through appropriate changes in the school curriculum and media campaign, which the hon. Deputy Speaker just mentioned, are being thought about. So, media campaign, social awareness and checking the proliferation of pornographic material, which the hon. Member mentioned, and other online content will also be taken up.

Our hon. Minister of Home Affairs Shri Rajnath Singh- I have been a witness in the Ministry- has constantly reviewed within the Ministry with all the agencies and the women's safety has been given top priority. That is why our Home Minister for the first time has created a new division in the Home Ministry and this division is known as Women Safety Division. This division is dedicated to the safety and security of women in the country. Besides that, there are various steps taken by the Ministry like special apps and special assistance to various NGOs and other organisations working in this particular field. Besides that, the National Mission for Safety of Women would lead to many beneficial things for all of us to work on for

giving a credible response to emerging situation of crimes against women, especially the minor girls.

Today, we are making some changes in the Indian Penal Code and the Code of Criminal Procedure. There are consequential effects on the Indian Evidence Act and I would like to mention some of the important effects which have been made.

Earlier, we heard the situation where the character of women was assassinated. Women are victims of situation and during the trial process they are being subjected to various things which are very uncomfortable to the victim and to the society as a whole. That is why the section 53A of the Indian Evidence Act has been changed and the new clause seeks to provide that the evidence of the character or previous sexual experiences shall not be relevant in such cases. Another important provision is that in prosecution for rape, it shall not be permissible to put questions in the cross-examination of the victim about her character. No lawyer will be allowed to have a cross-examination about the character of the woman. With that, another important provision under section 26 of the Code of Criminal Procedure provides that rape cases shall be tried, as far as practicable, by a court presided over by a woman.

A preference has been given where trial of rape cases should be presided over by a woman judge. These are victim-sensitive steps taken by the Government.

Under section 154 of the Code of Criminal Procedure, a new provision being inserted is that information given in the rape cases shall be recorded by a woman police officer or any woman officer. This gives

complete protection to the woman victim. The provision under section 161 of the Cr.P.C. provides for the examination of witness by police. Now, the new provision provides that the statement of the victim shall be recorded by a woman police officer or any woman officer. This is also a very victim-sensitive measure. ... (*Interruptions*)

SHRIMATI P.K. SHREEMATHI TEACHER (KANNUR): What is the meaning of ‘any woman officer’?

SHRI KIREN RIJIJU: For that, a person has to be qualified. We cannot put any woman in the job. ... (*Interruptions*)

HON. DEPUTY SPEAKER: It could be a woman officer from the Police Department.

... (*Interruptions*)

SHRI KIREN RIJIJU: I understood your point. We will ensure that this kind of sensitive issues are not being followed by anybody who is not competent. The police officer is not just a police person; he is a police officer competent to deal with these cases. That is why you cannot have a person who is not sitting in appropriate authority being put into the job. He must be an authorised officer or an authorised person, a competent person. ... (*Interruptions*)

Section 164(5A)(a) provides that the statement of the victim shall be recorded by a judicial magistrate as soon as the commission of the offence has been brought to the notice of the police. Section 173 of the Cr.P.C. also provides – as I mentioned earlier – that the investigation of the case shall be completed within two months from the date of recording of the offence.

This means, there is no chance for any officer to take time beyond two months since timeline is very important. Under section 197 (1) of the Cr.P.C., the new provision that has been brought in is that no previous sanction shall be required for prosecution of a public servant accused of the offence of rape. This is very important. This means we are putting the onus on the officers who are completely responsible to ensure speedy justice. Under section 309 of the Cr.P.C., a new proviso has been inserted. This is a proviso which has been amended to provide for mandatory completion of inquiry or trial of rape cases within two months from the filing of charge-sheet. Once the charge-sheet is filed, it must be completed within two months.

SHRI ADHIR RANJAN CHOWDHURY : Has any time limit been mentioned for filing charge-sheet?

SHRI KIREN RIJJU: There is already an elaborate provision. If any police officer fails to act on any such instances which are serious in nature, there is already enough provision to take action against that officer. There is no escape. I would also like to mention that in the last three to four years the number of cases has gone up primarily because it is now mandatory on the part of the police officer to register the case. It is not only registration of cases but filing of charge-sheet and disposal are also made time-bound. This is very important. I would like to appeal to hon. Members to appreciate this effort. ... (*Interruptions*)

श्रीमती रंजीत रंजन : किरिन जी, आपने जो दो महीनों का टाइम दिया है, सपोज़ कि जो एक्युज़्ड है, वही नहीं दे पा रहे हैं। जो विक्टिम है, वह गवाही देने के ही लायक नहीं है, उसको सदमा लगा हुआ है, तो उस केस में अगर दो महीनों से ऊपर टाइम जाता है, तो उस केस में आप क्या क्लैरिफिकेशन देना चाहते हैं?

SHRI KIREN RIJJU: Sir, let me complete the reply and in the end if the Members wish to seek any clarifications, I am ready to give reply to that.

The important progress that I want to mention here is with regard to Section 327, sub-clause 2 of CrPC. It provides that an inquiry or trial of rape cases shall be conducted in-camera. This gives ample scope to the victim to ensure that she gets justice. The recording has to be in-camera now. We are thinking that there should be no loophole whatsoever left whereby the accused can get away with.

The existing Section 357B provides that the compensation payable by the State to the victim of the acid attack and gang rape shall be in addition to the payment of fine to the victim. This amendment will ensure that the compensation scheme will be extended to the victims of the newly proposed categories under Section 376AB, Section 376DA and Section 376DBS.

Another important provision which I would like to mention is the existing Section 357CC which provides that all hospitals, public or private, shall immediately provide free of cost first-aid or medical treatment to the victim of offence of rape and shall immediately inform the police. Through this amendment the facility of free first-aid or medical treatment shall be extended to victims under the newly proposed categories

of the provisions which I have just mentioned. These are very crucial steps which provide immediate medical care to the victim without any financial burden.... (*Interruptions*)

HON. DEPUTY SPEAKER: Mr. Minister, you may continue. Members may seek clarifications in the end. I will allow all the Members.

SHRI KIREN RIJJU: Sir, as I have mentioned in the very beginning, I am not dragging this issue to a point where I would like to counter Members on some of the points which they have made. In the very beginning, I had said that this is not one-Party issue. It is not a concern for one section of the Party. It is a concern of the nation, a concern of this august House.

That is why I would like to ask Shri Premachandran also as to why he is questioning on the timing of the promulgation. When the Ordinance was promulgated, we had already got information from the State of Madhya Pradesh and elsewhere that they had already booked the criminals under this Ordinance. This means that it is very useful. Prof. Saugata Roy has said that we should have made this law much earlier. We know that the Parliament has to take preventive steps and make preventive laws also. At times this House has to reflect the sentiments of this country. When the sentiments of the whole country are that the Government must take stringent steps to ensure that the punishment for the crimes of such heinous nature has to be very-very stringent, very strong, the Government must rise to the occasion.

Sir, though, I have a number of points to clarify to the hon. Members but the provisions that I have read out, I am sure most of the hon. Members will be satisfied and they will support the intention of this Government to

ensure that our women do not feel insecure in our society. Mahatma Gandhi ji had once made this very important remark which I would like to read out in this august House. 'When women feel safe to walk in the streets in the night then only it means that we have achieved full Independence'. So, it is the moral duty of everyone here to ensure that our sisters, daughters and mothers feel safe in our own very civilized, very ancient nation called India.

We will not leave any stone unturned to ensure that the provisions, which are made by the Government in this Criminal Law (Amendment) Bill, 2018, are put into effect strongly. This shows the determination of the Government to provide justice to every single case of sexual offence against women.

With these few words, I thank the hon. Deputy Speaker Sir and hon. Members for supporting this Bill. With this, I commend this Bill for passing.

DR. MAMTAZ SANGHAMITA : I would like to raise one point. If we are giving treatment, it is okay; we all want to give the treatment. But, the evidence may be lost. That is why, the kit should be there in the hospitals, especially in ladies' department to take the swab.

SHRIMATI SUPRIYA SADANAND SULE : The hon. Minister could clarify if he would like to make it 'children below 12 years'. So, at least, there may be a gender equal Bill. That is a request.

DR. A. SAMPATH : Sir, through you, I would like to seek a clarification from the hon. Minister. Some children belong to the 'third gender'. By birth, they are in the third gender. Those children may also be subjected to rape. They are in the third gender not because of their fault. Somehow it happens. But, they may also be subjected to these kinds of sexual atrocities. So, that can be put under the definition of 376. I would like to know whether we can put all the children under this provision or not.

HON. DEPUTY SPEAKER: Do you want to seek any clarification or do you just want to move amendments?

SHRI BHARTRUHARI MAHTAB (CUTTACK): I will be moving my amendments.

HON. DEPUTY SPEAKER: Not at this stage.

SHRIMATI P.K. SHREEMATHI TEACHER : Hon. Minister, Rs. 3000 crore is left in the Nirbhaya fund. Will you give a strict and stringent direction to all the State Governments to establish a special court for the minor girls to deal with rape cases? We want to increase the number of women police. Will you give stringent directions to all the State Governments to implement this?

श्रीमती रंजीत रंजन : आपने कहा है कि सी.आर.पी.सी.1973 के अनुसार सभी बलात्कार पीड़ितों को राज्य सरकार द्वारा मुफ्त मेडिकल उपचार और मुआवजा दिया जाएगा। इसके साथ ही आपने लिख दिया है कि इस प्रावधान में अंडर-16 यानी 16 साल से कम उम्र की नाबालिग लड़कियों के साथ हुए बलात्कार को ही

शामिल किया जाएगा। जो 16 साल से अधिक उम्र की लड़कियाँ या महिलाएं होंगी, क्या इसमें उनको मुआवजा देने का कोई प्रावधान नहीं है? क्या यह जिम्मेदारी सिर्फ राज्य की होगी या इसकी मानीटरिंग सेन्ट्रल गवर्नमेंट भी करेगी? मैं फिर से इस बात को रिपीट करूँगी कि यह जो दो माह का समय है, सपोज जो फॉरेंसिक किट है, आप कह रहे हैं कि उसे थाना ही करेगा तो मुझे एक बार फिर क्लेरिफाई करें कि क्या फर्स्ट ऐड, जो फॉरेंसिक किट है, रेप हुआ है या नहीं, क्या उसे थाना ही क्लेरिफाई करेगा?

HON. DEPUTY SPEAKER: You have to seek a clarification. You should not give a speech. Only a clarification should be sought. I cannot allow the speeches.

SHRI ADHIR RANJAN CHOWDHURY : Rijiju Ji, you have said that women judges will be provided for rape cases. It is a very healthy proposition that has been made. But, in view of the severe shortage of judicial officials in our country, I would like to know whether it will be possible for you to provide women judicial officials in each and every court or not. It is because the number of rape cases has been increasing.

HON. DEPUTY SPEAKER: You have sought a clarification. Your point has been raised. Now, the hon. Minister will reply.

श्री किरन रिजीजू : महोदय, इसमें से कुछ बातें मैंने अपने रिप्लाई के दौरान बोल दी हैं। माननीय सदस्य का जेंडर के स्पेसिफिकेशन के बारे में प्रश्न आया है। मेरे खयाल से जो अमेंडमेंट महताब जी मूव करने वाले हैं, वे उसमें इस मुद्दे को मेंशन करेंगे। जो Protection of Children from Sexual Offences Act (POCSO) है,

उसमें ऑलरेडी जेंडर न्यूट्रल का प्रोविजन है। वह एक स्पेशल एक्ट बनाया गया है। यहाँ सवाल यह है कि आई.पी.सी. जो डिफाइन करता है, जैसा मैंने पहले बताया कि आई.पी.सी. की धारा के तहत वुमेन ऑफ एनी ऐज की परिभाषा क्लियर है।

उस अंडरस्टैंडिंग से ही हम लोगों ने यह कानून बनाया है। आगे जाकर उस डेफिनिशन का क्या होगा, अगर आप उसकी प्रक्रिया पर चर्चा करना चाहते हैं, तो आप उसकी चर्चा कर सकते हैं। लेकिन, आज के इस कानून के प्रावधानों के बारे में मैं बताना चाहता हूँ कि महिलाओं की सुरक्षा को लेकर, खासकर, जो बच्चियां हैं, उनको लेकर हम आज जो यह स्पेसिफिक और महत्वपूर्ण बिल लाए हैं, अगर हम लोग उसी पर कंसेंट्रेटेड रहें तो ठीक है।

With regard to special courts, forensic facilities and direction to the State Governments. उसके बारे में हम समय-समय पर अपने होम मिनिस्ट्री से, wherever it is necessary, उसके बारे में हमारे यहां से एडवाइजरी जाती ही है। इस कानून के बनने के बाद, we will ensure that every State and Union Territory follow this in letter and spirit.

SHRI N.K. PREMACHANDRAN : I am thankful to the hon. Minister for his active response on the issues raised by most of the hon. Members. I fully agree with the hon. Minister that there was a contingency for promulgating an Ordinance.

My suggestion to the hon. Minister would be that in such a situation where there is assault and rape of a woman, especially gang rape and the whole country is shaken, definitely the Government could have opted for convening a special Session of Parliament so as to make an enactment.

As regards promulgation of an Ordinance in this case, definitely I do agree with the hon. Minister and the Government. It related to the rape of young children under the age of 12 years and 16 years.

As regards enforcement, that should be of prime importance and significance. So enforcement and the political will are highly essential to combat these atrocities against children.

With these words, I seek leave of the House to withdraw my resolution.

The Resolution was, by leave, withdrawn.

HON. DEPUTY SPEAKER: The question is:

“That the Bill further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and Protection of Children from Sexual Offences Act, 2012, be taken into consideration.”

The motion was adopted.

HON. DEPUTY SPEAKER: The House will now take up clause by clause consideration of the Bill.

The question is:

“That clauses 2 and 3 stand part of the Bill”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 4 Amendment of Section 376

HON. DEPUTY SPEAKER: Shri N.K. Premachandran, are you moving your Amendment Nos. 1 to 3?

SHRI N.K. PREMACHANDRAN : I beg to move:

Page 2, line 14,-

for “ten years”

substitute “fifteen years”. (1)

Page 2, line 20,-

for “twenty years”

substitute “twenty-five years” (2)

Page 2, line 24,-

after “expenses and”

insert “sufficient for”. (3)

HON. DEPUTY SPEAKER: I shall now put Amendment Nos. 1 to 3 moved by Shri N.K. Premachandran to Clause 4, to the vote of the House.

The amendments were put and negatived.

HON. DEPUTY SPEAKER: Dr. Sanghamita, are you moving Amendment No.19 ?

DR. MAMTAZ SANGHAMITA : Sir, I beg to move:

Page 2, *after* line 26,-

insert “provided also that all rape accused shall undergo psychoanalysis and, if needed, psychiatric checkup while in jail and the accused with sound mind shall undergo extended imprisonment for the remainder of his life.”.
(19)

HON. DEPUTY SPEAKER: I shall now put Amendment No. 19 moved by Dr. Mamtaz Sanghamita to Clause 4, to the vote of the House.

The amendment was put and negatived.

HON. DEPUTY SPEAKER: The question is:

“That clause 4 stand part of the Bill”

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5

Insertion of new section 376AB

HON. DEPUTY SPEAKER: Shri N.K. Premachandran, are you moving your Amendment Nos. 4 and 5?

SHRI N.K. PREMACHANDRAN : I beg to move:

Page 2, lines 29 and 30,-

for “twenty years”

substitute “thirty years” (4)

Page 2, line 33,-

after “and”

insert “sufficient for”. (5)

HON. DEPUTY SPEAKER: I shall now put Amendment Nos. 4 and 5 moved by Shri N.K. Premachandran to Clause 5, to the vote of the House.

The amendments were put and negatived.

HON. DEPUTY SPEAKER: Shri Mahtab, are you moving your Amendment No.13?

SHRI BHARTRUHARI MAHTAB : I beg to move:

Page 2, line 28,-

for “commits rape on a woman under”

substitute “commits sexual assault on a child under”. (13)

In this Bill, practically four Acts are being amended. They are the IPC, the Evidence Act, the Cr.PC and the POCSO Act. Here my limited

point is that as you are amending the IPC where 'woman' has been mentioned, it is necessary to make it more explicit by putting 'sexual assault on a child'. It is because rape has a different connotation. Those who are practising in the criminal court, they understand very well what rape ultimately signifies.

But sexual assault has a wider connotation and a child may not be able to explain what a rape is. So, in that respect, in this line I have mentioned 'instead of commits rape on a woman under' it should be 'commits sexual assault on a child under'. That is the amendment I have given. There were two specific reports in this regard – one was the Law Commission Report of 2000 and the other one was of Justice Verma in 2013 which had specifically recommended that this definition of rape should be made gender neutral and that should apply equally to both male and female victims.

I would here like to give one instance and I hope the House has the patience to listen to it. When you compare boys and girls, the law cannot discriminate. There are lawyers who may argue for that. Before the promulgation of the Ordinance of 2018, for boys below 12 years, it was 10 years to life imprisonment; for girls, after the Ordinance of 2018, it is 20 years to life imprisonment and also has the provision of death penalty. This is the difference. Before the passage of this amendment Bill, for boys it was 10 years and life imprisonment and after passage of the Bill it will be 20 years with life imprisonment and also with a provision for death penalty. Why is this discrimination against boys? As such we all know, the boys do not come to report, or the parents of the boys do not come to the

police station to file cases that their sons have been sexually assaulted; whereas in case of girls, the complaints are coming.

Again, it has been proposed that for the age group of 12 to 16 years, for boys it is seven years to life but for girls it is 20 years to life. For boys of 16 to 18 years it is 7 years to life and for girls, in this Bill, it is 10 years to life. This is discriminatory. It should be made gender neutral. That is the point for which I am moving this amendment.

SHRI KIREN RIJJU: Sir, I have partly touched upon this subject earlier. IPC defines rape specific to women but the new Act which was brought under the title of Protection of Children from Sexual Offences (POCSO), that is gender neutral. That Act has clear cut provisions for both the genders. There is no discrimination on the basis of gender in that Act. But when it comes to IPC and its consequent effect on POCSO of this particular provision is that wherever the quantum of punishment is more, the effect of the provision of that particular Act will be in effect. That means if the punishment for the offence is to be more stringent under the IPC, then it will be brought under IPC. It is quite natural that after passing of this Bill all these sexual offences against girls below 16 years of age will come under this provision.

SHRI BHARTRUHARI MAHTAB : My point is about gender neutrality.

SHRI KIREN RIJJU: I have already stated. The POCSO Act is already there. So, let us not get into this issue of definition in IPC. I am very specific in this regard that it is only specific to women as per the IPC definition.

HON. DEPUTY-SPEAKER: I shall now put amendment no. 13, moved by Shri Bhartruhari Mahtab to clause 4, to the vote of the House.

The amendment was put and negatived.

DR. MAMTAZ SANGHAMITA : Sir, I beg to move:

Page 2, *after* line 34,--

Insert “Provided also that all rape accused shall undergo psychoanalysis and, if needed, psychiatric check up while in jail and the accused with sound mind shall be given extended imprisonment for the remainder of his life.” (20)

HON. DEPUTY-SPEAKER: I shall now put amendment No. 20, moved by Dr. Mamtaz Sanghamita to clause 5, to the vote of the House.

The amendment was put and negatived.

HON. DEPUTY-SPEAKER: The question is:

“That clause 5 stand part of the Bill.”

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 Insertion of new sections 376DA and 376DB

SHRI N.K. PREMACHANDRAN (KOLLAM): I beg to move:

“Page 2, line 42,--
after “and”
insert “sufficient for”. (6)

Page 3, line 7,--
after “and”
insert “sufficient for”.” (7)

HON. DEPUTY SPEAKER: I shall now put amendment Nos. 6 and 7 moved by Shri N.K. Premachandran to clause 6, to the vote of the House.

The amendments were put and negatived.

SHRI BHARTRUHARI MAHTAB : I beg to move:

“Page 3, for line 1,--
substitute “376DB. Where a child under twelve
years of age is sexually assaulted by
one or more”.” (14)

HON. DEPUTY SPEAKER: I shall now put amendment No. 14 moved by Shri Bhartruhari Mahtab to clause 6, to the vote of the House.

The amendment was put and negatived.

SHRI ADHIR RANJAN CHOWDHURY (BAHARAMPUR): I beg to move:

“Page 2, line 36,--
for “one or”
substitute “two or”. (15)

Page 2, line 37,--

after “intention”

insert “, whether or not any member of the group
has actually committed the act of rape”.

(16)

Page 3, line 1,--

for “one or”

substitute “two or”.”

(17)

It is a technical fault which needs to be corrected because a group cannot be constituted by one. A group must be defined as more than one. I think it is a technical fault and so, needs to be corrected.

HON. DEPUTY SPEAKER: I shall now put amendment Nos.15, 16 and 17 moved by Shri Adhir Ranjan Chowdhury to clause 6, to the vote of the House.

The amendments were put and negatived.

DR. MAMTAZ SANGHAMITA : I beg to move:

“Page 2, *after* line 44,--

insert “Provided also that all rape accused shall undergo psychoanalysis and, if needed, psychiatric checkup while in jail and the accused with sound mind shall be given extended imprisonment for the remainder of their life.”

(21)

Page 3, *after* line 9,--

insert “Provided also that all rape accused shall undergo psychoanalysis and, if needed, psychiatric checkup while in jail and the

accused with sound mind shall be given extended imprisonment for the remainder of their life.” (22)

HON. DEPUTY SPEAKER: I shall now put amendment Nos. 21 and 22 moved by Dr. Mamtaz Sanghamita to clause 6, to the vote of the House.

The amendments were put and negatived.

HON. DEPUTY SPEAKER: The question is:

“That clause 6 stand part of the Bill.”

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7 to 20 were added to the Bill.

Clause 21 Amendment of Section 377

HON. DEPUTY SPEAKER: Shri Premachandran, are you moving amendment No.8?

SHRI N.K. PREMACHANDRAN : I am not moving amendment No. 8.

HON. DEPUTY SPEAKER: The question is:

“That clause 21 stand part of the Bill.”

The motion was adopted.

Clause 21 was added to the Bill.

Clauses 22 and 23 were added to the Bill.

Clause 24 Amendment of First Schedule

HON. DEPUTY SPEAKER: Shri Premachandran, are you moving amendment Nos. 9 to 12?

SHRI N.K. PREMACHANDRAN : I am not moving amendment Nos. 9 to 12.

HON. DEPUTY SPEAKER: Shri Adhir Ranjan Chowdhury, are you moving amendment No. 18?

SHRI ADHIR RANJAN CHOWDHURY : Sir, the Government does not want to be enlightened. That is why, I am moving it.

I beg to move:

“Page 5, line 28, in column 3,--
for “10 years”
substitute “20 years”.” (18)

HON. DEPUTY SPEAKER: I shall now put amendment No. 18 moved by Shri Adhir Ranjan Chowdhury to clause 24, to the vote of the House.

The amendment was put and negatived.

HON. DEPUTY SPEAKER: The question is:

“That clause 24 stand part of the Bill.”

The motion was adopted.

Clause 24 was added to the Bill.

Clauses 25 and 26 were added to the Bill.

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

SHRI KIREN RIJJU: I beg to move:

“That the Bill be passed.”

HON. DEPUTY SPEAKER: The question is:

“That the Bill be passed.”

The motion was adopted.

HON. DEPUTY SPEAKER: The House stands adjourned to meet again at 11 a.m. on Tuesday, the 31st July, 2018.

19 48 hrs

*The Lok Sabha then adjourned till Eleven of the Clock
on Tuesday, July, 31, 2018/Shravana 9, 1940 (Saka).*

* The sign + marked above the name of a Member indicates that the Question was actually asked on the floor of the House by that Member.

**Unstarred Question No.1991 was deleted under Rule 47 of 'Rules of Procedure and conduct of Business in Lok Sabha.

* Not recorded

* ...* English translation of this part of the speech was originally delivered in Tamil.

* English translation of speech originally delivered in Tamil.

* English translation of the speech originally delivered in Punjabi.

* Not recorded

* Not recorded

* Not recorded

* Not recorded.

* English translation of the speech originally delivered in Malayalam.

* English translation of the speech originally delivered in Malayalam.