

## C O N T E N T S

**Seventeenth Series, Vol. IV, First Session, 2019/1941 (Saka)  
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**OFFICERS OF LOK SABHA**

**THE SPEAKER**

Shri Om Birla

**PANEL OF CHAIRPERSONS**

Shrimati Rama Devi

Dr. (Prof.) Kirit Premjibhai Solanki

Shri Rajendra Agrawal

Shrimati Meenakashi Lekhi

Shri Kodikunnil Suresh

Shri A. Raja

Shri P.V. Midhun Reddy

Shri Bhartruhari Mahtab

Shri N.K. Premachandran

Dr. Kakoli Ghosh Dastidar

**SECRETARY GENERAL**

Shrimati Snehlata Shrivastava

## LOK SABHA DEBATES

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LOK SABHA

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Thursday, August 01, 2019/Shravana 10, 1941 (Saka)

The Lok Sabha met at Eleven of the Clock.

[HON. SPEAKER *in the Chair*]

**माननीय अध्यक्ष:** माननीय सदस्यगण, मुझे कुछ विषयों पर स्थगन प्रस्ताव की सूचनाएं प्राप्त हुई हैं। मैंने स्थगन प्रस्ताव की किसी भी सूचना के लिए अनुमति प्रदान नहीं की है।

...(व्यवधान)

**माननीय अध्यक्ष :** आप एक मिनट रुकिये, पहले पेपर ले कर लेते हैं, उसके बाद आप बोलिएगा।

...(व्यवधान)

**श्री अधीर रंजन चौधरी (बहरामपुर) :** सर, ये लोग हर रोज बिना पूछकर बिल लाते हैं ।  
 ...(व्यवधान) हमारे संज्ञान में लाए बिना में ये बिल लाते हैं । ...(व्यवधान) एक के बाद एक बिल  
 लाया जा रहा है । ...(व्यवधान) यह क्या हो रहा है? रात दस बजे हमें मालूम पड़ता है कि अगले  
 दिन ये-ये बिल आएंगे । ...(व्यवधान) मैं अपने मेंबर्स को कैसे प्रिपेयर करूंगा? ...(व्यवधान) मैं  
 अपनी स्पीकर्स लिस्ट कैसे तैयार करूंगा? ...(व्यवधान) धड़ल्ले से बिल लाए जा रहे हैं ।  
 ...(व्यवधान)

सर, एट लीस्ट हमें दो दिनों की मोहलत दी जानी चाहिए । ...(व्यवधान) हमें 48 आवर्स  
 की मोहलत मिलनी चाहिए, क्योंकि हमें अपने स्पीकर्स को तैयार करना होता है । ...(व्यवधान)  
**संसदीय कार्य मंत्रालय में राज्य मंत्री तथा भारी उद्योग और लोक उद्यम मंत्रालय में राज्य मंत्री  
 (श्री अर्जुन राम मेघवाल) :** अध्यक्ष जी, इस संबंध में अधीर रंजन चौधरी जी को भी जानकारी है  
 कि बिल सदन में इन्ट्रोड्यूस होते हैं । ...(व्यवधान) इसके बाद बिल्स पर बीएसी में चर्चा होती है,  
 फिर मैं यहां सदन में रिपोर्ट पेश करता हूं । ...(व्यवधान) सबको पता है कि बिल्स आ रहे हैं ।  
 ...(व्यवधान) वही बिल्स आ रहे हैं, जिनके लिए बीएसी में टाइम अलॉट किया गया है ।  
 ...(व्यवधान) कल मैंने आपके चीफ व्हिप को बताया था कि ये-ये बिल्स आने वाले हैं ।  
 ...(व्यवधान)

**माननीय अध्यक्ष :** माननीय सदस्यगण, प्लीज़, आप बैठ जाइए ।

...(व्यवधान)

**माननीय अध्यक्ष :** दादा, मैं आपको अलार्क करूंगा, आप एक मिनट बैठकर मेरी बात सुन  
 लीजिए ।

...(व्यवधान)

**माननीय अध्यक्ष :** आप एक मिनट के लिए मेरी बात सुन लें । मैं सबके प्रश्नों का जवाब दूंगा ।

...(व्यवधान)



**माननीय अध्यक्ष :** आप सब एक मिनट के लिए बैठ जाइए।

...(व्यवधान)

**माननीय अध्यक्ष :** हां, इसके बाद मैं आपको अलाऊ करूंगा।

...(व्यवधान)

**माननीय अध्यक्ष :** माननीय सदस्यगण, जो भी बिल्स लाये जाते हैं, उनके संबंध में आपने यहां विषय उठाया है। इस पर जब बीएसी की मीटिंग होगी, तब उसमें हम बैठकर डिटेल्स में चर्चा कर लेंगे। ऐसे सारे बिल्स जो यहां लाए गए हैं, उन सारे बिलों के बारे में बीएसी में हमारी चर्चा हो चुकी है।

...(व्यवधान)

**माननीय अध्यक्ष :** दादा, अब आप बोलिए।

...(व्यवधान)

**PROF. SOUGATA RAY (DUM DUM):** Sir, I have a point of order under Rule 25 and Rule 31(i). Rule 31(i) says and I quote:

“A List of Business shall be prepared by Secretary-General and copy thereof shall be made available for the use of every Member.”

In yesterday's List of Business three Bills were listed for being taken up. The first one was Inter-State River Water Dispute (Amendment) Bill; second one was the Dam Safety Bill. So, hon. Members prepared for the Dam Safety Bill knowing that the Bill would be taken up for discussion today. Suddenly, this morning we find that the Insolvency and Bankruptcy Code (Amendment) Bill has been listed in today's List of Business. The Bill on

POCSO has been listed and also the Arbitration and Conciliation Bill has also been included.

The Parliament cannot function at the whims and fancies of anyone. Neither the Minister of Parliamentary Affairs, nor his Minister of State, nor the Secretary-General can change parliamentary functioning at their will. You may kindly look at rule 25.

“On days allotted for the transaction of Government Business, such business shall have precedence and the Secretary-General shall arrange the business in such order as the Speaker may, after consultation with the Leader of the House, determine.”

The Business Advisory Committee does not come in this. You are mentioning about Business Advisory Committee but the purpose of the Business Advisory Committee is only to fix the time. Order of Business and List of Business is prepared by the Lok Sabha Secretariat. ...(*Interruptions*)

संसदीय कार्य मंत्री; कोयला मंत्री तथा खान मंत्री (श्री प्रहलाद जोशी): बी.ए.सी. में टाइम अलॉट हुआ है और बिल सर्कुलेट हुआ है ।...(*व्यवधान*) What is the problem in that?

...(*Interruptions*) Discussion under Rule 193 was never agreed. Please understand that this is an extended period of Session. The purpose of extension is that there is very serious and important Government Business to be considered. That is the reason for the extension of the Session. I earnestly appeal to you to cooperate with the Government. We can have a Short Duration Discussion during a regular Session. We do not have any problem in that. ...(*Interruptions*)

**SHRI ARJUN RAM MEGHWAL:** Sir, I would like to refer to rule 25. It says:

“On days allotted for the transaction of Government business, such business shall have precedence and the Secretary-General, shall arrange that business in such order as the Speaker may, after consultation with the Leader of the House, determine.”

इन्होंने कहा कि डैम सेफ्टी बिल मत लाइए तो इनके कंसल्टेशन पर आपने तय किया था। हमारा तो लिस्टिड था। कांग्रेस के नेता ने कहा था कि आज आप इसको मत लाइए, इसके आगे ले जाइए। हमने इनके आधार पर और इनके कहने पर आपसे रिक्वेस्ट की और आपने कहा कि इसको आगे ले जाइए। इसमें हमारी कहां गलती है? हमारी इसमें कोई गलती नहीं है ... (व्यवधान)

**श्री अधीर रंजन चौधरी:** सर, जब इंटरस्टेट रिवर डिस्प्यूट और डैम सेफ्टी बिल को क्लब करने की बात कह रहे थे तो मैंने कहा कि एक अमेंडमेंट है और एक नया बिल है। इनको आप क्लब नहीं कर सकते हैं। आप अमेंडमेंट पर अलग चर्चा कीजिए और बिल पर अलग से चर्चा कीजिए। ... (व्यवधान)

**SHRI PRALHAD JOSHI:** Sir, I would like to place on record that Dam Safety Bill was requested by... (Interruptions) सुदीप दा आप एक मिनट सुनिए ... (Interruptions) As far as Dam Safety Bill is concerned, Shri Adhir Ranjan Chowdhury requested me not to take it up and thus, we have postponed it. We have talked to the Leader of the largest Opposition Party. What wrong has the Government done? We have spoken to him. ... (Interruptions)

**माननीय अध्यक्ष:** मैं अभी आपको नियम बता दूंगा, पहले आप बोल लें। आप नियम-प्रक्रिया को तो मानेंगे। मैं आपको नियम प्रक्रिया बता दूंगा। दादा आप ऊपर का हिस्सा पढ़ते हैं, नीचे का हिस्सा नहीं पढ़ते हो।

... (व्यवधान)

**SHRI SUDIP BANDYOPADHYAY (KOLKATA UTTAR):** Sir, confusions are being created here. Once you have circulated the List of Business, then it is becoming Revised List of Business again after 9 p.m. When the subjects to be discussed were settled and decided yesterday, we allotted time in the BAC meeting and nothing more. But we have no idea and no feeling on what Bills will be coming up tomorrow. There is no time for preparation, reading and studying them. I feel that the Government should circulate the Bills to be taken up the next day. ...(*Interruptions*)

**SHRI KALYAN BANERJEE (SREERAMPUR):** Sir, two things are there. One is existence of power and the other is exercise of power. We are not questioning the existence of power. The question is how you are exercising that power. Power is being exercised very capriciously and whimsically. We are on that point. You have power. You have the power to throw all of us out immediately in five minutes. There is no difficulty in understanding that. You can say this. ...(*Interruptions*)

But how is the power being exercised? ...(*Interruptions*) The power is being exercised arbitrarily. While everyone is ready for one Bill, you are bringing another Bill....(*Interruptions*)

**माननीय अध्यक्ष:** आपके नेता बोल चुके हैं, इसलिए आप रहने दें ।

...(व्यवधान)

**श्री गौरव गोगोई (कलियाबोर):** सर, मैं संक्षेप में बोल रहा हूँ कि लोक सभा के जो कार्यकर्ता हैं, विभिन्न सांसदों के पास आकर कल हमें बताया गया कि आज नियम 193 के तहत डिस्कशन

ऑन फ्लड आ सकता है। यही संदेश हमने अपने बिहार, असम, और देश के विभिन्न प्रान्तों, जहां पर बाढ़ आ रही है, वहां की मीडिया और लोगों को हम संदेश दे चुके हैं। आज आप बाढ़ पर चर्चा न करके क्या संदेश दे रहे हैं? क्या आपके लिए बिल जरूरी है, बाढ़ पर चर्चा जरूरी नहीं है? ...*(व्यवधान)* आज नियम 193 के तहत डिस्कशन ऑन फ्लड होना चाहिए था। ...*(व्यवधान)* क्यों नहीं है? आप इतने दिनों से इस चर्चा को स्थगित कर रहे हैं। ...*(व्यवधान)*

**माननीय अध्यक्ष:** श्रीमती कनिमोझी जी।

**SHRIMATI KANIMOZHI (THOOTHUKKUDI):** Sir, every day, this is becoming a practice in this House.

We have come to understand or generally, the practice is that if the Bill is not taken up on the given day, it will be taken up the next day. But suddenly, a new practice has come up that till 9 o' clock, 10 o' clock or 11 o' clock, we have to wait for the Revised List of Business, and completely new Bills are brought in. Every day, this is becoming the practice. There is a decorum to be followed in this House. I am sure, the Government also does not want to spoil that. We all want to work together. You wanted to extend the House. We are cooperating with you but you cannot take us for granted to this extent. You have to respect the hon. Members....*(Interruptions)*

**DR. SHASHI THAROOR (THIRUVANANTHAPURAM):** I strongly endorse everything that the hon. Members just now said. But I want to ask you a simple question. It is a technical question but an important one. Have you suspended the directions given by the hon. Speaker of the Lok Sabha? We are seeing that this Government has been ignoring the existing directions in force on every

issue. Just look at Rules 19A and 19B about two days' notice for Bills. Look at the rule which states about circulation of Bills to the State Governments. You have not considered any of these. ...(*Interruptions*) So, my question is this. As long as these directions are in force, can you request the Government to comply with it? ...(*Interruptions*) I am sorry, this is the document of the House...(*Interruptions*)

**माननीय अध्यक्ष:** माननीय सदस्यगण, कृपया शांत रहें।

...(*व्यवधान*)

वित्त मंत्रालय में राज्य मंत्री तथा कारपोरेट कार्य मंत्रालय में राज्य मंत्री (श्री अनुराग सिंह ठाकुर): 15 दिन पहले बिल इंट्रोडक्शन हो गया है। आप क्या बात कर रहे हैं? ...(*व्यवधान*)

**SHRI PRALHAD JOSHI:** Sir, the Bills have already been circulated. ...(*Interruptions*) They were introduced more than 15 days ago. ...(*Interruptions*)

**SHRI ARJUN RAM MEGHWAL:** Manishji, he is speaking about circulation of Bills. ...(*Interruptions*) You are on a different point but he is speaking about circulation of Bills. ...(*Interruptions*)

**SHRI PRALHAD JOSHI :** Sir, the Bills have already been circulated. This is point number one. ...(*Interruptions*) The Bills have been circulated. ...(*Interruptions*)

**SHRI ARJUN RAM MEGHWAL:** He is speaking about circulation of Bills, and you are on a different point. ...(*Interruptions*)

**SHRI PRALHAD JOSHI:** You are on a different point. ...(*Interruptions*) We cannot answer every point. ...(*Interruptions*) I can only say that the Bills have been circulated, and there is a precedence of Revised List of Business. ...(*Interruptions*) Every Friday, the entire business of the week is announced in the Lok Sabha, and the time is allotted by the BAC....(*Interruptions*) So, I appeal to you to kindly cooperate as there are so many Bills....(*Interruptions*)

**माननीय अध्यक्ष:** माननीय सदस्यगण। दादा आप कृपया शांत रहें।

...(व्यवधान)

**श्री अधीर रंजन चौधरी :** सर, हम लोग बराबर इनकी मदद करते हैं, क्योंकि सदन चलाना इनकी जिम्मेदारी भी है और हमारी भी। हम कभी अपनी जिम्मेदारी से नहीं भागते हैं। बीएसी मीटिंग से कौन सा बिल आने वाला है, उसका समय निर्धारित होता है। आपने डैम सेफ्टी बिल की बात उठाई, तो मैंने आपसे क्या कहा? मैंने कहा कि जो इंटरस्टेट रिवर डिस्प्यूट है, यह एक अमेंडमेंट है। डैम सेफ्टी एक नया बिल है। इन दोनों को क्लब मत करिए। ...(*व्यवधान*)। मेरी बात सुनिए। मैंने यह कहा कि इनको क्लब मत करिए, लेकिन यह बात नहीं कही कि इसको हटाकर आप दूसरे दिन चर्चा में ले आएं।

**माननीय अध्यक्ष:** आपकी बात से सहमत हैं।

**श्री अधीर रंजन चौधरी :** मैंने क्लब करने से इसलिए मना किया, क्योंकि यह कानून के मुताबिक नहीं है। मेरी बात सही है कि नहीं, इसे आप ऑफिशियल्स से पूछ सकते हैं। अमेंडमेंट्स के साथ नए बिल पर चर्चा नहीं की जाती।

**माननीय अध्यक्ष:** माननीय सदस्य, कृपया शांत रहिए।

**श्री अधीर रंजन चौधरी:** आप एक बार बिना पूछे सदन का समय बढ़ाते हैं, फिर दोबारा बढ़ाने की कोशिश कर रहे हैं। इस तरह से आप हमें टेकेन फॉर ग्रांटेड मत किया कीजिए।

**माननीय अध्यक्ष:** माननीय सदस्य, मैंने सभी विद्वान माननीय सदस्यों की बात सुनी है और नियम प्रक्रिया का हवाला देकर भी मैं नियम प्रक्रिया पढ़ सकता हूँ, जो दादा प्रोफेसर सौगत राय जी ने बताया है। लेकिन, दादा ने एक हिस्सा बताया है, नीचे का हिस्सा नहीं बताया है, क्योंकि दादा प्रोफेसर हैं। मैं दादा के जितना विद्वान तो नहीं हूँ, लेकिन आप सबने मुझे सर्वसम्मति से स्वीकार बनाया है, तो मेरी जिम्मेदारी है कि मैं सभी माननीय सदस्यों की सर्वसम्मति से इस सदन को चलाऊँ। आपने जो विषय उठाया है, इस विषय पर मैं बीएसी में दोबारा आपसे चर्चा करूँगा।

**प्रो. सौगत राय:** सर, लिस्ट ऑफ बिजनेस, बीएसी का सब्जेक्ट नहीं है।

**माननीय अध्यक्ष:** दादा, मुझे याद है। मैं बीएसी में चर्चा करूँगा और मैं आपकी अपेक्षाओं के अनुसार बिल लगाने से पहले मैं व्यक्तिगत रूप से ध्यान रखूँगा कि जो बिल लग रहा है, उसकी सूचना सभी माननीय सदस्यों को कम से कम एक दिन पहले अध्यक्ष के ऑफिस से दी जाएगी, ताकि आप सभी पूरी तैयारी कर लें।

**SHRI SUDIP BANDYOPADHYAY:** Sir, we accept it ...(*Interruptions*)

**SUSHRI MAHUA MOITRA (KRISHNANAGAR):** Sir, what about today?...(*Interruptions*)

**एक माननीय सदस्य :** आज क्या होगा?

**माननीय अध्यक्ष:** आज वह होगा, जो अध्यक्ष चाहेंगे। आइटम नंबर 1, महासचिव।

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**11.16 hrs**

**MESSAGES FROM RAJYA SABHA**

**SECRETARY-GENERAL:** Sir, I have to report the following messages received from the Secretary General of Rajya Sabha:

1. “In accordance with the provisions of rule 127 of the Rules of Procedures and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on the 30<sup>th</sup> July, 2019 agreed without any amendment to the Muslim Women (Protection of Rights on Marriages) Bill, 2019 which was passed by the Lok Sabha at its sitting held on the 25<sup>th</sup> July, 2019.”
  2. “In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on the 30<sup>th</sup> July, 2019 considered and agreed without any amendment to the Companies (Amendment) Bill, 2019 which was passed by the Lok Sabha at its sitting held on the 26<sup>th</sup> July, 2019.”
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... (Interruptions)

**माननीय अध्यक्ष:** सुरेश जी, आप कृपया बैठ जाइए।

**SHRI ADHIR RANJAN CHOWDHURY (BAHARAMPUR):** Sir, here, I would like to flag the attention of the House and the concerned Minister that out of 123 airports in our country, 14 are running in profits; and 109 are in loss. Out of 14 profit-making airports, five have been handed-over to Adani Group. It is reported that Department of Economic Affairs and NITI Aayog have expressed disagreement with this decision.

Department of Economic Affairs even cited that GMR Infra was not given Delhi-Mumbai simultaneously even if it qualified the bid for two airports, as there was a restriction placed on the number of airports to be awarded to a single entity.

Sir, though the Delhi-Mumbai PPP allows the Airport Authority of India to collect revenue from commercial contract, the new PPP model gives a free hand to a private player, namely, Adani to generate commercial revenue (non-aeronautical revenue) without sharing a single penny to the Airport Authority of India. The passengers have to pay aviation security fee instead of passengers service fee. The Airport Authority of India is generating per passenger revenue of Rs. 268 and Rs. 274 from Delhi and Mumbai airports whereby Adani Enterprises has quoted Rs. 115 to Rs. 117, which is too low.

Sir, the Airport Authority of India is losing around Rs. 25,000 crore

...(Interruptions)

**माननीय अध्यक्ष:** शून्यकाल ।

**श्री अधीर रंजन चौधरी :** सर, बस खत्म हो रहा है ।

**माननीय अध्यक्ष:** माननीय सदस्य, इसका जवाब माननीय मंत्री जी ने प्रश्न काल में दे दिया था । माननीय मंत्री जी ने आपके सवाल का जवाब पूरी डिटेल से दिया था । अब शून्यकाल और लिस्टेड वर्किंग शुरू होती है । माननीय मंत्री जी जवाब दे चुके हैं ।

**श्री अधीर रंजन चौधरी :** जवाब नहीं दिया था ।

**माननीय अध्यक्ष :** जवाब दिया था । मैंने स्वयं सुना था । मैंने प्रश्नकाल चलाया था, जब जवाब दिया था । श्री मनीष तिवारी जी । आपके ही दल के सदस्य हैं । शून्य काल में इनकी लॉटरी निकली है ।

**श्री मनीष तिवारी (आनंदपुर साहिब) :** माननीय अध्यक्ष जी, बहुत-बहुत धन्यवाद। संयुक्त राष्ट्र महासंघ के मानव अधिकारों के जो उच्चायुक्त हैं, उन्होंने जम्मू कश्मीर की जो मानवाधिकारों की परिस्थिति है, उस पर एक रिपोर्ट जारी की है। यह दूसरा दस्तावेज है। पहला दस्तावेज 14 जून, 2018 को जारी किया गया था। इन दोनों दस्तावेजों में भारत की बहुत तीखी आलोचना की गई है और ये दोनों दस्तावेज अज्ञात सूत्रों पर आधारित हैं और पाकिस्तान से जो आतंकवाद भारत की ओर प्रोत्साहित किया जाता है, उसे बिल्कुल नजरअंदाज कर दिया गया है।

इसके साथ ही साथ इन दोनों दस्तावेजों पर भारत का जो परिप्रेक्ष्य है, भारत के उस परिप्रेक्ष्य को बिल्कुल भी संज्ञान में नहीं लिया गया है। मैं आपके माध्यम से सरकार से यह अनुरोध करना चाहता हूँ और सदन को भी यह बताना चाहता हूँ कि हम चाहे भारत में इन दस्तावेजों को खारिज कर दें, लेकिन दुनिया की कई राजधानियों में ये जो दस्तावेज हैं, उनको बहुत गंभीरता से पढ़ा जाता है। इन दस्तावेजों के आधार पर जम्मू-कश्मीर की क्या परिस्थिति है, बाकी मुल्क अपनी राय कायम करते हैं। मैं सरकार को यह बताना चाहता हूँ और उनसे आह्वान करना चाहता हूँ कि भारत का जो परिप्रेक्ष्य है, भारत का परिप्रेक्ष्य इन मानव अधिकार की रिपोर्ट्स में रिफ्लेक्ट होना चाहिए, नहीं तो अंतर्राष्ट्रीय जगत में भारत की जो छवि है, वह रोज खराब हो रही है।

**माननीय अध्यक्ष :** श्री राजेन्द्र अग्रवाल को श्री मनीष तिवारी द्वारा उठाए गए विषय के साथ संबद्ध करने की अनुमति प्रदान की जाती है।

Sushri Mahua Moitra.

**SUSHRI MAHUA MOITRA (KRISHNANAGAR):** Hon. Speaker, Sir, again to reiterate what was discussed a few minutes ago, we had also talked about short discussion on the Data Protection Bill, which was assured to us that it would be brought into the business of the House. Even though it was agreed

upon in the BAC, it has not come up for discussion. Hence I am bringing up the topic during my *Zero Hour*. It is a matter of vital public importance.

This Government had assured us of a Comprehensive Data Protection Bill. The Aadhaar Judgment, which the Supreme Court had passed, had issued a virtual mandamus to this Government to bring in a Data Protection Bill.

**माननीय अध्यक्ष :** माननीय सदस्य, आपने जो विषय दिया है, उसी पर चर्चा कीजिए।

...(व्यवधान)

**सुश्री महुआ मोइत्रा :** अध्यक्ष महोदय, मैं वही कर रही हूँ।...(व्यवधान)

**HON. SPEAKER:** No.

**SUSHRI MAHUA MOITRA:** I am talking on Data Protection.

**HON. SPEAKER:** No.

**SUSHRI MAHUA MOITRA:** I am talking on Data Protection, Sir. This is my point.

**HON. SPEAKER:** No.

**SUSHRI MAHUA MOITRA:** Yes.

**माननीय अध्यक्ष :** आपने जो विषय दिया है, उसी विषय को पढ़िए।

...(व्यवधान)

**सुश्री महुआ मोइत्रा:** अध्यक्ष महोदय, मैं उसी के बारे में बोल रही हूँ।...(व्यवधान) Give me one second, Sir...(Interruptions)

**HON. SPEAKER:** No.

... (Interruptions)

**माननीय अध्यक्ष :** आपने जो विषय दिया है, उसी विषय पर ही बोलिए । अगर आपको विषय बदलना है, तो परमीशन लेनी पड़ेगी ।

...(व्यवधान)

**माननीय अध्यक्ष :** माननीय सदस्य को समझा दीजिए ।

...(व्यवधान)

**SUSHRI MAHUA MOITRA :** I have written my subject. My subject is: conflict on empanelment. I am bringing it up. You had assured us of a Comprehensive Data Protection Bill, which has not come up for discussion.

We also get to know that there are various empanelled lawyers with various Ministries including the Ministry of IT and the Ministry of Justice, which have private clients, which may be in the field of technology. What I want to know is, there is a basic conflict of interest. If somebody, if an outside lawyer or a business consultant is working on the draft of a Data Protection Bill, and on the other side has private clients, how do we know that the interests of these private clients are not being brought into the legislative draft of the business? We need to have complete transparency on this.

We request all the Ministries including the one that is drafting the Data Protection Bill, to please make public either to the Standing Committee or to all of us as to who are the empanelled GR firms, who are the empanelled lawyers that are helping in drafting the legislation. We need to know, on the other side, who their private clients are in the technology space. It is because we are unable to understand why there is a delay in bringing in this Data

Protection Bill. Is it due to the vested interests of some particular technology companies that are putting pressure on the Government via empanelled law firms? This is my submission. Thank you.

**श्रीमती अन्नपूर्णा देवी (कोडरमा) :** अध्यक्ष महोदय, मैं आपका ध्यान अपने संसदीय क्षेत्र कोडरमा की ओर आकृष्ट कराना चाहती हूँ । कोडरमा और गिरिडीह जिला जो झारखंड प्रदेश में हैं, दोनों ही जिले अभ्रक के लिए फेमस हैं । देश का सबसे ज्यादा अभ्रक इन्हीं दो जिलों में पाया जाता है । मैं आपको बताना चाहती हूँ कि आप सभी ने झुमरी तलैया के बारे में सुना होगा । झुमरी तलैया फरमाइशी गानों को लेकर काफी फेमस था । अभी वह माइका की वजह से भी फेमस है और वह मेरे संसदीय क्षेत्र में पड़ता है । आज माइका की चमक बिल्कुल फीकी होती जा रही है । विश्व का 25 प्रतिशत और पूरे देश का 75 प्रतिशत माइका कोडरमा और गिरिडीह में पाया जाता है । आज उसकी स्थिति बदतर हो गई है । उसमें लाखों मजदूर काम करते हैं, लेकिन उसकी स्थिति काफी खराब है । उससे काफी सारे सामान बनते हैं । उसका कॉस्मेटिक्स में इस्तेमाल होता है, पेंट, इलेक्ट्रॉनिक्स, पेट्रोलियम उत्पाद, प्लास्टिक, स्याही, इंसुलेशन, ऊर्जा इत्यादि, उससे अनेक प्रकार की वस्तुएं बनती हैं, जिनका निर्यात जापान, कोरिया, चीन एवं अमेरिका में होता है । उसमें से करोड़ों रुपये सरकार को भी मिलते हैं । आज उसकी स्थिति काफी दयनीय है । उससे संबंधित सभी रोजगार बंद हो गए हैं, जो फैक्ट्री हैं, वे भी बंद हो गए हैं । इसलिए, मैं आपके माध्यम से भारत सरकार से यह आग्रह करना चाहती हूँ कि उस उद्योग को पुनर्जीवित किया जाए । इसके साथ ही उससे जुड़े हुए लाखों लोगों को जो जीविका और रोजगार मिलता था, उन्हें भी पुनर्जीवित किया जाए ।

**माननीय अध्यक्ष :** डॉ. निशिकांत दुबे को श्रीमती अन्नपूर्णा देवी द्वारा उठाए गए विषय के साथ संबद्ध करने की अनुमति प्रदान की जाती है ।

**श्री सुमेधानन्द सरस्वती (सीकर):** अध्यक्ष जी, मैं आपके माध्यम से एक बहुत ही महत्वपूर्ण विषय पर परिवहन मंत्री जी व राजमार्ग मंत्री जी का ध्यान आकृष्ट करना चाहूँगा।...(व्यवधान)

**माननीय अध्यक्ष :** किसी ने बताया नहीं, आज से ही जो नया शुरू किया है। स्क्रीन पर सदस्य का नाम व टाइम आ रहा है। अब इसको नीचे कर देंगे। इसमें सदस्य का नाम व लोक सभा क्षेत्र का नाम आएगा। आपने लोक सभा को बधाई नहीं दी।

**श्री अधीर रंजन चौधरी:** सर, इसको नीचे किया जाए।

**माननीय अध्यक्ष :** सुमेधानन्द जी, एक मिनट। आप सब की सलाह से इसको नीचे करेंगे। सब का नाम आएगा, लोक सभा क्षेत्र का नाम आएगा। आपकी व्यवस्था के लिए समय भी आएगा ताकि दादा अपने समय से ज्यादा नहीं बोल सकें।

श्री सुमेधानन्द सरस्वती।

**श्री सुमेधानन्द सरस्वती:** अध्यक्ष जी, मैं आपके माध्यम से माननीय गडकरी जी से निवेदन कर रहा था कि मेरे लोक सभा क्षेत्र में जयपुर से सीकर एन.एच. 52 जाता है, उसमें अनेक क्रॉसिंग इस प्रकार की हैं कि जिनमें नित्य प्रतिदिन दुर्घटनाएँ होती हैं। खास तौर से हमारे इस रोड पर चौमू के पास हड़ौता, उदयपुरिया, भोजलाता इसमें नित्य प्रति अनेक दुर्घटनाएँ होती हैं। यहाँ एक्सीडेंट होते हैं और उसका मूल कारण है कि इस सड़क पर चौमू, गोविंदगढ़, ढोढ़सर, सीकर, लक्ष्मणगढ़ और फतेहपुर में कहीं भी सर्विस रोड का काम कम्पलीट नहीं हुआ है। परिणाम क्या होता है कि सभी वाहन सड़क पर आते हैं, लक्ष्मणगढ़ में बहुत बड़ा मोदी इंस्टीट्यूट है, उसके दोनों तरफ सर्विस रोड नहीं है। वहाँ हजारों की संख्या में बच्चे पढ़ते हैं। मेरा निवेदन है कि इस हाइवे के ऊपर दोनों तरफ सर्विस रोड जल्दी से जल्दी बने ताकि दुर्घटनाओं से बच सकें और कुछ स्थान ऐसे हैं, जिनमें ओवरब्रिज बनाने की आवश्यकता है, कट्स को ठीक करने की जरूरत है। यही मेरा निवेदन है। धन्यवाद।



**श्री जगदम्बिका पाल (डुमरियागंज):** अध्यक्ष महोदय, मैं आपके माध्यम से अत्यंत महत्वपूर्ण विषय की तरफ सरकार का ध्यान आकृष्ट करना चाहता हूँ । किसी देश की मुद्रा का प्रचलन चाहे उसके रुपये हों, सिक्के हों, इसकी एक रेग्युलेटरी बॉडी होती है । इस देश के बाजारों में, समाज में जो नोट व सिक्कों का चलन है, उसकी रेग्युलेटरी अथॉरिटी आरबीआई है । उन्होंने वैधानिक रूप से इस बात को स्वीकार किया है कि ये-ये नोट और एक रुपये का सिक्का व दस रुपये का सिक्का पूरे बाजारों में, गाँवों में वैधानिक रूप से है और इनका चलन है । अब गाँव का गरीब या गाँव का आम किसान उन सिक्कों को लेकर छोटे व्यापारियों या दुकानदार के पास जाकर सामान लेता है । फिर वह दुकानदार दस-पन्द्रह हजार के सिक्के अगर बैंक में जमा करने जा रहा है, चाहे वह सिद्धार्थ नगर हो, उत्तर प्रदेश के पूर्वांचल के या तमाम जनपदों में बैंकों में वे सिक्के नहीं लिए जा रहे हैं । आखिर यह एक रुपये व दस रुपये के सिक्के आरबीआई की वैधानिक मुद्रा है । छोटे आदमियों के बीच में इसी सिक्के का चलन है, लेकिन इसके बावजूद बैंक वाले कहते हैं कि हमारे पास कर्मचारी नहीं हैं, दस-पन्द्रह हजार के सिक्के हम गिनेंगे नहीं । अब छोटे कर्मचारी भी नहीं ले रहे हैं । एक इतना बड़ा सवालिया निशान लग गया है और आम आदमी के सामने एक गम्भीर कठिनाई पैदा हो गई है । जिला प्रशासन से जब बात कही जाती है तो जिला अधिकारी की तरफ से भी बयान आता है कि यह पूरी तरह से वैध है । इन सिक्कों का चलन है, कोई इन सिक्कों को लेने से मना नहीं करेगा, चाहे वह दुकानदार हो, चाहे व्यापारी हो, चाहे बैंकर्स हों । लेकिन प्रशासनिक निर्देशों के बावजूद भी, कार्रवाई का हवाला देने के बावजूद भी एक और दस रुपये के सिक्के जमा नहीं हो रहे हैं, जिसके कारण यह कठिनाई है । मैं आपके माध्यम से चाहता हूँ कि केन्द्र सरकार कोई ऐसा निर्देश जारी करे, यह सिक्के हमारी वैधानिक मुद्रा है, इनको बैंकर्स जमा तथा स्वीकार करें । धन्यवाद ।

**माननीय अध्यक्ष :** श्री नारणभाई काछड़िया और डॉ. निशिकांत दुबे को श्री जगदम्बिका पाल द्वारा उठाए गए विषय के साथ संबद्ध करने की अनुमति प्रदान की जाती है ।

**श्री चन्द्र प्रकाश चौधरी (गिरिडीह):** अध्यक्ष महोदय, अभी गिरिडीह और कोडरमा जिलों के बारे में आदरणीय अन्नपूर्णा देवी जी ने कहा । मैं भी उसी पर कह रहा हूँ कि वहाँ लगभग 700 माइन्स हैं, जो बिल्कुल बन्द पड़ी हुई हैं और लाखों मजदूर बेरोजगार हैं । मैं यही चाहता हूँ कि अभी भी जो अवैध रूप से माइन्स चल रही हैं, जो बड़े-बड़े लोग सस्ते दाम पर खरीदते हैं और महँगे दाम पर बेचते हैं, उनको वैध तरीके से चलाया जाए ताकि वहाँ सरकार को रेवेन्यू भी मिले और मजदूरों को रोजगार भी मिले । धन्यवाद ।

**डॉ. ढालसिंह बिसेन (बालाघाट):** सर, मैं अपनी सीट की बजाय दूसरी सीट से बोलने की अनुमति चाहता हूँ क्योंकि मेरी सीट खम्भे के एकदम पीछे हैं और वहाँ गुंजाइश नहीं है ।

**माननीय अध्यक्ष:** ठीक है, आज बोल लें ।

**डॉ. ढालसिंह बिसेन:** अध्यक्ष महोदय, मेरे संसदीय क्षेत्र बालाघाट की एक ज्वलन्त समस्या की ओर मैं आपका ध्यान आकर्षित करना चाहता हूँ और यह चाहता हूँ कि माननीय रेल मंत्री जी या पी.डब्ल्यू.डी. विभाग के मंत्री जी वहाँ पर ओवरब्रिज बनाएं ।

महोदय, मेरा निवेदन यह है कि बालाघाट जिले में गोंदिया से कटंगी के बीच लगभग आठ ट्रेनें दिन भर में चलती हैं और ये ट्रेनें बालाघाट शहर के चार मार्गों से होकर गुजरती हैं, जिसके कारण आये दिन लगातार आधा-आधा, पौना-पौना घंटे तक जाम लगा रहता है । इसके कारण वहाँ से आने-जाने वाले मरीजों, पढ़ने वाले विद्यार्थियों और सारे लोगों को भारी दिक्कत होती है । रेलवे विभाग ने वहाँ पर ओवरब्रिज बनाने की स्वीकृति भी दी है, परन्तु अभी तक वह वहाँ पर बनाया नहीं गया है । इसलिए मैं आपके माध्यम से चाहता हूँ कि वहाँ पर रेलवे ओवरब्रिजेज बनाए जाने के निर्देश हों । यह जानकारी प्राप्त हुई कि उसमें राज्य सरकार द्वारा अंशदान नहीं मिलने के कारण वे नहीं बन पा रहे हैं तो राज्य सरकार को भी निर्देशित करें कि वे अपना अंशदान करें, ताकि वहाँ पर रेलवे ब्रिजेज बनाए जा सकें ।

**श्री गोपाल शेटी (मुम्बई उत्तर):** माननीय अध्यक्ष जी, हम इस साल महात्मा गांधी जी की 150वीं जयन्ती मना रहे हैं । मैं देश के प्रधान मंत्री को बहुत-बहुत धन्यवाद देना चाहता हूं । उन्होंने इसके लिए बहुत सारे कार्यक्रम हम सभी सांसदों को दिए हैं, जिसमें एक महत्वपूर्ण कार्यक्रम 150 किलोमीटर की पदयात्रा भी है ।

अध्यक्ष जी, गांधी जी एक ऐसे व्यक्ति थे, जिन्होंने देश के सभी राज्यों का भ्रमण किया और उसके साथ-साथ उन्होंने मुम्बई शहर का भी भ्रमण किया, जहां पर उन्होंने वर्ष 1942 में अगस्त क्रान्ति मैदान से 'भारत छोड़ो' का भी नारा दिया । मुम्बई शहर का एक बहुत बड़ा योगदान देश की आज़ादी में है, ऐसा मैं ही नहीं, बल्कि देश के सारे लोग इसे जानते हैं ।

अध्यक्ष जी, उन्हीं दिनों महात्मा गांधी जी ने बोरिवली कोरा केन्द्र की जो जमीन है, वहां पर उन्होंने वास्तव्य किया था और वहां पर उनका एक छोटा-सा मेमोरियल भी है । उन दिनों वहां मटकी बनती थी, झंडे बनते थे, अगरबत्ती बनती थी, साबुन इत्यादि बनते थे और कॉटज इंडस्ट्री चलाई जाती थी । लेकिन, आज़ादी के बाद उसे चलाने वाले जो व्यवस्थापक थे, उन्होंने धीरे-धीरे सारी चीज़ों का निर्माण बंद कर दिया । अब कुटीर उद्योग के नाम पर वहां सिर्फ एक वस्तु का निर्माण हुआ है, जिसके बारे में बहुत सारे लोग जानते भी नहीं हैं ।

मैं चाहता हूं कि चूंकि हम लोग वर्ष 2022 में आज़ादी का 75वां साल मना रहे हैं, मैं मानता हूं कि इस जगह को एक संग्रहालय और मेमोरियल के तौर पर बनाया जाए, ताकि आने वाले दिनों में हमारी जो अगली पीढ़ी है, वह महात्मा गांधी जी के योगदान के बारे में जाने और देश के प्रति युवाओं का जो लगाव है, वह भी बढ़ेगा । इसलिए मैं आपके माध्यम से केन्द्र सरकार से इस बात की गुजारिश करता हूं कि कोरा केन्द्र की इस जमीन पर एक बहुत बड़ा संग्रहालय बनाया जाए, ताकि महात्मा गांधी जी की यादों को हमारे देशवासी बहुत लम्बे समय तक जान सकें और अपने को उसके साथ जोड़ सकें । यह मेरा आपके माध्यम से निवेदन है ।

अध्यक्ष जी, बहुत-बहुत धन्यवाद ।

**माननीय अध्यक्ष:** श्री नारणभाई काछड़िया को श्री गोपाल शेटी द्वारा उठाए गए विषय के साथ संबद्ध करने की अनुमति प्रदान की जाती है ।

**श्री गजेंद्र उमराव सिंह पटेल (खरगौन):** माननीय अध्यक्ष जी, धन्यवाद । अगर आपकी अनुमति हो तो मैं अपने विषय को परिवर्तित करना चाहता हूँ ।

**माननीय अध्यक्ष:** ठीक है ।

**श्री गजेंद्र उमराव सिंह पटेल:** माननीय अध्यक्ष जी, मेरा लोक सभा संसदीय क्षेत्र खरगौन है । खरगौन जिले में सतपुड़ा की पहाड़ियों में बसा भगवानपुरा विधान सभा क्षेत्र है, जहां पर पिपलझोपा, सिरवेल महादेव में पचास हजार से ज्यादा की संख्या में जनजाति समुदाय के लोग रहते हैं । सरकार की जितनी भी योजनाएं हैं, उन योजनाओं में ऑनलाइन पंजीकरण कराना पड़ता है और उस पंजीकरण के माध्यम से सुविधाएं उपलब्ध कराई जाती हैं । इस सतपुड़ा की पहाड़ियों में बसे पूरे क्षेत्र में बी.एस.एन.एल. के टावर्स लगे हुए कम से कम तीन वर्ष हो गए हैं, परन्तु वहां पर फोन की सुविधा अभी तक उपलब्ध नहीं है । इस प्रकार के हजारों जनजाति समुदाय के लोग उससे प्रभावित हैं ।

महोदय, मैं आपके माध्यम से माननीय मंत्री जी से आग्रह करता हूँ कि वहां बी.एस.एन.एल. के टावर्स शीघ्र शुरू किए जाएं जिससे वहां रह रहे जनजाति समाज को इसका लाभ मिल सके । यही आपसे निवेदन है ।

**माननीय अध्यक्ष:** माननीय सदस्यगण, जो अविलम्ब लोक महत्व के विषय हैं, इसमें अगर आप अपने विषय को परिवर्तित करना चाहते हैं तो मुझे आप 10 से 11 बजे के बीच में लिख कर दे दें, ताकि मैं आपको परिवर्तन की अनुमति दे दूँ । यहां सदन में सीधे अनुमति न माँगें ।

**SHRI B. B. PATIL (ZAHIRABAD):** Thank you, hon. Speaker, Sir. I would like to draw the attention of the hon. Minister of Tourism towards a very important

project in our Telangana State which is long pending for approval of the Ministry.

A concept presentation on development of spiritual tourism circuit in Sangareddy, Kamareddy, Medak districts of Telangana State has already been submitted in the Ministry in February, 2019 under Swadesh Darshan Scheme.

A letter was handed to the then Minister of Tourism by me in regard to the same and I was even given a reply by the hon. Minister which stated that the request has been forwarded to the State Government for necessary action and also suggested to me to follow it with the State Government which I did.

At last, a concept presentation on development of spiritual development circuit in Sangareddy, Kamareddy and Medak districts of Telangana State was submitted by the State official in the Ministry of Tourism but unfortunately no further action or measures have yet been taken in this regard.

Through the Chair, I would request the Minister concerned and the authorities to kindly look into the matter and give approval for the above-mentioned project under the Swadesh Darshan Scheme to promote tourism in the State of Telangana.

**श्री रोड़मल नागर (राजगढ़):** अध्यक्ष महोदय, मेरे लोक सभा क्षेत्र राजगढ़, मध्यप्रदेश की बहुप्रतीक्षित रामगंजमण्डी-उज्जैन रेल लाइन वाया सोयत को स्वीकृति दिए जाने की मांग वर्षों से रही है । इस क्षेत्र के उज्जैन, आगर, सुसनेर, सोयत और डोंगरगांव आदि को पहली बार रेल सुविधाओं का लाभ मिलेगा । साथ ही उज्जैन से दिल्ली के लिए सीधा, सस्ता तथा कम समय का रेल मार्ग भी मिलेगा । यह रेल लाइन क्षेत्र के अन्तर्राज्यीय व्यापार, चिकित्सा, पर्यटन, आवागमन

और धार्मिक यात्राओं जैसे माँ बुगलामुखी नलखेड़ा से महाकालेश्वर उज्जैन के लिए महत्वपूर्ण होगा ।

महोदय, लगभग 195 किलोमीटर के प्रस्तावित रामगंजमण्डी-उज्जैन रेल मार्ग का सर्वे वर्ष 2015-16 में पूर्ण हो गया है और अब मंत्रालय स्तर से निर्माण की स्वीकृति दी जानी है । इसमें झालावाड़ तक रेल लाईन निर्माण कार्य पूर्ण होकर रेल परिचालन भी प्रारंभ हो चुका है । मैं आपके माध्यम से रेल मंत्री महोदय से अनुरोध करता हूँ कि इस रेलवे लाइन के शेष बचे उज्जैन से झालावाड़ (लगभग 150 किलोमीटर) तक शीघ्र निर्माण की स्वीकृति दी जाए ।

**श्री श्याम सिंह यादव (जौनपुर):** माननीय अध्यक्ष जी, मैं आपके जरिए इस ऐवान व हुकूमत से कहना चाहता हूँ कि इस मुल्क की जो कानून व्यवस्था है, खास तौर से मैं उत्तर प्रदेश और जौनपुर संसदीय क्षेत्र की बात करना चाहता हूँ, जहां से मैं बहुजन समाज पार्टी के सदस्य के रूप में आया हूँ । एक जमाना था, जब बहन मायावती जी उत्तर प्रदेश की मुख्य मंत्री होती थी और हर गुंडा, बदमाश तथा माफिया उनके नाम से थर-थर कांपते थे और बिना कहे हुए, प्रदेश छोड़कर भाग जाते थे ।...(व्यवधान) इस समय एक जमाना है, आज कानून की व्यवस्था इतनी खराब हो रही है कि चुनाव के बाद दलितों-पिछड़ों को चुन-चुन तथा घेर-घेर कर मारा जा रहा है ।...(व्यवधान) वहां का जो पुलिस व प्रशासन है, वह कोई कार्रवाई नहीं कर रहा है ।...(व्यवधान) और तो और एक नया ट्रेंड निकला है कि जिसको मारा जाता है, उसको थाने में बैठाकर तब तक रखा जाता है, ... (व्यवधान)

**माननीय अध्यक्ष:** माननीय सदस्य, यह राज्य का विषय है ।

श्री प्रदीप कुमार चौधरी जी ।

...(व्यवधान)

**माननीय अध्यक्ष:** श्री प्रदीप कुमार चौधरी जी की बात अंकित हो ।

...(व्यवधान) ... \*

**श्री प्रदीप कुमार चौधरी (कैराना):** माननीय अध्यक्ष जी, मैं आपका आभारी हूँ कि आपने मुझे एक जनहित से जुड़े विषय पर अपनी बात रखने का अवसर दिया ।...(व्यवधान)

**माननीय अध्यक्ष:** माननीय सदस्य, आप एक मिनट रुकिए । माननीय मंत्री जी इन्टर्वीन करना चाहते हैं ।

...(व्यवधान)

**विधि और न्याय मंत्री; संचार मंत्री तथा इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी मंत्री (श्री रवि शंकर प्रसाद):** सर, आपने सभी सदस्यों को अवसर दिया है, यह आपने इतिहास क्रिएट किया है ।...(व्यवधान)

**माननीय अध्यक्ष:** माननीय सदस्य, प्लीज एक मिनट रुकिए । माननीय मंत्री जी बोल रहे हैं ।

...(व्यवधान)

**श्री रवि शंकर प्रसाद :** सर, एक बात का ध्यान रखना बड़ा आवश्यक है । अगर प्रदेश की विधि-व्यवस्था का सवाल है, यदि हम एक प्रदेश की बात उठा लेंगे, तो फिर सभी प्रदेशों की बात उठेगी, इसलिए हमें इस बात का ध्यान रखना चाहिए ।र

**माननीय अध्यक्ष:** ऐसा नहीं होगा । मैं पहले ही इसकी व्यवस्था दे चुका हूँ ।

...(व्यवधान)

**श्री प्रदीप कुमार चौधरी:** अध्यक्ष जी, आपने मुझे एक जनहित से जुड़े विषय पर अपनी बात रखने का अवसर प्रदान किया है, इसलिए मैं आपका आभारी हूँ ।...(व्यवधान)

माननीय अध्यक्ष जी, दिल्ली से बागपत, शामली और सहारनपुर तक जाने वाला जो राजमार्ग है, उसकी स्वीकृति लगभग एक-डेढ़ साल पूर्व माननीय मंत्री जी द्वारा की गई थी। हमारे माननीय मंत्री श्री गडकरी जी उसका शिलान्यास करने के लिए सहारनपुर गए थे। हमारे यहां शाकम्भरी देवी जी का एक महत्वपूर्ण देवस्थान है। माननीय मंत्री जी वहां तक राजमार्ग बनाने के लिए घोषणा करके आए थे।

माननीय अध्यक्ष जी, आपके माध्यम से मेरी सरकार से मांग है कि इस राजमार्ग की जो शुरुआत हुई है, अभी उस पर बागपत तक काम हुआ है। उससे आगे शामली, सहारनपुर और शाकम्भरी देवी तक जाने वाला जो मार्ग है, उस पर अभी तेजी से काम शुरू नहीं हुआ है। इस मार्ग पर बड़े स्तर पर आवागमन चलता रहता है। वहां से बहुत सारे लोग उत्तराखंड, हिमाचल प्रदेश, चंडीगढ़ और हरियाणा के लिए ट्रैफिक के माध्यम से आवागमन करते हैं।

मेरी आपके माध्यम से सरकार से मांग है कि जो फोर लेन रोड बनाई जानी है, इसे अतिशीघ्र पूरा कराया जाए।

**श्री जुगल किशोर शर्मा (जम्मू):** अध्यक्ष महोदय, आपने मुझे अवसर दिया, इसके लिए मैं आपको धन्यवाद देता हूँ। मेरे क्षेत्र में कालाकोट एक कस्बा है, जोकि एक पहाड़ी क्षेत्र है। वहां जो मजदूर काम करते हैं, मैं उनकी व्यथा आपके सामने बताने वाला हूँ।

मैं केन्द्र सरकार के संज्ञान में लाना चाहता हूँ कि राजौरी जिले में कालाकोट स्थान है, जहां पर कोयले की खानें हैं। कोयले की खानों में काम करने वाले मजदूरों को आज भी डेढ़ सौ रुपये मजदूरी दी जाती है। वे अपना रिस्क लेकर कोयले की खानों में घुसते हैं और बाहर आते हैं। उनको अस्थमा और दूसरी बीमारियां भी होती हैं, लेकिन उनको सिर्फ डेढ़ सौ रुपये मजदूरी मिलती है। यह अन्याय उन लोगों के साथ आज से नहीं, वर्षों से हो रहा है।

मैं आपके संज्ञान में यह बात इसलिए लाना चाहता हूँ कि केन्द्र सरकार गवर्नर महोदय को यह आदेश दे, संदेश दे कि कालाकोट में कोयले की खानों में काम करने वाले मजदूरों को पूरी



मजदूरी दी जाए । उनके साथ अन्याय हो रहा है । वे अपने बच्चों की पढ़ाई नहीं करा सकते, पालन-पोषण नहीं कर सकते और दवाई नहीं ले सकते । वे रोजमर्रा हड़तालें और दूसरे प्रावधान भी अपनाते हैं ।

मेरी आपसे प्रार्थना है कि कालाकोट के मजदूरों के साथ न्याय किया जाए । जम्मू-कश्मीर के गवर्नर महोदय तक यह संदेश जाए ।

**DR. T. R. PAARIVENDHAR (PERAMBALUR):** Hon. Speaker, Sir, I thank you very much for giving me the time. I stand here to speak about the pitiable condition of farmers of Tamil Nadu. In 13 districts of Tamil Nadu and at Jantar Mantar in Delhi, the farmers from Tamil Nadu have been agitating for the last few days. Why? What for? This is for two reasons. One is due to high-tension towers over their agricultural land and the other one is due to their lands being used for laying hydrocarbon pipelines.

Firstly, high-tension towers, with 440 KV high voltage lines passing over their agricultural land, have been erected. They are small land owners holding half acre, one acre, or two acres of land. The passage of current from the high-tension lines over their lands causes frequent damage to their crops. Sir, you may ask, 'how is it possible and where is the proof?'

Here is the proof. It was very well demonstrated and proved by one of our Members of this House, Shri Ganeshamurthi. He is sitting in front of me. This is his photo. ...(*Interruptions*)

Please give me one minute. He stood just below the overhead high-tension line, holding two tube lights, one in each hand. The passage of current

from the overhead lines reached the earth and in turn, it passed through the body of our Member, Shri Ganeshamurthi, and the two lights he was holding started glowing, proving the passage of current from these high-tension lines.

Mr. Speaker, Sir, my request to the Government is that these high-tension wires may very well be taken more economically through the cables along the roadside with proper safety measures. ...(*Interruptions*)

**श्री राहुल कस्वां (चुरु):** अध्यक्ष महोदय, आपने मुझे अवसर दिया, इसके लिए मैं आपको धन्यवाद देता हूँ। मैं आपका ध्यान एक बहुत ही महत्वपूर्ण मुद्दे की ओर आकर्षित कराना चाहता हूँ। भारत सरकार के रेल मंत्रालय ने आरआरबी 01/2019 के एक एडवर्टाइजमेंट के थ्रू एक लाख से ऊपर भारतीय रेल की भर्तियों का एक ऐड निकाला हुआ है। इस एग्जाम के लिए देश भर के काफी बच्चों ने एप्लाइ किया है, फीस भी डिपॉजिट कराई है, पर कुछ छोटी-छोटी गलतियां बच्चों की रह गईं, कोई फोटो की, कोई साइन की या कैटेगरी भरनी की। इसमें बच्चों की फीस डिपॉजिट हो चुकी है। इन गलतियों के कारण उनके फार्म रिजेक्ट हो चुके हैं।

मैं सरकार से अनुरोध करना चाहूंगा कि इन बच्चों को दोबारा मौका दिया जाए। अभी भी डेढ़ महीने का समय बचा हुआ है, जिसके अंदर इन बच्चों के एग्जाम्स होने हैं। पोर्टल को दोबारा खोल कर इन गलतियों को दूर करने का मौका दिया जाए। मेरा आपसे यही अनुरोध है।

**माननीय अध्यक्ष:** श्री देवजी एम. पटेल और श्री उदय प्रताप सिंह को श्री राहुल कस्वां द्वारा उठाए गए विषय के साथ संबद्ध करने की अनुमति प्रदान की जाती है।

**श्रीमती जसकौर मीना (दौसा):** अध्यक्ष महोदय, आपने मुझे बोलने का अवसर दिया, इसके लिए मैं आपको धन्यवाद देती हूँ। मैं आपके माध्यम से मानव संसाधन मंत्री का ध्यान दिलाना चाहती हूँ कि मेरा संसदीय क्षेत्र दौसा अनुसूचित जनजाति के लिए आरक्षित है। यह शिक्षा की दृष्टि से अति पिछड़ा हुआ क्षेत्र है। सम्पूर्ण जिले में एक ही केन्द्रीय विद्यालय है, जो दौसा जिला मुख्यालय पर

स्थित है। यह आठ विधान सभाओं का क्षेत्र है। केवल दस विद्यार्थियों को प्रवेश दिलाने के लिए ही हम लोगों को स्वीकृति दी गई है। आठ विधान सभाओं में केवल दस विद्यार्थियों को यदि हम प्रवेश दिलाते हैं, तो यह बहुत ही न्यून है। इसकी संख्या बढ़ाकर कम से कम 25 की जाए। पूरा सदन भी इसके लिए सहमति देगा।

मेरे संसदीय क्षेत्र में वर्ष 2017-18 में बांदीकुई में एक केन्द्रीय विद्यालय स्वीकृत हुआ था लेकिन आज तक उसको प्रारंभ नहीं किया गया है। मैं आपके माध्यम से कहना चाहती हूँ कि लालसोट में भी एक केन्द्रीय विद्यालय स्थापित किया जाए ताकि पिछड़े क्षेत्र में अधिक से अधिक बच्चे गुणवत्ता की शिक्षा प्राप्त कर सकें। धन्यवाद।

**माननीय अध्यक्ष :** श्री राहुल कास्वां और श्री नारणभाई काछड़िया को श्रीमती जसकौर मीना द्वारा उठाए गए विषय के साथ संबद्ध करने की अनुमति प्रदान की जाती है।

**श्री विनोद कुमार सोनकर (कौशाम्बी):** अध्यक्ष महोदय, मैं आपके माध्यम से भारत सरकार के आदरणीय रेल मंत्री पीयूष गोयल जी को बधाई दूंगा कि माननीय प्रधान मंत्री जी के नेतृत्व में इस देश के सभी रेलवे स्टेशनों पर सुंदरीकरण और स्वच्छता का कार्यक्रम बनाया है, आज वह देश में आदर्श बना हुआ है।

मैं आपके माध्यम से मंत्री जी का ध्यान दिलाना चाहूंगा कि बड़े-बड़े स्टेशनों का सुंदरीकरण और स्वच्छता का काम हो रहा है, लेकिन बहुत सारे छोटे-छोटे स्टेशन हैं। मेरे लोक सभा क्षेत्र में लालगोपालगंज, भदरी, गढ़ी मानिकपुर, परियावां कालाकांकर करोड और जनपद कौशाम्बी में मनौरी, सैयद सरावां, विदनपुर, सुजातपुर, अटसराय, कनवार, मनोहरगंज, ऐसे रेलवे स्टेशन हैं, जहां मूलभूत आवश्यकता की जरूरत है। वहां स्वच्छ पेयजल की जरूरत है, वहां टिनसेड की जरूरत है और वहां पर अतिरिक्त प्लेटफार्म की जरूरत है। पिछली सरकार ने तीन रेलवे स्टेशन कुंडा हरनामगंज, भरवारी और सिराथू को आदर्श रेलवे स्टेशन घोषित किया गया था, लेकिन

उसका काम भी अभी तक पूरा नहीं हुआ है। मैं आपके माध्यम से माननीय मंत्री जी से अनुरोध करना चाहूंगा कि इसको तत्काल पूरा किया जाए।

एक इंटरसिटी ट्रेन, जो प्रयागराज से कानपुर तक चलती थी, उस ट्रेन को हटाकर एक मेमो ट्रेन चलाई गई, जिसका नम्बर 64591/64592 है। वह इंटरसिटी एक्सप्रेस प्रयागराज से कानपुर तक के लिए लाइफलाइन थी। लेकिन जब से मेमो ट्रेन चलाई गई है, वह ट्रेन प्रतिदिन लगभग दस से पन्द्रह घंटे लेट चलती है। मेरा आपके माध्यम से माननीय मंत्री जी से आग्रह है कि इस ट्रेन को टाइम पर चालाया जाए क्योंकि इसकी वजह से लोग नौकरी करने नहीं जा पा रहे हैं, इससे लोगों को बहुत दिक्कत है।

**श्री कपिल मोरेश्वर पाटील (भिवंडी):** अध्यक्ष महोदय, मैं आपके माध्यम से रेल मंत्री जी का ध्यान आकृष्ट कराना चाहूंगा। मेरे भिवंडी लोक सभा क्षेत्र में एशिया का सबसे बड़ा वेयरहाउसिंग और सबसे बड़ा टेक्सटाइल का बिजनेस है। इस वजह से भिवंडी शहर में ट्रैफिक की आवाजाही बहुत बड़े पैमाने पर होती है। वहां बिरार-पनवेल रेलवे ट्रैक है। उस ट्रैक के ऊपर दो लेन का आरयूबी भी है। आरयूबी के दोनों तरफ टू लेन रोड बना हुआ है। फोर लेन रोड होने की वजह से वहां से ट्रैफिक बहुत ज्यादा पैमाने पर गुजरता है और वहां हमेशा बोटलनेक होता है।

मैं आपके माध्यम से रेल मंत्री जी का ध्यान आकृष्ट कराना चाहूंगा कि देश में कई जगह ऐसी पोजिशन हो सकती हैं। अपने देश में लगभग तीन लाख करोड़ रुपये का पेट्रोल और डीजल हर साल लगता है। मुझे ऐसा लगता है कि ट्रैफिक जाम के कारण इसमें दस टका डीजल और पेट्रोल ट्रैफिक जाम लगने से वेस्ट होता होगा। अगर दस टका भी गिनें तो तीस हजार करोड़ रुपये होते हैं। मेरी रेल मंत्री जी से विनती है कि यह तीस हजार करोड़ रुपये अगर बचाने हैं, हमारे परिवहन मंत्री जी तेल बचाने के लिए अलग-अलग उपाय कर रहे हैं। आरयूबी बनाने में तीस हजार नहीं लगेगे। एक बार आरयूबी बनेगा तो सलाना तीस हजार करोड़ रुपये सरकार और जनता के बच सकते हैं।

मैं आपके माध्यम से रेल मंत्री जी से विनती करूंगा कि रेल मंत्रालय ऐसी कोई पॉलिसी लाए जहां फोर लेन रोड, सिक्स लेन हुआ है, आठ लेन हुआ है लेकिन आर्यूबी सिंगल लेन है। आर्यूबी की पॉलिसी लाकर फोर लेन, सिक्स लेन और एट लेन करना जरूरी है ताकि ट्रैफिक से लोगों को छुटकारा मिले।

**SHRI KUNAR HEMBRAM (JHARGRAM):** Mr. Speaker, Sir, I thank you very much for giving me the opportunity to raise an important issue relating to my constituency in this august House.

Sir, I represent Jhargram parliamentary constituency. This is one of the most neglected districts of South Bengal. The area is dominated by adivasis and other backward classes which comprise about 75 per cent of the population. The area is very neglected, educationally and economically, and literacy rate is also very low, about 30 to 35 per cent only, in this area.

There is no Kendriya Vidyalaya Sangathan school in this district. As the august House knows, Kendriya Vidyalaya Sangathan schools have been a symbol of quality education at a nominal fee which is affordable for the poor people. So, a demand of having this kind of a school in this area is very much there. Hon. Speaker, Sir, through you, I request the hon. Minister to kindly consider setting up of a Kendriya Vidyalaya Sangathan school in my constituency.

Thank you.

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**11.51 hrs**

**ANNOUNCEMENT BY THE SPEAKER**

**Need for a paperless Secretariat and digital payment in the catering unit in Parliament House Estate**

**माननीय अध्यक्ष :** माननीय सदस्यगण, मैं कुछ सुझाव और सहमति सदन से चाहता हूँ। इस डिजिटल युग में जब अधिकतर संसदीय पत्र, कार्यसूची, समाचार भाग-एक, वाद विवाद और सारांश लोक सभा की वेबसाइट पर अपलोड की जाती है, मेरा व्यक्तिगत रूप से मानना है कि अब समय की मांग है कि संसदीय पत्रों की मुद्रित प्रतियों के स्थान पर उसके डिजिटल संस्करण का उपयोग किया जाए। आपने मुझे समय दिया तो सबसे पहले मैंने देखा कि करोड़ों रुपये प्रिंटिंग पर खर्च हो रहा था। प्रिंटिंग कार्ड का करोड़ों रुपये बचाने के लिए हम सभी का सफल प्रयास होना चाहिए। हम पेड़ लगाते हैं, उसको बचाने के लिए कोशिश करें कि कम से कम पेपर का उपयोग करें।

मैं इस सत्र में नहीं बल्कि अगले सत्र से आपकी सहमति से करना चाहता हूँ। जो माननीय सदस्य पूर्णतः डिजिटल उपयोग करना चाहते हैं और जो अभी पूर्णतः डिजिटल उपयोग नहीं करना चाहते हैं इसके लिए मैं एक ऑप्शन फार्म सभी माननीय सदस्यों को दूंगा। मुझे आशा है कि हम सब प्रयास करेंगे कि अधिकतर डिजिटल ऑप्शन को एडॉप्ट करें ताकि हम बेहतरीन तरीके का काम कर पूरे विश्व में भारत की संसद पेपरलेस संसद बन सके, ऐसा सभी को मिल कर प्रयास करने की आवश्यकता है।

मैं एक दूसरी व्यवस्था के लिए आपकी सहमति चाहता हूँ। पार्लियामेंट सेंट्रल हॉल में माननीय सदस्य या जिन पत्रकारों को अनुमति दी हुई है, वही लोग सेंट्रल हॉल में जाते हैं। सरकार ने बहुत दिनों से प्रयास किया है। हमारे सदन के नेता और प्रधान मंत्री जी भी देश भर में लगातार प्रयास कर रहे हैं। पार्लियामेंट से संदेश जाना चाहिए कि कैन्टीन के अंदर कैशलेस और डिजिटल पेमेंट की व्यवस्था लागू हो, अभी भी ऑप्शन है। मैं पांच साल से संसद में हूँ, लेकिन मैंने कभी भी

डिजिटल पेमेंट नहीं किया है। मैं चाहता हूँ कि इसे हंड्रेड परसेंट लागू करें कि सेंट्रल हॉल के अंदर डिजिटल पेमेंट या कैशलेस प्रणाली को शुरू किया जाए।

**SHRI KALYAN BANERJEE (SREERAMPUR):** Sir, what you have said regarding digitalisation is a very laudable thing. There is no doubt or question about it. I am just mentioning two or three things. The Supreme Court of India tried to introduce this system in the Supreme Court, making it entirely digital, but ultimately, it failed. There are two or three reasons. The first reason is that the wi-fi is not available and the second one is that you do not know when internet is available and when internet is not available.

When you are in the midst of doing some work, you find that there is no net. The Supreme Court of India had to come back to the old practice of using papers. If you wish to do it in Parliament, then we have to secure availability of wi-fi connection from beginning to end and there should not be any interruption at any point of time. If it is not ensured, then everything fails.

I fully appreciate your views regarding credit card and debit card usage for purchase. One month back I wanted to purchase something. I took the help of my friend and colleague, Ms. Mahua Moitra for that. But ultimately it failed. She asked as to why you should go to the market and that it can be done from here. But it failed because no net facility was available. Of course, your object is very laudable. There is no doubt about it.

The question is whether wi-fi facility would be available round the clock. If it is not available throughout the day, then the object would be frustrated. After all, I need papers and documents. This is one thing.

Second part is this. It is very important. I do not know whether anybody will agree with me or not. When you look into the screen and read, registration in the mind is not the same as reading the contents from the papers. So, these two things are completely different.

Therefore, I request you to introduce uninterrupted wi-fi connection in the Parliament first. Let us do it on an experimental basis for six months. Depending on the experience of those six months, you can take a decision.

As regards using credit card and debit card, I would like to know whether I can use it in the Central Hall. There is no wi-fi connection there. We have a call drop Ministry and net drop Ministry. I am very sorry to say that. The object is laudable. But the object would get frustrated because of this reason.

**माननीय अध्यक्ष:** इस पर डिबेट नहीं हो सकती है। माननीय सदस्य ने सारी बात कह दी है। इससे अलग हटकर कोई डिबेट भी नहीं हो सकती।

अभी अहलुवालिया जी इस विषय पर बोलेंगे, फिर मैं व्यवस्था दूंगा।

**श्री एस. एस. अहलुवालिया (बर्धमान-दुर्गापुर):** माननीय अध्यक्ष जी, यह अच्छी पहल है। मैंने पिछली सरकार में एज आईटी मिनिस्टर दो प्रावधान लागू किए थे कि सदन में अंदर भी लाइब्रेरी या पार्लियामेंट से कनेक्टेड सारी चीजों को डाउनलोड कर सकते हैं। एक वाईफाई अंदर भी काम करता है, सदन के अंदर भी काम करता है। मैम्बर्स को पोर्टल के अनुसार अपना कम्प्यूटर चलाना पड़ता है।



माननीय अध्यक्ष जी, मैं कोई कागज लेकर नहीं आता हूँ, आईपैड लेकर आता हूँ। मैं पेपरलैस कई वर्षों से हो गया हूँ। मैं वर्ष 2012 से 2014 तक सचिवालय की लाइब्ररी का डिजिटाइजेशन और माइक्रो फिल्मिंग का चेयरमैन था। मैंने तब डिजिटाइजेशन का काम शुरू किया था। उसी समय हमने एक आदेश पारित कराया था कि जितने पेपर ले होंगे, डिजिटल आएंगे। कोई भी एनुअल रिपोर्ट प्रिंटेड नहीं आएगी, सारी डिजिटल आएंगी। हम ई-बुक की शोप में प्रिंट कर सकते हैं। इसकी व्यवस्था अभी भी है।

माननीय सदस्य कल्याण बनर्जी जी की बात सही है कि जब हम ट्रेन में जाते हैं तो हमें वाईफाई नहीं मिलता है। हम बाहर रहते हैं, हर वक्त काम करना होता है, हम नहीं कर सकते हैं, किंतु पार्लियामेंट से संबंधित कोई भी कागज आज भी डाउनलोड करना हो तो यहां कर सकते हैं। इसकी थोड़ी सख्ती बढ़ाने की जरूरत है।

### **12.00 hrs**

**माननीय अध्यक्ष:** माननीय सदस्यगण, आपने एक शुरुआत की और मैं इसे एक दिन में लागू भी नहीं करना चाहता हूँ। यह 130 करोड़ लोगों का देश है, विदेशों की नकल भारत की संस्कृति पर लागू नहीं कर सकते। हम पार्लियामेंट से घर पर पेपर भेजते हैं, हमारा प्रयास होना चाहिए कि कम से कम उनकी आवश्यकतानुसार डाउनलोड कर सकें क्योंकि कई बार पेपर पहुंचने में लेट हो जाते हैं। घर पर पेपर पहुंचाने में लाखों रुपये डिलीवरीमैन पर खर्च करने पड़ते हैं। आपके घर में पार्लियामेंट ने वाईफाई दिया है, तीन तरीके का वाईफाई दिया है।

माननीय सदस्य कल्याण बनर्जी ने जो बताया है, वह बात भी सही है और अहलुवालिया जी ने जो बताया, वह भी सही है। दोनों को बराबर रखकर बीच का रास्ता देखना है। हम प्रयास करेंगे कि वाईफाई की कनेक्टिविटी को और बेटर करें। हम प्रयास करें कि किस तरह से कम से कम पेपर का उपयोग करें। हम पेपर का उपयोग करेंगे और पेपर यहां रखेंगे, ऐसा नहीं कि अगले

सत्र से पूरी संसद को पेपरलैस कर देंगे, लेकिन जितनी आवश्यकता हो, उतनी पेपर की प्रिंटिंग हो और उतने ही पेपर का उपयोग हो, यह हमारा प्रयास है।

मैं एक दिन में सारी व्यवस्थाओं को लागू करने के लिए आग्रह नहीं कर रहा हूँ। अगर सदन की सहमति है तो मैं सदन की सहमति चाहता हूँ।

**श्री कल्याण बनर्जी:** माननीय अहलुवालिया जी ने जो कहा, ठीक है। यह मेरा इंटरनेट कनेक्शन है, It is not working here. ...(*Interruptions*) Therefore, I am talking about the situation in Parliament only. ...(*Interruptions*)

**माननीय सदस्य:** दादा, अन्य सदस्यों को भी बोलने का मौका दीजिए।

जयदेव गल्ला जी।

**SHRI JAYADEV GALLA (GUNTUR):** Sir, we definitely welcome your suggestions. Today, seeing the names on the screen is a big improvement, and going paperless is also going to be a big improvement. ...(*Interruptions*)

Since, we are talking about technology, I just want to give one suggestion. ...(*Interruptions*)

**PROF. SOUGATA RAY (DUM DUM):** Kindly see, Mr. Ram Mohan Naidu's name is being shown on the screen. ...(*Interruptions*)

**SHRI JAYADEV GALLA :** Yes, it is because I am standing in Mr. Ram Mohan Naidu's seat.

Sir, the suggestion that I want to make is that we have a lot of languages in our country, and we have been talking about moving to three-language formula also. More people should be learning more languages, but in the Parliament, translation is given only in two languages, namely, Hindi and

English. Further, what is broadcast to rest of the country is not translated.

...(Interruptions)

**माननीय अध्यक्ष:** ऑप्शन दे देंगे, उस भाषा में भेज देंगे ।

**SHRI JAYADEV GALLA :** So, with artificial intelligence and technology, one can translate simultaneously into all the languages and everyone in the country can watch the proceedings in their native language. This is one good suggestion from my side.

**माननीय अध्यक्ष:** कल जीरो आवर में इस पर चर्चा कराएंगे, अभी बिल पर चर्चा शुरू करनी है ।

...(व्यवधान)

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**12.02 hrs****INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) BILL, 2019**

**माननीय अध्यक्ष:** मद संख्या 2, दिवाला और शोधन अक्षमता संहिता (संशोधन) विधेयक।

**THE MINISTER OF FINANCE AND MINISTER OF CORPORATE AFFAIRS**

**(SHRIMATI NIRMALA SITHARAMAN):** I beg to move :

“That the Bill further to amend the Insolvency and Bankruptcy Code, 2016, as passed by Rajya Sabha, be taken into consideration.”

**माननीय अध्यक्ष:** मंत्री जी, क्या आप इस पर कुछ प्रस्तावना रखना चाहती हैं?

**SHRIMATI NIRMALA SITHARAMAN :** Thank you, Speaker, Sir.

Sir, the Insolvency and Bankruptcy Code (Amendment) Bill of 2019 seeks to amend seven sections of the Insolvency and Bankruptcy Code of 2016. Actually, the sections that we are trying to amend are section 5, section 7, section 12, section 25(A), section 30, section 31 and section 33.

The main purpose of the Bill is to further the object of the Code, which is to ensure insolvency resolution of corporate debtors in a timebound manner and for maximisation of the value of assets of such debtors. Most often, when a company reaches the stage where debtors payments are pending due to the delay in timely resolution, the value of the assets of such debtors get depleted. It continuously regresses in its value and as a result, debtors find that there is no end to their problem. The resolution itself does not give an answer because of the delay. So, delay is one of the very important causes.

The amendments that we are bringing in today aim to ensure timely admission of cases, and also timely completion of the Corporate Insolvency Resolution Process.

I would probably refer to it as CIRP. So, we want to bring in greater timeliness about the whole thing; permissibility of corporate restructuring process itself; the scheme, the resolution plan which the Committee of Creditors might come up with; and to make sure that order of priority of the creditors as laid down by Section 53 is maintained; the security interest of the secured creditors are respected. When it comes to the resolve to voting deadlock like a situation in certain cases, the authorised representatives can come under Section 21(6)(a) and cast the vote in accordance with the decision approved by the highest voting shareholders, that is, more than 50 per cent shareholders.

One of the aims of this amendment is to deal with that kind of a situation. In the case of voting, we are trying to very clearly present financial creditors on the basis of those who are present and voting. Then, we are also bringing an amendment to make sure that the applicability of the resolution plan. After all, the Committee of Creditors when they come up with the resolution plan - because theirs is the final word on a commercial decision - it should be binding on most authorities. Here, we are very clearly - because of the amendment - saying that it shall be binding on the Central Government, State

Government, and even the local authorities. So, all the statutory authorities will be bound by the decision which the CoC brings in as a resolution plan.

We are also trying to clarify that the Committee of Creditors may take resolution plan-based decisions to liquidate the corporate debtor at any time after the constitution itself. So, if the Committee of Creditors is being constituted, they should be able to come up with the resolution plan that very minute onwards. Even if it is before the preparation of the information memorandum, it should be their job to do it. In a way, I want to underline the words of the Supreme Court. Not the exact quotes but I would like to refer to a particular case through which the Supreme Court really underlined the fact that this Code has really come to be a very effective tool in redressing the creditors grievances and the constitutionality of this Code has been very well established through that particular case of 2009, which is commonly referred to as Swiss Ribbons matter.

**SHRI KALYAN BANERJEE (SREERAMPUR):** The judgement was given on 25<sup>th</sup> January, 2019.

**SHRIMATI NIRMALA SITHARAMAN:** It was 2019. Did I say 2009? Sir, 2019 is what I wanted to say, and if I said 2009, I am sorry. I stand corrected if I said 2009.

In this Swiss Ribbons case of 2019, the Supreme Court observed that India shall no longer be a defaulters' paradise because of the introduction of this Insolvency & Bankruptcy Code. So, we shall not be giving a comfortable

haven like situation for those who are defaulters. It actually upheld the constitutional validity of the Insolvency & Bankruptcy Code thereby really giving strength to the Code on which it is being well recognised now that although it is only two and a half years since this Code has come in, there have been necessity for periodically responding to the developments outside.

Parliament in its wisdom, and rightly so, has found it necessary to come up with periodic amendments. This is one of the amendments – this is probably the third time we are coming up with a set of amendments – only to make sure that this Code is going to be vibrant. It does not give itself or lend itself to any kind of interpretative ambiguities. Therefore, the amendments are being brought in.

In doing so, in passing its verdict invoking the Swiss Ribbons matter, the Supreme Court also said that we need to move away from traditional approach in finding solutions for corporate, commercial, and economic matters.

That is why this court on its own is one of the very effective tools. Periodically, we are coming out with quite a few out-of-the-box solutions while remaining consistent with the Constitution. So, the hon. Supreme Court felt at the same time that the economic laws need to have flexibility and we should do some experimentation also. The hon. Supreme Court had said that the experimentation is somewhat acceptable when you are looking at a situation of reforming the economic laws. So, the main purpose is something which I have very clearly stated.

I would just want to go into the salient features of all the amendments that we are planning this time round. There are, as I said, seven Sections which are being touched upon for amendment and I would just highlight the larger context. There are largely explanatory changes trying to bring in clarity to the existing positions. Clarity is being brought in allowing comprehensive corporate restructuring schemes such as mergers, demergers, amalgamations etc. as a part of the resolution plan. That is the first one. If the hon. Members have got the Amendment Bill as passed by the Rajya Sabha, they will see that that is the first one which I am referring to. Section 5 will now have mergers, amalgamations and demergers included in the description of what can come as a resolution plan.

Sir, the next one is that a greater emphasis is being laid on the need for a time-bound disposal at the application stage itself. We are looking at the application stage being a very critical component. The usual process takes 14 days by which time it should be admitted but if there is a delay, if it is not admitted even by the 14<sup>th</sup> day, we are requesting through this greater emphasis that we are putting now that explanation be given why it is not getting admitted. At this stage, I am not going further into greater details of various amendments.

**SHRI N. K. PREMACHANDRAN (KOLLAM):** I want a clarification regarding the default because of which the application is rejected.



**SHRIMATI NIRMALA SITHARAMAN:** No, it is only for admission. We are saying, “do give us an explanation why it could not be admitted” but that does not end the story. They can take a bit longer time but they will explain why within 14 days they could not find it reasonable enough to get it admitted for the resolution. So, it is only a stage to mark so that all of us in the whole process are time conscious. That is not to deny the process but to say, “give us an explanation”. So, that is one of the things which we are bringing in.

The third emphasis is on the CIRP – the resolution process’s beginning. We want the whole process to be completed within 330 days including the litigation stage and also the judicial process stage. I am very quickly moving from one to another amendment so that I will hear the hon. Members and, in my reply, probably, I can give them far more detailed response and answers to the issues that are being raised by the hon. Members.

Since this amendment is coming in now and some of the amendments are in response to a situation which is developing outside, I want to talk about the treatment of financial creditors in one of the cases, I am not naming the case now but it is obvious, I will probably, if necessary, mention it in my reply. In one of the cases, the treatment of financial creditors was at par with operational creditors which should not have been the case. But all of them being treated at par came up as a big issue. People were worried. So, we are responding with an amendment to that issue also.

Then, there is a waterfall mechanism which is beautifully described in Section 53 as to who gets how much at what stage. Even that led to a lot of confusion in the treatment of different types of creditors. So, we are reinforcing the supremacy of Section 53, again establishing that the Committee of Creditors will be dealing with the commercial matters and theirs is the final word as regards resolution plan.

So, many of these make the set of amendments that we are trying to bring in here. I shall probably go further into details a bit later. I think for introductory remarks this should be enough. I will keenly listen to all the inputs coming from the hon. Members and respond to them at the end. Thank you very much.

**माननीय अध्यक्ष:** प्रस्ताव प्रस्तुत हुआ :

“कि दिवाला और शोधन अक्षमता संहिता, 2016 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित, पर विचार किया जाए।”

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संसदीय कार्य मंत्रालय में राज्य मंत्री तथा भारी उद्योग और लोक उद्यम मंत्रालय में राज्य मंत्री (श्री अर्जुन राम मेघवाल): अध्यक्ष जी, एक विषय यह है कि आज की कार्यसूची में जो आइटम नम्बर-3 लगा हुआ है, उसके बारे में अभी माननीय विधि मंत्री जी ने हमें तीन-चार अमेंडमेंट्स के बारे में सूचना दी है, उनका सर्कुलेशन होने में थोड़ा समय लगेगा। इसलिए जो आइटम नम्बर-4 लगा हुआ है, श्रीमती स्मृति जूबिन ईरानी जी का, उसे पहले लेना चाहते हैं। ऐसा हमारा अनुरोध है। अगर आप एनाउंस कर देंगे तो सदस्यों को पढ़ने का समय मिल जाएगा।

**माननीय अध्यक्ष:** ठीक है, माननीय सदस्यों ने तीनों बिल्स की तैयारी कर रखी है।

**12.15 hrs****INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) BILL, 2019 – Contd.**

**SHRI GAURAV GOGOI (KALIABOR):** Hon. Speaker, Sir, the Insolvency and Bankruptcy Code is definitely one of the more constructive steps taken by the previous Government. We all want that our banks get rid of the issues with respect to non-performing assets, have access to credit that they can further lend to the other sectors.

**12.16 hrs**

(Shrimati Meenakashi Lekhi *in the Chair*)

It is definitely a big task for the Insolvency and Bankruptcy Code when it started in 2015 initially and then culminated in 2016, that close to Rs.10 lakh crore were stuck in debt in the market, primarily in the sectors of steel, cement, infrastructure, housing and jewellery.

It is a new legislation and, as the hon. Minister says, we will learn from experience. The situation is quite dynamic because there are multiple stakeholders, multiple tribunals and they are all interpreting the law sometimes in sync with what the Government intended to do and sometimes out of sync. Therefore, the Government from time to time has brought amendments. This is the third round of amendments. Close to 54 clauses have been amended. We are here as a constructive opposition and we want this Code to succeed. We want to, therefore, support the Government whenever amendments which are necessary are brought before the Parliament. But one also needs to take a

step back and look at the larger economic and macro-economic scenario of our country.

For 2019-20, many experts initially stated that our growth figure would be 7.2 per cent. Recently, the Asian Development Bank has moderated it and brought it to seven per cent. And, certain economics experts would not be even surprised if later on growth further slips to 6.8-6.9 per cent.

We have to realise that the last quarter was not good for the Indian economy, and what is not good for the Indian economy affects all of us. The Economic Survey had called for a virtuous cycle of savings and investment. But the reality is that savings is muted, demand is muted. And even though there was a lot of effort by the Government to give a spin to the latest Budget as the Big Budget, the reaction of the Sensex, the reaction of the market shows that they are not impressed.

Manufacturing has been one of the slowest growing areas. Its growth has dropped to 3.1 per cent from 6.4 per cent in the previous quarter. Manufacturing carries 77 per cent in overall growth contribution, but its growth rate unfortunately is very small. All of this gives an indication as to where the Indian economy is.

Nonetheless, coming back to the IBC, it has been close to three years now. If you review these three years, the performance has been a mixed bag. I do not want to blame anyone as to why the performance has been so mixed.

But certainly, there are vested interests at play. As the hon. Minister said, litigation is taking time. Originally, the Code envisaged that there would be 270 days for resolution plus 90 days extension, but we are nowhere close to those deadlines if you really look at the big cases that are stuck in the insolvency process. But if you look overall, what is the track record? Close to 2,157 cases are in the corporate insolvency resolution process. Out of 2,157 cases, only 117 applications have the resolution plans approved. Close to 474 applications have gone into the liquidation process. Nobody wants to see liquidation. We want to avoid liquidation because it adds to high unemployment. The lenders have not got their money back. In case, tomorrow, if a real estate company goes into liquidation, what happens to home buyers who have invested their life savings, one dreads to imagine.

There are certain cases that have not been mentioned by the Finance Minister. The judgement of the NCLT, when it treats operational and financial creditors at par, is out of sync. Essar Steel has been stuck for a long time. Therefore, as the hon. Minister said in her opening remarks, she is bringing amendments, which brings clarity to the Committee of Creditors, talking about mergers and amalgamations as part of the resolution plan. She has revised the deadline to 330 days. There is a vote for home buyers in the CoC, which is a welcome step because we want the home buyers to have a voice in the CoC.

The hon. Minister has also mentioned about section 13 and section 53, which talk about the liquidation value. All of these amendments are welcome

nonetheless the issues remain. There are certain clarifications that I want from the hon. Finance Minister. No doubt, the NCLT and the NCLAT are completely overloaded. Various media reports say that only 14 NCLTs are functional and two are yet to start and we do not have enough members. Initially, there were 27 members, whereas the target was 60. But I read the hon. Finance Minister's reply in the Rajya Sabha, where she said that 26 new members have been added, which is a welcome step. But as we look in hindsight, may be this is a step which is somewhat late and maybe we should have prepared for this in advance.

My question to the hon. Minister is even though you have these 26 new judicial members, you are taking on their training, you are looking at various courts in Delhi and across the country, and you are renovating the interiors, as you have mentioned in your reply in the Rajya Sabha, do you honestly believe that after this, we will stick to the 330 days deadline? Or, do you envisage that again, we might have to show flexibility as the Supreme Court says and you might make an amendment later on that extends the deadline from 330 days to may be 390 days, I do not know. Are you confident that the Government has taken enough steps with respect to improving the infrastructure and the human resource of the NCLT that the 330 days deadline is met? That is very essential.

Another issue with the entire insolvency process is the issue of vested interests. It is quite unfortunate, Madam, to see the kind of haircuts that are

taking place today. There is a company called Electrosteel, where the realisation of the resolution was only 40 per cent of the amounts that were due to the secured creditors, that means, a 60 per cent haircut. There was another company called Bhushan Steel, where the realisation was only 63 per cent. There was another company called Monnet Ispat, where the realisation was only 26 per cent. In the case of Essar Steel, the plan has not come yet. It is still stuck in court. And then, there is Alok Industries, where the resolution is 17 per cent, that means, an 83 per cent haircut. I am not going into the origins of why these companies are in the insolvency process but surely the amount of haircut that is being allowed must give the Government a cause for concern. After the haircut has been awarded, a big company comes and buys up the smaller company and the same bank which was initially due for money, gives the bigger companies a loan to buy those smaller companies, like, Alok Industries.

Does this pattern not create doubt in the Government's mind that the system has been gamed or the system has been fixed? There have been cases where the resolution applicant has not even infused money. There have been cases where somebody won the bid and failed to pay. So, what will the Government do in such matters?

I also want to ask the Government about the case of Jet Airways. Right now, in a court in the Netherlands, two creditors won a judgement in the Dutch High Court, saying that Jet Airways owes them money. As of now, our



Insolvency and Bankruptcy Code does not have provisions for cross-border insolvency. What are we going to do for that? Are we going to look at the United Nations Commission on International Trade Law?

The most tragic is the issue of home buyers. The home buyers in 2018 Ordinance got the status of financial creditors. Now, they have got a vote, but real estate overall needs a sectoral approach. I want to ask the hon. Finance Minister what her plan is to revive the real estate sector. Who is going to buy those companies which are in insolvency? Who is going to be the white knight that comes to buy a company that is going into insolvency after haircut and give the home buyers their due? The interest of the home buyers and the interest of the lending banks of these real estate companies are at opposite ends. The home buyer wants his flat. He has invested his life savings in a flat and it has been 10 or 15 years. You talk about Jaypee Infratech or you talk about Amrapali, the home buyers want their flats. But the banks which have given loans to these real estate companies do not care about the flats; they do not care about the assets; they either want to take over the assets of the company or they want their money back. So, the interests of the homebuyers and the banks are completely divergent. How do section 53 and section 30 solve this? I would like the hon. Finance Minister to answer how the Government would solve this. God forbid, a real estate company goes into liquidation and the homebuyers are left high and dry.

The hon. Finance Minister used the previous Supreme Court judgements which might have talked about economic flexibility, but nonetheless there is a case which is going on in court. The Government has brought in amendments to section 53 and section 30 making them retrospective in certain aspects? Will this stand the test of time? Will this stand up to a court challenge? Merely by using the words like 'economic flexibility', I do not think the Government has enough merit to use the paraphrasing of those Supreme Court judgements. It is bringing in amendments to section 53 and section 30 and this is something that will be looked forward to.

The MSME sector needs a complete overhaul from this Government because most of our employment is generated in the MSME sector. There is also an amendment which this government brings which makes the resolution plan binding on the Central Government, the State Government, and the local Government. There are mixed views on that. Some say that this is necessary and this is a good practice that the Central Government, the State Government and the local Government should be bound to the resolution plan. But, what will happen if in certain cases the Government wants to recover money from a private sector company? It has various means because the Government is powerful. Let us not deny that; let us call a spade a spade. The Government of India is powerful. Why should it be bound to a resolution plan that a private body or the Committee of Creditors decides? Just for example, the R-com owed some money to the Department of Telecom and the owner of R-com

wanted to sell it to Jio. The Government of India intervened and prevented that sale.

So, RCOM was forced to pay back its dues to the Department of Telecom before it was bought by Jio. It shows that the Government has tremendous power. Therefore, the Government should introspect whether it wants to be bound by this Clause. What the resolution plan says is God's gospel.

I do not want to take too much of your time, hon. Chairperson. As I said, it is a dynamic legislation. More amendments are likely to come. If it is good for the economy, if it is going to reduce the stress in our financial sector, if it is going to reduce the stress in our public sector banks, as a constructive Opposition we will always support the Government. While we congratulate the Government for the way it is taking forward the Insolvency and Bankruptcy Code, let us not forget the larger macroeconomic slump that India currently is facing, the unemployment challenges that we face, and the plight of the home buyers in the real estate sector. Thank you very much.

**डॉ. संजय जायसवाल (पश्चिम चम्पारण)** : सभापति महोदया, आपका बहुत-बहुत धन्यवाद कि आपने मुझे इनसॉल्वेंसी एण्ड बैंकप्सी कोड (अमेंडमेंट) बिल, 2019 पर बोलने का मौका दिया ।

महोदया, मैं आपने कांग्रेस के साथी का भी आभारी हूँ कि उन्होंने इस बिल का पूरा सपोर्ट किया है । उन्होंने कंपनियों के बारे में भी कहा, मैं कंपनियों का नाम नहीं लूंगा कि किसी कंपनी की लिक्विडेशन में सिर्फ 63 परसेंट ही रिकवरी हो रही है, किसी कंपनी को 26 परसेंट हो रही है और किसी कंपनी को 17 परसेंट हो रही है ।

सभापति महोदया, मुझको अपने इस संसदीय जीवन में दोनों तरह के दलों की सरकार देखने का मौका मिला है । मैं इन सब कारणों के बारे में बताता हूँ कि ये क्यों हुए, अगर इन्हें देखा जाए तो हमें इन कारणों को समझना पड़ेगा । मैंने वह भी एक सरकार देखी है, जिसका वर्ष 2014 तक का पूरा कार्यकाल घोटालों का था, वित्तीय अनियमितताओं का था, पॉलिसी पैरालिसिज़ का था । हम लोगों ने यह भी देखा कि किस तरह से प्रधान मंत्री और कैबिनेट के फैसले को कोई युवराज एक प्रेस कांफ्रेंस में जाकर फाड़ देता है ।

हम लोगों ने यह भी देखा कि किस तरह बहुत सारे उद्योगपति अचानक चार्वाक ऋषि के चले हो गए थे । हमारे यहां चार्वाक नाम के वेदों में एक ऋषि रहे हैं, उन्होंने कहा था कि उधार को घी समझकर पियो और भूल जाओ । वह पॉलिसी पैरालिसिज़ का समय था, उसी का कारण है कि यहां यह पूछा जा रहा है कि कंपनियों से 13 परसेंट या 17 परसेंट ही रिकवरी क्यों हुई? उस समय के बहुत सारे उद्योगपतियों ने समझा था कि वे पॉलिसीज़ अपने हिसाब से बना सकते हैं । जो उधार देने का सिस्टम था, जिस तरह एक समय में बैंकों ने 18 लाख करोड़ रुपये के उधार दिए थे, वे उधार पांच सालों में एक झटके में 18 लाख करोड़ रुपये से बढ़कर 52 लाख करोड़ रुपये हो गए ।  
...(व्यवधान)

**श्री सुदीप बन्दोपाध्याय (कोलकाता उत्तर) :** गौरव जी ने अच्छी भाषा में बोला था । आप भी अच्छे से बोलिए । ... (व्यवधान)

**श्री गौरव गोगोई :** मैं भी इस तरह की भाषा का प्रयोग कर सकता था, लेकिन शायद वह सदन में अच्छा नहीं लगता ।

**डॉ. संजय जायसवाल (पश्चिम चम्पारण) :** इसके लिए मैं आपको धन्यवाद देता हूँ । आपका धन्यवाद है, लेकिन आप जिस स्थान पर हैं, उस भाषा का प्रयोग करने में थोड़ी सी दिक्कत है, क्योंकि जब माननीय नरेन्द्र मोदी जी का कार्यकाल आया तो हम लोगों ने बिलकुल ही किलयर-कट एक पॉलिसी बनाई कि किस तरह से हम लोग पारदर्शिता रखेंगे, किस तरह से हम लोग सही नीयत

और सही नीति के साथ विकास करेंगे और किस प्रकार से हम लोग सभी घोटालेबाजों के लिए कड़ी सजा के प्रावधान करने का प्रयास करेंगे ।

सभापति महोदया, आज ये जो बहुत सारे सवाल पूछे जा रहे हैं, उन सवालों का जवाब यह है कि पहले हमारा वित्तीय ढांचा पूरी तरह से चरमराया हुआ था । हम उसी को ठीक करने के लिए, इन घोटालेबाजों को ठीक करने के लिए पीएमएलए का कानून लेकर आए, रेरा कानून लाए, बेनामी संपत्ति कानून लेकर आए, फ्यूगिटिव इकोनॉमिक ऑफेंडर्स एक्ट लाए, विदेशी काला धन (अज्ञात परिसंपत्ति) कानून लेकर आए । अर्थात्, हम लोगों ने विभिन्न कानूनों के माध्यम से जो इस तरह की अनियमितताएं चल रही थीं, उन सभी अनियमितताओं को ठीक करने का प्रयास किया ।

महोदया, इसी के तहत वित्तीय संस्थानों की दशा और दिशा ठीक करने के लिए हम लोग कंपनीज़ अमेंडमेंट एक्ट लाए, आर्बिट्रेशन एण्ड कॉन्सिलेशन एक्ट लाए । हम लोग अब इस सबसे बड़े कानून, इनसॉल्वेंसी एण्ड बैंक्रप्सी कोड को लेकर आए हैं । इस कानून की सफलता क्या है, यह हमें इसी से पता लगता है कि पहले डूबे हुए उद्योगों में बैंकों की रिकवरी 23 परसेंट थी, जो अब बढ़कर 43 परसेंट हो गई है । पहले की सरकार द्वारा जो लाखों-करोड़ों रुपये बिना सोचे-समझे बांट दिए गए थे, वे केवल आईबीसी कानून आने के बाद, केवल इस डर से कि आपको आईबीसी में जाना पड़ेगा, हमारी लगभग 2,84,000 करोड़ रुपये की रिकवरी हो गई ।

इनसॉल्वेंसी और लिक्विडेशन से बैंको को 1 लाख 50 हजार करोड़ रुपये वापस मिल गए । पहले इन इनसॉल्वेंसी के मामले में पूरे विश्व में हमारी 134 रैंक थी, उसमें हमने 26 पायदान एक बार में छलांग मार ली । इतना ही नहीं ईज ऑफ डूइंग बिजनेस में हम विश्व में 133 वें रैंक से 77 वें रैंक तक चले आए हैं ।

सभापति महोदया, इतना बढ़िया काम हो रहा है कि वर्ष 2018 में वित्तीय सुधार करने के लिए हमें ग्लोबल रीस्ट्रक्चरिंग रिव्यू अवार्ड मिला है । मैं इसके लिए माननीय अरुण जेटली जी को बहुत-बहुत बधाई दूंगा कि उनके समय में यह पुरस्कार दिया गया । आई.बी.सी. में कितना भी हम

लोग कानून में संशोधन कर लें, पर जो इस तरह के गलत तत्व होते हैं कि “तू डाल-डाल, मैं पात-पात”, इसी सिद्धांत को ठीक करने के लिए हर साल बहुत बढ़िया काम चल रहा है । नॉर्मली हम कानून में देखते थे कि कोई कानून आ गया और हम 5-7 साल तक निश्चिंत हो जाते थे । फिर कभी होता था कि ये-ये गलतियां हम ठीक करेंगे, इसकी चर्चा में ही 4-5 साल बर्बाद हो जाते थे । मैं माननीय वित्त मंत्री श्रीमती निर्मला सीतारमण जी का आभारी हूं । हमारे वित्त मंत्रियों द्वारा हर साल अमेंडमेंट लाए गए । जहां गलती पकड़ी गई, उसको ठीक करने के लिए हम ईमानदारी से प्रयास कर रहे हैं । जो कोर्ट के आदेश दिए गए हैं, उनका भी हम संज्ञान ले रहे हैं । जो तीनों सुधार हुए हैं, नवम्बर 2017 में, जून 2018 में और अभी का जो सुधार है, यह हमारे लिए आगे के लिए बहुत बड़ा कदम है । इनसॉल्वेंसी के लिए पहले हमें सवा चार साल लगते थे, अब केवल 324 दिन लग रहे हैं । जो केस आई.बी.सी. के तहत चल रहे हैं, उनमें 32 परसेंट ऐसे केसेज हैं, जो 270 दिन से ज्यादा के हैं । माननीय प्रधान मंत्री जी खुश भी हो सकते थे कि हमने तेजी से 68 परसेंट केसेज निपटा दिए, लेकिन हमारी सरकार का यह सिद्धांत है कि हम लोग सौ प्रतिशत परफैक्ट ढंग से काम करने का प्रयास करते हैं । माननीय प्रधान मंत्री जी का सिद्धांत है, जो स्वामी विवेकानन्द जी ने कहा था कि “उत्तिष्ठत जाग्रत प्राप्य वरान्निबोधत” । जब तक हम अपने लक्ष्य को पूरी तरह से प्राप्त नहीं कर लें, हम लोग विश्राम नहीं करते हैं ।

सभापति महोदया, आपने भी देखा था कि जब हम सब चुनाव जीतकर आए थे तो खुशी मना रहे थे । तब हमारे राष्ट्रीय अध्यक्ष जी ने कह दिया कि हमारा स्वर्णिम काल आना बाकी है । जब तक हम केरल और बंगाल नहीं जीतेंगे, हम शांत नहीं रहेंगे । यह हमारा काम करने का एक तरीका है । इसी के तहत हम लोगों ने इतने सारे सुधार करने का प्रयास किया है । 270 दिन की बाइंडिंग जरूर थी, लेकिन बहुत सारे मामले कोर्ट केस में लटक जाते थे । इसलिए मैं माननीय वित्त मंत्री जी का आभारी हूं कि उन्होंने जो यह 330 दिन का सभी विवादों को खत्म करने का समय दिया है, यह एक बहुत ही उचित कदम है । जो लोग लिटिगेशन के माध्यम से फंसाना चाहते

हैं, उन सभी को इससे बहुत बड़ी असुविधा होगी और देश को लाभ होगा। इसी के तहत एन.सी.एल.ए.टी. और डी.आर.टी. को कहा है कि 15 दिनों के भीतर आपको या तो केस एक्सैप्ट करना होगा या रिजैक्ट करना होगा। यह भी एक बहुत बड़ा कदम है, क्योंकि इसमें भी बहुत सारे मामले लटके रहते थे। सबसे बड़ी बात है कि अगर देर होगी तो आपको कारण लिखकर देना पड़ेगा। मैं माननीय वित्त मंत्री जी को इसके लिए भी बहुत-बहुत आभार प्रकट करना चाहूंगा। उन्होंने कमेटी ऑफ क्रेडिटर्स को ज्यादा अधिकार दिये हैं कि अगर चलाना है तो आप कुछ बेचकर भी चला सकते हैं। रीस्ट्रक्चरिंग करना हो, मर्जर-डीमर्जर, एमलगामेशन या जो भी करना हो, उसका अधिकार जो इन्होंने कमेटी ऑफ क्रेडिटर्स को दिया है, उससे पूरा एक सिंगल विण्डो सिस्टम हो जाएगा। हमें तत्काल फैसले लेने और सभी निर्णय करने में सुविधा होगी। मैडम ने वॉटरफॉल मैकेनिज्म बता दिया है, मैं उसमें ज्यादा नहीं जाना चाहूंगा। हमारे एक मित्र ने जेट एयरवेज का उदाहरण दिया है, मैं भी वही उदाहरण देना चाहूंगा। हम लोगों ने दो एयरलाइंस को जाते हुए देखा है। आज से 9 साल पहले किंगफिशर एयरलाइंस को जाते हुए देखा है। जब तक इनसॉल्वेंसी का प्रोसेस चलता रहा तब तक उसके सारे हवाई जहाज कबाड़ा हो गए। उन्हें कोई खरीदने वाला नहीं मिल रहा है।

दूसरी तरफ आज जेट एयरवेज भी है, जिसका उदाहरण मेरे कांग्रेस के मित्र ने किया था। कमेटी ऑफ क्रेडिटर्स होने से तुरन्त उसका हम लोगों ने फैसला भी कर लिया और फैसला करके उसे जब दूसरी कंपनी को हम लोगों ने दे दिया है तो आज वह हवाई जहाज भी उड़ रहे हैं। हमारे यहां कितनी ज्यादा दिक्कत होती, अगर पूरे तौर पर वे हवाई जहाज बैठ गए होते। आज हवाई जहाज का किराया दोगुना हो गया होता।

**श्री गौरव गोगोई :** किस प्राइस पर स्पाइस जेट को बेचा गया है?

**डॉ. संजय जायसवाल:** ये रेड्स सरकार द्वारा तय किए गए हैं। पूरी ट्रांसपेरेंट प्रॉसेस है और उसे आपने सुना नहीं है। हमारे माननीय उड्डयन मंत्री जी ने उसके बारे में बताया था कि बिल्कुल

ट्रांसपेरेंट प्रॉसेज से हम लोगों ने दिया है । हवाई जहाज अगर चल रहे हैं तो एक तो हमारा किराया बच रहा है और दूसरी तरफ जब भी उनके बिकने की बात आएगी तो बिकने में उनकी सही कॉस्ट निर्धारित होगी । इनकी बात मानकर अगर वे सारे हवाई जहाज कबाड़ में रहते तो वे लोहे के रेट में बिकते, लेकिन जब भी इन्सॉल्वेंसी प्रॉसेज होगा, तो बिल्कुल अच्छी तरह से होगा और मैं यह विश्वास दिलाता हूं कि हमारे माननीय प्रधान मंत्री जी ने कहा है कि 'This Government has no business being in business.' यह पुराना कोटेशन है ।

**श्री गौरव गोगोई :** सारा इम्पोर्ट आपके एक ही दोस्त को जा रहा है ।

**डॉ. संजय जायसवाल:** सभापति महोदया, हमारा काम है सही पॉलिसीज बनाना, सही एन्वायर्नमेंट उद्योगपतियों को देना, ताकि वे अच्छी तरह से काम कर सकें । हमारा काम हम बहुत अच्छी तरह से कर रहे हैं और माननीय वित्त मंत्री जी ने इन्सॉल्वेंसी और बैंक्रप्सी कोड का जो अमेंडमेंट लाए हैं, मैं पूर्ण रूप से इसका समर्थन करता हूं । आपका बहुत-बहुत धन्यवाद ।



**SHRIMATI KANIMOZHI (THOOTHUKKUDI):** Madam, actually the first speaker, hon. Member, Shri Gaurav Gogoi, supported the Bill. We thought the discussion will be above politics but then some people cannot let that go and temptation is there too much. We are here not just for politics. We are here for enacting legislations.

Anyway, to talk about the Bill now, there are a lot of welcome things in this Bill. As the Minister has said, the amendments have been brought in to get more clarity in the Bill. We have seen that this Code has been in operation for the past three years now. My primary objection is the amendment to Section 31. The amendment makes it clear that the Central or State Government or local authority to whom statutory dues are owed are also bound by the resolution plan as stakeholders. If such a resolution plan has provided for reduced taxes or even no money at all, the State and Central Governments are bound by the resolution plan as approved by the adjudicating authority under Section 31 of the Act.

I would say that this can have a very dangerous impact on the public exchequer. The resolution plan is approved by the Committee of Creditors comprising of financial institutions. The State and the Central Governments are not represented on this. Actually, this will be giving powers to a private body – COC of a company – to determine or undermine the interest of the State. I think the Minister has to take this into consideration.

Now such an amendment is also on a shaky ground. The power to recover dues to the State are provided to various authorities under various special statutes. For example, the Income Tax Department draws its independent powers from the Income Tax Act, 1961; GST is levied and recovered by the authorities under the provisions of the Central Goods and Service Act, 2017. The Acts are also there to recover property tax and other taxes by the Government bodies. When these authorities have exercised powers under those Acts, a committee of private financial lenders is effectively over-ruling these Government bodies. Therefore, we are creating a super body which will actually supersede the provisions of other statutes. Can you imagine a situation where these private financing bodies will say that the State and the exchequer are more important?

Will they ever put them before their own private interests? I suggest that the hon. Minister must consider equating agencies of the State as an independent category of creditors as it was earlier done under the Companies Act of 1956 which gave them a place in the Committee of Creditors. This will ensure that the interests of the States are taken into consideration.

Madam Chairperson, with regard to amendments to Section 30 I would like to submit that I understand that the Ministry is bringing these amendments to overcome interpretation of the National Company Law Appellate Tribunal's judgement of the ESSAR Steels. However, if the Government takes a wholesome view of the judgement, we can see that the judgement helps small

and medium scale vendors by not allowing financial creditors to take the whole pie. After this amendment, operational creditors can be given nothing. That is something we have to be very careful about. Owing to the bad practices followed by the corporate companies, these smaller concerns will be affected to a large extent. In Explanation 1, it has been mentioned 'fair and equitable'. That can be subjected to any interpretation. That aspect also has to be taken into consideration and when these smaller entities are affected it will have a repealing effect on the economy. In many cases, these operational vendors and creditors have only a due of Rs. 1 lakh or Rs. 2 lakh and when they are not paid and settled, their entire business comes to a stand-still. We already have unemployment problems and the country is going through a crisis which has never been there before. So, I think, we should not add on to it.

Amendment to Section 25A talks about the voting rights of those who form a class of creditor. I think, the hon. Minister while making her initial remarks on the Bill she even mentioned this. But for example, if there are 100 people who have invested for buying flats and 51 of them, who have invested, have one opinion that they want their money back but the rest of them want flats, then the representatives had two votes. They could then represent both the views. But after this amendment the representative will have only one vote. So, the opinion and what the rest of the 49 want is not taken into consideration. This is very unfair to a majority of the people because they are being defeated by just two votes. A lot of people belonging to the middle class want a flat for

their investment and they do not want their money back because they have been waiting for so many years. It would become a big loss to them because they invest their life-time savings in this.

Madam, section 12 was a concern for many people and it talks about the timeframe. There were a lot of questions about whether the time taken in the court proceedings would be included in that or not. The hon. Minister has now explained that. It is a welcome thing. The stipulated time includes that also so that it does not become a never-ending process.

Apart from making submissions on the various provisions of the Bill, I would also like to make one suggestion about minimum threshold for invoking the resolution process. It should be increased because it is just one lakh and I think, if that is increased, then it will reduce the workload of the Tribunals and also ensure that smaller companies are not dragged into the NCLT under the threat of insolvency. It is because these small companies are the ones who are affected by this and end up facing court proceedings and they are not able to run their companies and again it puts them back into the vicious cycle where they cannot get out of their debts.

The hon. Minister also has to bring a mechanism to regulate the fees charged by the regulation professionals. In some cases, when the debt is only around Rs. 1 lakh, the fees charged by them is nearly Rs. 25,000 to Rs. 50,000 or more. Bigger companies have a panel of lawyers to help them out

but smaller companies do not get anything out of it. So, there should be some regulation on the fee structure.

With these words, I think the hon. Minister will look into the suggestions made by this House to make this Bill even a better and clearer one. Thank you.

**SHRI KALYAN BANERJEE (SREERAMPUR):** Madam, the Insolvency and Bankruptcy Code was enacted in May, 2016. There is a critical link with a chain of steps initiated since 1991 for a transition towards the market economy. Insolvency Code relates to the credit system of the country and therefore, must be given an expansive interpretation of all the clauses. I agree with this that it is a new Code in a financial policy. It needs some research from time to time and changes have to be made depending upon the situation. Some deficiencies were there which are now sought to be removed. Due to those deficiencies or gap and the interpretation of the Supreme Court judgement, Essar Steel got big benefits. Now after the passage of the amendments which have been brought, the benefit would naturally not go to them and that is warranted. That is needed. They got the benefit since deficiencies were there.

Madam, this amendment is to have a behavioural change, particularly among the promoters. Continued ownership is no longer guaranteed since judicial interpretation seems to create confusion. I have already referred to the Essar case. The resolution process of Essar Steel, where secured creditors have claims of Rs.45,559 crore, has dragged on way past the 270 days deadline as stakeholders mount legal challenges. Now, naturally, if these amendments come into effect, the judgement would be diluted.

I believe, after the introduction of the Insolvency and Bankruptcy Code and functioning of the NCLAT, some amounts have been recovered. The

process was going slowly but now it is going up speedily. Under the Code, Committee of Creditors is entrusted with a primary responsibility of financial restructuring, and financial creditors are busy in money lending, and banks and financial institutions are best equipped to assess viability and feasibility of the business of the corporate debtors.

Madam, I agree with the hon. Member, Shrimati Kanimozhi. The object of the Bill was to recover the money from the corporate sector. Now, by inserting Clause 7, you are extending this to the Central Government, State Governments, and also the local authorities. As we know, every Government, including the Central Government, State Governments, and even so many local authorities, are taking loans. That is not their personal issue. It does not come within the realm of the corporate sector at all. The Bill was enacted for the purpose of recovering the money from the corporate sector but now, you are extending it to the Government also. In that case, whoever will be in the Government will be in a great difficulty, especially the local authorities.

Madam, in your opening remarks, you referred to the Swiss Ribbons case, the judgment of which was delivered on 25<sup>th</sup> January, 2019. Regarding that, the then Attorney General of India made a statement before the hon. Supreme Court that the ruling of the judgment in Madras Bar Association, that may be in 2016, will be followed and Circuit Benches will be established. Therefore, the hon. Supreme Court of India directed that steps should be taken for setting up of Circuit Benches of NCLAT within a period of six months. Six

months have already been lapsed but the Circuit Benches of NCLAT have not been created. Therefore, through you, I would request the hon. Finance Minister that setting up Circuit Benches of the NCLAT should be done as quickly as possible.

Earlier, when Madam Finance Minister was the Minister for Corporate Affairs, before the Code has come into force, I must appreciate it, one day, I called on her mobile phone from Kolkata, I requested her to consider extending the appointment of one member of the Company Law Tribunal against whom so many allegations were there, I asked her to look into this matter, she really heard me and inquired into the matter but did not extend it but the effective steps were taken. Therefore, I request you to consider setting up of Circuit Benches of NCLAT, and also consider deletion of Clause 7. That is very important. Otherwise, the Bill is, no doubt, a good one. In future, even other eventualities will come. So, we have to come up with other amendments also.



**13.00 hrs**

**SHRI MAGUNTA SREENIVASULU REDDY (ONGOLE):** Madam Chairperson, on behalf of my YSR Congress party, I rise here to support this Insolvency and Bankruptcy Code (Amendment) Bill, 2019.

I would congratulate the hon. Finance Minister for bringing forth this important legislation to this House. In this Amendment Bill, there are seven Clauses to be amended, which have been brought to the knowledge of this House.

I would just like to make certain suggestions also to the hon. Finance Minister. After the CoCs was formed, you are taking into account the financial creditors, operational creditors and statutory dues. Financial creditors are generally secured creditors. Unsecured creditors would also be there.

We are also having voting rights. About the financial creditors, let me give an example. If a company takes a loan from the banks, and another company also takes a loan from the banks by giving corporate guarantee, you are including them in the same Committee of Creditors. So, they will also be having voting rights in that company itself. So, the fate of operational creditors also need to be taken care of. The operational creditors are suppliers in MSME units, which is huge in number. You are giving more priority to the financial creditors in this amendment. My submission is that you should also keep in mind the operational creditors. In regard to financial creditors,

guarantee is also given. We should not deprive the MSMEs or the operation creditors.

There are many other things. For example, CIRP. It is a Corporate Insolvency Resolution Process, which is a welcome step. Regarding time limit for resolution process, it is being extended from 270 days to 330 days. But before 330 days, all litigations need to be resolved. In the olden days, it used to be BIFR. It was the effort of our hon. Prime Minister, to reduce the mounting NPAs of the PSU Banks in the country, that this Insolvency and Bankruptcy Code was brought in 2016. Actually, it is a welcome thing. The bankers were unable to solve their issues, and their NPAs were mounting. They were not going in for restructuring and they were also not going in for one-time settlement.

So, this Amendment has become a big relief for the bankers. This Indian Bankruptcy Code has come into effect NCLT. Tribunals have also been appointed, now.

Here I would like to ask the hon. Finance Minister, before sending any company for NCLT, like earlier some restructuring programmes were there, why should you not appoint an agency like RBI, to look into these matters and supervise the business? Otherwise, as has been stated by our hon. Finance Minister, this is to secure the value of the assets. If the process gets delayed, the value of the assets will get depleted only. Then, the running business would be a closed-down business totally. If it goes to NCT, automatically, the

value of the assets would get totally depleted. So, the hon. Finance Minister can think about it.

Our hon. Finance Minister's priority is 'Ease of Doing Business' i.e., EODB. In our country, slowly it is slipping into 'DoDB' that means, Difficulty of Doing Business. So, it has to be corrected by our hon. Finance Minister.

Then, there are a lot of challenges and issues being faced by the industrialists. Earlier industries were sick, but the industrialists were wealthy; but nowadays, it is not so. Nowadays, if some industries are sick, their industrialists are also more or less sick and are facing problems due to the business failure.

I do not want to take anybody's name. You know all these things by going through today's newspaper. Look at what has happened to Karnataka's prominent businessman. There is a fear psychosis in the minds of the business community. That fear psychosis has to be removed by our hon. Finance Minister. This fear psychosis is there in the minds of the bankers, officers and people from the business community. She has to bring everybody into the fold and then only the economy will improve automatically.

The infrastructure companies are going to be in problem, now, in our country. Everybody is just doing some indoor testing and later they all go to NCLT. The problems will be there. According to me, there are two types of businesses in our country. One is totally professionalised and another is totally politicised. The 'totally professionalised business' means software companies.

They need not have to be on the mercy of anybody. They can be set up even in a jungle. They can start anything. For example, the Citi Bank is operating from Malaysia for the access or trial of our credit cards and debit cards. The situation in our country has become like that. This is very important. Our hon. Finance Minister has to look into that.

**13.06 hrs**

(Shri Kodikunnil Suresh *in the Chair*)

When it comes in the newspapers that this particular industry is showing negative effects, bankers stop giving them further loans; rather they are pressuring them to repay their loans. I have been seeing it also. Ten per cent of the people will do business for taking loans but 90 per cent of the businessmen will take the loans for their businesses. Now, are you treating everybody on an equal footing. I can tell you frankly that you are putting asses and horses in the same stack. Everything has to be corrected; you have got a lot of powers, if the country has to grow financially.

When you are looking at a \$5 trillion economy, this fear psychosis has to be removed from the minds of the business community. The businessmen have to be totally supported by the Government. Then, we can see a really growing economy in this country.

Thank you.

**श्री कृपाल बालाजी तुमाने (रामटेक):** सभापति महोदय, आपने मुझे दिवाला और शोधन अक्षमता संहिता (संशोधन) विधेयक, 2019 पर बोलने का मौका दिया, इसके लिए मैं आपको धन्यवाद देता हूँ। मैं इस बिल के समर्थन में बोलने के लिए खड़ा हुआ हूँ। मैं माननीय वित्त मंत्री श्रीमती निर्मला सीतारमण जी को धन्यवाद दूंगा कि वे एक काफी अच्छा अमेंडमेंट बिल यहां पर लाई हैं। इंटरप्रिटेशन ऑफ फाइनेंशियल क्रेडिटर एंड आपरेशनल क्रेडिटर के ऊपर सुप्रीम कोर्ट का भी निर्णय बहुत जल्दी आने वाला है। इसके पहले हम इस बिल को सदन में लाए हैं। जो संशोधन है, इसके कारण जो हमारा पैसा है, पहले बैंकों का पैसा वापस आने में काफी कठिनाई होती थी, यह कानून एक्चुअली लिटिगेशन फ्री सोसाइटी की ओर एक कदम है। एनसीएलटी के बाद हमने देखा कि देश में आज लगभग डेढ़ लाख करोड़ रुपये का जो बैंक्स का पैसा था, वह बैंक्स को वापस मिला है। एनसीएलटी कानून आने के पहले लोगों को बीआईएफआर, एआईएफआर, कंपनी एक्ट, लेबर कोर्ट, ऐसे बहुत सारे कोर्ट्स की गतिविधियों से गुजरना पड़ता था।

लेकिन आज एनसीएलटी के कारण सभी लोगों को अच्छी सुविधा प्राप्त हुई है, इज ऑफ डुइंग बिजनेस और सुरक्षा का अमेंडमेंट बिल है। इस बिल में 330 दिन की समय सीमा निश्चित करने का प्रावधान किया गया है। इसे 270 दिन से बढ़ाकर इसे आगे ले गए हैं। इसे आद्योगिक और आर्थिक रूप से सामर्थ्यवान बनाना चाहते हैं तो इसके लिए एनसीएलटी के लिए भी समय सीमा की जरूरत रहना बहुत जरूरी था। मेरे संज्ञान में जो कुछ बातें आई हैं, मैं माननीय मंत्री जी का ध्यान उस तरफ आकृष्ट कराना चाहूंगा।

एनसीएलटी के मेंबरों की संख्या काफी कम होने के कारण रिजर्व फॉर आर्डर कर देते हैं और बाद में छह-सात महीने तक रिजल्ट नहीं आता। इस मामले में भी अगर परफॉर्मंस रिव्यू किया तो ज्यादा अच्छा होगा, इसके ऊपर भी हमें ध्यान देने की जरूरत है। यहां काफी सारे उदाहरण हैं, एसआर, भूषण पॉवर, एसआर में आज 700 दिन हो गए हैं, लेकिन केस पेन्डिंग पड़ा हुआ है जबकि

270 दिन की उस समय लिमिट थी। इसके ऊपर भी हमने 300 दिन में सारे मैटर्स को सुलझाने का प्रयास किया है।

मैं इस मामले में जेट का उदाहरण देना चाहूंगा कि जेट में आईआरपी अपॉइंट करने के बाद जिस ढंग से फास्ट प्रोसेस हो रहा है, इस फास्ट प्रोसेस से सरकार ने जेट के मामले में कदम उठाया है कि जल्द से जल्द कंपनी शुरू हो और बाईस हजार लोगों के इम्प्लायमेंट का प्रोब्लम है, वह बचना चाहिए। उसमें भी जल्द से जल्द जिस तरह से आज की गतिविधि है, उससे जल्दी न्याय मिलेगा, ऐसा हमें लगता है।

एक बार सुप्रीम कोर्ट ने कहा था कि ऐसा कानून आया है जिससे डिफॉल्टर के दिन खत्म हो गए हैं। हम लोग इस मामले में बहुत सोचते रहते थे। उसी दौरान होम बायर का विषय आया जब इन्सॉल्वेंसी की प्रक्रिया चलती है। ऑप्शनल क्रेडिटर्स में भी होम बायर की संख्या ज्यादा है। इस संशोधन से रेग्युलेशन फोर्सज को मजबूती मिलने वाली है। कमेटी क्रेडिटर्स का सीओसी का विषय काफी अच्छा है, जिसमें 66 परसेंट क्रेडिटर्स का झुकाव रहना चाहिए।

मैं एक सुझाव देना चाहूंगा 66 परसेंट के बजाय पचास टका किया तो इसमें ज्यादा बेनिफिट हो सकता है क्योंकि 66 परसेंट कई जगह पर नहीं होता है। उसका फायदा होना चाहिए, हम इस बारे में सोचें। मैंने इस विषय में कहा कि रिजर्व फॉर आर्डर कर देते हैं। उसके बारे में मार्केट में बहुत गलत अनुभव भी आता है। कोई उसमें भी कुछ करप्शन की बात करते हैं, लेकिन उस विषय में जल्द से जल्द निर्णय आए, इस बारे में प्रक्रिया शुरू करनी चाहिए। इसका सक्सेफुल होना एक बहुत बड़ी बात थी, बिडर आकर बीडिंग कर देते हैं, लेकिन बिडिंग करने के बाद उसको अलॉट हो जाता है, लेकिन काफी बार ऐसा होता है कि जो बीडर पीछे हट जाता है। इस मामले में भी हमें सोचना चाहिए। उसके ऊपर संशोधन या कानून बनना चाहिए। अगर वह पीछे जाता है तो उसके ऊपर भी सख्त कार्रवाई करने की जरूरत है।

अंतरिम बजट 2019 में इंडिया स्टैम्प एक्ट 1899 में संशोधन प्रस्तावित किया गया था। इसका सीधा अस बिड प्रोसेस पर पड़ता है, उस मामले में भी हमें सोचने की जरूरत है। मैं आपका ध्यान एक महत्वपूर्ण विषय माइनिंग की ओर आकृष्ट कराना चाहता हूँ। माइनिंग सेक्टर में स्टेट गवर्नमेंट भी पार्टनर होता है। स्टेट गवर्नमेंट रिजर्व प्लान में सहयोग नहीं करते हैं।

इसमें राज्य सरकार पार्टी होने के बावजूद सरकारी प्रावधानों के बहुत विषय आते हैं, हमें इस मामले में भी सोचने की जरूरत है। आईबीसी, सेबी और अन्य संस्थानों के ऊपर काम करेगा, क्योंकि बहुत से मामलों में डिस्प्यूट आने की संभावना है। इस बारे में भी हमें सोचना चाहिए।

माननीय सभापति जी, मैं आपके माध्यम से माननीय मंत्री जी के ध्यान में एक बात लाना चाहता हूँ कि पुराने मालिक जो भी एनसीएलटी में आते हैं, व्यवस्था, अव्यवस्था आदि थोपकर चले जाते हैं, लेकिन पुराने मालिकों की तरफ जो बकाया रहता है, मान लीजिए 100 रुपये बैंक का या क्रेडिटर्स का कर्ज था, 50 रुपये हेयरकट के पीछे पड़े रहते हैं, किसी का कहना है कि 60 परसेंट हेयरकट मिले, किसी को 70 परसेंट मिले, जैसे अभी जेट ने 90 परसेंट हेयरकट मांगा, अब किसी को 60 परसेंट हेयरकट दिया जाएगा तो क्रेडिटर्स के पैसे का काफी पैमाने पर नुकसान होगा। इसकी भरपाई कहां से होगी, इसके बारे में भी सोचने की जरूरत है।

आदरणीय नेता उद्धव ठाकरे जी हमेशा बेरोजगारों को रोजगार देने का प्रयास करते रहते हैं। एमएसएमई ऐसा क्षेत्र है, जहां काफी बेरोजगारों को रोजगार मिलता है। इसमें छोटी इंडस्ट्रीज़ आती हैं। आपको निरंतर बीमार रहने वाली एमएसएमई युनिट्स के बारे में भी सोचना चाहिए। अब, मैं अपनी बात समाप्त करते हुए इस मैं बिल का समर्थन करता हूँ।... (व्यवधान)

**श्री मुलायम सिंह यादव (मैनपुरी):** माननीय सभापति जी, यह व्यवस्था का सवाल है। लोक सभा सारी विधान सभाओं का आदर्श है। इस देश में लोक सभा के अनुसार विधान सभाओं में काम होता था। क्या यह गरिमा है? यहां लोक सभा के कितने मैम्बर्स हैं? शादियां हो रही हैं, हमें जनता के बीच जाना पड़ता है। यहां लगातार अनावश्यक लोक सभा चलाई जा रही है।

मेघवाल जी, हम आपसे कहना चाहते हैं कि आपने हमेशा नियम और कानून की बात कही है और आज आप नियम और कानून भूल गए? आप किस तरह का लोक सभा का मज़ाक करवा रहे हैं?

**संसदीय कार्य मंत्रालय में राज्य मंत्री तथा भारी उद्योग और लोक उद्यम मंत्रालय में राज्य मंत्री (श्री अर्जुन राम मेघवाल):** माननीय सभापति जी, पहली बात है कि हाउस में पूरा कोरम है। हाउस में काम है इसलिए हाउस चला रहे हैं।

**श्री मुलायम सिंह यादव:** सारी विधान सभाओं के लोग देख रहे हैं कि क्या मामला है? क्यों चला रहे हैं? इसके पीछे कोई साजिश है, हमें पता है। आपने हमेशा नियम और कानून की बात कही है, मैंने अच्छा समझा। अब आप यह करवा रहे हैं। आप कारण बता दें, कोई कानून रह गया हो, कोई ऐसी बात रह गई हो तो चलाइए, हम समर्थन करेंगे। यह अनावश्यक है, अवैधानिक है, जनता का पैसा खर्च करवा रहे हैं। हम जनता के प्रतिनिधि हैं। हम जनता के बीच जा नहीं पा रहे हैं। शादी-ब्याह में क्या नहीं जाना पड़ता है?

**माननीय सभापति :** बिल्कुल सही है।

**श्री मुलायम सिंह यादव:** मेरा सख्त आरोप है कि यह सरकार की साजिश है, इसके पीछे छिपा हुआ कोई राज है। लोक सभा क्यों चलाई जा रही है? हमें कारण बता दें, मैं स्वीकार कर लूंगा। क्या यह मज़ाक नहीं हो रहा है? इतनी कुर्सियां खाली पड़ी हैं।

**HON. CHAIRPERSON:** Hon. Parliamentary Affairs Minister, please note down the suggestions made by Shri Mulayam Singh Yadav.



**डॉ. आलोक कुमार सुमन (गोपालगंज):** माननीय सभापति आपका बहुत-बहुत धन्यवाद कि आपने मुझे The Insolvency and Bankruptcy Code (Amendment) Bill, 2019 पर अपनी बात रखने का मौका दिया ।

**श्री अर्जुन राम मेघवाल :** सभापति जी, हम भी जानते हैं कि माननीय मुलायम सिंह जी एक सम्मानित एवं वरिष्ठ नेता है । लेकिन, ये जो कह रहे हैं, हम इस बात से सहमत नहीं हैं कि सदन अनावश्यक रूप से चलाया जा रहा है । बिजनेस है इसलिए चलाया जा रहा है । विपक्ष की डिमांड रहती है कि हाउस को कम से कम 100 दिन चलना चाहिए । हम तो विपक्ष की डिमांड को पूरा कर रहे हैं । ये सारे कानून जनता के हित में बनाए जा रहे हैं । ... (व्यवधान)

**HON. CHAIRPERSON:** Dr. Alok Kumar Suman, please continue.

... (Interruptions)

**HON. CHAIRPERSON:** Now, everything is over. Please sit down.

... (Interruptions)

**HON. CHAIRPERSON:** Now, only the speech of Dr. Alok Kumar Suman will go on record.

... (Interruptions)... \*

**डॉ. आलोक कुमार सुमन:** यह अमेंडमेंट बिल भारतीय अर्थव्यवस्था एवं बैंकिंग क्षेत्र में सुधार के लिए अति आवश्यक है ।

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\* Not recorded.

जैसा कि हम जानते हैं भारत आज दुनिया की सबसे तीव्र गति से चलने वाली अर्थव्यवस्था है और लगातार इसकी गति बनी रहे, इसमें बैंकों की बड़ी भूमिका है। बैंकिंग प्रणाली में फंसे हुए कर्जों के स्तर बढ़ने से विकास पर असर पड़ता है। इसे दूर करने के लिए केंद्र सरकार ने न केवल इस संबंध में तेजी से कानून बनाया है बल्कि केंद्र सरकार प्राथमिकता के आधार पर कठिनाइयों को दूर कर रही है। आशा है कि अनुमान से बेहतर नतीजे सामने आएंगे।

महोदय, The Insolvency and Bankruptcy Code (Amendment) Bill, 2019 में पूर्वोक्त कठिनाइयों को ध्यान में रखते हुए निगम दिवाला ढांचे में गंभीर कमियों को दूर करने के लिए यह आवश्यक हो गया है कि certain provisions of the Insolvency and Bankruptcy Code को अमेंड किया जाए। The Insolvency and Bankruptcy Code (Amendment) Bill, 2019, *inter alia* seeks to amend sub-section 3 of section 12, जिससे यह आज्ञापरक बनाया जा सके कि किसी कार्पोरेट डेब्टर की दिवाला समाधान प्रक्रिया, दिवाला प्रारंभ होने की तारीख से 365 दिन से आगे और विस्तारित नहीं की जाएगी। इस अवधि में कार्पोरेट दिवाला समाधान प्रक्रिया को पूरा होने में असम्यक विलम्ब को दूर करने के लिए लीगल कार्यवाहियों में लगने वाले समय भी सम्मिलित होंगे।

महोदय, वर्ष 2018-19 में बैंकिंग क्षेत्र, विशेषकर सार्वजनिक क्षेत्र के बैंकों के मार्च, 2018 से दिसम्बर, 2018 के बीच अनुसूचित वाणिज्यिक बैंकों का एकल एनपीए 11.5 परसेंट से घटकर 10.1 परसेंट हो गया है। दिवाला और दिवालियापन की समस्या से निपटने के लिए प्रणालीबद्ध तरीके से व्यवस्था की जा रही है, जिससे फंसे हुए कर्जों की वसूली हुई है। मैं यह बात रखना चाहता हूँ कि 31 मार्च, 2019 तक कार्पोरेट दिवाला समाधान प्रक्रिया के अंतर्गत 94 मामलों का समाधान हुआ है। इसके परिणामस्वरूप 1,73,359 करोड़ रुपये के दावों का निपटारा किया गया। 28 फरवरी, 2019 तक 2.84 लाख रुपये की कुल राशि के 6079 मामले दिवाला और

दिवालियापन संहिता आईबीसी के प्रावधानों के अंतर्गत सुनवाई से पहले वापस लिए गए हैं। भारत का दिवाला समाधान 2014 की रैंकिंग 134 से सुधरकर 108 हो गई है। यह गर्व की बात है कि पिछले वर्ष भारत को सर्वाधिक सुधार वाले क्षेत्राधिकार के लिए वैश्विक पुनर्संरचना समीक्षा पुरस्कार मिला।

अतः मैं The Insolvency and Bankruptcy Code (Amendment) Bill, 2019 का समर्थन करते हुए अपनी बात समाप्त करता हूँ। धन्यवाद।

**SHRI B. B. PATIL (ZAHIRABAD):** Sir, the proposed amendment in the Insolvency and Bankruptcy Code aims at ensuring greater clarity in the debt resolution process. The Insolvency and Bankruptcy Code (Amendment) Bill will remove the grey areas and also ensure that there will be no chance for further interpretations which are against the original intent of the Act. Four, out of the eight set of amendments being brought in, are explanatory in nature. But there is a fear that probably the original intent with which this Parliament brought the Insolvency and Bankruptcy Code is probably getting diluted. We should not allow its dilution just for want of clarity.

Until the Insolvency and Bankruptcy Code, 2016 was brought in, the country's insolvency framework was all scattered and fragmented leading to sub-optimal realisation or outcome of the legislative intent of the Bill itself.

Earlier the average time taken for any resolution of insolvency was almost 4.3 years and that kind of time added to the cost. Nearly 9 per cent was resolution cost whereas the recovery rate was only about 26 per cent. Within 2.5 years of this Code, it has been realized that there are certain areas in which for want of clarity the interpretation given by various Courts or even by the National Company Law Tribunal (NCLT) led to a very vital question – whether the legislative intent of the IBC was itself becoming weakened just for want of clarity.

In a way, the Insolvency and Bankruptcy Code is being monitored through a Central Government Monitoring Committee. The balance of interest

of stakeholders has been becoming an issue and, therefore, the amendments have been the need of the hour. But when some of the amendments are salutary and the direction is right, the worry is that while solving this problem unemployment will be created in the country. As the economy has been going through a difficult time with various sectors like automobile, steel, real estate and FMCG are facing problems and insolvency cases involving big firms, an oligopoly should not be created where 4 or 5 major players will only be able to buy such companies at throwaway prices. This resolution will be in favour of the big players.

The proposed amendments to the Code are aimed at filling critical gaps in the corporate insolvency resolution framework while, at the same time, maximizing value from resolution. The changes in the law are also aimed at timely admission of applications and timely completion of the corporate insolvency resolution process.

The Bill also provides that if an application has not been admitted or rejected within 14 days by the adjudicating authority, it shall provide the reasons in writing for the same. It provides a deadline for completion of Corporate Insolvency Resolution Process (CIRP) within an overall limit of 330 days, including litigation and other judicial processes.

The proposed amended Code is also aimed at providing greater clarity on permissibility of corporate restructuring schemes, clarity on rights and duties of authorized representatives of voters, manner of distribution of

amounts amongst financial and operational creditors and applicability of the resolution plan on all statutory authorities, which will enable the market to come up with dynamic resolution plans in the interest of value maximization.

Thank you, Sir.

**श्री मुलायम सिंह यादव:** सभापति जी, मैंने जो सवाल उठाए हैं, उन पर कोई रूलिंग तो दीजिए...(व्यवधान)

**श्री अधीर रंजन चौधरी (बहरामपुर):** वरिष्ठ सदस्य अगर कुछ कह रहे हैं तो कोई रूलिंग तो देनी चाहिए...(व्यवधान)

**डॉ. निशिकांत दुबे (गोड्डा):** आप वरिष्ठ सदस्य हैं, आपकी बात को सरकार ने और सभापति जी ने गंभीरता से ले लिया है...(व्यवधान)

**HON. CHAIRPERSON:** Mulayam Singh ji, your point has already been noted.

Please sit down.

**SHRIMATI SUPRIYA SADANAND SULE (BARAMATI):** Sir, I stand to support the Bill. I appreciate that there are two small points which the hon. Minister mentioned while starting her reply. She said that a lot of amendments that are made are because of the interventions and suggestions of the hon. Supreme Court. It is welcome. But I would like to remind her that last week we debated the Companies Act. During the discussion on the Companies (Amendment) Bill, she said that UPA Government had brought in the Act and they have to constantly re-bring it to bring in for amendments.

I think the laws are made with very good intentions whether we make them or you. It has barely been two years and this is the third time that we are talking about it. So, I think, we all need to rise to the occasion because, at some point, they made it with good intentions as we did.

I think, all Governments make laws with good intentions. Just because you are bringing an amendment, that does not mean that it is a bad Bill.

In the morning, I was looking at the television and market has fallen by 300 points even today. Even when the Budget was presented, it fell down. Generally, the economy of this country is not very robust. I appreciate that you will be reaching 5-trillion dollar economy. It is wonderful. Why should we aim for 5-trillion dollar economy? Let us aim for a 10-trillion dollar economy, if it is for the betterment of our country. We have to see really what the ground reality is. The intent of this Bill is very good, but I would like to talk about what the final outcomes are. You say that this has to be fair and equitable.

I would like to give a few examples, since I come from Mumbai, which is the financial capital of this country. Some people talked about the service industry. I would like to highlight a point and give the example of Jet Airways. How does Jet Airways fit into this? We went into liquidation for it. Now, thousands of jobs are gone. Now, even if you go for liquidation, the aircraft are all leased. If you liquidate a company, would have it been better? I do understand that the Government does not need to pump in money to restart a company. I could give you several examples, which are there, like this. Could there be another plan just besides this where we could help, in some ways, to revive companies?

There is another example of steel industry. I see that for today's fall in the market is that there are nine verticals, including steel and cement. The economy is slowing down because globally, these segments are not doing well. Of course, when it is going to hurt the world, it is going to hurt us also. We are not an insulated economy from the world, after opening up. I will give you an example of Essar Steel. Essar Steel could have been resolved earlier. You are increasing the days. I am sure that increasing the days from 220 to 330 is very well intended. I do understand that there are some cases which have taken 600 days and really nothing is there. So, why should you increase the days? Suppose, a steel company had been sold, say, two months ago. It is not about the person who started the company. We are not doing this for the owners; we are doing this for the people who have invested money, who are at



the bottom of the pyramid. We are looking at supplies also. Why do we find that even the supply is bad?

You talked about unsecured and secured creditors. Who is secured? How is it unsecured? How do we bring something which makes sure that both are looked after? Do we have the mechanism for this? This is my question. Why are all these delays going on? This is something which I would definitely like to ask just for my knowledge and after your reply, I think, the whole country will get a message. This is not applicable to just car manufacturers. I come from the State where in Pune District, most of these car manufacturers are absolutely bleeding right now. The companies used to do double shifts seven days a week and now, they are doing it for five days only. Obviously, these are all signals that the industry is screaming for help. What is the stand of the Government on this?

Please also look at the issue of salaries in BSNL, HAL etc. We just discussed the Code on Wages yesterday. It was a very well-intended Bill, but Meghwalji was very kind enough yesterday, when I talked about salaries of PSU employees while participating in the debate, to say that I may send him a list and he would try to intervene, but just an intervention is not important; there has to be a sustainable model. Only selling the PSUs and bringing the Code on Wages will not help. I am very happy that globally, we are doing 'ease of business', but in reality, the common man and the economy is not saying so.

Can we all put our minds to it? This is not about you *versus* us. This is not a political issue. India needs to grow. You agree and we agree. We have to see what we can do by putting all our minds together to change this.

I was thinking about this Bill, more or less, since the time you have come. Clause 5 of the Bill is very complex. When you talked about mergers, the whole idea behind bringing this in the NPAs was that the NPAs were standing at Rs. 15,00,000 crore at that time. I think, it would be even more. I may stand corrected. You brought in the resolution. You actually get more money in a resolution plan which you do not get in a liquidation. So, why are we looking at liquidation as an option? I brought out that in service industry, liquidation does not get anything to anybody and nothing to the common man. Why have we got this Bill? What more can we do for this? For the last two years, can we at least get a white paper on what we have achieved? You have given a reply, I think, to an Unstarred Question where it says 'financial creditors/operational creditors'. With the resolution, just about 45 per cent people have got money and with liquidation, it is even less. So, if the Government admits to this, can we have a white paper on this that we have got this with a good intention. We are making changes only at the behest of the Supreme Court. What more can we do to improve the situation?

When you talk about waterfall mechanism, I think, you need to put on record how secured and unsecured creditors will have equal rights. You may please clarify about that.

There are two businesses which I would like to highlight. These are things which you get in the newspapers. I do not mean to quote any company. But look at the cement companies. There was a cement company which lost thousands of crores of rupees. There were bidders. There was a conflict of interest. This Bill should have addressed it. Do we really need the intervention of the Supreme Court? In the whole thing, the entire bidding process was derailed. So, what was the Government doing then? Why did we need this?

Shri Gaurav Gogoi has already talked about realty business. I would like to go one step ahead in this. Suppose I buy a flat and you also buy a flat there, we both do not know that we have bought a flat in the same place even if we know each other so well. If that realtor leaves, we have nobody to turn to. Where do we find 50 per cent people? Even if they say go to the AGM, how will you find AGMs? Where will I go chasing 50 per cent people? So, is there some mechanism which you have in mind which will help us in this?

What worries me the most in this entire Bill, which I have not understood and, I think, only you will be able to explain, is that in this entire game, there is only one credit agency which handles everything. Suppose I am a company, there is one credit agency which says I am AAA, which is wonderful. When

somebody goes to the bank, the same agency says that this AAA company is wonderful, please give them a loan. The same agency, when I go to NCLT, says, 'Yes, there is a problem'. So, there is only one professional person who is called the RP, is handling all agencies. So, the one who gives you the loan is the same person. So, with one credit agency, how will we stop all this mess? So, how are we going to change this? What mechanism do we have to handle this?

Insolvency, etc. came into a country like the USA ages ago. So, they are ready for it because of all the amendments they made. But it is a baby for all of us. There is only one credit agency. I do not care who he is. He could be from India or from abroad. People outside the House tell me that when you are sitting in Parliament, you all think that all is really wonderful in this country. But when you are on the field, it is not. I know your answer would be, 'People would have not shown this faith in us and we would not have been 303'. That is not the point.

Right now the economy is in the doldrums. There are markers which are screaming for help. So, I would like to ask you as to what you are going to do about all these several issues that have come. How will the credit agencies multiply? How will you make sure that they reach the last person who is seeking help? Otherwise, it is a monopoly. आप लोन भी एक से ही लो, सर्टिफिकेट भी उसी से लो और दिवाला भी उसी से निकालो। So, it is all one agency.

Hence, if you could kindly clarify as to how we can improve this it would be better. I whole-heartedly support this Bill. But, I think, we all need to put our minds to it. We can get some professional advice. Maybe we can go to the Standing Committee again once or twice to get some more recommendations. But do this with the right intention so that it gets implemented on the filed for the reason for which you have brought. Thank you.

**SHRI PINAKI MISRA (PURI):** Mr. Chairman, Sir, thank you. We are debating this Insolvency and Bankruptcy Code (Amendment) Bill, 2019 in the backdrop of the very unfortunate suicide of somebody who has been called the Coffee King of India. I have just seen the article by Bloomberg which says, “The death of India’s Coffee King should actually be a lesson in our country in how not to allow industry to die in this country.”

This is a Bill, of course, which I support. There is no question of not supporting it. But it is very unfortunate that a law like this should continue to grow and expand in our country. It does not bode well for our country that Insolvency and Bankruptcy Law should expand because that is not the way you reach a five trillion-dollar economy or the world’s third largest economy, which is the dream of the present Government.

It is a law in the making. It is one of the most salutary laws. There is no question about it. It has had very limited success so far. Shrimati Supriya Sule spoke about the Essar Steel case, which has gone round and round. It has seen so many ups and downs and so many swings and roundabouts. More than 600 days have passed with so many rounds of litigation. Apart from lawyers, I do not know who else is benefiting in this entire exercise.

Despite that, we find the NCLTs are completely overburdened. At present, there are 14 Benches of the NCLTs in the country of which one is yet to be functional. The Kolkata Bench -- which, in fact, has the maximum number of these cases -- is overburdened as Judges in these Benches are sitting in

rotation in both Guwahati as well as Cuttack. Therefore, it is imperative to boost the judicial strength of the NCLTs in order to achieve the goal of timebound resolution that has been set by this Government. Many of the provisions that have been brought about are salutary and there is no doubt about it. But, I think, you will find that many more amendments will need to be brought in as time passes and as wisdom dawns upon us.

There is some clarification that needs to be given by the Government with regard to the conflict between IBC and other statutes. SEBI, for instance, seems to have moved the Supreme Court recently to appeal against an order of the NCLAT, which said that section 14 of the IBC has overriding powers over the SEBI Act and this prevents SEBI from selling off assets of a defaulting company as a moratorium is imposed under section 14 of the IBC. Similarly, it seems that IBC is also in conflict with the Real Estate Regulation Act (RERA), a very important piece of legislation too. The Supreme Court has declared that home buyers are financial creditors now. Therefore, there can potentially be a case where proceedings are initiated against a real estate developer under IBC and RERA, and, of course, the Consumer Protection Act as well. So, there would be multiple proceedings under multiple Acts. I do not know how the Government plans to bring about some sort of resolution as far as all these conflicts between various Acts are concerned.

The Government, definitely, has done a good job by protecting the MSME interests by drawing out an exception to section 29(A) allowing MSME

promoters to take part in the bidding of assets, which is otherwise not allowed for the larger promoters. To continue on this track, I think that the inclusion of MSMEs in the Committee of Creditors should also be considered by the Government because the MSMEs should be treated as a separate class of creditors to protect their interest. I am saying this because they need protection from the Government, and they, as I have said before in this House, really form the vast bedrock of employment that is provided in this country. They are the ones who actually provide bulk of the investment as well as bulk of the employment, which are prime problems in this country.

Apart from that, I certainly want to draw the attention -- and I have done that on a personal level with, for instance, Mr. Anurag Thakur, the hon. Minister of State -- about the manner in which the agencies are mindlessly going after some of these companies in terms of red-flagging accounts; in terms of calling accounts fraud accounts; and in terms of ordering forensic audits. Now, this is being done because bankers are being drawn into the net by CBI and ED for simply being Nominee Directors on companies.

I do not want to mention names here, but the *Economic Times* said that in one of the companies 580 people have been charge-sheeted. You will need a full football stadium in order to carry out a trial and possibly the next 40-50 years again without nobody benefiting except lawyers. Their nominee bankers have been charge-sheeted. Now, 'A' bank asks 'A' individual to be a Nominee Director on the Board of a company, and if that company fails and you are



going to bring that Nominee Director under the pale of criminality. There are not one or two, but dozens and this includes -- may I say this with great respect -- one of our ex-Chief Election Commissioners, one of the highest Constitutional authorities today, Mr. Tandon, who is charge-sheeted simply because he was a Nominee Director in the Board of a company.

Is this going to be the manner in which the Government agencies are going to be allowed to operate? I say this with great respect, and I have said this before also that I think one of the great mistakes of UPA-II was the manner in which they let these agencies and individuals in these agencies go rogue. Anybody and everybody were allowed to be charge-sheeted, and anybody and everybody was roped in whether they were guilty or not guilty. By the way, in almost 99.9 per cent of those case there have been acquittals. There has not been a single conviction in any of those cases, and simply public time and money has been wasted.

Therefore, I would urge the Government not to spread panic among bankers because at the end of the day bankers and bureaucrats are the bedrock of how this country is going to go forward in economic motion.

Such behaviour spreads panic that if you put your pen to signature or if you even agree on the bank's decision to make you a nominee director, then, you are going to be charge-sheeted, face the next 25 years in the court of law, and then, eventually be acquitted as has happened in 2G scam, as has happened in Coal scam, and as has happened in dozens of cases. The UPA-II

saw a very sorry end to their regime. That was simply because there was no political direction given in these matters, and the political hand said, you are free to do what you like. So, perhaps, the obsession with honesty is a good obsession but that must be tempered with pragmatism.

I support this piece of legislation, and welcome any future legislation of this kind that the Government brings in to tweak these laws to help industry. Thank you very much.

**SHRI JASBIR SINGH GILL (KHADOOR SAHIB):** Thank you, Mr. Chairperson, Sir. I don't doubt the intention of the Government but request the hon. Finance Minister Madam to take care of a few points.

Although the Insolvency and Bankruptcy Code was formulated to help bring willful defaulters fall in line enabling the financial institutions and creditors recover their dues, it has actually turned into a two-sided sword.

Although this Bill did result in recovery of bad loans from a few big debtors, it has also turned into a tool for small and medium enterprises which may be facing genuine stress for a temporary phase during the normal conduct of their business.

This law gives the right to any secured creditor or an operational creditor to move the NCLT provided a debtor owes them anything more than Rs. 1 lakh, which is a miniscule

amount in today's time and an obligation of this sort of amount is normal for any running business. This has resulted in this law being used more like a recovery tool by operational and secured creditors which is also bringing small and medium enterprises to their knees due to the severe provisions of this law.

Secondly, there should be a provision in this law to fix responsibility on the bankers, who, on the first hand, approve a project based on a project report to sanction loans to businesses after charging hefty processing fees etc. Then, subsequently, move the NCLT declaring the same very business as unviable. This would prove as a deterrent for the lenders to be more

vigilant, both while sanctioning the project loan, and then approaching the NCLT at the very first instance.

Furthermore, necessary amendments should be brought into this law to make it amply clear that the intention of this law is to help businesses, especially of small and medium enterprise to restructure their borrowings, to offer them a new lease of life through sustained resolution plans, and not just to choke them abruptly as soon as they hit a lean patch in normal course of business. This will go a long way not only in helping the overall economic growth of the country but also will safeguard millions of jobs and the resultant livelihood of scores of genuine entrepreneurs.

There is an unannounced financial crunch in India. Such crisis appears to the public slowly. I think, the current situation is only the first phase of crisis. Increasing NPAs means scarcity of capital which in turn means no fresh investment. The glorification of bankruptcy law and continuous scams and closure of companies will lead to cutting of more jobs leading to joblessness and frustration of youth.

Huge inventory and the houses in the real estate sector, be it in NCR, metros, big cities, tier 2 or tier 3 cities, are not being sold which means, the sale of steel, cement, bathroom fittings, plyboard, tiles and marbles is declining. With this, NPAs will grow and go deep into individual level by making the crisis go deeper.

Vehicles' sales are at its lowest with around 35,000 crore worth of vehicles left unsold. India's leading car manufacturer, Maruti, has cut down manufacturing by 50 per cent. This is the first time in our country, which commutes on two wheelers, the demand of two wheelers is showing negative growth which means reduction in demand for spares, tyres and other accessories. The above three things are bound to end crores of jobs and decrease tax revenues. In this scenario, the Government will impose new taxes to even the losses. The Government hands over profits to the private sector and keeps deficit in Government's account burdening people more.

Public sectors undertakings and properties are sold to the Government's favourite corporate houses. Financial crisis in India will be clearly visible around March 2020. Average Indians are unaware of it. For a few years, even the FMCG sector has been in the grip of recession.

Therefore, my request to the hon. Finance Minister is that the Government should not tighten the noose around unwilful defaulters. For MSME sector, the Government should come out with a policy that helps entrepreneurs to come out of these hard times by catching their hands and saving them from drowning with these types of stringent laws.

**SHRI JAYANT SINHA (HAZARIBAGH):** Hon. Chairperson, Sir, thank you for giving me this opportunity to speak on this very important Bill, and I would like to thank the hon. Finance Minister, my Party and other colleagues who have spoken in this House and supported this Bill.

Hon. Chairperson, Sir, our Government has been duly appreciated and duly thanked for various landmark reforms that we have brought in the last five years. Among those, of course, are GST, the Monetary Policy Committee, the macro-economic stability that we have achieved, various social welfare programmes that we have very successfully introduced and the extraordinary infrastructure built in railways, in ports, in airports. These are among the landmark reforms.

I was a little disappointed that my friend in the Opposition has called the insolvency code just a constructive step. Around the world, hon. Chairperson, what we have done with the Insolvency and Bankruptcy Code, it has been viewed as an extraordinary and a profound economic reform. So, it is not a constructive step. This is a game-changing reform that has been effected.

Subsequently, after passing the original Bill in 2016, through a series of rules, series of judgments of various courts and the amendments that have been brought in the past and this set of amendments, we are working towards establishing a settled law when it comes to the resolution process and when it comes to the bankruptcy process. This is very important for our country because we have to establish a firm foundation and a strong framework for the

resolution process so that we can take our economy to not just 5 trillion dollars but 10 trillion dollars as well.

The streamlining of the resolution process and the establishment of this clear and stable framework are very much aligned with the philosophy of the hon. Prime Minister – Minimum Government, Maximum Governance. This type of governance is only achieved when the rules are clear.

I would like to draw your attention, hon. Chairperson, Sir, to what just happened at the World Cup. In the World Cup, we ended up with the tie in fifty overs. We went to the Super Over which was also a tie. But the rules were very clear. Everybody understood exactly how the final winner was going to be decided on the boundary rate because the rules were clear. There was no controversy, no dispute and the matter could be settled quickly, and we knew who the winner was.

In the same way, we have to make the rules clear. It is the job of the Government to make the rules clear for the various players in the industry, in the economy, so that everybody can conduct themselves accordingly. In this way, as the hon. Supreme Court said, India will cease to be a defaulters' paradise, and instead debtors' rights and creditors' rights will be protected.

The Insolvency and Bankruptcy Code has already been very successful. As the speaker before me from the Treasury Benches said, we have already had a situation where 6,079 cases have been resolved even prior to getting into the resolution process because it is so clear what is going to happen there.

And through that, over Rs.2.84 lakh crores of loans and assets have been resolved. So, it is already working very well. We have already seen 101 cases that have been withdrawn, 120 cases that have been resolved, and 475 cases that have been taken into liquidation. So, the Code is working very well.

I want to commend the hon. Finance Minister and I want to commend all the officials in the Finance Ministry and the Corporate Affairs Ministry for bringing forward these very important amendments because they will make this Act work even better. It will enable us to meet our philosophy of 'minimum government, maximum governance'.

Mr. Chairperson, Sir, various Members have spoken on different aspects of this Bill. It has been my great fortune to have been involved in the business world for many years. So, rather than addressing the legal or the political aspects of this Bill, I want to address the economic and business aspects of this Bill. How is this making it possible to do business better, to make our banks more robust, and to enable creditor rights to be protected? First and foremost in this process of ensuring that our assets are utilised as efficiently as possible, that economic considerations are paramount, is the fact that through these amendments we are ensuring that disputes are settled in a timely way. And so, I must commend the hon. Finance Minister for bringing in a guillotine and saying that after 330 days the matter has to be settled, after 14 days it has to be admitted. This will introduce tremendous certainty in what is happening.



A second very important aspect of this Bill is introducing many other possibilities that were not allowed earlier such as mergers, amalgamations and de-mergers. By enabling this we give the resolution professional a great deal of flexibility in the resolution plan, enabling other better capitalised, more efficient enterprises to come and take over some of these companies that are in the resolution process. That too will make this Bill work much more efficiently and take our economy to 10 trillion dollars.

There is a third aspect that is very important which I will emphasise. It is that we know that through a recent NCLAT ruling there was some confusion about how the waterfall will work, what will be the rights of secured creditors, what will be the rights of operational creditors. That introduces tremendous risk and uncertainty in this process. And because of the risks and uncertainty, it drives up the credit cost, drives up the cost of capital. By making it absolutely clear through these amendments, as the hon. Finance Minister has done, we have made sure that the rights of secured creditors are safeguarded and the rights of the operational creditors are made crystal clear as well. This is reducing uncertainty, this is going to reduce the cost of capital, enable our economy to move even faster.

To that end, hon. Chairperson, Sir, Moody's, a well-known global rating agency, has already come out and said, "The proposed amendments aim to improve the Code's effectiveness. Three of the proposals have credit-positive implications for Indian banks". So, rating agencies are already praising these

amendments. They are saying that there will be credit-positive amendments. And that which is credit positive is growth positive, which means it is jobs positive, which means it propels the economy forward.

I say with complete conviction that this is obviously taking us to the five trillion dollars. But these are precisely the kinds of changes and amendments we need to make if we have to lay a firm foundation to take us not just to five trillion dollars, but to 10 trillion dollars as well. Thank you very much.

**14.00 hrs**

**SHRI N. K. PREMACHANDRAN (KOLLAM):** Thank you very much, Mr. Chairman, Sir, for affording me this opportunity to speak on the Insolvency and Bankruptcy Code (Amendment) Bill, 2019.

I am very happy to note that in the eight amendments, which are amending seven sections of the Insolvency and Bankruptcy Code, 2016, most of the apprehensions are the ones which we have raised at the time of consideration and passing of the original Act of 2016. During 2016, we have raised the same apprehensions at the time of introduction as well as at the time of consideration of the Bill. At that time, the then Finance Minister, Shri Arun Jaitley was piloting the Bill.

The original Bill of 2016 is the consolidation of laws relating to the reorganisation and insolvency resolution of corporate persons, partnership firms and individuals within the stipulated time. I think, this is the third round of amendments coming for the consideration of the House. So, it shows that so many gaps and lacunas are there in the original Bill that have to be filled and rectified. The main purpose or the intent of the original Bill was to have an effective legal framework for timely resolution of insolvency and bankruptcy which would benefit the ease of doing business.

I would like to seek a clarification or an answer from the hon. Minister. In the hon. Minister's opening remarks, the impact of the Bill has not been elucidated for the academic wisdom of this House. I would like to know from

the hon. Minister that after 2016 and 2018, subsequent amendments were made to original Act – the situation has been changed, I fully agree – but how many cases were solved; what was the impact; and how much time was saved in resolving the problems and having the resolution process, in total?

Mr. Chairman, Sir, I am coming to the amendments one by one. Even this Amendment Bill is necessitated due to the judgement by the National Company Law Appellate Tribunal in the Essar Steel case. In order to overcome the judgement of the Appellate Tribunal, the amendment is being brought in. The two-member bench in the National Company Law Appellate Tribunal has put the operational creditors on par with the secured financial creditors at the time of the settlement of the claims. So, this judgement has far-reaching consequences. It is making section 53 of the original Act irrelevant. This is the same provision which we have made at the time of consideration of the Bill. I have gone through the records of 2016. I myself had stated this apprehension that these financial creditors are put on par with so-called operational creditors. At that time, the then hon. Finance Minister had assured me in the House that the secured creditors will be getting top priority. That was the assurance given by the then hon. Finance Minister. But in the judgement of the National Company Law Appellate Tribunal, it has specifically stated that they have put both the financial creditors as well as the unsecured creditors, that is, operational creditors – they are supplying goods and service to the company – in place, in the name of equity and justice. In the name of equity

and justice, the National Company Law Appellate Tribunal has made the judgement and that is why the section 63 of the Insolvency and Bankruptcy Code has become irrelevant in order to override this difficulty.

In the Essar Steel case, the resolution plan was to pay financial creditors 92.5 per cent of their dues. But according to the judgement, it is 60.7 per cent, equal to that of, both the operational creditors as well as the secured creditors, especially, the financial creditors. Section 53 lists the hierarchy by which claims are to be sanctioned or settled, out of the proceeds of the liquidated assets, that is, cost of the liquidation process; insolvency professionals; dues to the secured creditors and workmen; the employees and unsecured creditors; the Government dues; and so on. I do accept though, there is a distinction between the operational creditors, the financial creditors and the secured creditors, still the ambiguity was there. That is why, at that time, I have stated that unsecured and secured creditors have been placed in the same footing, which will be a serious disadvantage to the banks, especially, the public sector banks. The public sector banks holding financial securities are facing big liquidity crisis in the country.

I am coming to the second amendment which is regarding section 12(3) and I fully support this because the insolvency resolution process of a corporate debtor shall not exceed 330 days. As per the original Act, it was 180 days, extendable by a period of up to 90 days, that is a total of 270 days. Now,

it is going to be 330 days. I have given a notice of an amendment to reduce the days from 60 to 30 days that is pending.

The amendment to section 5 is providing an explanation to the resolution plan. When the Bill was taken for consideration, all these apprehensions were made in the House and they have been brought in the form of an amendment. It means that our discussion in the House has been fruitful and that is getting due respect and due consideration in the House.

As far as the resolution plan is concerned, the suggestion we have made is that the restructuring should also include merger, demerger as well as amalgamation. The resolution process should not be for dissolution and destruction of a company, but it should be for the revival of the company. That was the point which the hon. Minister made at that time also.

Coming to amendment to section 25(a), it is absolutely beneficial to the home buyers because an authorised representative representing the financial creditors shall cast his vote on behalf of all the financial creditors he represents in accordance with the decision taken by more than 50 per cent of the voting share of the creditors that they represent.

In the IBC Amendment Act of 2018, significant relief was given to home buyers by recognising the status of financial creditors, but even subsequent to the very significant judgement of the Supreme Court, that has not been practical because of technical difficulties. The home buyers are a poor lot. It is very difficult to have 66 per cent of the value of total votes because these

people are scattered and they are not able to come. Giving a right to 50 per cent of the votes of home buyers through an authorised representative will be sufficient to make the percentage of 66 per cent which is very beneficial to the home buyers. In this way, the resolution plan can be very beneficial for them.

With these words, I support the Bill.

**SHRI JAYADEV GALLA (GUNTUR):** Hon. Chairperson, Sir, thank you for allowing me to speak on this Bill. Our journey to resolve commercial insolvency began with the Companies Act of 1956, went to the Sick Industrial Companies Act in the 1980s to the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act in the early 2000s to the present Insolvency and Bankruptcy Code. The names of the legislations have changed, decades have gone by and the entire Government machinery has been put to stop this menace of NPAs. However, there is no perceptible change as far as addressing the issue of NPAs is concerned. As of 31<sup>st</sup> March 2008, the gross NPAs in the economy stood at Rs. 10.35 lakh crore and about 85 per cent of these are from loans and advances given by public sector banks.

**14.09 hrs**

(Shri N. K. Premachandran *in the Chair*)

If one looks at the rate of increase also, in 2008, it was about 2.3 per cent a year and presently it is 9.3 per cent. So, even the rate of increase is going up. The point I am trying to drive at is that even though there have been attempts and there have been many legislations, we have still not been able to contain the issue of rising NPAs. Now, the hon. Finance Minister has come before us with one more set of amendments to the Insolvency and Bankruptcy Code, aiming to plug some of the loopholes and clarify some of the sections in the Code in the debt resolution process and I certainly welcome this.



I just wanted to introspect a little bit, especially considering what recently happened to Mr. Siddhartha in Bengaluru, as one hon. Member mentioned. If we look at why businesses fail, it can be for many reasons. It can be because of economic downturns, international downturns, or even domestic downturns at times.

They do not necessarily go hand-in-hand. Particular industries can be going through business cycles. As was seen currently, whether it is the aviation sector, the auto sector, or the telecom sector, all three were under severe stress. It could be because of the faulty strategy by the company or because of the Government policy changes. As we see today in the energy sector, with fuel price changes, PPAs are being negotiated. So, even that can lead to business failure. These are all, if you want to call it, genuine business failures.

But there is also business failure with malicious intent, where there are wilful defaulters. So, you have genuine business failure on the one hand and you have wilful defaulters and malicious failures on the other hand. We need to differentiate these two. While we have to attack one, we have to still support genuine business failure. In any company if you want to have a robust investment environment, you have to be able to sustain failures as well as successes.

In this whole process, banks and lenders also have a very important role to play. I believe that the accountability with the banks needs to be much

higher. The bankers have to go through any kind of proposal, that is given to them by a business, with due diligence. They have to do their own survey and look at the state of the economy. They have to review business plans, the leadership team, their track record, and their ability to deliver. They have also to monitor the performance of the business. My question is, how many banks are being held accountable for all of this and how well are they actually doing their jobs. If banks are giving loans without evaluating all of these factors, the NPAs will continue to go up and banks will continue to escape accountability. So, I think that the accountability of banks and the role that they play in a business being successful or not, has to come under a lot more scrutiny than we have been able to do so far.

There can be no innovation without failure. Business failure is currently being stigmatised. Businessmen, if they fail, are being viewed as criminals. We have to understand that in every profession there are good apples and bad apples. Business is definitely no exception to that, but neither is any other profession. Even in business we have to recognise who are the good apples and who are the bad apples, without treating everybody the same way.

For people, any entrepreneur, to take risk there is a concept of limited liability. It is a global concept but in India all entrepreneurs are being forced to sign personal guarantees for business loans that they take. It is leading to a crisis where either the entrepreneurs are unwilling to take that risk or if they take the risk and fail, they are resorting to extreme steps like suicides and

things like that. How do we handle risk? Who has to actually be assigned that risk? How do you encourage entrepreneurs to invest more? If we do not distinguish between genuine business failure and wilful default, we will lose our ability to innovate as a country and ultimately it will affect our growth towards a five trillion dollar or much higher level economy.

The private sector is very crucial in this growth. If we do not encourage the private sector, it will be impossible to achieve this goal. I would request the hon. Minister to look at this whole situation and see how to give entrepreneurs more capability to take risk and be able to differentiate between people who are having genuine business failure and wilful default and bring that into the Code.

I will speak on a couple of points and then finish. The first point is, Clause 3, which proposes to amend section 5 of the Code. It says that if an application is not admitted or rejected within 14 days, then the adjudicating authority has to give reasons in writing. Clause 4 gives deadline for completion of insolvency resolution process within 330 days. There are other procedural aspects like this which are welcomed by the industry.

**HON. CHAIRPERSON:** You may come to the point and conclude.

**SHRI JAYDEV GALLA :** If you look at Chapter XI of the US Bankruptcy Law, it allows an appeal by a debtor to turn things around.

In the US, the courts can grant this appeal regardless of what the creditors think. This provision is missing in the legislation.

So, I suggest for consideration of the hon. Minister to provide one last opportunity to the debtor, because our ultimate objective is to turn the business around and keep it running and not to close the business. Kindly look at this.

Finally, if you look at Section 5 (21), it talks about what constitutes 'operational debt'. Here 'operational debt' means claims in respect of goods and services and debts owed to Government.

**HON. CHAIRPERSON :** Please conclude.

**SHRI JAYDEV GALLA:** Sir, I am concluding. But here it is not mentioned about certain types of debts such as claims under indemnity agreements or intellectual property licences, which do not constitute goods or services. So, I suggest that the definition for 'operational debt' be modified to include indemnity agreements and intellectual property licences as well.

With these observations, I conclude my speech. I support this Bill. Thank you very much, Sir.

**SHRI P. R. NATARAJAN (COIMBATORE):** Hon. Chairperson, Sir, thank you. The proposed amendments provide for a time-bound resolution process. In the IBC itself, it has already been stipulated that after receiving a resolution application, the NCLT must determine the existence of default within fourteen days. An average time, which the NCLT takes, ranges from three to six months. In my opinion, merely fixing a time-frame in the law will not resolve the real problem. We will have to identify the real reasons. There are many reasons. Unless and until these issues are addressed, the exercise that we are doing is going to be in vain.

The bankruptcy law has got two components: One, the insolvency of corporate establishments; and second, the insolvency of corporate persons.

I would like to know from the hon. Finance Minister, why one part of the Code has been notified and why the other part, which is in fact the soul of the Code, has not been notified. At present, the bankers can initiate insolvency proceedings only against corporate establishments. Section 60 of the Code talks about insolvency resolution to proceed against individuals. That means, eighty-five per cent of the total loans was written off due to the resolution plan.

I would like to ask from the hon. Minister that in the event of successful resolution plan, what would be the liability of a corporate individual?

**DR. AMAR SINGH (FATEHGARH SAHIB):** Hon. Chairperson, Sir, thank you for giving me the opportunity.

Through you, I want to put some suggestions to the hon. Finance Minister. The first speaker from our Party has supported the Bill and we all support the steps taken by the Government of India. But still I want to bring certain issues to the notice of the hon. Minister.

Primarily this Act was brought in the year 2016 to handle the issue of NPAs in the Public Sector Banks. The NPA issues are still there and have gone worse, with the Jet Airways and with this Café Coffee Day person committing suicide. There are about 50,000 employees in Jet Airways and I do not know the figures about the employees in the other company. What happens to the employees?

What I am trying to say is that the Act was brought with a very good intention, which we support. In the last three years, what we have been able to achieve, we would like the hon. Minister to bring it on board in the Parliament, so that we can understand that this step yielded this much result.

The second thing which I would like to bring to the notice of the hon. Minister, through you, is that in the case of Jet Airways, the issue of lending sites has come up. There is some international case which is coming in newspapers and magazines. That is under Cape Town Convention. What do we do? Not only Jet Airways, there would be other so many big companies in

our country, which would be having international operations. They may be dealing with various national and international agencies.

What will we do with them? It is because this Code and this amendment do not throw any light on the issue that wherever international agencies are involved, what are we going to do.

The third issue which I want to bring to the notice of hon. Finance Minister is that you have given 90 per cent power to the financial creditors. They can close down and they can finish the case. I want to bring to the notice of the hon. Minister the experience of the USA and Europe in 1980s. Please have a look at that experience. This policy was followed with force there. Ultimately, what happened to a city like Detroit? It is a ghost town today. We need to create jobs in the economy. ऐसा न हो जाए कि बहुत अच्छे इन्टेंशन से लॉ लेकर आए थे, but after five years or ten years down the line we may find that we have lost so many jobs. Today, those figures would not be available but within six months or one year or two years, all those figures would be available.

Another point which I want to impress upon the hon. Minister is that last year you amended Section 12(a). Now many stakeholders are raising this issue that there is a large possibility of misuse of this new amendment. It is because about 90 or 100 cases have been disposed of in the last two and two and a half years of the Insolvency Law. Around 80 cases have been withdrawn. Who are these people? Why did the creditors agree so easily?

We need to look into this issue. I am not saying that there is some scandal but we need to see this issue very seriously.

The last point which I want to make is that without going into the underlying reasons, why are things not moving? I will request the hon. Minister that increasing the time from 270 days to 330 days would not make much difference unless we understand what the underlying issues are. Why are the cases not being handled? There are some structural issues. There are some staff issues. We have given permission to even a Rs.1 lakh creditor to put up the case. दस हजार करोड़ रुपये का भी केस है, एक लाख रुपये का भी केस है। The same Tribunal is handling. So, we need to differentiate between the severity of the cases.

These are the issues which I wanted to bring to the notice of hon. Minister.



**SHRI P. P. CHAUDHARY (PALI):** Sir, I rise to support the Insolvency and Bankruptcy Code (Amendment) Bill, 2019.

I can say that this is one of the biggest economic reforms of the century. This is a reform visualised by our hon. Prime Minister, Shri Narendra Modi Ji. We have seen that before coming into force of Insolvency and Bankruptcy Code, numerous remedies were available for the companies, for the individuals and for the firms for either redressal of their grievances or before AIFR, BIFR under the Companies Act or approach DRT, SARFAESI; for the labour - to approach before the labour courts; and for recovery – to file the recovery suit before the civil courts.

In some cases, we have also seen that for redressal of grievances, the aggrieved has also approached the High Court under article 226 of the Constitution of India. We have also seen that in these proceedings, the interim order were granted and the Government money in crores of rupees was stuck. Everybody was in trouble because there was no resolution and no scheme was also provided. This has also been contended by some of the hon. Members that the provision is also there under the SEBI Act and RERA.

So, looking into the scheme of the Insolvency and Bankruptcy Code, in case of conflict between IBC and SEBI and in case of conflict between IBC and RERA, the IBC will have an overriding effect.

Now, we have seen that since the law was fragmented numerous remedies were available and everybody was approaching various courts

according to their choice, it may even be the SICA of 1985. But we have seen that it failed to produce the desired results and it created a protective wall for realisation. On account of this, the perpetual control of the management, despite the fact the companies were mismanaged, the possession and control could not be recovered by the financial creditors and it was one of the biggest problems. The consequential effect of this was that before coming into force of the Insolvency and Bankruptcy Code, we were not in a position to recover the debt and the rate was only 26 per cent. It was very strange to see that around 9 per cent was the cost of resolution or liquidation. If we take into consideration the delay in resolution, one would find that huge time was spent in litigation. Average time taken was 4.3 years. Despite this, there was only a sub-optimal realisation of liquidation. So, it is evident that all these fragmented laws hindered the ease of doing business.

Sir, so far as the SARFAESI Act is concerned, during that time the focus was on recovery of debt and liquidation and there was no provision for resolution. I would also like to make it clear here that way back in 1960, the Law Commission of India specifically recommended bringing in an Insolvency and Bankruptcy Code and said that it was the need of the hour. Since then nobody had taken the pain to do this and for the first time in 2014, under the guidance and vision of the hon. Prime Minister, Shri Narendra Modi ji, this Code was enacted. Insolvency Law is already in existence in the USA and other European countries for last so many years and the realisation under such

Code in those countries is around 90 per cent. But in our country, as of today, the realisation is not to that extent, it is around 50 per cent. Since there are old NPAs, that is the reason why the realisation is less. What is the reason? The reason is since 1950 to 2006 around Rs. 18 lakh crore loan was advanced and during the period from 2006-2014, this amount increased to Rs. 54 lakh crore and because of this the financial creditors were in doldrums. We have created an eco-system which became the end of defaulter's paradise. This is the reason that the Supreme Court has taken the view, when this Code was assailed before the Court, and they observed that this is the end of the defaulter's paradise.

So, IBC is basically to consolidate and amend laws and for reorganisation and insolvency resolution in corporate, in firm and in individual cases. The maximum time provided for resolution for is 330 days and further extendable by 90 days. This is being done with a view to maximising the value of the assets. This code also provides for the formation and constitution of the IBBI. If one compares the IBC and the earlier law, one would find that in IBC it has been made clear that it will provide for resolution, whereas the earlier law dealt only with liquidation. This Bill provides for rescue, whereas the object of the earlier law was just recovery. So, by this IBC Code the problem is minimised and under this Code the waterfall mechanism is also there. The losses have been fairly distributed amongst financial creditors and the operational creditors. A World Bank report says that the ease of doing

business in India has tremendously improved on account of the coming into force of the IBC because the realisation is more.

After the IBC has come into effect, we have seen a deterrent effect. Realisation is manifold. On account of the enforcement of the IBC, even before filing an application, a complete eco system in the economy has been created. Earlier the creditor was required to chase the debtor but now it is debtor....(*Interruptions*) In large number of cases we have seen that the amounts have been realised once the application is filed and admitted before the NCLAT. After the admission of the application, the amount gets realised. Many cases have been resolved under the IBC before the NCLAT.

So far as the working of the NCLT is concerned, we have seen that it is working fairly well. We have seen that post created has already been filled to a large extent. Even before admission of the applications before the NCLT, the realisation has reached an amount of Rs. 3 lakh crore. Many cases have been transferred from the earlier courts to NCLAT and some new cases have also been filed. So, the disposal rate is fairly good compared to other adjudication processes.

The provisions of financial creditors, the resolution plan and the resolution professionals are also working well. Only in case where the resolution plan is rejected, it can go to liquidation and not before that.

We have amended the code three times. Earlier, the promoter was required to participate but he has been removed on account of second

amendment. We have also seen cases that a particular company was having an asset of Rs. 10 crore, they had advanced a loan of Rs. 900 crore but they were in a position to recover only Rs. 53 crore. All these NPAs and bad loans were of during 2006-2013.

So far as MSMEs are concerned, relaxation has already been granted in the second amendment. Regarding home buyers, earlier they were not financial creditors but now they are financial creditors.

So far as the Bill of 2019 is concerned, the amendment is only for the purpose of clarity and interpretation because various courts and NCLT have given various interpretations. With a view to remove ambiguity, for the purpose of clarity and interpretation, and to prevent dilution of the provisions of IBC, this Bill is before the House. This has been done after consultation with the various stakeholders.

With these observations, I support the Bill.

**PROF. SOUGATA RAY (DUM DUM):** Sir, I support the IBC (Amendment) Bill in principle. I would just point out some of the infirmities that have surfaced as far as the Bill is concerned.

I also want to remind you that we were in this House – you were also there – when we passed the IBC. It was arrived at after consultation in a Select Committee of the House. The IBC was a very well thought out but still, it has been proved that in three years, we have moved three amendments. So, it was not perfect. The present amendments do fill up some critical gaps in the IBC. We are bringing this amendment in the backdrop of Shri Siddharth Hegde, Café Coffee Day owner's suicide. Tax terrorism has driven people to suicide. This is not desirable in a country where we are looking for investment and entrepreneurship. I hope the Finance Minister will take care of tax terrorism that is prevalent in the country.

If I were the Finance Minister, I would not be able to sleep at night. It is true that IBC has reduced NPAs to the extent of Rs. 3.5 lakh crore to Rs. 4 lakh crore but even today, the total NPAs amount to Rs. 10.35 lakh crore.

With the banking system in such doldrums, I do not know how the Finance Minister sleeps at night.

Sir, two problems have surfaced. One is with regard to home buyers. In the case of Jaypee Infratech, the developer failed to deliver thousands of homes in Noida. In the event of liquidation, home buyers may get little back since they are not 'secured creditors'. These are parties - such as banks - that

get precedence when spoils are distributed. The IBC has failed in the case of home buyers.

The other point is regarding the resolution of Essar Steel matter. It has dragged on for more than 270 days due to which the present Bill extends the period to 330 days.

The other point I want to mention before the hon. Minister, whose Bill I have supported, is this. The resolutions are allowing huge haircuts. If you have noticed, the haircut in the case of buying of Electrosteel by Vedanta was 60 per cent. In the case of Bhushan Steel, the realisation is 63 per cent. In the case of Monnet Ispat, the realisation is 26 per cent. In other words, the IBC is not as potent. If you give such big haircuts, then what comes to the kitty of the banks?

Lastly, I want to mention that of the various amendments like in Section 30, the treatment of operational creditors and secured creditors under resolution plan should be fair and equitable, these amendments will completely dilute the National Company Law Appellate Tribunal ruling in the Essar Steel case which has still not been resolved.

Sir, the other amendments are innocent amendments in the sense that they are clarifications. In Section 5(26), 'Resolution may include merger/demerger'. This is merely clarificatory.

**HON. CHAIRPERSON** : Please conclude.

**PROF. SOUGATA RAY** : Sir, I will conclude shortly.

The other amendment is this. Within 14 days of the receipt of application, the authority shall ascertain the existence of default. That is welcome.

As far as Section 12 is concerned, the '330 days' is a very ambitious step. It is doubtful whether the Government will be able to resolve this.

With that, I will say that this amendment is a positive step to strengthen the IBC but the Minister has to take up the problem of Non-Performing Assets of banks which have jumped to Rs. 10.35 crore, and do away with tax terrorism before we claim credit that we are 77<sup>th</sup> in the rank of ease of doing business. A country like India, aspiring to be the third largest economy is 77<sup>th</sup> in the rank of ease of doing business, and we beat our chest about it.



**HON. CHAIRPERSON:** Thank you. Now, the hon. Finance Minister.

**THE MINISTER OF FINANCE AND MINISTER OF CORPORATE AFFAIRS**

**(SHRIMATI NIRMALA SITHARAMAN):** Thank you very much, Sir. I begin thanking all the 18 Members who have participated in this Debate. We have had a series of Corporate Affairs-related legislations which we have been discussing in the last few days like Company Law, Insolvency, and so on. I have noticed and have benefitted from the participation of all the Members. Each Member has given valuable inputs all of which I wish to take on board. But before I get into specifics of responding to each one of the Members, I wish to broadly put the picture out which many of you, many Members, have really effectively captured and also have spoken about.

I think the spirit behind this Code and also, what I may call, the frequent amendments -- this being the third in the last three years of the Code's existence -- might appear that we are coming up too frequently with amendments. But the reasons are obvious. Irrespective of some Members' observations, the Insolvency and Bankruptcy Code actually has proved effective; and in the course of my answer, I will certainly give figures to prove it. But then, the spirit with which this Code has come in, and also the way in which it has functioned, together with the types of solutions it is offering, and the expectation with which businesses are approaching for solutions through the Insolvency Code, will have to be put on record.

Again, it is not the intent here that every such problematic issue related to companies is taken up only with liquidation as an agenda. IBC does not keep liquidation alone as an agenda. In fact, if I can show you the types of solutions which we have come up with, many of them have even been settled much before they have even got into admission stage. In the light of IBC, the principle behind IBC and also the letter and spirit of the legislation with which it is getting implemented, is also what was captured very well by the observation made by Shri Pinaki Misra, who asked: "How not to allow companies to die." It is the spirit behind what we are doing through IBC.

How not to allow companies to die? If there is any prospect of a company that can be revived, the solution is not to go for liquidation irrespective of the situation, but to ensure that solutions are given as a going concern.

**14.41 hrs**

(Hon. Speaker *in the Chair*)

Therefore, the process is aiming at treating companies as going concerns, and that singularly explains why amendments are there to Section 5. That is the first point that we are talking about. It is about bringing in elements of merger, bringing in elements of acquisition and so on. So, on merger, and demerger, amendments to Section 5 are to keep with this idea and to keep it as a solution for a going concern rather than blindly get into liquidation.

Sir, the issues which have been raised are several, and I will definitely come back giving you response for each of the Members. An issue has been raised: 'Why are there so many litigations now, leading to so many liquidations now?' To set the background, I want to inform the hon. Members that with the IBC today and the resolutions, which have been handled, largely has a stock come in from the BIFR base. Seventy-three per cent of all the cases, which are in the line, waiting for a solution are those, which have been inherited from the BIFR. Most of these cases, which have come from the BIFR's table are either very sick or are totally defunct. So, if 73 per cent of them are waiting to get solutions, obviously you have a picture of too many waiting lists, too many liquidations, and that is not as a result of last few years; it is more, waiting for decades.

Sir, much before I get into details, I would very quickly give you a picture of what liquidation value has been seen here. Liquidation value of 475 companies is Rs. 24,417 crore against a claim of Rs. 3,46,655 crore. Liquidation value is at seven per cent of the claims, the BIFR being the character there.

Then, the timeline is one issue on which people have raised a lot of questions. I would respond to that.

It is very legitimate and I can definitely tell you about that. By using IBC, homebuyers' issues are being addressed. Of course, one of which has had a solution coming from the Supreme Court itself. So, if I were to go one-by-one,

I will be addressing the issues raised by various Members. Although several Members have raised the issues, some are being classified and grouped in my response. We were talking about the backlog which partly I explained by saying that 73 per cent have come from BIFR. Yes, it is a matter as to how we are going to address all these pending cases together with those which are mounting now. The capacity building is so required. I just want to give you a picture that in view of the increasing number of cases, the Government has increased the number – some of the Members did mention it – of Benches of the NCLT from 10 to 15 in the last one year itself. The number of members has also been increased in a phased manner. Recently, as was observed by one of the Members, 26 new members have been brought in. That is taking the total to 52. More than one court has also been made operational in the Benches where large number of cases are pending such as Mumbai, Delhi, Chennai and Kolkata. The e-Court Project is also being implemented in NCLT so that there will be faster disposal.

I do not want to take a lot of time but I want to tell all the Members that as far as Benches in Allahabad, Mumbai, Delhi, CGO Complex in Delhi, the MTNL Building in Delhi and new Branches in Amravati, Vijayawada and Indore are concerned, areas have already been taken up and interior work is going on. Hon. Member Gaurav Gogoi referred to it. So, there is a lot of activity going on in terms of physical infrastructure for which a lot of investment has already been made. Many of them are near completion.

Other than this, regular colloquiums are being held for capacity building of members so as to ensure speedier response and uniform judicial delivery system. For the capacity building, relevant training is also being given to officers and employees from time to time. There is a lot of emphasis on giving the right training and exposure to the members so that the quality of resolution will also be high.

The National Law Universities' participation in training is also very well recognised. On the Resolution Professionals, many of the Members have raised questions. I would like to just say that the IBBI registers and regulates professionals. They are CAs, Cost Accountants, CSs and Advocates with, at least, ten years of experience. Therefore, we do not expect any dilution in the quality of the Resolution Professionals. They also pass an examination which is conducted by IBBI. They have pre and post registration training. So, in a way, the capacity issues, both, physical capacity and also the training requirements of people, are attended to.

Sir, I just want to draw your attention to a point which I briefly mentioned earlier that IBC is now recognised for its constitutional validity and effectiveness. Now, we are globally seen as a country which is serious about resolution and cooperate affairs matters. We are also looking at company affairs in such a way that there is a positive approach.

Many Members have referred, particularly in the context of the tragic incident which has happened in Karnataka, Bengaluru of an entrepreneur

putting unfortunately an end to the problem by committing suicide, resorting to a very, very tragic end, or I do not know. I mean, I am just using the word loosely because technically we will have to wait for the inquiry to get over.

In that context I want to say the role this particular Code will play in terms of resolution is something which all of us will have to put our energies together to make it possible so that business failure – I think Jayadev Galla *ji* referred to it – in this country should not be tabooed. It should not be looked down upon. It should not be treated as a curse. On the contrary, through proper legitimate resolutions, we should give an honourable exit from business if that is what the entrepreneur wants, or a resolution to the problem so that the concern can be a going concern with newer equity participants coming into the picture. The letter and spirit of IBC and the frequent amendments which are coming in response to the developing situation outside are all in keeping with this spirit. So, our wish, the Government's desire is to be able to provide simpler and a fairly considered solution within the statutory framework that we have given ourselves.

In that way, I want to just put before the hon. Members the number of cases which have been disposed of before admission itself, and this is post-IBC coming into being a law of this country. That itself indicates to you both in number of cases and also the amount which has been retrieved and disbursed to big and small creditors. The total number of companies' cases which have been disposed of under Section 7 are 894. Under Section 9, 5102 cases have

been disposed of; under Section 10, 83 cases have been disposed of. A total of 6079 cases, large and small, have all been disposed of even at the point in time of admission or entry. This data is up to 28<sup>th</sup> February, 2019. What is the amount which has been used for disbursal in all these cases?

Sir, Rs.2,84,000 crore have been retrieved for disbursal. Therefore, you can see what kind of a behavioural change is happening in terms of resolution where there are issues about whether the company can go on or whether the company has to go for liquidation. Compare it with the days when they were waiting as sick companies under SARFAESI Act or even under the laws which existed before. This actually has helped us to bring in a behavioural change. People have hope and they expect to have the problems resolved.

A concern which many Members expressed is this. If you are going for liquidation, what happens to the people who are working there? No, that is not the driving principle. If there is life, if there is a possibility of reviving a unit, revival is given the chance, thereby once the whole matter settles down, it can be run as a going concern. It means the labourers, the employees, all of them are going to be taken care of. They are not going to be thrown out. The resolution spirit itself is to keep it as a going concern.

I want to give an instance. Without naming the company, I want to use this as an example to say, by taking this route through the IBC, whether there is a loss in terms of what is being paid to people. Not at all. If you look at this particular case which was resolved earlier, liquidation value was only Rs. 9

crore. Claims of financial creditors were up to Rs. 900 crore. Realisation for creditors was Rs. 54 crore. Realisation percentage of claim was six percentage; whereas realisation as a percentage of liquidation value was 600 percentage. The company was in BIFR for a decade. It is because of IBC, the company revived and creditors got 600 per cent of the liquidation value.

That is the achievement of IBC. I do not want to say that is the end of the story. But by constantly sharpening, bringing in greater focus and bringing in purpose serving amendments, we have achieved and we should continue to achieve with the cooperation of all the Members, certain kind of culture in the dispute resolution mechanism. Without the IBC, the creditors would have got only one per cent of the Rs. 9 crore of their claim. So, that underlines the need for us to be able to keep this alive and keep this relevant to the developments which are happening in the markets and in the economy and bring in this particular set of resolution timely. I am grateful to all the hon. Members in the House and all the Members have received it in the context in which it is being brought in. So, if there are some areas which require greater clarification, we had to bring in greater interpretative explanatory notes. Otherwise, you would treat all kinds of creditors as being equal which is unacceptable.

So, I would want to underline the importance of this set of amendments that we are bringing in, in the context in which we have brought in.

Now, hon. Member, Gaurav Gogoi spoke about haircuts and later many other Members also spoke about haircuts. Here, the Government does not



play a role. It is the Committee of Creditors who takes a resolution plan. It is not the Government; be it even if one of the claimants to the credit which is being lent is a public sector bank or any other institution of the Government, you can only lay your claim from your side. It is the Committee of Creditors who take a final call and that is why, voting in it is also a very important thing. The financial creditors on an average are getting 43 per cent of their claims, 188 per cent of their liquidation value, which is after rescuing a company, and bringing in a behavioural change. So, this is a very important point when you are talking about haircut. Many examples have been quoted but the logic behind it is to make sure that we revive the company but when liquidation becomes inevitable, we do that.

There were quite a few Members who spoke about the status of the Corporate Insolvency Resolution Process, that is the CIRP under the Insolvency and Bankruptcy Code. As on 30<sup>th</sup> June, 2019, I would like to say that 120 CIRPs have yielded resolution till date. I will now present the status of the CIRPs as on 30<sup>th</sup> June, 2019. Those which have been admitted are 2162; closed on appeal or review or settled matter is of 174 cases; closed by withdrawal under Section 12A are 101; closed by resolution are 120; closed by liquidation are 475; and on-going CIRPs are 1292.

Now, one another set of statistics which would be very relevant as a part of my response because many Members have raised about the number of days that cases wait, I would just want to say on-going CIRPs, which I just

read out, is 1292. Those which have waited more than 330 days are 335; more than 270 days – 445; more than 180 days but less than 270 days – 221; more than 90 days and less than 180 days – 349; and less than 90 days are 277. So, this is the kind of spread of cases which have been waiting for resolution.

**PROF. SOUGATA RAY:** Do you not think that 330 days is too ambitious?

**SHRIMATI NIRMALA SITHARAMAN:** Well, with the additions being made to the capacity of the NCLT and also the resolution professionals, I do not think it is too ambitious.

Sir, some Members raised the question of the 12 large accounts. I just want to give a picture of that because the 12 large accounts were initiated by banks, the resolution attempts for them have been initiated by banks. Together they had an outstanding claim of Rs. 3.45 lakh crores as against liquidation value of Rs. 73,220 crore.

### **15.00 hrs**

Of these, the resolution plans in respect of six CDs have been approved. Due to failure of implementation of approved resolution plan in Amtek Auto, the process has re-started. I am not sure whether Prof. Saugata Ray or some other Member referred to that particular case. The process has re-started in the case of Amtek Auto Limited. Other accounts are at different stages of the process. The following is the outcome of six large accounts that ended with resolution plans. In the case of Electrosteels Limited, realisation by all

claimants as a percentage of liquidation value is 183.45. There is a list of names of the successful resolution applicants. I am not reading each one of them, unless you want it.

**PROF. SOUGATA RAY:** You give the percentage. That is important.

**SHRIMATI NIRMALA SITHARAMAN:** Sure, I will give you.

**माननीय अध्यक्ष:** आप उनको प्रति भेज दीजिएगा । विद्वान माननीय सदस्य को आप कॉपी भेज दीजिएगा ।

**प्रो. सौगत राय:** यह बहुत जरूरी है ।

**श्रीमती निर्मला सीतारमण:** हां, कॉपी भेज देंगे । I have already explained as to what constituted the backlog. So, I am not going to the other large ones. Sir, 73.42 percentage has come from the BIFR's table and they are not growing concerns. Therefore, it is a high level of liquidation.

**PROF. SOUGATA RAY:** You mention them one by one.

**SHRIMATI NIRMALA SITHARAMAN:** I have a direction from the Speaker that I can write to you.

**माननीय अध्यक्ष:** आप उनको जवाब मत दीजिए । माननीय मंत्री जी, आप माननीय सदस्य को कोई जवाब मत दीजिए ।

**श्रीमती निर्मला सीतारमण :** ठीक है, सर । It makes my job easy.

**माननीय अध्यक्ष:** आप जब स्पष्टीकरण करेंगे, तब पूछ लीजिएगा ।

**SHRIMATI NIRMALA SITHARAMAN:** Hon. Speaker, Sir, there were questions asked about what would happen when a resolution applicant does not fulfil his obligations, for instance, the provisions of the resolution plan. So, action can be initiated against such resolution applicants. The Board has also initiated action against such resolution applicants, in case they did not turn up afterwards. So, the regulation also provides for performance guarantee to be brought in by the resolution applicant even at the stage of finalising the plan. So, there are checks and balances in the system with which we ensure that an applicant, who has successfully responded to the resolution plan, continues and sustains his interest in that thing.

The housing resolution has really attracted a lot of attention and the Members have expressed their concerns about how that is going to be addressed. I want to clearly mention that the Committee of Creditors have been empowered. The CoC is endowed with the duty of working in the interest of all stakeholders. As per section 334, the CoC may approve a resolution plan by a vote of not less than 66 per cent. I am grateful to Member, Shri P.P.

Chaudhary who also spoke in detail about it. There is 66 per cent of voting share, considering the feasibility and viability of the plan and such other requirements as specified by the Board.

Now, in this category, definitely, we have a lot of home buyers. Hon. Member, Supriya Sadanand Sule did ask a very relevant question saying how we are going to have them all come together. They are all so scattered. Yes, the resolution professional, together with the Committee, will have to issue notices, get the people come to respond and take their response. Only then, the Board will represent them. The question, which she also further asked and one of the Members later asked also, was that for those who voted in favour of the resolution plan whether we were going to give them their flat or the money as they choose. But what happens to those who have voted against? Even for them, there is a provision to be treated at par with others, if the resolution plan would stick to section 53 relating to the waterfall mechanism. Whatever is expected to be given to them as per that waterfall mechanism, will definitely, be given, irrespective of the fact whether they voted in favour or against. So, that is already there.

There is one thing for which I will definitely take this opportunity to talk about is Jet Airways. A lot of hon. Members asked what is going to happen as it has gone to an international court. I just want to underline the fact that the stakeholders - the debtors and the creditors - are free to work out the

resolution. They do not need to work out a resolution which is only through the IBC. They are not obliged to use IBC. IBC is only optional.

As regards the case which has gone to Netherlands or some other country, I would like to say that they have a company there. So, they are approaching the court there. Here we are looking at the context through the IBC. In that, I just want to add one more line. The Insolvency Law Committee has recommended the United Nations Commission on International Trade Law (UNCITRAL) model for cross border insolvency. This is under consideration of the Government. The hon. Law Minister is here. I am expanding on its Sections 234 and 235 which provide for agreement with foreign countries. This is a bilateral arrangement. It has not been operationalized yet.

Jet Airways has some office in Netherlands. Based on that, Netherlands court has admitted it for bankruptcy. While admitting Jet Airways, NCLT has refused to recognize Netherlands proceedings. This order has been appealed to the NCLAT. So, that is the status on the matter of Jet Airways.

There was a talk about fee being charged. They said that the fee is very high. Is the Government going to charge this higher fee for these kinds of resolutions? No two Corporate Insolvency Resolution Processes (CIRPs) are comparable. Therefore, fee cannot be prescribed high or low. Even if we intend to give a lower fee, it might affect the resolution itself. I think hon. Kanimozhi said, if the whole thing is of Rs.1 lakh and we charge Rs.20,000, what happens? This becomes a big issue for small debtors. But if each case is so

different, it is very difficult for the Government to establish and prescribe a different fee. The amount of default has no bearing on the amount of work involved also by the CIRP. So, in a way why do we not fix up the fee, is not only because of the size but also because of the work which remains same. So, both ways we cannot fix up the fee.

**माननीय अध्यक्ष :** माननीय मंत्री जी, अब आप इस पर स्पष्टीकरण दे दीजिए । आप उसमें जवाब दे दीजिएगा ।

...(व्यवधान)

**माननीय अध्यक्ष :** आप क्लैरिफिकेशन के समय बता दीजिएगा ।

...(व्यवधान)

**श्रीमती निर्मला सीतारमण :** अध्यक्ष महोदय, ठीक है ।

**माननीय अध्यक्ष :** प्रोफेसर सौगत राय जी, आप बोलिए ।

...(व्यवधान)

**PROF. SOUGATA RAY :** Sir, I think she has not completed it yet.

...(Interruptions)

**SHRIMATI NIRMALA SITHARAMAN:** Speaker, Sir, if I understand, you want me to write to all the clarification seekers separately and conclude now. I hope the sense of the House is that and because there is another Bill waiting, I shall conclude. I seek all the Members' support in passing this Bill.

**PROF. SOUGATA RAY:** Sir, I think today the hon. Minister has replied to many of the questions raised with a lot of clarity. I am thankful to her for the same.

**माननीय अध्यक्ष :** प्रोफेसर साहब, आपको कॉम्प्लीमेंट दे रहे हैं ।

...(व्यवधान)

**श्रीमती निर्मला सीतारमण :** अध्यक्ष महोदय, मैं यह उनसे दोबारा सुनना चाहती हूँ ।...(व्यवधान)

**माननीय अध्यक्ष :** प्रोफेसर साहब, आप एक बार और बोल दीजिए ।

...(व्यवधान)

**PROF. SOUGATA RAY :** And also, she has touched upon very many sensitive issues including Jet Airways and others which normally the Ministers skip. But Sir, she, in the process, has given the list of six out of the 12 important companies referred to by the RBI. With your permission, I request her to complete that.

My other question is with regard to Jaypee Infrastructure. A large number of people deposited money for buying flats with Jaypee. They also built the Noida Expressway.

**माननीय अध्यक्ष :** दादा, आप वरिष्ठ सांसद हैं । इंडिविजुअल फर्म की चर्चा पार्लियामेंट में कैसे होगी?

...(व्यवधान)

**माननीय अध्यक्ष :** संजय जायसवाल जी, एक मिनट । मैं आपको पूरा मौका दूँगा । मेरी बात भी सुन लीजिए । प्लीज एक मिनट बैठ जाएं ।

इंडिविजुअल एक-एक फर्म की, एक-एक कम्पनी की बात विधेयक पर चर्चा होते हुए कैसे होगी? क्या आप मानते हैं कि यह सदन में होना चाहिए?

...(व्यवधान)

**माननीय अध्यक्ष :** सौगत राय जी, आप बोलिए ।



**PROF. SOUGATA RAY:** Sir, let me complete.

The resolution plan submitted by resolution-applicant can be approved by CoC if 66 per cent votes are cast in its favour. However, in Jaypee's case, home-buyers form 59.4 per cent and the voting share garnered by banks and financial institutions is 40.6 per cent. On paper, there are 23,600 home-buyers. Now, how will they get their flats? The Government must find out a way.

एक-एक कम्पनी की चर्चा होना खराब नहीं है । जेट एयरवेज की बात यहाँ नहीं उठाएँगे तो कहाँ उठाएँगे? जे.पी. की बात यहाँ नहीं उठाएँगे तो कहाँ उठाएँगे? एस्सार स्टील के बारे में हेयरकट इधर नहीं उठाएँगे तो कहाँ उठाएँगे? यही तो सदन है । यही तो प्लेटफार्म है, जहाँ पर हम उठा सकते हैं ।

**माननीय अध्यक्ष :** आप नियम और प्रक्रिया की किताब निकाल कर बता दीजिए । मैं इसलिए बता रहा हूँ ।

श्री शिवकुमार उदासी ।

**SHRI S.C. UDASI (HAVERI):** Hon. Speaker, Sir, through you, I would like to draw the attention of the hon. Minister. I was also a part of the JPC constituted to look into the IBC. सर, जेपीसी कमेटी में मैं भी था, श्री पीपी चौधरी साहब, डॉ. संजय जायसवाल, निशिकांत दूबे जी, श्री भर्तृहरि महताब और सौगत दादा भी थे । उसमें पहली बार जब the former Secretary-General, Shri Viswanathan, who had framed the IBC, came, the first question, that was asked by me in the meeting, was: 'How are you going to have a comprehensive IBC without cross-border insolvency?'

As hon. Minister was stating in her reply, NCLT could not take into cognizance of what had happened to the Jet in the Netherlands. So, I would

like to ask the Government as to when they are going to have a comprehensive cross-border insolvency in the IBC. You already have Fugitive Economic Offenders Bill and PMLA in force. To have expansion of the economy to the tune of 5-trillion dollars, when are you going to have this cross-border insolvency in the IBC? Hon. Minister may please clarify this.

**SHRI JAYADEV GALLA :** Sir, I just want to ask one question. With 83 per cent of the bad loans coming from the public sector banks, the responsibility of the bank should be to conduct a due diligence, evaluate the leadership theme, evaluate the business plan and strategy, monitor their performance so that they do not get into NPAs. What are you doing to improve the performance and accountability of banks? The banks still seem to be getting the first preference in terms of getting paid during liquidation. How are they feeling the pressure beyond getting recapitalised every time they increase the NPAs? How are we going to increase the accountability of the banks?

**SHRI KALYAN BANERJEE:** Sir, I will not take the name of any of the companies. That is not just my business to speak here in the Parliament. Who will be benefited and who will be loser, is not the point at all because we are discussing the Bill.

I understand a simple thing that if you have taken a loan, you have to repay it. It is not that you will enjoy or anybody will enjoy at the cost of the public. I will also not ask you about who has committed suicide and who has not committed suicide, who is running away and who is laughing, and what are

the reasons. That is not the subject matter here. I have also so many corporate clients and I could have taken names of so many corporates, but I have not done so.

I have a simple question which I will ask you. On January 19, 2019, the Supreme Court, on the basis of the submission, rather an undertaking given by the learned Attorney General, has given a direction that there should be circuit benches of the NCLAT.

Now, six months have lapsed. That is a mandatory order. That order is mandatory. Therefore, when are you going to set up that?

**SHRI GAURAV GOGOI:** Hon. Speaker, Sir, thank you. Through you, I would like to ask a question on behalf of home buyers.

As per the pattern of section 53, as of now home buyers come very low at the pecking order when it comes to resolution. As I initially said, real estate is a separate matter. There is a lot of individual home buyers who are aggrieved. So, is the Government thinking about any amendment in the future whereby home buyers can be thought about as secured creditors and their rank can be elevated in the pecking order?

**माननीय अध्यक्ष:** माननीय मंत्री जी ।

**श्रीमती निर्मला सीतारमण:** सर, आपने पहले ही यह याद दिलाया कि टाइम की पाबन्दी है, इसलिए मैं सीधा, सटीक जवाब दे देती हूँ ।

One of our hon. Members have asked a question on cross border insolvency. I know the Insolvency Law Committee has given the Report. The

Government is examining the Report. It is under the active consideration at the moment and stake-holders consultation will have to happen. On the completion we will be able to report back on what we want to do on that.

There are one or two questions which are more on the verge of explanations. There has been quite a lot of linking of NPA with resolutions. This Insolvency and Bankruptcy Code is a law for resolution, not for bank related recovery matters. Bank related NPA recovery matters will be sorted out by the banking regulations. The Reserve Bank of India, the Government, etc. will be putting their best foot forward for that. But when I am talking of IBC, it is more for resolving the crisis in the companies. Of course, in a larger context, there is a sense in bringing the NPA together with the resolution related matters. But there is a different track. That is not being addressed by the IBC> So, I just want to be clear on that.

Let us be clear that this Bill strengthens the hands of the home buyers. I am trying to address every question asked by the Members in this regard. The home buyers are scattered. The hon. Member, Shrimati Supriya Sule, graphically put it saying that they are everywhere and how you are going to get them together. That is the whole idea of using this with a sense of wanting to resolve and give the option for voting. Give the option for voting so that they can decide and their vote can be treated as 100 per cent although they may be just 51 per cent. The mechanism through which they will participate will give them that option. All of them have locked their money. They are waiting. They

neither have the house nor the response from the promoter. The promoter is not around. We know in one particular case the Supreme Court has given its verdict. I would like to assure the Members here that the Government is looking at how to resolve one of the cases which is not in the court. It is for us to address because of the concern of all the home buyers. I am taking the name here because hon. Members will benefit by knowing its name. It is the JP case. The Government is fully seized of the matter. All of us, like the Ministry of Urban Development, the Ministry of Finance, are working together to see how best we can do justice for those home buyers who are desperately waiting for a solution. There too we are applying the IBC to make sure that they will benefit from some kind of voting mechanism. Other than that, how the Government can respond is something which is being actively considered by the Government. So, home buyers are not at all being forgotten either by this or by the way in which the Government wants to address the distress in which they are.

Prof. Saugata Roy, this Bill gives the mandatory 330 days. It is not something speculative. So, now it provides mandatory timeline of 330 days. I hope I have answered most of the questions.

**PROF. SOUGATA RAY:** What about haircuts?

**SHRIMATI NIRMALA SITHARAMAN:** I did answer that. I hope you did not miss it out. I will write to you separately if you want. Thank you very much.

**माननीय अध्यक्ष :** प्रश्न यह है :

“कि दिवाला और शोधन अक्षमता संहिता, 2016 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित, पर विचार किया जाए ।”

प्रस्ताव स्वीकृत हुआ ।

**माननीय अध्यक्ष :** अब सभा विधेयक पर खंडवार विचार करेगी ।

### **Clause 2    Amendment of Section 5**

**माननीय अध्यक्ष :** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 1 प्रस्तुत करना चाहते हैं?

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

Page 1, line 9, --

*for “may”*

*substitute “shall”. (1)*

Sir, merger, de-merger and amalgamation, simply ‘may’ shall be substituted by ‘shall’. If the hon. Minister can concede to this amendment, then it is well and good. I am moving it.

**माननीय अध्यक्ष :** अब मैं श्री एन.के. प्रेमचन्द्रन द्वारा खंड 2 में प्रस्तुत संशोधन संख्या 1 को सभा के समक्ष मतदान के लिए रखता हूँ ।

संशोधन मतदान के लिए रखा गया और अस्वीकृत हुआ ।

**माननीय अध्यक्ष :** प्रश्न यह है :

“कि खंड 2 विधेयक का अंग बने ।”

प्रस्ताव स्वीकृत हुआ ।

खंड 2 विधेयक में जोड़ दिया गया ।

खंड 3 विधेयक में जोड़ दिया गया ।

**Clause 4 Amendment of Section 12**

**माननीय अध्यक्ष :** श्री जसबीर सिंह गिल, क्या आप संशोधन संख्या 2 और 7 प्रस्तुत करना चाहते हैं?

**SHRI JASBIR SINGH GILL (KHADOOR SAHIB):** Sir, I beg to move :

Page 2, line 9, --

for "thirty"

substitute "sixty-five". (2)

Page 2, line 15, --

for "ninety days"

substitute "one hundred and twenty days". (7)

**माननीय अध्यक्ष :** अब मैं श्री जसबीर सिंह गिल द्वारा खंड 4 में प्रस्तुत संशोधन संख्या 2 और 7 को सभा के समक्ष मतदान के लिए रखता हूँ ।

संशोधन मतदान के लिए रखे गए और अस्वीकृत हुए ।

**माननीय अध्यक्ष :** श्री रितेश पाण्डेय – उपस्थित नहीं ।

श्री ए. राजा, क्या आप संशोधन संख्या 4 प्रस्तुत करना चाहते हैं?

**SHRI A. RAJA (NILGIRIS):** Sir, I beg to move :

Page 2, after line 12, --

*Insert* "Explanation.--The 'legal proceedings' referred to above shall exclude the period of any stay granted by any appellate tribunal or court of competent jurisdiction, on the corporate insolvency resolution process." (4)

Sir, it is a very small amendment to exclude the stay period. I am moving it.

**माननीय अध्यक्ष :** अब मैं श्री ए. राजा द्वारा खंड 4 में प्रस्तुत संशोधन संख्या 4 को सभा के समक्ष मतदान के लिए रखता हूँ।

संशोधन मतदान के लिए रखा गया और अस्वीकृत हुआ।

**माननीय अध्यक्ष :** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 5 प्रस्तुत करना चाहते हैं?

**SHRI N. K. PREMACHANDRAN :** Sir, I am not moving it. I am satisfied with the answer as 90 days is required.

**माननीय अध्यक्ष :** प्रो. सौगत राय, क्या आप संशोधन संख्या 6 प्रस्तुत करना चाहते हैं?

**PROF. SOUGATA RAY :** Sir, I beg to move :

Page 2, line 15, --

for "ninety days"

substitute "sixty days". (6)

**माननीय अध्यक्ष :** अब मैं प्रो. सौगत राय द्वारा खंड 4 में प्रस्तुत संशोधन संख्या 6 को सभा के समक्ष मतदान के लिए रखता हूँ।

संशोधन मतदान के लिए रखा गया और अस्वीकृत हुआ।

**माननीय अध्यक्ष :** प्रश्न यह है :

"कि खंड 4 विधेयक का अंग बने।"

प्रस्ताव स्वीकृत हुआ।

खंड 4 विधेयक में जोड़ दिया गया।

#### **Clause 5 Amendment of Sections 25A**

**माननीय अध्यक्ष :** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 9 प्रस्तुत करना चाहते हैं?

**SHRI N. K. PREMACHANDRAN :** Sir, I beg to move :

Page 2, line 22, --

for "all the financial creditors"

substitute "the financial creditors duly authorised in writing and



signed by separate authorisation". (9)

Sir, the authorised representative has to vote on behalf of the financial creditors, and for which my amendment is that "the financial creditors duly authorised in writing and signed by separate authorisation". Otherwise, fraud and cheating will take place. So, this amendment is very crucial, and I am moving it.

**माननीय अध्यक्ष :** अब मैं श्री एन.के. प्रेमचन्द्रन द्वारा खंड 5 में प्रस्तुत संशोधन संख्या 9 को सभा के समक्ष मतदान के लिए रखता हूँ ।

संशोधन मतदान के लिए रखा गया और अस्वीकृत हुआ ।

**माननीय अध्यक्ष :** प्रश्न यह है :

“कि खंड 5 विधेयक का अंग बने ।”

प्रस्ताव स्वीकृत हुआ ।  
खंड 5 विधेयक में जोड़ दिया गया ।  
खंड 6 विधेयक में जोड़ दिया गया ।

### **Clause 7 Amendment of Section 31**

**माननीय अध्यक्ष :** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 10 प्रस्तुत करना चाहते हैं?

**SHRI N. K. PREMACHANDRAN :** Sir, I beg to move :

Page 3, line 15, --

*after* "local authority"

*insert* "or public undertakings or autonomous bodies under the direct control of the Central Government or any State Government".

(10)

**माननीय अध्यक्ष :** अब मैं श्री एन.के. प्रेमचन्द्रन द्वारा खंड 7 में प्रस्तुत संशोधन संख्या 10 को सभा के समक्ष मतदान के लिए रखता हूँ ।

संशोधन मतदान के लिए रखा गया और अस्वीकृत हुआ ।

**माननीय अध्यक्ष :** प्रश्न यह है :

“कि खंड 7 विधेयक का अंग बने ।”

प्रस्ताव स्वीकृत हुआ ।

खंड 7 विधेयक में जोड़ दिया गया ।

खंड 8 और 9 विधेयक में जोड़ दिए गए ।

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

**माननीय अध्यक्ष :** मंत्री जी, अब यह प्रस्ताव करें कि राज्य सभा द्वारा यथापारित विधेयक को पारित किया जाए ।

**SHRIMATI NIRMALA SITHARAMAN:** Sir, I beg to move:

“That the Bill, as passed by Rajya Sabha, be passed.”

**माननीय अध्यक्ष :** प्रश्न यह है :

“कि विधेयक, राज्य सभा द्वारा यथापारित, पारित किया जाए ।”

प्रस्ताव स्वीकृत हुआ ।

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**15.26 hrs**

**PROTECTION OF CHILDREN FROM SEXUAL OFFENCES  
(AMENDMENT) BILL, 2019**

**माननीय अध्यक्ष :** यह विधेयक बहुत महत्वपूर्ण विधेयक है । मेरा सभा से आग्रह है कि इसमें हम सकारात्मक रूप से बात करें ।

माननीय मंत्री, श्रीमती स्मृति जूबिन ईरानी जी ।

**THE MINISTER OF WOMEN AND CHILD DEVELOPMENT AND MINISTER  
OF TEXTILES (SHRIMATI SMRITI ZUBIN IRANI):** Sir, I beg to move:

“That the Bill further to amend the Protection of Children from Sexual Offences Act, 2012, as passed by Rajya Sabha, be taken into consideration.”

अध्यक्ष महोदय, आपने आज सदन में इस विषय को रखा और एक सकारात्मक चर्चा की अपेक्षा के साथ इस चर्चा की शुरुआत चाही । सर्वप्रथम मैं पूरे सदन का आपके माध्यम से आभार व्यक्त करना चाहती हूं कि इसके प्रस्तुतीकरण पर ही एक स्वर में सब बोल उठे कि हम इसका समर्थन करेंगे ।

It is this very unanimity that the children of our country seek that irrespective of our political differences, we come together to provide stringent legislative means to protect our children. I am sure, across all Benches, all Members join me in this endeavour. Sir, actually 39 per cent of our population are children. As far as the provisional census data goes, today, 47 crore citizens of our country will find added protection under this particular Bill that I move with your blessings.

When the Criminal Law Amendment Act came into being, there were voices across the political spectrum that protection not be restricted to only women but be extended to children, and gender not become a challenge.

Today, the amendment that I bring forth to this august House seeks to correct that very anomaly. Sir, in consonance with Section 376 of the Indian Penal Code, and Sections 376(AB), 376(DA), 376 (DB) of the Criminal Law Amendment Act, 2018, we find that the POCSO Bill has been amended, and presented to this august House. We find resonance and compatibility in the proposed Bill. The difference is only this that the POCSO Bill extends its cover to children irrespective of their gender, and the perpetrator of the crime is also recognised, irrespective of gender.

Two-three important interventions are brought to the hon. House, through you, Sir. One is the definition of 'child pornography'. बदलते सामाजिक परिवेश में और टेक्नोलॉजी के बदलाव को देखते हुए - today there are more opportunities for sexual predators to victimise our children. To address this very challenge, our Government seeks to bring about a definition of 'child pornography'. What are the kinds of cases that necessitated this definition?

I am distressed to share with the House that 60 per cent of those who use the Internet today are under the age of 24. We will find cases after cases reported. One particular case was reported in the media in December 2017. An online porn channel called '*Nathanthund*' came to light through the media. This channel was operated by a 24-year old gentleman called Sharaf Ali.

What will nauseate the House is that this online porn channel, which has many elements, including the rape of a four year old by two men, found 5,000 followers.

**15.30 hrs**

(Shri Bhartruhari Mahtab *in the Chair*)

हमारे लिए यह चिंता और आक्रोश का विषय मात्र यही नहीं है कि इस प्रकार के बच्चों का शोषण करते हुए ऑनलाइन पोर्न एक्टिविटीज देखी जा रही हैं । समाज के लिए चिंतन का विषय यह भी है कि वे कौन लोग हैं जो ऐसी व्यवस्थाओं का सेवन कर रहे हैं, जो ऐसी व्यवस्थाओं के साथ जुड़ कर इसे पॉपुलराइज कर रहे हैं । 5000 followers just in one case is bad enough to send shivers down everybody's spine. That is why this august House may consider the definition of child pornography as visual depiction of sexually explicit conduct involving a minor child which includes photographs, videos, digital or computer generated images, indistinguishable from an actual minor, and image created, adapted or modified but appear to depict a minor.

Given that, Sir, many esteemed Members who would like to speak on this particular Bill, I would restrain myself to explanation of two-three other points. We have added protection of our children in situation where natural calamities take place. The nation stood as one when the Kedarnath tragedy took place but what ashamed many a people was the rape of a child in such a deluge. Today, one of the amendments that we seek to bring is to include incidents like this under the terminology of 'natural calamity'. Sir, we are also, through Section 9(v), adding a particular element about administrating drugs or

hormones, especially to bring about sexual maturity in a child so that it can be sexually exploited. Why was this necessitated?

Again, I am apologising for the insensitivity that this case which I am about to highlight might reflect. In a case of Yadadri, an 8-year child calls up 1098 with the help of a neighbour alerting police and the Child Protection Unit which goes to rescue this child and finds thirty more children in that particular institution. When the medical examination is done on these children, it is found that their entire bodies were burnt with cigarettes and they have injection marks on their bodies. Upon investigation, it was found that these children who were injected with substances were also made to watch sexual acts between customers and the so-called brothel-keepers. When the injections were particularly spoken of, police found forty oxytocin injections administered by a doctor in a nearby nursing home. The High Court upon its order found that 95 per cent of the children who were rescued, their DNA did not match the so-called alleged mothers who were found on the scene, which meant that these women acted as the so-called mothers so that these children could be sexually exploited. Today, Sir, those children are studying in a residential school.

Given the sensitivity of the issues, I have not named a single child. The additional information I would share with distress with this House. There were many children found who had small implants – birth-control implants like Nexplanon – embedded under the skin of the upper forearm. Upon being rescued, these children had to undergo medico-legal procedure to extract

those things out of their bodies. They were implanted into the children so that while these children are pushed into gruesome sexual activity, hormones are released in their bodies thereby ensuring that none of them while they are being raped by the so-called customers get pregnant.

Many such things have been brought to the notice of this House today and I am grateful that the House has deemed it fit to discuss this matter in unison. I look forward to a productive discussion so that we unitedly can provide added protection and strengthen the hands of our law enforcement agencies so that these children not only be rescued but the perpetrators, especially in the rarest of rare cases are also brought to death.

**HON. CHAIRPERSON:** Motion moved:

“That the Bill further to amend the Protection of Children from Sexual Offences Act, 2012, as passed by Rajya Sabha, be taken into consideration.”

**SHRI SU. THIRUNAVUKKARASAR (TIRUCHIRAPPALLI):** Mr. Chairman, Sir, thank you for giving me this opportunity to air and share my views on this important Bill.

Sir, two thousand years back, Tamil poet Thiruvalluvar had said: *Kuzhal Inithu Yaazh Inithu Enbar Tham Makkal Mazhalaich Sol Kelaathavar*. This means, those who have not heard and enjoyed the tones, tunes and words of infants and small children only will say that the rhythms, tunes or sounds of musical instruments like flute are melodious and sweet. That means, the

voices of infants and children are sweeter and more melodious than the sounds or rhythms of musical instruments.

Children are not the wealth of the family only; they are the wealth of the nation. They are the future of the country. What is a country? What do we mean by nation? Is it the mountains, rivers, forests, iron ore, coal, gold, silver or diamonds? Of course, these are all the wealth of the nation. But children are the real wealth of a country. Children are the wealth of the nation. They are the future parliamentarians, legislators, administrators, judges and everything. We all live for our children only. So, their protection, their health, their education, their wellbeing, and their safety are more important than anything else.

This Bill was introduced in the previous Lok Sabha. However, because of the dissolution of the House, this is again brought before this Lok Sabha. At the outset, I welcome the amendments to the existing Protection of Children from Sexual Offences Act, 2012. This is to protect the children from offences of sexual assault, sexual harassment, pornography, and to establish special courts for trial of such offences and matters connected therewith.

Sir, this Act is to ensure the healthy, physical, emotional, intellectual and social development of the children. Sexual abuse is a barbaric act. It spoils children's future; it spoils their career; it spoils their health; and it spoils their mental health. So, this Act is necessary today because every year, the crime rate against the children is increasing. More than one lakh cases have been reported and more than two lakh cases are pending in various courts. We all



know that many of the cases are not coming to limelight also. Not all the people are going to the police stations to file the cases. There is a large gap between the actual registration of cases and the actual cases that are happening. The cases which are reported and registered also, take a very long time for the final judgement in the courts.

According to the National Crime Branch data, a total of 1,06,950 cases of crimes against children were reported across the country in the last few years and 19 main metro cities recorded a cumulative figure of 16,000 such crimes daily. In 2015, it was 1,08,000 and in 2016, it was 1,97,000. I can give you State-wise data of a few States. In Madhya Pradesh, it is 2,500; in Maharashtra, it is 2,300; in Uttar Pradesh, it is 2,200; in Odisha, it is 1,300; and in Tamil Nadu, it is around 1,200. These are shameful things, which are happening throughout the country.

Sir, I welcome these amendments. In the principal Act, section 4, you are substituting 'seven years' with 'ten years'. Also, a provision for imprisonment for life is there.

The amount of compensation imposed under this section is just unreasonable for the victim to meet medical expenses and rehabilitation cost. So, there should be a reasonable amount of compensation.

As far as amendment to sections 5 and 6 are concerned, the amendments are meant for increase in years of punishment, more compensation to victims, and in some cases, even death penalty. As far as the

death penalty to juvenile convicts is concerned, I would request the Government to send this matter to a Parliamentary committee for reconsideration.

As far as other amendments in the existing Bill regarding the increase in the years of punishment are concerned, I welcome them. In this connection, I would like to say that as far as lower level judges like magistrates or district judges are concerned, the Central Government should give funds to the State Government for providing vehicles to them. Nowadays if you see all over the country, the accused and the magistrate are travelling in the same vehicle. Even a BDO, Tehsildar or Deputy Tehsildar is having either a jeep or some other vehicle. But judicial officers at magistrate level or district level do not have vehicles. The Central Government should help the State Governments to provide vehicles to judicial officers of the magistrate level. They are sometimes afraid of the accused, because they have to go with the accused in the same bus. After giving the judgement against the accused, they return in the same bus with the accused.

I welcome this Bill. The sexual abuse is a shameful thing; it is a barbaric act. It should be condemned; it should be stopped; it should be punished with maximum punishment. Whatever increase has been made in the punishments, I welcome it.

**PROF. RITA BAHUGUNA JOSHI (ALLAHABAD):** Hon. Chairperson, Sir, thank you for allowing me to speak on this very sensitive topic which obviously is a matter of concern, not only for this House, but for the entire nation and the world.

India is the youngest nation in the world. When we talk about the population below the age of 18 years, I am sure the population below 18 years of age in India is more than the population of many nations in the world. This is what is being addressed in this Bill. So, I stand in support of the Protection of Children from Sexual Offences (Amendment) Bill, 2019. This Bill goes very far in strengthening the POCSO Act, which was passed in 2012. I am very happy, and I congratulate the hon. Minister for bringing in provisions which are very necessary to strengthen this Act.

As has been said by the Minister in her statement, for the first-time pornography has been defined. I am also happy to know that not only one who is making pornographic film is criminal, but storing or keeping it will also be a crime punishable under law. This, I think, is a very good change in the Bill.

We all know why this Bill was required. From 2010 to 2014, there was an over 120 per cent increase in child abuse. The figures keep escalating incrementally every year. If we compare the figures of the last five years, they are going up so high that the Supreme Court has also taken cognizance of it and appointed an *amicus curiae* to see how this can be contained. This Bill will certainly be an effective means to do this. हमें इसकी जरूरत क्यों पड़ रही है?

जरूरत इसलिए पड़ रही है, क्योंकि जब किसी छोटे बच्चे का शोषण होता है, यह जेंडर न्यूट्रल है, चाहे कोई लड़का हो या लड़की, अगर उसके साथ एक अननेचुरल एक्ट एक स्टेज पर होता है तो उसकी मानसिकता प्रभावित होती है । The entire psyche of the child gets affected. A child's emotional life becomes tormented. Besides that, the physical health, emotional component, as well as the intellectual ability of the child gets affected. This Bill is for the safety and security of children. They should be allowed to live a normal life so that they can achieve their goals.

इसमें मैंने देखा है, इस बार पॉक्सो में जो चेंजेज किए गए हैं, सेक्शन्स 2, 4, 5, 6, 9, 14, 15, 34, 42 और 45 में चेंजेज किए गए हैं । सरकार ने खास तौर से सेक्शन्स 4, 5 और 6 में, aggravated penetrative sexual assault के लिए जो मृत्युदण्ड का प्रावधान किया है और penetrative sexual assault के लिए बहुत सिवियर सजा रखी है । इसके अलावा, हर क्राइम के लिए, जो लोग इस क्राइम को परपेट्रेट करते हैं, इसको प्रमोट करते हैं, इसमें एंगेज होते हैं, जो लोगों को फिल्मस या अन्य पोर्नोग्राफिक मैटेरियल से सेक्सुअली मोटिवेट करते हैं, उनके लिए पांच साल की कैद से लेकर मृत्युदण्ड की सजा का प्रावधान किया गया है । मैं समझती हूँ कि यह बहुत ही वेलकम स्टेप है । अभी देखिए उत्तराखण्ड, जो बहुत ही पीसफुल एरिया माना जाता है, पीसफुल स्टेट माना जाता है, वहां कितना गोरी (वीभत्स) एक्ट वहां पर हुआ । The entire country was shocked. पांच माइन्स ने मिलकर एक पांच साल की बच्ची का रेप किया । उस दिन पूरा देश अचम्भित हो गया था । हम रोज सुनते हैं कि एक चार साल की बच्ची या पांच साल की बच्ची जो स्ट्रीट्स पर अपने माँ-बाप के साथ रह रही थी, उसे कोई उठाकर ले जाता है, रेप करके, मारकर फेंक देता है । इस प्रकार के जो बहुत सारे क्राइम्स हो रहे हैं, वे या तो घर के अंदर हो रहे हैं, पड़ोसी से हो रहे हैं, जानने वाले से हो रहे हैं या फिर ड्रग एडिक्ट्स और नशे की हालत में हो रहे हैं । And, because of fear, an environment of abstention from reporting is

created. This law will instil fear in the hearts of those who will now think thousand times before doing an act like this. As Smriti ji has said, hormonal injections are being given as a result of which physically they are becoming bigger than their age. I am very happy to know that a small girl made a call to 1098 (telephone helpline by Childline) to not only rescue herself but others as well.

So, this is a very sensitive issue. I would like to bring to your notice a few figures. There are certain figures in Delhi, the Capital city, which are very alarming. Amongst the metropolitan cities; Delhi, Bengaluru and Mumbai compound for about 60 per cent of the acts of sexual abuse and violence against children under the POCSO Act.

**HON. CHAIRPERSON** : These are the reported cases. There are a large number of cases which go unreported.

**PROF. RITA BAHUGUNA JOSHI** : That is true. I do not know as to how many cases are there. We are talking only about reported cases. As one of the speakers before me said that over one lakh cases were reported only in the year 2016. One report of the NCRB says that there are cases of four rapes in a day. I think there must be many more. But these are the reported cases that are happening. But kindly look at the intensity.

In Gurugram, POCSO cases were reported and these cases bring out a very interesting figure and very shocking as well. In the year 2017, 140 cases were registered under POCSO. Later, amongst the reported cases, out of 181

victims, 43 were below the age of five. What is happening is that we are becoming very barbaric and inhuman. I think, the technology has also added up to it.

One more reason behind the same, which I feel, is the tardy way in which these cases are being investigated or brought to justice. The average time which is taken to resolve a case, is not less than six years. If you register a case now, not before six years would it be resolved. But then there are certain courts which are doing better. The hon. Supreme Court wants a speedy disposal of such cases. There is one case in Sikar in Rajasthan where from the date of filing of FIR till the date of the conviction, only twelve days were taken by the lower court. I think, two months or three months maximum should be the time taken. We can create laws. But if the legal process is tardy and if it is not fast or quick, then obviously, this will continue. In States like UP, Tamil Nadu, Odisha, North-Eastern regions and Madhya Pradesh, such incidences are increasing manifold. In UP, it was trebled in one year. These are alarming figures going up by 100 per cent or 300 per cent. We all know that there is a social castigation in cases where families, friends or sometimes relatives are involved and the family does not want to report such cases. So, these issues have to be resolved as well. The child has to be given enough confidence to come up and tell his or her parents or dear ones as to what has happened to him or her. So, first thing is awareness, second thing is creating

sensitivity among the society and the third thing is popularising the Act and as to how the offender will be penalised; all these things should come together.

At the end of it, I would say that this Act will go a long way in strengthening the law and bringing the offenders under the POCSO. Certainly, these amendments will become a deterrent to these crimes.

I thank you for allowing me to speak. I stand with the Bill.

**SHRIMATI KANIMOZHI (THOOTHUKKUDI):** When I start, I would like to appreciate the hon. Minister for bringing this Bill. I understand that this entire House is together. None of us can approve of what happens to our children. None of us can accept that their entire future is taken away by people who abuse them sexually. The hon. Minister is perfectly right when she says that the collective consciousness of this House and the entire nation is shocked every time when we come across, read or hear about a case like that. We are all shocked. Today, I could see, when she was talking about the Bill, she was shaken. It disturbs all of us here.

I would like to appreciate her because in this amendment, she has taken away the discrimination between gender.

**16.00 hrs**

It is because we generally believe that it is only the girl child who is affected which is far from the truth. There are so many young boys who are sexually abused and get traumatized throughout their life. I would like to bring up an example of a father. When his daughter was born, he refused to touch her. His wife was very upset because she thought since it is a girl child, he did not want to look at the child or come near the child. Finally, when they took him to a therapist, they found out that he was abused when he was child. He could not trust his own self. He was so scared because some residue was still there in him which made him think that by touching his child, he might pass on



something. So, just imagine the guilt and the pain the child has been carrying throughout his life. This happens to so many young boys.

We also believe that the offenders are always men which is not true. I appreciate the Minister for taking away the gender bar which was there. She has also brought in pornography. Child pornography is something which the society has to spurn and detest. But it is on the rise just not in India but in so many countries. So, this is a very right thing which she has done.

I think along with pornography, there are laws which will take care of child prostitution. I hope there will be another Bill or even in this Bill she can address this. This Bill does not talk about child prostitution. I think it also has to be addressed because there are so many children who are trafficked for prostitution and are abused.

With all this, I appreciate the intention of the Minister. Here we may respond very emotionally when something like this takes place. Even as a mother and as a human being when I heard of Kathua case, we could not believe that anybody can treat a child like that and that too in a temple premises. It was disgusting. I think it is also a reaction to what happened that this Bill has been brought in today. We really think and believe that perpetrator of this crime should be drawn, hanged and quartered.

But can we make laws based on emotions? The laws are for future. The laws cannot be made on what we think the criminal deserves. The laws have to be made with future in mind, with justice in mind and also what is best

for the victim. We know, in India, even when we say that it is on the rise, we also have to understand that most of these cases are under reported. Many of the sexual abuse cases of children are not reported because we know many studies as also the National Crime Records, 2016, say that 94.5 per cent of the offenders are relatives, people who are very close to the children and are guardians. So, most of these cases are not reported. We know in a family structure like in India, what happens is that the bread winner is always protected. There are not many cases where the family is willing to report when it is an uncle or a father or a grandfather or an aunt.

When you indiscriminately increase the number of years, the onus is on the child also. There is one more case which I would like to talk about.

This child was adopted by her uncle and she was brought up by that family. After a few years, the uncle who adopted this girl child, a boy child was born to this man. But this man was continuously abusing this girl. Finally, when this girl gathered the courage to report it and she found out that the punishment for the man would be 20 years she re-thought and asked these activists who will take care of her brother and her family if the case is reported. So, there are many such cases where we have seen that when we enhance the quantum of punishment for the sake of punishment, the witnesses turn hostile. There is also family pressure. How many families will allow relatives or a bread-winner or a guardian to be sent to the gallows? I think, these aspects would have to be taken into consideration. We agree that this legislation has

been brought with the best of intentions in mind. But that should not become a deterrent for people to report the crimes and for witnesses to turn hostile.

There was a lot of sensitivity and protection shown after the POCSO Bill was passed in 2012 about how a child should be questioned and how they should be protected. But when you bring in death penalty into it, then the judge is forced to make sure that there is no ambiguity in the case. So, the judge is forced to directly question the child. The child being questioned, being made to go into the details of the case will become another harrowing experience for the child. So, what is already a traumatic experience for the child, she has to re-live that when the judges are forced to question the children directly. When the quantum of punishment is enhanced and especially in cases of death penalty, even if there is an iota of doubt, the judge generally acquits the accused. When it comes to the case of a child abuse it is very difficult to prove the case 100 per cent and we know of many such cases because the children do not talk immediately. There are so many cases where you do not have witnesses. What happens then? In such cases, the judge tends to acquit the accused.

I respect the intentions of the hon. Minister. The entire nation believes that these people should be shown no mercy and I am with you on that. But just because you want to award death penalty it should not become a deterrent for a family to stop them from complaining; from making the judge extra-cautious and expect that the case should be fool proof. I think, keeping

these aspects in mind, the hon. Minister should reconsider this. I am sure she understands by all the experiences which have been brought before her as a Minister. Definitely, death penalty is not the answer to every crime in this country. This Government tends to believe that death penalty will deter every crime. It does not happen. We have seen that. Most countries are now moving away from this concept of awarding death penalty and I think, we should also start doing that. The hon. Minister should send this Bill to the Departmentally-Related Standing Committee concerned or form a Select Committee and bring the Bill back to the House. The most important thing is that the child should feel protected and the family supports the child to go ahead and complain and there is justice done to the child. Just increasing the quantum of punishment is not an answer to everything.

Thank you.

**HON. CHAIRPERSON** : Before I call the next speaker, I would just like to mention certain things to the hon. Minister for her consideration. हम इसे हिंदी में कहते हैं - लैंगिक अपराधों से बालकों का संरक्षण (संशोधन) विधेयक, 2019. In English it is the Protection of Children from Sexual Offences (Amendment) Bill, 2019.

क्या हम इसको जेंडर न्यूट्रल हिन्दी में नहीं कर सकते हैं, जब हम 'बालकों' कहते हैं । It is for your consideration.

**SHRIMATI SMRITI ZUBIN IRANI**: Sir, the terminology has been vetted by the Legislative Wing of the Government. There is an understanding that it will be

gender neutral even with the Hindi pronunciation that you just brought to the notice of the House.

**माननीय सभापति:** हम हिन्दी में नाबालिग भी कहते हैं ।

**SHRIMATI SMRITI ZUBIN IRANI:** Like I said, this terminology has been duly vetted by Law Ministry and this consideration that it should be gender neutral, not only the male, female children but also the third gender, is a considered opinion of the Ministry of Law.

**HON. CHAIRPERSON:** OK, now I call upon Shrimati Satabdi Roy to speak.

**16.11 hrs**(Dr. (Prof.) Kirit Premjibhai Solanki *in the Chair*)

**श्रीमती शताब्दी राय (बनर्जी) (बीरभूम):** थैंक्यू सर, आपने मुझे इस सेंसिटिव बिल पर बोलने का मौका दिया । माननीय मंत्री जी को भी धन्यवाद दूंगी कि उन्होंने ऐसा बिल लाने की कोशिश की । मैं कविता से अपनी बात स्टार्ट करना चाहती हूँ:

“खो गया मेरा बचपन, सो गई धड़कन ।  
 फिर भी जाग रही हूँ, किसी को कभी तो बता सकूँ ।  
 कहां-कहां मुझे वह छुआ था, जो बाप की उम्र के आसपास ही था ।  
 मां ने कहा, रोना बंद करो, भूल जाओ वो ।  
 सोचो, ऐसे ही चाचा, मामा का प्यार था वो ।  
 फिर भी रो-रोकर रात गुजारी, आज भी वो दिन याद है हमारी ।  
 आज भी वो किस्सा भूल नहीं पाई ।  
 सोचा शायद मां की मां ने भी उनको कभी यही समझाया ।”

महोदय, वास्तव में, हम लोगों की फैमिली में यही होता है । सबसे ज्यादा ये घटनाएं फैमिली के अंदर ही घटती हैं । एनसीआरबी रिपोर्ट, क्राइम इन इंडिया 2016 में रिपोर्ट आई कि 94.6 प्रतिशत केसेज फैमिली के आए और इसके लिए मां भी बोलती है, चुप रहो, दादी भी बोलती है चुप रहो और फैमिली भी बोलती है कि यह रिपोर्टिंग मत करो । इसके बाद भी बहुत सारी आम रिपोर्टें रह जाती हैं । बच्चे जब बाहर स्कूल जाते हैं, वहां पर वे सेफ नहीं हैं, प्ले ग्राउंड्स में भी सेफ नहीं हैं और घर में भी सेफ नहीं हैं । अभी हम लोगों को अवेयरनेस की बहुत जरूरत है । यह अवेयरनेस हम स्कूल और घर से स्टार्ट करें । अभी स्कूल में गुड टच, बैड टच, प्राइवेट पार्ट्स के बारे में सिखाया जा रहा है, लेकिन इसका एक दूसरा पहलू भी है । कुछ दिन पहले मेरी बेटी, जो 6 साल की है, वह स्विमिंग कर रही थी, उसके साथ एक और बच्ची भी स्विमिंग कर रही थी, जिसकी उम्र 8 या 9 साल की होगी । मेरी बेटी ने उसको पीछे से पकड़ लिया तो उसने कहा कि

डोन्ट डू दिस । मेरी बेटी ने कहा, व्हाय? तो वह बोली कि दिस इज माई प्राइवेट पार्ट । एक टाइम के लिए मुझे लगा कि ये बच्चे, जिनका अभी खेलने-कूदने का समय है, ये अगर अभी से प्राइवेट पार्ट्स में इतना काँशस हो जाएं, तो क्या हम लोग दो-चार क्रिमिनल्स के लिए उनका इनोसेंस नहीं छीन रहे हैं? पहले ही बच्चों ने पढ़ाई की वजह से खेलना-कूदना बंद कर दिया । बच्चों का अनुभव भी हम लोगों ने छीन लिया और आज सेफ्टी की वजह से हम लोग उनकी इनोसेंसी भी छीन रहे हैं । मुझे लग रहा है कि वर्ष 2012 में जो पॉक्सो आया था, अभी उसमें 10 वर्ष की जगह 20 वर्ष की सजा कर दी गई है, उसकी पैनल्टी को बढ़ाकर डैथ पैनल्टी कर दिया गया ।

महोदय, मेरा एक प्रश्न है कि क्या डैथ पैनल्टी से क्या क्राइम कभी कम हुआ है? अगर होता तो इस देश में ही नहीं, पूरी दुनिया में ही क्राइम नहीं होते । पैनल्टी की वजह से, लॉ की वजह से, बिल की वजह से न कभी क्राइम कम हुआ था, न कभी कम होगा । क्या आपको मालूम है कि Crime rate has increased even after the Nirbhaya case.

महोदय, हमने आज भी सुना कि झारखंड में तीन साल के एक बच्चे का गैंगरेप करके उसे कूच-कूचकर मार डाला । इसका मतलब, इस पैनल्टी, इस बिल, इस डैथ पैनल्टी से भी क्राइम करने वालों पर कुछ असर नहीं होने वाला है । The proposed amendment of the Bill has been focussed again on punishment than prevention. मुझे लगता है कि प्रिवेंशन बहुत जरूरी है, लेकिन इससे ज्यादा अवेयरनेस जरूरी है । डैथ पैनल्टी से आप क्रिमिनल्स को पैनल्टी दे रहे हैं, लेकिन उससे ज्यादा विक्टिम्स इसकी वजह से पैनल्टी पा रहे हैं ।

अगर वह किसी केस के बारे में रिपोर्ट करे, उसको जुर्माना देना पड़े, उसको सजा दी जाए, उसके परिवार को धमकी दी जा रही हो, उस बच्चे के ऊपर दबाव डाला जा रहा हो, मुझे लगता है कि इस बिल में पनिशमेंट से ज्यादा पीड़ित की सुरक्षा पर ध्यान देना चाहिए । मैं यह जानना चाहती हूँ कि उसको सेफ करने के लिए, उसको प्रोटेक्शन देने के लिए क्या कोई लॉ लाया जा रहा है?

दूसरे, इसकी समय सीमा क्या है? देश में ऐसे लॉ या केस कितने समय तक चलते हैं? एक काम और है कि जब घटना घटित होने के बाद बच्चा सीडब्ल्यूसी में जाकर रिपोर्ट करता है, उसके बाद वह कोर्ट में जाकर बोलता है, वह जो फेज होता है, उसके साथ जितने भी प्यार से बोला जाए, क्या हुआ, कैसे हुआ, यह सब उससे बार-बार पूछा जाता है, यह एक ट्रॉमाटाइज है। कैसे इससे उसको रिलीफ मिले, कैसे उसको बचाया जाए, यह हमको सोचना है। मुझे लगता है कि मेंटली चैलेंज्ड विक्टिम्स के लिए इसमें कोई जगह नहीं है। उनके साथ जो होता है, वे मुश्किल से उसको बता पाते हैं।

मैं अपने वक्तव्य को समाप्त करने से पहले एक और बात बोलना चाहती हूँ कि चाइल्ड मैरिज एक्ट को भी इसके साथ जोड़ना चाहिए। ऐसा नहीं हो सकता है कि एक सिन्दूर या एक मंगलसूत्र के बदले में सेक्स लीगलाइज हो जाए। अगर वह छोटा बच्चा है, तो मुझे लगता है कि उसके साथ इसको भी जोड़ा जाए, तो यह लॉ अच्छा हो जाएगा। मैंने अभी तक जो भी कहा है, एक एमपी होने के नाते कहा है और उन्होंने जो सुना है, वह एक मिनिस्टर होने के नाते सुना है। लेकिन अब मैं एक मां के नाते दूसरी मां से यह पूछना चाहती हूँ कि उन्नाव में जो घटना घटी है, उसके बारे में आप क्या सोचती हैं, उसमें उसका क्या कसूर है? उसने सिर्फ एक शक्तिशाली राजनेता के खिलाफ लड़ने की हिम्मत की, उसके सच को सबके सामने लाई, क्या यह उसका कसूर है? इसके अलावा अब वह अपनी पूरी जिन्दगी कैसे गुजारेगी? मैं आखिरी में यह कहना चाहती हूँ कि I support this Bill with this expectation कि एक मां की तरफ से मुझे जवाब मिलेगा।



**SHRI TALARI RANGAIAH (ANANTAPUR):** I am grateful to the Chair for giving me the opportunity to present my views on the amendments being proposed to the POCSO Act, 2012.

On behalf of YSRCP, I support the Bill. I will start with my mother tongue, Telugu – “*pillalu devuni rupalu*”. It means, children are viewed as manifestation of divinity. Children are Gods. Any harm to the children is harm to divinity and humanity. It is because a harmed child grows with a disturbed mind. Therefore, violence against children is a crime but sexual abuse of children is no less than a heinous crime. It is, in fact, a sin without salvation. Sinners must be punished not only severely but also swiftly. But what is happening?

The amendments to the Protection of Children from Sexual Offences (Amendment) Bill, 2019 shows the gloomy and insecure situation of children, particularly girl child, in the country.

The heinous crimes are occurring in almost all parts of the country, and are increasing day by day. The crime rate has increased, and the dimensions of crime have also increased.

As per the records of National Crime Research Bureau, 34,449 cases occurred in 2014, 34,505 cases in 2015, and 36,022 cases in 2016. This is clearly showing the increased crime rate in the country.

The POCSO Act was passed seven years ago. No legislation can foresee how the future unfolds. If law is unable to meet the needs of changing

situations, it must be re-examined in the light of new circumstances and social conditions. In fact, every law must be reviewed after five years to see if it has served the purpose.

Sir, I view the present Bill as a legislation in the social sector. I want to draw the attention of this House to consider that this law is an effective means of solving complex social problems.

'Nirbhaya' happened in December, 2012. In the same year, the POCSO Act was made. But the Nirbhaya culprits are still alive, long after being given death sentences. Now, they are planning to move a curative petition. First, it is a review petition, then it is a curative petition and thereafter, it is a mercy petition. Can law give such a long rope to convicts of heinous crimes even after the Apex Court confirms the death sentence?

In the 'Saravana Case', it took 18 years for the convict to surrender, and he died without spending a week in jail. As a first time Member of this august House, I am thinking loudly on this issue. Is it not the time to put timeline for judicial proceedings?

In our judicial delivery system, there is a long gap between crime and punishment. This is one of the major problems confronting the country. It is said that 'justice delayed is justice denied.' Here I would say that 'justice delayed is not only justice denied, but is also justice destroyed.' If the court proceedings go long, can a child victim of sexual abuse be able to recall the

sequence of events accurately? There will be changes in her disposition, which will be used by the accused to the child's disadvantage.

The statement may be recorded only once and that too soon after the crime. Victim need not be called to the court often, nor be asked to recall the crime.

Sir, this Bill seeks to increase the quantum of punishment by including death penalty. My apprehension is that it may actually lead to the death of the victim in order to destroy the evidence by the culprits. Is this not a possibility? I am afraid, it is.

We may not prevent the sexual abuse of children by merely making laws alone. We need to create awareness and take preventive measures. Prevention is always better than cure. The success of law is measured with wide and active public participation in comprehending and abiding the same.

In the case of POCSO, it is absolutely necessary to sensitise different entities like parents, children, teachers, doctors, police and judiciary, etc., to understand the purpose of the Act and spread awareness among others.

This august House must realise that attitudinal changes cannot be brought about by the law alone. We need to adopt a multi-pronged approach. Promoting sensitive support systems by using the EIC materials like slogans, themes, posters, videos etc., and conducting awareness campaign at educational institutions will help public to a large extent. Making short films and screening them will educate public on a large scale as we did so successfully

in anti-tobacco campaigns. Similarly, Self-Help Groups and NGOs can also play an instrumental role in conducting mass awareness programmes.

Sir, children must be made to understand that the sexual abuser may be her neighbour, a family member, cousin, an uncle, a brother or parent also. So, wide publicity needs to be given as to the quantum of punishment given to the offenders who are booked under POCSO.

Sir, sexual abuse of children is an issue of Public Health; it is an issue of Human Rights; and it is also an issue of Social Justice.

I would here suggest that there is a need to conduct campaign like 'Child Sexual Assault Awareness Month' to educate people and prevent sexual violence. Special session should be arranged for the parents about the possibility of child abuse in any form and anywhere. The offenders of children sexual abuse should be barred from entering into any type of jobs.

I would strongly recommend speedy trial within a timeline. Even appeals must have timeline in case of women and children.

The compensation must include rehabilitation of victim. It should not merely be limited to medical treatment. The properties of the culprit must be seized and given to the victim. All potential culprits must have a fear of consequences in their minds.

We, from YSRCP, strongly recommend that the institutional mechanism

should be strengthened to prevent heinous crimes and support the victims whenever and wherever required.

Thank you very much, Sir.

**श्री विनायक भाऊराव राऊत (रत्नागिरी-सिंधुदुर्ग):** माननीय सभापति महोदय, माननीय मंत्री स्मृति ईरानी जी ने इस समाज के, देश के हित के लिए समाज को सुजान, अच्छा और सुरक्षित बनाने की जरूरत है, इस वजह से वे यह प्रोटेक्शन ऑफ चिल्ड्रेन फ्रॉम सेक्सुअल ऑफेंसेज (अमेंडमेंट) बिल लाई हैं, उसका समर्थन करने के लिए मैं यहां खड़ा हूं ।

महोदय, इसके साथ-साथ मैं माननीय मंत्री जी का भी अभिनन्दन करूंगा । इस समाज की जो विकृति है, उसमें पिछले कई वर्षों में बढ़ोतरी हुई है और यह बढ़ोतरी समाज के सभी वर्गों में हुई है । ऐसा नहीं है कि केवल लोअर क्लास में इस विकृति के कारण ज्यादा घटनाएं घट रही हैं । इसलिए बच्चों को आदर्श रूप से संस्कारित करने की जरूरत है, चाहे वह स्कूल हो, मन्दिर हो, मस्जिद हो, मदरसा हो या अन्य कोई संस्था हो । पर, दुर्भाग्य से, पिछले कई वर्षों से यह देखा गया है कि अच्छे संस्कार देने के लिए जो संस्था तैयार हुई, वहां ही ऐसी घटनाएं ज्यादा घटी हैं और उसकी वजह से कई लोग जेल भी जा चुके हैं । उनका मैं नाम नहीं लेना चाहता हूं, मगर लाखों की संख्या में उनके अनुयायी थे । दुर्भाग्य से, एक दिन इसी कानून के अन्तर्गत ऐसी घटना के कारण उन्हें जेल जाना पड़ा । मैं उनका नाम नहीं लेना चाहता, पर यह दुर्भाग्य की बात है । ऐसा अपने देश में नहीं होना चाहिए ।

महोदय, माननीय मंत्री महोदया जी जब यह बिल लाई तो उन्होंने उसमें एक महत्वपूर्ण सेक्शन का अंतर्भाव किया है । पोर्न के बारे में वे जो अमेंडमेंट लाई हैं, यह आवश्यक है । अभी सारे बच्चों के हाथों में मोबाइल है, चाहे वह चार वर्ष का बच्चा हो या 100 वर्ष का बूढ़ा हो, हर एक के हाथ में मोबाइल है । इस मोबाइल फोन के जितने अच्छे फायदे हैं, उतने ही ज्यादा इसके दुष्परिणाम हैं । आज मोबाइल का दुष्परिणाम इतना हो चुका है कि पोर्न का जन्म मोबाइल फोन के माध्यम से हुआ और यह बच्चों तक जा चुका है । उसका नतीजा यह हुआ कि जिस मोबाइल फोन के माध्यम से कम्युनिकेशन होना चाहिए था, उस मोबाइल फोन के कारण यौन हिंसा की घटनाएं ज्यादा संख्या में घटती हैं । इसलिए पोर्नोग्राफी के ऊपर एक कड़ा कानून लाने की आवश्यकता

थी और उसकी व्याख्या करने की भी जरूरत थी । वह डेफिनिशन इस कानून के अन्तर्गत की गई है । केवल पोर्न देखने वाला नहीं, बल्कि पोर्नोग्राफी तैयार करने का जो षड्यंत्र है, वह पूरी दुनिया में सबसे ज्यादा, खासकर हमारे देश में सबसे ज्यादा पोर्नोग्राफी का निर्माण इस दिल्ली में किया जा रहा था, यह एक जानकारी में प्राप्त हुआ । पोर्नोग्राफी को देखने वालों की ज्यादा से ज्यादा संख्या इस दिल्ली में थी । दुर्भाग्य से, उनके ऊपर एक सख्त कार्रवाई करने की जो आवश्यकता थी, वह आज तक नहीं हुई ।

महोदय, मैं महाराष्ट्र सरकार का अभिनन्दन करूंगा । उस राज्य में, माननीय मुख्य मंत्री देवेन्द्र फडणवीस जी के नेतृत्व में शिव सेना, भारतीय जनता पार्टी के राज्य में पोर्नोग्राफी और सेक्सुअल हारासमेंट्स के जो मामले दर्ज होते हैं, उनमें से ज्यादा से ज्यादा मामलों को फास्ट ट्रैक पर चलाने के लिए अगर किसी ने इनिशिएटिव लिया, तो वह महाराष्ट्र सरकार ने लिया । मंत्री महोदय जी की जानकारी में तो यह है ही, पर पिछले हफ्ते सुप्रीम कोर्ट ने भी कहा है ।

पिछले हफ्ते सुप्रीम कोर्ट ने कहा कि set up a special court in every district with over 100 POSCO cases. देश में 100 पॉक्सो केसेज के लिए एक फास्ट ट्रैक कोर्ट तैयार की जाए । दुर्भाग्य से इसकी आवश्यकता क्यों पड़ी, देश में पॉक्सो केसेज का जो रेशियो है, आज एक जज के पास कम से कम 224 केसेज आते हैं । अगर मैं उन केसेज के रिजल्ट के रेशियो के बारे में बताऊं, तो ओडिशा में 12 परसेंट है, महाराष्ट्र में 14 परसेंट है और दिल्ली में 15 परसेंट है, यानी जो नेशनल रेशियो है, वह मुश्किल से 24 परसेंट है । इसके साथ ही कॉम्पेन्सेशन देने का जो रेशियो है, वह उससे भी बहुत कम है । वर्ष 2015 में सिर्फ 3 परसेंट विक्टिम्स को कॉम्पेन्सेशन दिया गया है । उसके बाद जो नेशनल एवरेज है, वह भी मुश्किल से 24 परसेंट है । पिछले वर्ष देश में कम से कम 33,000 केसेज रजिस्टर्ड हो चुके हैं । सुप्रीम कोर्ट ने संसद को पॉक्सो केस के लिए कानून पारित करने के लिए कहा । इसके लिए कानून बनाना सही है, उसमें अमेंडमेंट लाना सही है, लेकिन इस कानून का डर समाज में विकृति पैदा करने वाले लोगों के मन में भी जाना चाहिए ।

पॉक्सो के तहत मामला दर्ज होने के बाद कम से कम एक वर्ष के अंदर सजा के लिए सुनवाई होनी चाहिए। लेकिन, दुर्भाग्य से अपने देश में क्या हो रहा है? अपनी लोकशाही बहुत बड़ी है। जब एक बार फास्ट ट्रैक कोर्ट सजा देती है, तो उसके बाद रिव्यू पेटिशन में जाते हैं, मर्सी पेटिशन के लिए जाते हैं और बाद में राष्ट्रपति जी के पास अर्जी करते हैं, तब तक 12 वर्ष का लड़का कम से कम 60 वर्ष का हो जाता है। ऐसी विकृति के लिए जो डर होना चाहिए, वह समाज के अंदर नहीं है। समाज में इस प्रकार की जो विकृति करेगा, उसके दिल में डर होना चाहिए, लेकिन आज वह डर कम हो रहा है।

सभापति महोदय, मैं आपके माध्यम से माननीय मंत्री जी से प्रार्थना करूंगा कि जिस तरह से महाराष्ट्र सरकार ने इसके ऊपर पाबंदी लगाने के लिए अपने कानून में सुधार किया, ज्यादा से ज्यादा फास्ट ट्रैक कोर्ट का निर्माण किया और ज्यादा से ज्यादा गुनहगारों को सजा देने का प्रावधान किया, वैसे ही देश की सभी राज्य सरकारों को भी निर्देश दिया जाए। बाकी सारे मामले तो चल सकते हैं, लेकिन आप इस बिल के माध्यम से अपने देश की संस्कृति को सुधारने का काम कर रही हैं। देश की संस्कृति के लिए आप अच्छा काम कर रही हैं। हमारे समाज की सारी विकृति कैसे नष्ट हो सकती है, इसके लिए भी इस कानून में ज्यादा से ज्यादा प्रावधान करने की आवश्यकता है।

सभापति महोदय, एक बार फिर पॉर्नोग्राफी की व्याख्या करते हुए मैं आपसे कहना चाहता हूँ कि जो चाइल्ड रेपिस्ट होते हैं, आज उनकी संख्या बहुत तेजी से बढ़ रही है। आज चाइल्ड रेपिस्ट के बारे में एक सीरियल भी बनाने का काम हो रहा है। पिछले हफ्ते मुम्बई में 66 वर्ष के एक वॉचमैन ने करीब 4 साल की लड़की को पकड़ा और बुरी तरीके से उसके ऊपर अत्याचार किया। हमें उसकी उम्र देखने की जरूरत नहीं है। अगर ऐसे गुनहगार को पकड़ा जाए, तो कभी भी उसे जमानत नहीं देनी चाहिए। आज ऐसे लोगों को जमानत नहीं मिल रही है। उसके लिए नॉन बेलेब्ल ऑफेन्स होना चाहिए और किसी भी हालत में उस पर दया दिखाने की जरूरत नहीं है।



सभापति महोदय, मैं आपके माध्यम से माननीय मंत्री जी का एक बार फिर से अभिनंदन करता हूँ । समाज की छोटी बच्चियों या कुंवारी लड़कियों को निर्भय बनाने तथा उनका संरक्षण करने के लिए आपने जो निश्चय किया है, उसमें आप प्रभु राम जी की कृपा से सफल बनें । धन्यवाद ।

**श्री राजीव रंजन सिंह 'ललन' (मुंगेर):** सभापति महोदय, दी प्रोटेक्शन ऑफ चिल्ड्रेन फ्रॉम सेक्सुअल ऑफेंसेज बिल, 2019, जिसको आम तौर पर हम बोलचाल की भाषा में पॉक्सो एक्ट कहते हैं । पॉक्सो एक्ट में जो संशोधन लेकर माननीय मंत्री जी आईं, इसके लिए हम इनका न सिर्फ स्वागत करते हैं, बल्कि इनका अभिनन्दन भी करना चाहते हैं ।

आज समाज में एक गजब तरह के जघन्य अपराध की प्रवृत्ति विकसित हो रही है । पिछले दस वर्षों का आंकड़ा जब आप निकाल कर देखेंगे, तो पता चलेगा कि प्रति वर्ष इस तरह के जघन्य अपराध की प्रवृत्ति बढ़ रही है । आप अखबार में रोज पढ़ते होंगे, कोई भी अखबार हो, किसी भी भाषा का अखबार हो, किसी राज्य का अखबार हो, कोई भी अखबार आप प्रति दिन देखें, तो हर अखबार में एक, दो, तीन या चार घटनाएं इस तरह की प्रकाशित हो रही हैं । यह इस बात का संकेत कर रहा है कि गजब जघन्य अपराध की प्रवृत्ति हमारे समाज में विकसित हो रही है । बच्चे या बच्चियां कहीं भी सुरक्षित नहीं हैं । आप पूरी केस हिस्ट्री को स्टडी करिए । आप घर से शुरू करिए, तो पढ़ने के लिए स्कूल तक, कोई अगर बाजार में, दुकान में सामान खरीदने के लिए जा रहा है, वहां तक, हर जगह यह प्रवृत्ति विकसित हो रही है । इस प्रवृत्ति पर अंकुश लगाने के लिए माननीय मंत्री जी संशोधन लाई हैं । इस संशोधन के माध्यम से जो प्रभावशाली और सख्त संशोधन माननीय मंत्री जी लाई हैं, इसके लिए हम इनका स्वागत करते हैं और इस बिल का पूरे तौर पर समर्थन करते हैं ।

एनजीओज की या जो अलग-अलग रिपोर्ट्स आ रही हैं, उनके मुताबिक 54 प्रतिशत बच्चे और बच्चियां आज यौन शोषण की शिकार हैं । कई जगह ऐसा है कि वे शर्म के मारे नहीं बोलते

हैं । अगर बच्चे ने घर में कह भी दिया, तो उनके अभिभावक समाज में जो डर है, उस डर के कारण इसको बाहर प्रकाशित नहीं कर रहे हैं । हम कहना चाहते हैं कि घोषित और अघोषित, दोनों तरह की यौन शोषण की घटनाएं बच्चों के साथ हो रही हैं । इससे सख्ती के साथ निपटने का सरकार का जो संकल्प है और सरकार की जो शक्ति है, उस शक्ति का इस्तेमाल करते हुए सरकार ने अपने संकल्प का प्रदर्शन किया है कि हम इसको किसी भी कीमत पर बर्दाश्त नहीं कर सकते हैं । सख्त से सख्त कानून का, जो इसमें प्रावधान हो सकता था, वह प्रावधान लाकर उनकी अनेक धाराओं में सैक्शन 4 से लेकर सैक्शन 6 तक सारे संशोधन करके यह बिल माननीय मंत्री जी लाई हैं और जो सख्त से सख्त प्रावधान हो सकता था, वह उन्होंने किया है ।

चाइल्ड राइट्स एंड यू एक एनजीओ है । उस एनजीओ की रिपोर्ट हमने देखी थी । उस एनजीओ की रिपोर्ट के मुताबिक हर 15 मिनट पर एक बच्चा या बच्ची, कोई भी चाइल्ड हो, यौन शोषण का शिकार हो रहा है । उसने स्टडी करके एक आंकड़ा निकाला है । उसका कहना है कि 10 वर्षों के अंदर, वर्ष 2006 से लेकर वर्ष 2016 तक, 500 प्रतिशत बच्चों के सेक्सुअल हारासमेंट में इनक्रीज हुआ है । उनकी जो स्टडी है, उसके मुताबिक वर्ष 2006 में मात्र 18,967 केसेज़ रिकार्डेड थे । वर्ष 2016 में जो रिकार्डेड केसेज़ हैं, वे 1,06,958 मतलब लगभग 1 लाख 7 हजार केसेज़ रिकार्डेड हैं ।

यह जो प्रवृत्ति विकसित हो रही है, उस प्रवृत्ति पर अंकुश लगाना बहुत आवश्यक है । कई लोगों ने कहा, आपकी मंशा और सरकार की मंशा, सरकार का प्रभावशाली संकल्प, सरकार की सारी स्थिति इस अमेंडमेंट से स्पष्ट हो गई है । कई माननीय सदस्यों ने कहा और हम माननीय मंत्री जी से कहना चाहते हैं कि आप कानून बना रहे हैं, लेकिन कानून बना कर लॉजिकल एंड तक नहीं ले जाएंगे तो जिस उद्देश्य के साथ आप यह कानून बना रही हैं, वह उद्देश्य पूरा नहीं होगा । लॉजिकल एंड तक ले जाने के बाद ही समाज में इस तरह की कुरीतियां फैलाने वाले लोग और उसके बारे में सोचने वाले लोगों में भय व्याप्त होगा । इसे लॉजिकल एंड तक ले जाने के लिए

आपको लॉ डिपार्टमेंट या जितने भी संबंधित विभाग हों, उनसे कॉआर्डिनेट करके देश भर में स्पेशल्स कोर्ट बनावाइए, स्पेशल कोर्ट बना कर स्पीडी ट्रायल की व्यवस्था कीजिए, ताकि निर्धारित समय सीमा के अंदर इस पर नियंत्रण हो सके । हमने देखा है, कैलाश सत्यार्थी जी, बचपन बचाओ आंदोलन चलाते हैं । उनकी एक संस्था है । उसी पर काम करने के कारण उनको नोबेल पुरस्कार भी प्राप्त हुआ है । उनका हमने एक प्रोग्राम देखा है, अखबार में भी देखा है । हमने उनको कहा, वे ट्रायल की बात मान रहे हैं कि जब तक ट्रायल में सख्ती नहीं होगी तब तक बच्चों के साथ यौन अत्याचार पर नियंत्रण नहीं होगा । आज उनका यही मानना है और कई एनजीओज का भी यही मानना है ।

आज मात्र दस परसेंट केसेज का ट्रायल कनक्लूजन हो रहा है और मात्र दस प्रतिशत केसेज लॉजिकल एंड तक पहुंच पा रहे हैं, जबकि इसे आपको पूरे देश में व्यापक तौर पर फैलाना पड़ेगा ताकि समय सीमा के अंदर उसको पूरा कर सकें ।

मैं माननीय मंत्री महोदया के बिल का भरपूर समर्थन करते हुए उनसे तीन आग्रह करना चाहते हैं । आप इसे लॉजिकल एंड तक पहुंचाने का लक्ष्य निर्धारित कीजिए, पूरे देश भर में स्पेशल कोर्ट बनाइए, स्पीडी ट्रायल कराइए । इस केस में जो गवाह हैं, अगर आप स्पीडी ट्रायल करेंगे और स्पेशल कोर्ट बनाएंगे तो गवाहों को धमकी मिलनी शुरू हो जाती है । गवाह को धमकी मिलनी शुरू हो जाती है । आप गवाहों को प्रोटेक्शन कैसे दे सकते हैं? जब केस का ट्रायल लंबा खिंचता है तो गवाह को धमकाने की प्रवृत्ति ज्यादा होती है । अगर पन्द्रह दिन, एक महीने या डेढ़ महीने के अंदर धारा 164 में मजिस्ट्रेट के सामने स्टेटमेंट कराने की व्यवस्था कराते है, उससे गवाह पर दबाव कम होता है और आप लॉजिकल एंड तक केस पहुंचा सकते हैं । हम इस बिल का भरपूर समर्थन करते हुए तीन बिन्दुओं पर माननीय मंत्री महोदया से आग्रह करना चाहेंगे । आपने जिस तरह अमेंडमेंट्स लाकर संकल्प प्रदर्शित किया है उसी तरह आप इसे लॉजिकल एंड तक ले जाने के लिए पहल करें

और इसको अंतिम परिणति तक पहुंचाने की कृपा करें। इन्हीं शब्दों के साथ मैं इस बिल का समर्थन करते हुए अपनी बात समाप्त करता हूँ।

**SHRIMATI SARMISTHA SETHI (JAJPUR):** Thank you, Sir, for giving me this opportunity to speak on this Bill in this august House.

Sir, I rise to speak, on behalf of my party, that is, Biju Janata Dal, on Protection of Children from Sexual Offences (Amendment) Bill, 2019. This is such an issue which needs urgent national attention and correction. No doubt, the existing one is also a very much powerful one but the question arises, how much we achieved in the last seven years after the Act came into force. If we see the data, the crime of this nature has gone up even after enactment of the POCSO Act. I would request the Government to strengthen the areas which pull back reporting, investigation and punishment.

Under this Amendment Bill, the punishment prescribed has been enhanced by including death penalty for aggravated sexual assault on children, besides providing stringent punishment for other crimes against minors.

Further, it provides for fines and imprisonment to curb child pornography. Therefore, I welcome the Protection of Children from Sexual Offences (Amendment) Bill, 2019.

However, I may mention here that the conviction rate is less than 3 per cent as per the National Crime Record Bureau Report, 2016. I think it is not only the severity of punishment that acts as a deterrent, rather, if the rate of

conviction goes up, it will serve as a strong deterrence for offenders. Thus, we must focus on the crime reporting, speedy and qualitative trial and conviction.

Sir, I want to give some suggestions which may be helpful to further strengthen this law. We should provide a clear path way, compensation, guidance, or help to the victim till the he or she becomes self-sufficient and leads a normal life. Further, in the case of rehabilitation of POCSO victims, the skill development programmes designed for the children above 18 years could be relaxed suitably. A high value compensation may be fixed which would work to ensure a slightly better future of the victim. That can be used for his/ her education and future.

Sir, under Rule 4 sub Rule 8 of the POCSO, the Child Welfare Committee can provide support to a person to assist the child and his family during investigation and trial of the case. However, detailed provisions including special funds are yet to be clearly provided under the Rules.

Through you Sir, I would request the Government to amend the rules suitably. I would also urge that there is a need for engagement of Counsellors on a large scale in our schools so that children, parents and the community are fully sensitized about the issue.

Under the direction of our dynamic hon. Chief Minister, Shri Naveen Patnaik, an innovative programme called '*Paree Pain Katha Tie*' which means 'A tale for an angel' has been launched. According to this, a State-wide

caravan travels to different parts of the State in which police and other officials sensitize public regarding the importance of reporting of such cases.

Last but not the least, if we are bringing in provisions for severe punishment in the Bill, the amendments must include stringent punishment for offenders in case the victim is a child with special need or a differently-abled child.

These are a few suggestions which need to be taken into immediate consideration by the Government. With these words, I conclude.

Thank you.

**SHRI KOTHA PRABHAKAR REDDY (MEDAK):** Thank you very much for giving me an opportunity to speak in the House today on a very important Bill.

At the outset, I would like to state that not only me but the entire august House will agree with me that sexual violence against children in any form is a heinous crime and need to be condemned. About 90 per cent of cases registered against children are committed by known people only. One out of three children, who faced sexual abuse, are dropped out of school.

The conviction rate in such cases has declined in the last 10 years from 32.6 per cent in 2006 to 28.2 per cent in 2016, while the pendency has climbed from 81.3 per cent in 2006 to 89.6 per cent in 2016.

As the House is aware, registering a complaint is a difficult process, especially when the perpetrators are provided political patronage. Hence, only 4 per cent of the total cases are registered. It is also a fact that political clout of abusers and the use of threats often stop survivors from filing complaints.

Poor parents of the victims are not coming forward to register complaints due to financial and social problems. Hence, there is a need to educate children to courageously report sexual offences and to protect the interests of vulnerable children in times of distress in the society.

For speedy disposal of cases, establishment of exclusive special courts and adequate investment in infrastructure and proper training is the need of the hour.

We firmly believe that while sexual offences against children must be stringently prosecuted, the solutions also lie in preventive efforts and in strengthening implementation of the existing laws and schemes.

In our country, due to various social stigmas and reasons, it is a known fact that about 30 per cent of all women are still getting married before the age of 18 years, which needs to be addressed in the rural areas.

Question-posing to the child is more embarrassing, and especially those who are younger, cannot withstand direct questioning by lawyers which is invariably confusing, threatening, and humiliating.

There is a lengthy process which delays justice to the victims, including failure on the part of the police to collect relevant evidences, take statements of relevant witnesses, or collect forensic samples correctly. Hence a hassle-free process is required.

It must also be borne in mind that extradition may be done of several foreign nationals who have committed crimes and are seeking asylum abroad to escape from the clutches of law, which needs to be stopped. This can be achieved by ensuring that children are protected and supported when they courageously report offences against them through FIRs.

In this regard, I would like to state that SHE Teams Division, which stands for Safety, Health and Environment, was started on 24<sup>th</sup> October, 2014 and is the brainchild of our leader, Shri K. Chandrasekhar Rao *garu*, the hon. Chief Minister of Telangana. They also work to prevent child marriages in



Telangana State. The teams work in small groups to arrest eve-teasers, stalkers and harassers. They operate mainly in busy public areas of Hyderabad with 100 teams in operation. This is being implemented in Telangana successfully and has received huge response. Such initiatives may be taken into consideration before finalising the Bill.

I think, steps should be taken for time-bound investigations, trial and disposal of appeals, restrictions on bail, new fast-track courts, special forensic labs etc. with stringent implementation of laws to prevent sexual offences to combat this menace on top priority.

I would like to conclude my speech by supporting the Bill on behalf of TRS Party.

Thank you ver much.

**SHRIMATI SUPRIYA SADANAND SULE (BARAMATI):** Sir, I stand here wholeheartedly supporting this Bill on behalf of my party.

I would like to start with a quote of Mr. Harish Iyer, who is an equal rights activist. He says:

“My childhood went for having two words where I would not remember the rape until something triggered it off and then I would cry endlessly. I would not enter a male washroom because I was scared that I would be raped again. I grew up having no self-esteem.”

So, I really take this opportunity to congratulate the Minister who has shown such sensitivity. I think, it is really nice to be a part of this piece of legislation where unanimously we all stand and there are men and women speaking on this Bill in one voice to say that we have zero tolerance in this country when it comes to our children’s protection. So, I congratulate her.

I have just few questions which I would like to flag to her. After this legislation, she will talk to all the States. Most of our States have done exceptionally well in this regard.

So, are all States on board? Will we be able to get this going, not just at the district level but also up to the taluka level so that there is complete sensitisation and awareness pan India about this?

There are two points which bother me always. Something like this has happened in a small village in my Constituency, Baramati. I won’t name the

village. Before I could get there, the entire media had reached there. There is a clause of privacy, but it is not implemented. When there is any rape, be it a child or a woman of any age, the media mostly reaches there. They say, 'We have not given the name'. लेकिन, एक आम आदमी के घर के बाहर अगर 10 चैनल्स की गाड़ियां खड़ी रहें तो सभी को पता चल जाता है कि यहां क्या हुआ होगा। पुलिस बोलती है कि हमने ऐसा नहीं कहा, चैनल्स वाले बोलते हैं कि हमारे सूत्रों ने कहा है अब ये कौन से सूत्र हैं? So, I think this is a very private thing. Even we elected representatives should be very sensitive about this that whenever we visit such families we have to do it in complete privacy and we must respect that. This is something where India lacks. It still is a breaking story when there is a rape.

I heard a lot of men talking about data. कोई यह कह रहा था कि संख्या बढ़ गई है। यह बढ़ी नहीं है यह समाज में पहले से थी। Even if I am in Opposition, I will not say that. I do not think India's politics has reached such an ugly level where we would make such a dirty allegation against the treasury benches that you encourage this. I think this is something which is not about data. एक भी बलात्कार हो जाए तो गलत है। Let us not get into data and make this issue so shallow. You are talking about rape.

मैं एक हरियाणा की बात बताना चाहती हूँ। हरियाणा में मानेसर में पांच लड़कियां हैं। I know it is a State subject. I raised it in 'Zero Hour.' But I would like the hon. Minister to intervene in this even if it is a State subject just as a human angle.

वे पांच लड़कियां स्कूल जाती थीं और वहां उनसे ईव टीजिंग हुआ करती थीं। वे स्कूल टीचर के पास गईं, टीचर ने उन्हें कहा कि ऐसा कुछ नहीं है ऐसी चीजें होती रहती हैं, फिर वे

लड़कियां स्कूल प्रिंसिपल से मिलने गईं, वहां भी कुछ नहीं हुआ। उसके बाद उन लड़कियों की माताएं मिलकर पुलिस स्टेशन गईं और वहां उनसे कहा कि हमारी लड़कियों को स्कूल में तंग किया जाता है तो पुलिस स्टेशन में केस दर्ज तो हुआ, लेकिन ईव टीजिंग बंद नहीं हुई। वहां पर एक एक्टिविस्ट पहुंच गया और आज पंजाब-चंडीगढ़ हाईकोर्ट में केस चल रहा है। इस बारे में शायद किरण जी को पता भी होगा। अब आप मुझे बताइए कि इट्स ए स्मॉल थिंग्स, मेरा कहना यह है कि बलात्कार तो बहुत दूर की चीज है। We have to have zero tolerance even against eve teasing. This is all futuristic. Zero tolerance against these evils is the basic right of any citizen. So, I compliment her for bringing this. But we all need to address these two or three points in one voice.

There are two other small points which I would like to highlight to her. One is about the child welfare system. किसी की भी सरकार हो या कोई भी राज्य हो Child Welfare Centre is an *adda* for exploitation. So, do we have some data? What more can we all do? हर छः महीने में या साल में एक बार डिस्ट्रिक्ट वाइज टारगेट दिया जाए कि एम.पी. वहां पर विजिट करेंगे। हम सभी को पता है कि हमारे क्षेत्र में क्या चल रहा है, चाहे वह एम.एल.ए. किसी भी पार्टी का हो, कॉरपोरेटर हो या कोई भी हो। I think we all need to stand up against this evil together. You give us directions and give us authority that we are allowed to go. Make it mandatory for MPs. We are happy to do it. So, if you can do it, it will be a good thing. There has to be a due diligence of it.

My last point is about sex offenders. Many times स्कूल और कॉलेजेज में ये चीजें होती हैं। Sometimes even the Professor does it. There is a way of managing it. मैनेजमेंट बोलता है कि हमारी बदनामी हो जाएगी इसलिए तुम रिजाइन करके कहीं

और चले जाओ। Then, he again is an offender. Can we have a portal which will have a national data? I do not see it happening even if it is there. Can we find a way where we all have access to it because it happened in my own Constituency? उसको निकाल दिया। Then he will come and tell you, कि ताई मुझसे गलती हो गई। मुझे छोड़ दीजिए मैं फिर ऐसा नहीं करूंगा। यह आरोप झूठा है। It becomes a mess and becomes a local issue. So, he goes to a different college in a different district. So, can we find another better way to handle this? Please clarify this so that we are all made aware of this. I think it is the rarest of the rare case. I know there are a lot of human rights issues about capital punishment. But I think this is one crime, we feel in one voice that the person who does anything horrific like this, then there has to be zero tolerance against this.

For anybody who misbehaves with any child, be it pornography, be it rape, there has to be severe punishment. I would say even add eve teasing to it because eve teasing also has many repercussions. We should highlight this at the national level through some programmes. We used to run a programme in 2010 in Maharashtra. All colleges and schools were sensitised. It was called 'chedchad mukt Maharashtra'.

**17.00 hrs**

So, if we could have *Chedchad Mukh Bharat*, then these girls from Manesar do not need to go to a High Court. They could just go somewhere and get help that they deserve. I think that we will send a very good signal by doing this.

I again congratulate the Minister for this great intervention and the way she has spoken about gender equality. There is only one objection that I would like to mention here. People say that it is a girl child. हम कभी लड़के को बॉय चाइल्ड नहीं कहते हैं। So, that is one thing, which we should say. A child is a child be it a male or a female

Thank you, Sir.

**कुंवर दानिश अली (अमरोहा):** धन्यवाद, सभापति महोदय ।

मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हूँ, क्योंकि यह एक ऐसा बिल है, जो हम जैसे लोगों के दिलों और दिमाग को टच करता है। चाइल्ड एब्यूज इस देश में किसी से छिपा नहीं है और मैं बड़े भारी मन से इस बात को कह रहा हूँ कि ideologically, I am against capital punishment, but in this case, if India is not abolishing capital punishment, then I support capital punishment for it. बच्चे बच्चे होते हैं और हम सब जब अपने कामों के लिए बाहर आते हैं, हम बच्चों को स्कूल में भेजते हैं। जो इस देश की प्रिविलेज्ड क्लास है, वह अच्छे स्कूल्स में भेजता है, जो गरीब है, वह छोटे स्कूल्स में भेजता है। लेकिन जिस तरीके की घटनाएं इस देश में घटी हैं, जहां हम बैठकर यह चर्चा कर रहे हैं, इसके बीस-पच्चीस किलोमीटर के रेडियस में जो घटनाएं पिछले कुछ सालों में घटी हैं, वे किसी से छिपी नहीं हैं। हमारे यहां उत्तर प्रदेश में नोएडा के अंदर, जो अप-कमिंग दिल्ली का एक्सटेंशन था, वहां पर एक ऐसा भयानक दृश्य हमें कुछ वर्षों पहले देखने को मिला था, जिसको निठारी काण्ड के नाम से जाना जाता है। हम उसके बारे में सोच नहीं सकते, रोंगटे खड़े हो जाते हैं। उसके बाद हम लोग यह सोचने पर मजबूर हो गए कि क्या हम अपने बच्चों को एक पल भी अपने से अलग छोड़ें या कहीं पार्क में फिजिकल एक्टिविटी के लिए जाने दें? यह जो बिल मंत्री महोदया लाई हैं, इसकी बहुत जरूरत थी और जाहिर सी बात है कि जब दिल्ली और दिल्ली के आस-पास ऐसी घटनाएं घटती हैं, हरियाणा की घटना तीन-चार वर्ष पुरानी है, तो पूरे देश के इंटीरियर इलाकों में क्या होता होगा? मेरे ख्याल से अभी दस दिन पहले, वहां कई सांसद थे, 'बचपन बचाओ आन्दोलन' के पुरोधा, जिनको नोबल पुरस्कार से नवाजा गया – कैलाश सत्यार्थी जी ने हम लोगों को इनफॉर्मल डिनर पर बुलाया था और जो कहानियां वे बयां कर रहे थे, मैं समझता हूँ कि जितना काम उस शख्स ने इस आन्दोलन के लिए किया है, हम यह बिल पास करके उसमें अपना छोटा सा योगदान कर रहे हैं। अगर इस देश में बचपन बचेगा, बच्चों के साथ जो घटनाएं घटती हैं और जिस समाज में हम रहते हैं, यह

کبھی سے چھپا نہیں ہے کہ 90 فیصد کےسےج میں بچوں کے پورے ہی کہہ دتے ہیں کہ بے، بھو، سے یہی تک رہنے دو۔ 90 فیصد کےسےج میں بچے اپنے پورے کو نہیں بتاتے کہ انکے ساتھ کبھی بھٹنا بھٹی ہے۔ ہمیں سے، ہرے ہاس اہلہا نہیں ہیں، کبھی میں بھی دو بچوں کا باپ ہوں۔

ہرے بچے بھی سکول جاتے ہیں۔ ہرے بچے بھی باہر بڈمینٹن کھلنے جاتے ہیں، سٹیمنگ کے لیے جاتے ہیں۔ جب سے بھشہ سامنے آتے ہیں تو رینگے بھڈے ہو جاتے ہیں۔ میں سے بیل کا ہورں سامرٹن کرتے ہوئے اک بار ہر یہ کھوں کہ میں بھو بھری من سے سے بیل میں جو بھہ ہنلٹی کا کلؤج ہے، اسکے بھلہاف ہوں، لکن کبھی اگر انڈیا میں بھہ ہنلٹی ہے، تو سے اہٹ میں بھی ہونا چاہیے۔ بھنہواد۔

کنور دانش علی (امروہہ): چیرمین صاحب، میں اس بیل کی ٹائید میں کھڑا ہوا ہوں، کیونکہ یہ ایک ایسا بیل ہے، جو ہم جیسے لوگوں کے دلوں اور دماغ کو اس ملک میں کسی سے چھپا نہیں ہے اور میں بڑے child abuse ٹچ کرتا ہے۔ Ideologically, I am against capital punishment, but in this case, if India is not abolishing capital punishment, then I support capital punishment for it. بچے بچے ہوتے ہیں، اور ہم سب جب اپنے کاموں کے لئے باہر آتے ہیں، ہم بچوں کو اسکول بھجتے ہیں۔ جو اس ملک کی ہریولج کلاس ہے، وہ اچھے اسکولوں میں بھجتی ہے۔ جو بھیب ہیں وہ چھوٹے اسکولوں میں بھجتے ہیں۔ لیکن جس ہریے کی گھٹنائیں اس ملک میں گھٹی ہیں، جہاں ہم بھٹھ کر یہ بھٹ کر رہے ہیں، اس کے 20-25 کلو میٹر کے دائرے میں جو گھٹنائیں ہچھلے کچھ سالوں میں گھٹی ہیں، وہ کسی سے چھپی نہیں ہیں۔ ہمارے یہاں اتر ہریش میں نوئیڈا کے اندر، جو اپ کمنگ دہلی کا ایکسٹینشن تھا، وہاں ہر ایک بھفناک ہزارہ ہمیں کچھ سال پہلے دیکھنے کو ملا



تھا، جس کو نٹھاری کانڈ کے نام سے جانا جاتا ہے۔ ہم اس کے بارے میں سوچ نہیں سکتے، رونگٹے کھڑے ہو جاتے ہیں۔ اس کے بعد ہم لوگ یہ سوچنے پر مجبور ہو گئے کہ کیا ہم لوگ ایک پل کو بھی اپنے بچوں کو اپنے سے الگ کے لئے جانیں دیں؟ یہ جو پل وزیر physical activity چھوڑیں یا کہیں پارک میں صاحبہ لائی ہیں، اس کی بہت ضرورت تھی اور ظاہر سی بات ہے کہ جب دہلی اور دہلی کے آس پاس ایسے واقعات ہوتے ہیں، ہریانہ کا واقعہ تین چار سال پرانا ہے، تو پورے ملک کے انٹیریر علاقوں میں کیا ہوتا ہوگا؟ میرے خیال سے ابھی دس دن پہلے وہاں کئی ممبر آف پارلیمنٹ تھے، بچپن بچاؤ آندولن کے پُرودھا، جن کو نوبل پرائز سے نوازا گیا۔ کیلاش ستیارتھی جی نے ہم لوگوں کو انفورمل ڈنر پر بلایا تھا، اور جو کہانیاں وہ بیان کر رہے تھے، میں سمجھتا ہوں کہ جتنا کام اس شخص نے اس آندولن کے لئے کیا ہے، ہم یہ پل پاس کر کے اس میں اپنا چھوٹا سا یوگدان دے رہے ہیں۔ اگر اس ملک میں بچپن بچے گا، بچوں کے ساتھ جو گھٹنائیں گھٹتی ہیں اور جس سماج میں ہم رہتے ہیں، یہ کسی سے چھپا نہیں ہے کہ 90 فیصد کیسز میں بچوں کے والدین ہیں کہہ دیتے ہیں کہ بیٹا چھوڑو، اس یہیں تک رہنے دو۔ 90 فیصد کیسز میں بچے اپنے والدین کو نہیں بتاتے ہیں کہ ان کے ساتھ کیا واقعہ پیش آیا ہے۔ ہمیں اس پر، میرے پاس الفاظ نہیں ہیں، کیونکہ میں بھی دو بچوں کا باپ ہوں۔ میرے بچے بھی اسکول جاتے ہیں۔ میرے بچے بھی باہر بیڈ منٹن کھیلنے جاتے ہیں، تیراکی کے لئے جاتے ہیں۔ جب ایسے منظر سامنے آتے ہیں تو رونگٹے کھڑے ہو جاتے ہیں۔ میں اس پل کی پُرزور تائید کرتے ہوئے ایک بار پھر کہوں گا کہ میں بہت بھاری من

سے اس بل میں جو ڈیٹہ پینالٹی کا کلاز، اس کے خلاف ہوں، لیکن کیونکہ اگر ہندوستان میں ڈیٹہ پینالٹی ہے تو اس ایکٹ میں بھی ہونا چاہئیے۔ شکریہ

(ختم شد)

**SHRI HASNAIN MASOODI (ANANTNAG):** Mr. Chairman, Sir, I rise to support the Bill. Hon. Minister deserves all laurels for bringing a comprehensive amendment to the Act. One of the new developments in this area is cyber world offences. Somebody sitting in Europe may abuse a child somewhere in Kashmir or Meghalaya. This is the new dimension of the problem. It is heartening to know that 'child pornography' has been given a comprehensive definition, and it is expected to take care of new challenges that we confront.

Different levels of punishments have been prescribed right from simple assault to different grade and different kind of minimum punishments have been prescribed leaving little discretion to the Trial Judge to award the punishment.

As regards the death sentence, we have to understand as to why do we grade the punishment. We have a kind of punishment for attempt to commit murder, another for culpable homicide not amounting to murder, and another for culpable homicide amounting to murder. My understanding is that, we knew that a person who is not able to control his insane impulses, we still give him options to stop somewhere, not to go to the extreme. I think, there should be a definition for one more level of offence. I don't know what nomenclature is to be given to that. To have death sentence restricted to where death occurs; the offence results in death of a child. I think, that is also there in the definition - one of the aggravated forms. The tendency may be there with the person with insane impulses to do away with the child because he may have this

impression that in any case he has to suffer death sentence, why not go and do away with the child or to just get rid of the evidence. That may be the tendency. I leave it with that because it is an evolving concept. This is not the last amendment to the Act. We may down the line have to give it one more look.

One aspect of the matter deserves some kind of consideration. We have shifted this from "communal or sectarian violence" to "violence or during any natural calamity". This again shows that how sensitive our hon. Minister has been to the challenges we confront. Here, the words "... or in similar situations" may be an open-ended matter. Who will decide this "...in similar situations"? What is the 'situation'? We leave too much to the Trial Judge. We say that "violence or during any natural calamity or in any similar situations". Trial Judge may read it, and interpret it with the other but this may be an open-ended matter. This again needs to be considered.

I was the Chairperson of the Juvenile Justice Panel for Jammu & Kashmir till I entered politics, fought elections, and came to this House. I think, only 10 per cent or less than that is reported. So, this legislation is only for 10 per cent of the victims, what about the rest 90 per cent? For 90 per cent, we have to strengthen our preventive system?

First, these offences are mostly committed in the child care institutions. The hon. Minister has to come out with a comprehensive policy to shift attention from institutional care to non-institutional care or alternative care so

that less and less children are sent to these institutions and we give some kind of sponsorship scheme or come up with a new scheme so that the child is not taken away from his neighbourhood or his home place and shifted to such institutions. Like in Bihar and elsewhere in the country, these offences are mostly committed in the child care institutions. So, we have to shift the focus.

You cannot divorce it from the POCSO Act and the Juvenile Justice Act because these are parts of the same thing. We have to evolve a holistic approach. We have to strengthen our District Child Protection Units (DSPUs). What is the ground situation? CWCs and DSPUs are not in place in most parts of the country. The outreach person is the first person to approach the child, to educate the child, make the child aware, make the parents aware and make the neighbourhood aware. So, we have to go for a holistic approach if we are really meant to prevent child abuse.

Children by and large are a neglected section because children below 18 years of age are not the voters, and politicians over the years have paid less attention to the children because they only take care of those who vote. But the attention has now been shifted to the plight of children who constitute 33 per cent of our population.

My request to the hon. Minister is that we should strengthen the preventive mechanism. There are District Child Protection Units. I know that the guidelines do not permit them to hire a place where rent is more than Rs. 1000. But where will they get the space? I have been the Chairperson of the

Juvenile Justice Panel for two years. I have seen it closely as to how things work. I want some kind of death sentence of a very, very aggravated form so that the life of the child is saved. With regard to 'other situations', who will define 'other situations'? Do not leave it to the trial judge. The Government should define 'other situations'. Lastly, please strengthen the preventive mechanism, i.e. JJ Act in case of CWCs etc.

**SUSHRI S. JOTHIMANI (KARUR):** Sir, I rise to support the intention and the spirit of the Protection of Children from Sexual Offence (Amendment) Bill, 2019.

According to the 2015 NCRB Crime Report, there are around 11,000 cases of rape reported against children in India. In 2016, it is almost around 20,000 which is double as compared to the cases registered in 2015. These are the reported cases. There are hundreds of thousands of cases which might have gone unreported.

We all should hang our heads in shame for having collectively failed our children. As the hon. Minister rightly said, this House again collectively gathers strength, support and empathy for the children and their future. I appreciate the hon. Minister for bringing this Bill. I agree that it is high time we made more stringent and effective law for the protection of children from sexual offences. I appreciate that the Bill increases the minimum punishment from seven years to ten years for the offences of penetrative sexual assault. I also welcome the stricter punishment of imprisonment of twenty years of life and a fine if a person commits penetrative sexual assault on a child below the age of sixteen years.

**17.14 hrs**

(Shrimati Meenakashi Lekhi *in the Chair*)

The Bill also adds two more grounds to the definition of 'aggravated penetrative sexual assault'. This includes assault resulting in death of a child and assault committed during a natural calamity or in any similar situation of

violence. The Bill increases the minimum punishment from ten years to twenty years and the maximum punishment is the death penalty.

I would like to convey to the hon. Minister through you, Madam Chairperson, that when it comes to juvenile, we request the Government to consider not to give death penalty to them because if the perpetrator is a juvenile, there might be a chance that he himself is a victim.

I now come to the point as to how actually children who were victimised in their young age, assaulted, raped and molested, can become potential offenders in later parts of their lives. Considering that, I would request the hon. Minister to send the Bill to the Standing Committee to have a detailed discussion again and to exclude death penalty for juveniles.

I also appreciate the fact that the Bill clearly defines child pornography as any visual depiction of sexually-explicit conduct involving a child including a photograph, video and digital or computer-generated images. This is a digital era. Like any other thing, technology is also prone to misuse. Technology can be used by anybody now. We do not have control over it. And we should not control it also, though it is misused at times. Where are we creating awareness among children? I personally feel that one thing that is diluted in the Bill is that the Government has reduced the punishment for use of children for pornographic purposes which can result in aggravated sexual assault. This should have been considered.



When we come to punishment, I would like to bring to the notice of the august House, many colleagues have spoken on this before me, that stringent punishment actually may not be a very good thing. While the Bill proposes several amendments for more stringent punishment, it fails to address the issue of poor conviction rate under the Act. More than one lakh cases were registered between 2014 and 2016 according to NCRB. However, only 10 trials were completed and the conviction rate in 2016 was only 30 per cent.

Incidentally, the hon. Law Minister is also here. There is a severe shortage of judges in our judiciary. Though the Bill proposes a separate court for these trials, no time limit for completing the trial and giving punishment is prescribed. This is one issue which is related with judiciary which might affect the implementation of the Act.

This Bill is mostly focused on dealing with things once the assault has happened. There is no preventive mechanism for protection of children in this Bill. That issue is not even addressed. Also, this addresses only perpetrators and not the victims. We all here have crossed that age. I am from a village. When I was about 25 years of age, I thought only girl children actually go through sexual harassment. One of my friend's son was alone at home one day when an electrician came to fix some problem. None of us were at home and that guy actually tried to molest the kid. The kid did not even know what was happening. When we came back home, we found him in tears. When we asked what happened, the child said that the guy did this and that to him. Now

we are properly talking about good touch and bad touch. But I do not think it is enough.

I think it was in 2004 that the UPA Government started discussing about sex education in schools. I attended one of the hearings which was held by the present Deputy Chairman of Rajya Sabha where a lot of views came in. Now, since a decade has passed, we have to rethink those things. How many families and how many schools listen to what the children say? I have been listening to girls especially in the age group of 14 to 17. When somebody tries to touch them or if a boy follows them on cycle and if they go and tell their parents about this, in some of the families they ask them to stop going to school. They are forced to take leave from school for a few days. In fact, they are made to feel like perpetrators rather than victims. This cannot be done.

The Minister's portfolio includes women empowerment also. Whenever we talk of rape, we generally think that stricter punishment can reduce the number of rapes in the society. But where does the intention of rape, assault, molestation or domestic violence stem from? It is not just about the physical act. The intention basically stems from a mental thought. We are telling children as to how women are inferior to men. We are telling children as to how men can have ownership of women's body, soul, life and everything. These are the things we actually teach our children directly or indirectly and we are not ready to teach children actually how to protect themselves, how to understand their body, how to understand the body's reaction, how to stop

someone else from touching their private parts, and how to have the courage and strength to tell people that they cannot do such things.

So, I personally feel that these are all very important things which the Bill should take care of on the part of the victim. As regards women cases, they are much more different than sexual assault on a woman, rape of a woman or a child as mental feelings are also associated with them. It is not only physical pain that is there but also mentally, they are affected. This cannot be controlled, reduced or stopped only by making stringent laws. Actually, we need to address the issue from the beginning, may be from the school syllabus itself. The Ministry can coordinate with the Ministry of Human Resource Development regarding this matter.

Sometimes, the devastating effect is caused by somebody whom you trust or whom you know or who is part of the family. They sometimes feel that that experience is their fault and it has happened to them. There could be an issue of self-esteem and they may be feeling ashamed of it. They feel bad enough about themselves. They might themselves feel ugly and bad. Having a safe environment will enable the victim to share their experiences and can help them to move forward in life. The society should be accepting, empathetic and validating. It is important to realise their anger and convince them that it is not their fault. There might be potential anger during the childhood of the juvenile. That is why, we are opposing death penalty for juveniles. This may not be the case with all children. That may be the main reason for a juvenile to become a

perpetrator. So, I request the hon. Minister to consider this point specially while dealing with the death sentence for the juveniles.

**डॉ. निशिकांत दुबे (गोड्डा):** सभापति महोदया, ऐसा मौका बहुत कम मिलता है कि पार्लियामेंट एक सुर में बोलता है, चाहे पक्ष हो या विपक्ष हो। आज वह मौका है। दूसरी महत्वपूर्ण बात यह है कि किसी रेप की बात हो, बच्चों की बात हो, महिलाओं की बात हो और पुरुष इस तरह के बिल पर बोलें, यह भी बहुत ही रेयर मौका होता है।

**माननीय सभापति:** बहुत खुशी की बात है। ये समाज का विषय है, यह न पुरुषों का विषय है न महिलाओं का विषय है।

**डॉ. निशिकांत दुबे :** मैं वही कह रहा हूँ। बच्चों के बारे में भी महिलाएं थोड़ा ज्यादा आग्रही होती हैं कि बच्चों के विषय पर वे ज्यादा प्रोटेक्टिव होकर बात कर सकती हैं। मैं इस देश के प्रधान मंत्री माननीय मोदी जी और इस बिल को लाने वाली माननीय मंत्री श्रीमती स्मृति इरानी जी को धन्यवाद देना चाहता हूँ कि वे इतने सेंसिटिव इश्यू के बिल को पार्लियामेंट में लाईं, राज्य सभा से पास कराया और अब जिस तरह का माहौल है, तो मुझे लगता है कि लोक सभा भी इसको पास कर देगी। इसके लिए मैं अपनी सरकार का और खासकर माननीय मंत्री श्रीमती स्मृति इरानी जी को धन्यवाद देना चाहता हूँ कि आपने इतने सेंसिटिव इश्यू को छोड़ा।

महोदया, यह विषय किसी से जुड़ा हुआ नहीं है और न ही यह किसी धर्म से जुड़ा हुआ है। कई बार मैंने यह देखा है कि वक्ता बोलते हुए मंदिर की बात करेंगे, मन्दिर की बात करेंगे, मस्जिद की बात करेंगे, गुरुद्वारे की बात करेंगे, चर्च की बात करेंगे। यदि हम बेसिकली इस बिल के बारे में बात करें तो कोई ऐसी जगह नहीं है जो कि इससे अछूती है। कोई स्कूल, कोई कॉलेज, चाहे वे ग्रामीण क्षेत्रों के स्कूल हों, ग्रामीण क्षेत्रों के कॉलेज हों, शहरी क्षेत्रों के स्कूल हों, शहरी क्षेत्रों के कॉलेज हों, अमीर हो, गरीब हो, बैकवर्ड हो, फॉरवर्ड हो, शेड्यूल्ड कास्ट हो, शेड्यूल्ड ट्राइब हो या माइनॉरटी हो, कोई ऐसा समाज नहीं है, जो कि इससे कहीं न कहीं होकर न गुजरा हो। हाल-फिलहाल में जो चीजें बड़ी आश्चर्यजनक तौर पर इस देश में बढ़ी हैं, वे यह हैं कि समाज में कुछ मोमबत्ती जलाने वाले लोग आगे आ गए हैं। इतनी सेंसिटिव चीजों को भी किस तरह से हाइलाइट

करना है, जैसे किसी एक वक्ता ने कहा कि मीडिया का क्या रोल है, मीडिया किस तरह से जाती है, किस तरह से आकर प्राइवेट को तोड़ती है। मैं इस बिल के लिए यह मानता हूँ कि :

“तुम छोड़ दो रस्म मोमबत्तियां जलाने को,  
अब बारी है दरिंदे को जलाने की।”

महोदया, नेल्सन मंडेला ने एक बड़ी अच्छी बात कही कि कोई भी देश अच्छा है, बुरा है, उसकी आत्मा क्या है? वह आत्मा उसके बच्चों में बसती है। हम बच्चों की किस तरह से केयर करते हैं। अमेरिका जैसे देश में चाइल्ड प्रोटेक्शन का कितना बड़ा लॉ होगा कि यदि उसको डांट दीजिए, उसको थप्पड़ मार दीजिए, यहां तक कि उसके मां-बाप भी मार दें, तो आप समझिए कि तुरंत पुलिस आ जाती है। पुलिस आने के बाद जो चीजें होती हैं...(व्यवधान) इस तरह का चाइल्ड प्रोटेक्शन है। हिन्दुस्तान में ऐसा नहीं हो सकता है, क्योंकि हमारा जो समाज है, वह अलग प्रकार का है। मैं किसी देश से तुलना नहीं करना चाहता हूँ। मैं यह कह रहा हूँ कि वर्षों से हम इन चीजों से जूझते आ रहे हैं। संजय चोपड़ा और गीता चोपड़ा के केस से लेकर, यदि सभी केसों पर चर्चा करना चाहें, तो कोई भी समय हो, मैं उस चक्कर में नहीं पड़ना चाहता हूँ। इस कारण से जो ये दो सेक्शन हैं, सेक्शन 6 जिसके प्रिंसिपल एक्ट में डेथ पेनल्टी का अमेंडमेंट है। इसमें कई चर्चाएं चल रही हैं और मुझे आश्चर्य होता है कि डेथ पेनल्टी क्यों नहीं होना चाहिए, क्योंकि माननीय मंत्री जी ने इस बिल के ऑब्जेक्ट्स एंड रीज़न में मच्छी सिंह का एक बड़ा जिक्र किया है। उन्होंने 1983 का एक जजमेंट क्वोट किया है कि इससे ज्यादा रेयरेस्ट ऑफ द रेयर क्या क्राइम हो सकता है। ऐसे बच्चे जिनको दुनियादारी के बारे में कुछ भी पता नहीं है। मैं आपको बताना चाहता हूँ कि हम लोग जिस तरह से जाइंट फैमिली कान्सेप्ट पर चलते हैं, आज भी ऐसे कई परिवार हैं कि कौन किसकी मां है, कौन किसके पिताजी हैं, दादा जी को भी कई लोग पापा ही कहते हैं, अपनी दादी को भी मां ही कहते हैं। कई एक दादियां जो हैं, वे मां ही कहलाना पसंद करती हैं। यदि उनको दादी कह दिया जाए, तो उनको बुरा लगता है। उस तरह के कान्सेप्ट में यदि बच्चों के साथ इस तरह की दुर्घटनाएं

होती हैं, मान लीजिए कि कई लोगों ने कहा है कि उनके करीब के रिश्तेदार ही करते हों, परिचित लोग करते हों या बाहर के लोग करते हों, तो उनके लिए डेथ पेनाल्टी क्यों नहीं होनी चाहिए? इसके लिए सरकार बधाई की पात्र है कि उसने इतना विल पावर दिखाया है कि वह इसमें डेथ पेनाल्टी लाई है।

दूसरे, मुझे सबसे ज्यादा खुशी जिस सेक्शन को लेकर है, वह सेक्शन 9 के प्रिंसिपल एक्ट में जो क्लॉज फाइव है, उसमें आपने यह किया है कि "Whoever persuades, induces, entices or coerces, administers, or directs/helps in getting administered any drug or hormone or any chemical substance to a child with the intent that the child attains early sexual maturity".

इसके बारे में रोज अखबारों में आता है। आप अखबारों की सुर्खियां निकालिए, आपको अखबारों में रोज इसी तरह की घटनाएं मिलेंगी। जो आर्गेनाइज्ड क्राइम करने वाले लोग हैं, उस आर्गेनाइज्ड क्राइम में यह बहुत बड़ा पार्ट है। दो चीजें हैं, हम सभी यहां पर बैठे हैं, किसी का बेटा होगा, किसी का पोता होगा, किसी की बेटी होगी। आज क्या माहौल है? आज यह माहौल है कि मान लीजिए कि यहां पर सभी मेंबर ऑफ पार्लियामेंट बैठे हुए हैं। हमारे बच्चे अपने स्कूलों में क्या कर रहे हैं, यह हमको नहीं पता है। वह सिगरेट पी रहे हैं, वह ड्रग्स ले रहे हैं, किसी तरह का केमिकल यूज कर रहे हैं, किसी तरह की पार्टी में जा रहे हैं, इसके ऊपर किसी प्रकार की कोई बंदिश नज़र नहीं आ रही है।

मेरा दूसरा सुझाव यह है कि यदि इस तरह की एक्टिविटी को भी जोड़ दिया जाता, तो अच्छा होता। जो आर्गेनाइज्ड क्राइम करने वाले लोग हैं, वे खासकर लड़कियों के लिए इस तरह के केमिकल और हार्मोन का उपयोग करते हैं कि लड़कियां जल्दी से जल्दी कैसे परिपक्व हो जाएं। आज तक किसी ने इसके ऊपर ध्यान नहीं दिया है। मैं माननीय मोदी जी का, पूरी सरकार का और मैं एक बार फिर कहूंगा कि मैं श्रीमती स्मृति इरानी जी को धन्यवाद देना चाहता हूं कि वह

इसको लेकर लाई है। यह एक बड़ी घटना है। सिंगापुर जैसा देश हमारे बगल में है। मैं आपको यह बताना चाहता हूँ कि स्कूलों में बच्चे कितने सेफ हैं। आप इससे यह अंदाजा लगा सकते हैं कि यदि वह अपने बचपन में ड्रग्स लेगा, तो उसको फांसी की सजा होगी, चाहे वह राष्ट्रपति का बेटा हो या चाहे प्रधान मंत्री का बेटा हो। यदि वह अल्कोहल लेगा, तो प्रत्येक स्कूल में आकस्मिक रूप से बाल की चेकिंग होती है। यदि उसने 72 घंटे पहले बीयर भी पी है, तो उसको स्कूल से बाहर निकाल दिया जाएगा।

ये इस तरह के लॉ हैं। हमने यदि इस तरह के लॉ नहीं बनाए हैं तो कम से कम इसको रोकने के लिए सरकार जो यह कदम लेकर आई है, हम उसका स्वागत करते।

दूसरा सवाल, सैक्शन 35(2) का है। सैक्शन 35(2) कोर्ट का है। मैं फिर सरकार को धन्यवाद दूँगा कि सुप्रीम कोर्ट में इतने वर्षों से इतने केस लंबित थे, लेकिन इसके बावजूद भी हमने उसके बारे में ध्यान नहीं दिया, अभी आप लोगों ने 10 परसेंट सुप्रीम कोर्ट में जजों की भी संख्या बढ़ाई है। यह जो फास्ट ट्रैक कोर्ट हैं, अभी इनसॉल्वेंसी एंड बैंकरप्सी कोड में भी चर्चा चल रही थी और उसमें कोर्ट की बात हो रही थी कि हम एक्ट तो बना देते हैं और एक्ट में हम समय भी तय कर देते हैं। आपने इस एक्ट में समय भी तय कर दिया, लेकिन वह पालन नहीं हो रहा है। सबसे बड़ा सवाल है कि जैसे इनसॉल्वेंसी एंड बैंकरप्सी कोड में हमने कहा कि 180 दिन में रिजॉल्यूशन प्रोसेस हो जाना चाहिए और ज्यादा से ज्यादा हम उसको 270 दिन में पूरा कर दें। आज भी कई केसेस हैं, जो 600 दिनों से ऊपर चल रहे हैं और अभी सरकार को एक अमेंडमेंट लेकर आना पड़ा। आप फास्ट ट्रैक कोर्ट तो बना देंगे, लेकिन जजों की अकाउंटबिलिटी तय करने के लिए इस पार्लियामेंट के पास क्या अधिकार है? आज दूसरा विषय है, यहाँ संयोग से अधीर रंजन चौधरी साहब और कल्याण बनर्जी साहब भी आ गए हैं कि जजों की अकाउंटबिलिटी तय करने के लिए हम क्यों एक्टिव होते हैं, क्यों नहीं खड़े होते हैं? इसी पार्लियामेंट ने एनजेएसी बिल पास किया और कहा गया कि कोई न कोई मैकेनिज़्म, अकाउंटबिलिटी चीजों की होनी चाहिए और उसके लिए पूरी



पालियामेंट अंडर 368 यूनानिमस थी । लोक सभा ने भी पास कर दिया और राज्य सभा ने भी पास कर दिया । एक केवल श्री ओवैसी साहब खिलाफ रहते हैं । वे तो परमानेंट हम लोगों के खिलाफ वोट करते रहते हैं । हमारी अच्छी बातें भी उनको बुरी लगती हैं, लेकिन मुझे लगता है कि यह ऐसा बिल होगा, जिसमें कि ओवैसी साहब हमसे भी ज्यादा बढ़-चढ़ कर समर्थन करेंगे, क्योंकि सवाल बच्चों का है । मैं आपको बताऊँ कि जजों की अकाउंटबिलिटी है कि पार्लियामेंट जो कानून पास करती है एक साल में इसकी सजा तय होनी है, क्योंकि मैं निर्भया केस में देख रहा हूँ, कोई रिविजन पिटिशन, कोई मर्सी पिटिशन, कोई कोअर्सिव पिटिशन, कोई रिट पिटिशन इस तरह के पिटिशन में किस तरह का निर्भया केस, इसी पार्लियामेंट ने, मैं फिर पार्लियामेंट को दाद देना चाहता हूँ कि इस तरह की घटना हुई और निर्भया केस में पूरा देश इकट्ठा हो गया और इतना ही नहीं इकट्ठा हुआ, हम सभी ने स्पेशल सेशन बुलाया, एक कमेटी बनाई जस्टिस वर्मा के नेतृत्व में । हमने कहा कि इस तरह के स्ट्रिजेंट लॉ हम बना देंगे, लेकिन क्या हुआ?

आप यह समझिये कि उसके जस्टिस के लिए कितना डिले हुआ, किस कारण से जस्टिस डिले हुआ? आप जो यह कानून 35(2) में बना रही है और इसमें अमेंडमेंट लेकर आ रही है, मेरा आपसे एक आग्रह होगा कि आप इस तरह का इनिशिएटिव लीजिए । इसके बाद दो-तीन चीजें हैं कि अम्बेडकर जी ने 25 नवम्बर, 1949 को इसी पार्लियामेंट में कहा, 26 नवम्बर, 2019 को संविधान इम्प्लिमेंट हो रहा था और उनका अंतिम भाषण था । उन्होंने कहा था कि हम खूब कानून बना देते हैं, कानून बन भी जाते हैं, कानून इम्प्लिमेंट भी हो जाते हैं, लेकिन वह कानून कितना सक्सेसफुल होता है? वह क्यों नहीं सक्सेसफुल होता है और क्यों नहीं सक्सेसफुल होगा? उस दिन उन्होंने कहा था कि जब तक कि समाज में अवेयरनेस नहीं आएगी, समाज की मानसिकता में अवेयरनेस नहीं आएगी, कैसे होगा? एक मूवमेंट की आवश्यकता है कि नहीं है? आप यह समझिये कि उसने खराब कपड़े पहने होंगे, उसने जींस पहन ली होगी, उसने पैंट पहन ली होगी, उसके माँ-बाप हैं, कोई कपड़े पहने, क्या दिक्कत है आपको? माँ-बाप उसके गार्जियन हैं । बच्चे हाफ पैंट में हैं

कि फुल पैट में हैं, किस तरह की मानसिकता में हम जीते हैं। समाज की जब तक यह मानसिकता चेंज नहीं होगी, कोई भी कानून बहुत सक्सेसफुल नहीं होगा। कई वक्ताओं ने कहा कि यह केस बढ़ गया, वह केस बढ़ गया, हम कहते हैं कि वह बढ़ सकता है, लेकिन समाज में हमें अवेयरनेस लाने की आवश्यकता है, एक कैम्पेन करने की आवश्यकता है और वह कैम्पेन ऐसा हो कि सभी के बच्चे एक ही प्रकार के हैं, सभी के बच्चों को इस देश में अच्छा नागरिक बनना है, बच्चे अच्छे होंगे, बच्चे आगे बढ़ेंगे, उनकी स्वस्थ मानसिकता होगी, तभी हम कुछ कर पाएँगे। इसलिए इस पार्लियामेंट से आग्रह है कि इस बिल को पास करे।

मेरा संशोधन के लिए एक छोटा सा सजेशन होगा, मुझे लगता है कि निर्भया फंड की बात हुई है। इसका सेक्शन 4 जो है, मुझे लगता है कि कुछ टेक्नीकल फॉल्ट हो गया है, जिन्होंने ड्राफ्ट किया है।

सेक्शन- 4 के अमेंडमेंट में जो प्रिंसिपल एक्ट - 3 है, उसके सेक्शन - 1 और 2 को सब्स्टीट्यूट कर दें क्योंकि मुझे लगता है कि आज नहीं तो कल, आपको इसे चेंज करना पड़ेगा। यदि वह चेंज हो जाता तो अच्छा होता क्योंकि पैसा किसे देना है, विक्टिम को कितने पैसे देने हैं और अपने पास 'निर्भया' फण्ड के बहुत पैसे पड़े हुए हैं, जो अनयूटिलाइज्ड है, अगर इसका हल निकल जाए तो मुझे लगता है कि इस बिल का आना सार्थक होगा।

महोदया, मैं इस बिल का समर्थन करता हूँ और इतना अच्छा बिल लाने के लिए मैं फिर से माननीय प्रधान मंत्री जी और माननीय मंत्री जी को बधाई देता हूँ।

जय हिन्द, जय भारत।

**SHRI KALYAN BANERJEE (SREERAMPUR):** Hon. Chairperson, Madam, I would like to support this Bill. This crime is happening in the entire country. 'Save my dignity, I am your daughter', we are hearing it every day.

Today, such offences are shockingly increasing in our educational institutions – whether it is a case of a female child or a male child. Media is sensationalising the incidents of sexual violence against children in their shows. They should be more responsible. During reporting, sometimes they disclose the identity of children and their families. If any Media does this kind of a violation, they should also get punishment. This is one of my suggestions to the hon. Minister.

In a majority of such cases, the sexual harassment is started within a family. I am giving you an instance. Just one year back, I was in my office. One middle-aged woman came to my office along with her daughter, who was nearly 12 or 13 years of age. She came and told me that she was a divorcee. I asked her as to what she wanted. I also asked whether everything has been settled. She told me that, that was not the problem for which she came to me. Then, I asked her as to what is the problem. She told me that she had to earn money, therefore whole day she was busy in giving tuitions. Her daughter was staying with her mother. Her mother was exploiting the daughter through her friends by taking money. That was the situation. I told her to write down a complaint. I called the police, police came and I said to the police, until you arrest all the accused, I am not leaving my constituency. All the accused were

arrested by 8 o'clock. These types of crimes are also happening in the family itself.

In the police stations also, juveniles are getting harassed by the authorities. This is not an unknown phenomenon. So, there must be strict punishment for those police personnel who are doing these kinds of heinous crimes.

According to the NCRB data, a total of 1,06,958 cases of heinous crimes were reported across the country up to 2016. Around 1,000 fast-track special courts need to be set up across India as part of a new scheme to try cases related to rape of children and women. According to the estimates given by the Law Ministry – which we are getting from the newspapers – children are now subjected to sexual offences in educational institutions, as I have said earlier. Such crimes are happening in the washrooms also and that too, after the classes are over in the guise of giving special classes. A number of teachers are becoming a part of this crime.

Therefore, I fully endorse the views of Shri Nishikant Dubey. Unless the society is grown up with the idea and more and more mediation and counselling are done, this cannot be stopped.

Every person of our country should be awakened about this fact. Otherwise, we cannot stop it. This is not happening to female child alone. Unfortunately, it is also happening in the case of male child. You have made

provision for cases of rape of women but contrary to that, other cases are also there. Male child is also abused.

I will not take much time. I am grateful that you have given me time to speak.

I thank the Minister for bringing up this Bill. There is no dearth of laws in our country. There is no dearth of courts. There is no deficiency on our part for ending all this. Incidentally, because of the failure of the implementing agencies prescribed in law, it is happening. They are failing in the discharge of their duties and the country is facing this problem.

With these words, I conclude.

**HON. CHAIRPERSON:** Shri D. Ravikumar – not present.

**डॉ. प्रीतम गोपीनाथ राव मुंडे (बीड):** सभापति महोदया, आपने मुझे बहुत ही महत्वपूर्ण बिल प्रोटेक्शन ऑफ चिल्ड्रेन फ्रॉम सेक्सुअल ऑफेंसेज (अमेंडमेंट) बिल, 2019 पर बोलने के लिए मौका दिया, इसके लिए मैं आपका धन्यवाद करती हूँ।

सभापति महोदया, सबसे पहले मैं प्रधान मंत्री जी और महिला और बाल विकास मंत्री माननीय श्रीमती स्मृति इरानी जी को बहुत-बहुत बधाई देना चाहती हूँ कि इतने सेन्सिटिव मैटर को सब की सहमति के साथ लाया है। मुझे उम्मीद है कि हम सभी इस बिल को अच्छी तरह से पास कर पाएंगे। इस बिल में जो कुछ लिखा हुआ है, उस बारे में हमारे पूर्व के सभी स्पीकर्स बात कर चुके हैं, उसको मैं रिपीट नहीं करूंगी। मैं सिर्फ इतना ही कहना चाहती हूँ कि वर्ष 2016 में 36,000 हजार केसेज पूरे देश में पॉक्सो के अण्डर रजिस्टर हुए थे और अकेले महाराष्ट्र में 4 हजार से ज्यादा केसेज दर्ज हुए थे। यहां हम चर्चा करते हैं कि आजकल बच्चों पर अत्याचार बढ़ रहा है। कहीं न कहीं यह बात सच है, परंतु मुझे यह लगता है कि आजकल लोगों में अवेयरनेस भी बढ़ गई है, इसलिए लोग पुलिस स्टेशन में जाकर कम्प्लेन करते हैं, जिसकी वजह से शायद ये आंकड़े बढ़े हुए मुझे नजर आ रहे हैं।

सभापति महोदया, मैं आपके माध्यम से यह मांग करना चाहती हूँ। आज जहां सारे पक्ष के लोग बात कर रहे हैं और सभी यह कहते हैं कि समाज की मानसिकता बदलने की जरूरत है, मानसिकता बदलने की शुरुआत कहीं न कहीं हम खुद से करें, यह भी बहुत आवश्यक है। जब ऐसे मुद्दे चर्चा में आते हैं, तो सब लोग चाहते हैं कि महिलाएं इस पर बात करें। क्या यह महिलाओं का मैटर होना जरूरी है? जब एक बच्चा किसी सेक्सुअल ऑफेंस का शिकार बनता है, तो क्या सिर्फ उसकी माँ उससे प्रभावित होती है, क्या उसके पिताजी इस घटना से प्रभावित नहीं होते हैं? उनको इस घटना पर क्यों नहीं बात करनी चाहिए? अगर आज आप संसद में भी देखेंगे, तो जितने लोगों ने भी बात की है, मुझे लगता है कि जिस पार्टी में कोई महिला प्रतिनिधि है ही नहीं, उसमें से ज्यादा पुरुषों ने बात की होगी। आज भारतीय जनता पार्टी के सदस्यों की संख्या बहुत ज्यादा है,

अगर हमारी पार्टी से कोई पुरुष बात करें, तो यह सराहनीय बात है। मुझे लगता है कि पुरुषों को भी इस प्रकार के मुद्दे उठाने चाहिए। जब तक हम अपनी मानसिकता को नहीं बदलेंगे, तब तक हम समाज में कोई अच्छा उदाहरण नहीं रख पाएंगे।

सभापति महोदया, मैं आपके माध्यम से यहां कहना चाहता हूँ कि कुछ बातें राजनीति से परे होनी चाहिए, क्योंकि जब ऐसी घटनाएं किसी भी राज्य में घटती हैं, तो उस राज्य में किस पक्ष की सरकार है। जो गुनाह करता है, वह कौन-सी पार्टी से लेना-देना रखता है या जो विक्टिम है, वह कौन-सी से पार्टी से लेना-देना रखता है, इसको नहीं देखना चाहिए। उनकी जाति तथा धर्म को नहीं देखना चाहिए, क्योंकि विक्टिम की एक ही जाति होती है और वह विक्टिम होता है। जो इस प्रकार का ऑफेंस करता है, वह क्रिमिनल की जाति का होता है। इसके अलावा, आजकल हर स्टेट में ऐसी बातें होती हैं। मैं खास कर महाराष्ट्र के बारे में बोलना चाहूंगी। अगर वहां कोई भी घटना घटती है, तो लोग उसको जाति का स्वरूप देने की कोशिश करते हैं। फिर विक्टिम की जाति वाले सभी लोग इकट्ठा होकर उसके लिए बड़ा आक्रोशित आंदोलन करते हैं। मुझे लगता है कि इसमें जाति तथा धर्म को न लाते हुए, केवल जो सफर कर रहे हैं, उनके साथ खड़े होने की भावना को ध्यान रखने की जरूरत है।

इसके अलावा, मैं मंत्री जी से इस बात में स्पष्टता चाहूंगी कि हम इस बिल को जरूर जेंडर न्यूट्रल बता रहे हैं, पर जब लड़कों का सवाल आता है, जब विक्टिम लड़के होते हैं, तो उनकी जो जांच है, उनका जो मेडिकल चेक अप का प्रोटोकाल है, उसके बारे में अधिक स्पष्टता अगर इस माध्यम से मिलेगी, तो लोगों को उसको इम्प्लीमेंट करने में जरा सुविधा होगी। मैडम उस पर थोड़ी रोशनी डाल पाएं, तो मैं आपके माध्यम से उनसे यह बात जरूर जानना चाहूंगी।

रीहैबिलिटेशन ऑफ विक्टिम, इसके बारे में भी कहीं न कहीं जरूर विचार होना चाहिए। रीहैबिलिटेशन, मैं मानि्टरी नहीं बोल रही हूँ, पर जब बच्चे इस मानसिक ट्रॉमा से गुजरते हैं, तो उनको जल्द से जल्द नार्मल लाइफ में लाने के लिए हम क्या प्रयास कर सकते हैं? बहुत सारे

डिसीजेज़ होती हैं, जिनके लिए अब्रॉड आप देखते हैं कि सपोर्ट ग्रुप्स क्रिएट किए जाते हैं। क्या हम इन बच्चों के लिए ऐसा कुछ इनीशिएटिव ले सकते हैं कि जो एनजीओज या वोलेंटियर्स हैं, जो आगे आकर इन बच्चों का मानसिक संतुलन वापस लाने में मदद कर सकें? इसके लिए भी कोई न कोई प्रावधान जरूर होना चाहिए।

मैं कुछ और बातों की तरफ आपका ध्यान आकर्षित करना चाहती हूँ। मैं खुद एक डॉक्टर हूँ। I am a dermatologist. मेरा सब्जेक्ट डर्मेटोलॉजी, रेपरोलॉजी और वेनेरियोलॉजी, मतलब सेक्सुअली ट्रांसमिटेड डिसीजेज़ में हम डील करते हैं। जब मैं अपनी पढ़ाई करती थी, तब छोटे-छोटे बच्चों को हम देखते थे कि उनको ऐसी कोई बीमारियां हैं, जिनके लिए आप सोचते हैं कि इनको यह बीमारी कैसे हो गई? तब जाकर यह पता चलता है कि शायद यह असॉल्ट का केस हो सकता है। जब ऐसे बच्चे सफर कर रहे हैं, तो उनको जो बीमारियां होती हैं, बीमारियों से उनकी देखभाल करने के लिए, उनको ट्रीटमेंट देने के लिए और ऐसी चीजों में अनवांटेड प्रेगनेंसीज भी होती हैं, तो children born out of such pregnancies, इनके बारे में अगर सरकार कुछ सोच रख पाएगी, तो वह बहुत ही सराहनीय कदम होगा।

आईपीसी और पॉक्सो के बीच में जो कानफ्लिक्ट है, मैं उसके बारे में मैडम से पूछना चाहूंगी। आईपीसी के तहत अगर आप चिल्ड्रेन का डेजिगनेशन करते हैं, तो वह 15 साल की उम्र का है और पॉक्सो में 18 साल की उम्र तय की गई है। अगर 15 से 18 साल के बीच के बच्चों के साथ ऐसी घटनाएं घटती हैं, तो उनका ट्रॉयल आईपीसी में चलेगा या पॉक्सो में चलेगा? इसके बारे में ऑन दि स्पॉट क्लेरिफिकेशन मिनिस्टर से मुझे मिल चुका है। वह पॉक्सो में ही चलेगा, यह अच्छी बात है।

माननीय प्रधान मंत्री जी के नेतृत्व में, ऑनरेबल मिनिस्टर स्मृति जी जैसी टीम के साथ हमारे देश की आगे आने वाली पीढ़ी का भविष्य उज्ज्वल तो निश्चित ही है। इस बिल के साथ और हर नई पहल के साथ अपने देश के बच्चों का भविष्य भी हम सुरक्षित बनाते हैं।



एक बहुत लोकप्रिय गाना है, “नन्हे मुन्ने बच्चे तेरी मुट्टी में क्या है, मुट्टी में है तकदीर हमारी, हमने किस्मत को बस में किया है।” ऐसा जब बच्चे कहते हैं, तो किस्मत को वे बस में करेंगे या नहीं, यह तो मैं नहीं जानती हूँ, लेकिन कम से कम उनका बचपन बेदाग और पाक रहे, इतनी कोशिश तो हम जरूर इस बिल के तहत कर सकते हैं। मैं इस बिल का तहे दिल से स्वागत करती हूँ, समर्थन करती हूँ और फिर एक बार मंत्री जी बधाई देते हुए अपनी वाणी को विराम देती हूँ।

**\* DR. D. RAVIKUMAR (VILUPPURAM):** Hon. Madam Chairperson, Vanakkam. In order to check the offences against our girl children, this Bill has been brought with amendment enhancing the punishment for such offences against girl children. While considering the intention of the Bill, it is a welcome step. It is a big question whether this Bill will help us to stop those offences against girl children? Particularly this Act has been brought after the Nirbhaya case. After this Nirbhaya incident, such offences against girl children are on the rise. Child rape incidents are on the rise. That's why Hon. Supreme Court *suo motu* took up the case in this regard. Justice Verma Commission set up by the Government of India observed that instead of concentrating on giving punishment to the perpetrators we should concentrate on prevention of such atrocities or offences. Under Indian Penal Code, IPC, 354 four sections A, B, C and D have been added to address this issue. Similarly, under IPC 362, two sections A and B have been included. Stalking, voyeurism and eve-teasing, which were not before, have been included as offences and punishments were awarded. But the Indian society has not understood the seriousness of these crimes. Particularly in the films, stalking and eve teasing scenes are rampant. These depictions are portrayed so casually in many of these films. Because of which those who commit these crimes do not feel guilty about that. Therefore, the Government of India should have the responsibility of sensitizing the people particularly people in film industry about the inclusion of sections like

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\* English translation of the speech originally delivered in Tamil.

stalking, voyeurism and eve-teasing which were added to IPC as per the recommendations of Justice Verma Commission. When Selvi Jayalalitha was the Chief Minister of Tamil Nadu, the State Government implemented a scheme to sensitize the State Government Officials about the laws relating to protection of women. I request Hon. Minister, through you, to expand this Scheme to all over India. In order to effectively implement these laws, proper Special Courts are to be set up as per POCSO Act. Already existing District Courts should not to be designated as Special Courts. Moreover, the privacy of the affected girl children, the victims should be protected. Therefore, these Special Courts should be set up in providing such a protection to the victims. There should be stricter action ensuring effective implementation of the Act. The rate of conviction, if you see, it has drastically been reduced since 2006. The number of pending cases is on the rise. Necessary action should be initiated to address these issues and to minimize the pendency of cases. Thank you for this opportunity. Vanakkam.

**SHRI E.T. MOHAMMED BASHEER (PONNANI):** Madam, I thank you for giving me this opportunity.

Of course, this Bill is a good move. I welcome this Bill. When we discuss this Bill, the whole nation is praying for the girl child of Unnao who is struggling for life at King George Medical University, Lucknow following the car crash. I also pray and wish that God may give her a speedy recovery.

The love and affection of Pandit Jawaharlal Nehru towards the children was very famous. Pandit Ji said:

“The children of today will make the India of tomorrow. The way we bring them up will determine the future of the country.”

Similarly, our former President of India, A.P.J. Abdul Kalam said:

“Let us sacrifice our today so that our children can have a better tomorrow.”

Let this piece of legislation be recorded as such a sacrifice. I hope and I pray for this.

Now, coming to the ground reality and Indian situation, as per the information of the National Crime Records Bureau, a total of 34,449, 34505 and 36022 cases were registered under POCSO Act during the years 2014, 2015 and 2016 respectively. NCRB data also says that in 2016, incidents of rape of children have increased by over 82 per cent compared to 2015.

Now, let us have a look at the observation of the Supreme Court also. *The Times of India* dated 16<sup>th</sup> July reported about the Court observation on this

matter. It says: "The Supreme Court which is attempting to craft a zero-tolerance policy on child rape incidents and sexual hazard of minors in India on Monday said that the situation in the national capital appeared grim as it recorded 729 such cases in the last six months or at least four cases every day.

In this case, a stringent law is very much required. Of course, there may be plus and minus points. Anyhow, this move is really a good move.

We have to note one thing. We all know that adolescent period is the turning point of life because physical, emotional, psychological changes take place in that age group. Any undue incident that takes place in that age group has an impact on the whole life.

In fact, we have to examine one thing. What exactly is the real cause of this? In brief, I would like to say that issues of alcohol influence and drug abuse should be addressed. Otherwise, I do not think, we will be able to attain the real goals.

We all know that 94.6 per cent of total crimes under this Act as well as relating to Section 376 are committed by relatives and near acquaintances. What is the cause? The real cause is alcohol influence and drug abuse. Drug abuse is increasing in an alarming way in towns, villages, urban areas, and even inside the campus of educational institutions. So, it is our preliminary duty to put an end to these things.

Mafias are spreading everywhere. Drug mafias are catching the budding generation for their activities.

Around 37 per cent of the sexual hazards and rapes are committed by offenders influenced by alcohol.

Madam, this should be a joint work with the Minister of HRD also. We must have a team work on this. Schools are the main places where all these kinds of things are spreading. So, I would like to appeal to the hon. Minister to have a coordination with the other Ministries and fight for the noble cause of ending this drug and alcohol abuse in our country. That is the root cause of all these ill motivated and evil kind of tendencies.

With these words, I conclude. Thank you very much.

**SHRI RAM MOHAN NAIDU KINJARAPU (SRIKAKULAM):** Thank you, Madam Chairperson, for giving me the opportunity to speak on this very important Bill, the Protection of Children from Sexual Offences (Amendment) Bill, 2019.

Madam, it is a very good sign that each and every party who is seated here, each and every Member who spoke on the Bill, has unanimously supported this Bill.

**17.58 hrs**

(Hon. Speaker *in the Chair*)

On behalf of Telugu Desam Party, we assure the hon. Minister and also the Central Government that we totally stand in support of this important Bill. Other than this, we see that this is the instance where everyone has to come together irrespective of their Parties, caste, creed or colour. Everyone should stand together in such instances. When such heinous crimes happen, it is the responsibility of this House to ensure that this is going to be a punishable offence, and also there will be justice that is going to be served to the victims.

I am also happy to see and it is also a good sign that the hon. Minister, where she is sitting, is equally approachable to both the sides. Instead of sitting in the far-right benches, she is sitting in the center which is equally approachable to both sides. It is a good sign that she is willing to listen to each and every Member. ...*(Interruptions)* No, I am not intending that she should come to any particular side. But sitting in the center of the House, for this important Bill definitely means a lot.

The primary Act that was made in 2012 was definitely a good Act but not sufficient enough. The Act needed to be much stronger. More teeth were supposed to be given. The punishments were necessary to be made more stringent. In this Bill, all of those have been addressed....(Interruptions)

**माननीय अध्यक्ष:** माननीय सदस्यगण, अगर सभा की सहमति हो तो सभा की कार्यवाही मद संख्या 3 के समाप्त होने तक बढ़ा दी जाए?

**श्री अधीर रंजन चौधरी (बहरामपुर):** माननीय अध्यक्ष जी, बहुत देर हो जाएगी।

**विधि और न्याय मंत्री; संचार मंत्री तथा इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी मंत्री (श्री रवि शंकर प्रसाद):** माननीय अध्यक्ष जी, यह बहुत ही छोटा विधेयक है।

### **18.00 hrs**

**माननीय अध्यक्ष :** हमारा सदन चल रहा है तो देश देख रहा है। इसलिए आज विधेयक पास होने पर यह लगना चाहिए कि संसद के अंदर सभी माननीय सदस्यगण कार्य कर रहे हैं। यह सदन से संदेश जाना चाहिए, इसलिए सहमति से सदन का समय बढ़ाया जाए। चलिए, अब आगे बढ़ा जाए।

**SHRI ADHIR RANJAN CHOWDHURY:** Sir, it is bulldozing.

**HON. SPEAKER:** No, it is not bulldozing.

... (Interruptions)

**HON. SPEAKER:** Yes, Shri Ram Mohan Naidu, please continue

**SHRI RAM MOHAN NAIDU KINJARAPU:** Thank you, Mr. Speaker Sir

As I said, this Bill addresses many of the instances, which the House definitely needs to take cognizance of. The definitions have been improved. Many instances, which would have been missed by the earlier Act, have been mentioned. The penalties and punishments have been strengthened.



Sir, when it comes to capital punishment, as Danish Ali-ji was mentioning, if there is capital punishment, it definitely needs to be involved in this Act of Sexual Offences on Children also.

Other than this, I would give some suggestions to the hon. Minister. As many hon. Members also mentioned, the conviction rate is very low. When the discussion was taking place on this Bill in the Rajya Sabha, the hon. Minister had assured that House that courts will be opened specially for this POCSO also. Here, I would request the hon. Minister that a similar assurance needs to be given to this House also that appropriate courts will be there to have speedy trials of POCSO offences.

Coming to the digital side of these offences, they have also included the definition of pornography. But I would also suggest that the Central Government, while dealing with digital offences, should take into cognisance of the Data Protection Act. It is also very necessary. It has to go in tandem; it has to go hand-in-hand that you need data protection also. When it comes to different instances like these, you need sub-clauses in these Acts also which go hand-in-hand.

Sir, investigation part is something that we need to keep in mind. In many of the cases -- let it be the Unnao incident or the Kathua incident -- we have seen that there have been local pressures on the investigating teams. Sometimes, the investigation is not properly done because the report itself

comes after one month or two months. So, it becomes difficult to give justice to the victim.

Sir, I have gone through the contents of this Bill. I have also seen many other social Bills coming to this House and getting passed by us with grace and unanimity. But we find that all these Bills do not reach the people at the ground level, for whom they are actually intended to. So, the last mile connectivity needs to be established in all these Bills. That is why, I would make a request to the hon. Minister. The lowest body level of body that we have in our country is the panchayat system. When we pass these kinds of Bills, they need to be discussed in the panchayats also. The awareness has to be created to each and every one. Even the uneducated should know that such Bills are being passed in Parliament. जैसे अभी आपने कहा कि संसद में हम अच्छे बिल लेकर आते हैं तो उसके बारे में सभी लोगों को पता चलना चाहिए कि हम लोग यहां पर क्या कर रहे हैं, उन्हें किस तरह की सुविधा इससे मिलने वाली है। एक कोशिश यह भी रहनी चाहिए कि every Bill, which is of social importance, should be discussed at the panchayat level also. Awareness should be created.

**HON SPEAKER:** Very good.

**SHRI RAM MOHAN NAIDU KINJARAPU :** Even in schools, awareness has to be created. I remember my school days. In our IX class CBSE syllabus, we had the chapter on 'Reproductive System'. When that chapter was being discussed, there used to be awkwardness because sex is always a taboo in the Indian system. It is very important that we address those taboos.

This Bill definitely address issues at one level, but there needs to be a holistic approach. The children, parents, courts, police, and even we, parliamentarians – each and every one – need to be sensitive for these kinds of issues. Everyone should walk on the same path. Until that is achieved, I do not think, we can make these kinds of offences to zero. That should be that target of this House. We, being the guardians of this country, should make sure, it should not be a political game that कौन सी सरकार के समय में कितना काम हुआ, इस विषय पर तो बिल्कुल नहीं होना चाहिए।

**माननीय अध्यक्ष:** नहीं होगा। यह बिल सबकी सहमति से पास होगा।

**SHRI RAM MOHAN NAIDU KINJARAPU:** Thank you for your assurance, Sir.

**माननीय अध्यक्ष:** माननीय मंत्री जी भी यही कहेंगी कि सबका समर्थन है इस बिल में।

**SHRI RAM MOHAN NAIDU KINJARAPU :** Thank you, Sir. हमारा भी समर्थन है। हम यही चाहते हैं कि यह बिल अच्छे से इम्प्लीमेंट हो तथा ग्राउंड लेवल पर इस बिल के बारे में सबकी अवेयरनेस रहे।

Everyone takes into cognizance that these kinds of laws are happening in the Parliament. With these suggestions, I complete my speech.

Thank you very much.

**माननीय अध्यक्ष:** माननीय सदस्यगण, यह विधेयक इतना महत्वपूर्ण है कि सदन से ऊपर उठकर इस पर सभी की सहमति है। यह सदन को तय करना है, चूंकि वक्ता बहुत सारे हैं इसलिए किसी को स्पष्टीकरण पूछना है तो वह पूछ सकता है। मुझे नहीं लगता है कि बोलने की आवश्यकता है,

जब माननीय मंत्री जी बोलेंगे तो स्पष्टीकरण का समय थोड़ा ज्यादा बढ़ा देंगे। स्पष्टीकरण में आपकी सारी बातें आ जाएंगी। आपके मन की जो शंका होगी, उसका आपको क्लेरीफिकेशन दे देंगे।

...(व्यवधान)

**श्री असादुद्दीन ओवैसी (हैदराबाद):** आप सदन का समय भी बढ़ा रहे हैं और हमें बोलने भी नहीं दे रहे हैं...(व्यवधान)

**माननीय अध्यक्ष:** आपको बोलने का पूरा समय दिया जाएगा।

...(व्यवधान)

सुश्री राम्या हरिदास - उपस्थित नहीं।

**SHRI ASADUDDIN OWAISI (HYDERABAD):** Thank you, Sir. It is not the stringency of punishment that matters but the certainty of punishment that will deter the perpetrators and will protect our children. I would have loved to support this Bill but with a heavy heart, I have to say, I cannot because of Section 4 and Section 6. I do commend and appreciate the concern which the hon. Minister has for the Ministry and the cause she represents.

**18.07 hrs**

(Shri N. K. Premachandran *in the Chair*)

Sir, the imposition of death penalty fails to consider the nature of child sexual abuse and endangers children. I say this because the NCRB data says, as many Members have pointed out, 94 per cent of the rape victims knew the perpetrators. What will happen is that this death penalty will serve as a pressure upon children and their families and in the end, when the trial comes, they turn hostile. I have seen three cases. I have dealt with them in Hyderabad. Two of them became very big issues. Basing on my practical difficulty, which I have seen, I am putting forward these views, especially, the impact of reporting child sexual abuse by children with disabilities, that is where the problem lies.

The proposed Bill fails to consider significant number of cases registered as statutory rape. This is below 18 years. On consensual sexual relationship, a study conducted by the Centre for Child and the Law, National Law School of India University in the States of Delhi, Assam, Karnataka, Andhra Pradesh, and Maharashtra on the functioning of the Special Courts under the POCSO

Act, revealed that cases in which the prosecutrix admitted to a relationship with the accused amounted to 21.8 per cent in Karnataka, 23 per cent in Delhi, 15.6 per cent in Assam, 20.5 per cent in Maharashtra, and 21.2 per cent in Andhra Pradesh. How will you prove it? Here, the prosecutrix herself is accepting that we had a consensual sexual relationship. That is another problem. I hope, the hon. Minister replies to it.

As per the National Family Health Survey 2015-16, the percentage of women in the age group 20-24 married before age 18 years is 26.8 per cent. Again, this will be a problem in the death penalty. Many Special Courts are awarding minimum sentence and maximum sentence is an exception because the judicial discretion is taken away. I know the fact because this is happening.

It is because of Section 32 (2), where every question has to be given to the prosecutor and to the defence lawyer. With this stringent imposition of death penalty and imprisonment for remaining life, that will not happen.

**HON. CHAIRPERSON :** Please conclude. Owaisi ji, hon. Speaker has given a special consideration to you.

**SHRI ASADUDDIN OWAIISI :** Only two minutes, Sir. I am raising some uncomfortable questions for the Government and the Minister to answer. Allow me to do so.

Sir, this Bill does not talk about victim-witness protection programme. The Minister in her reply in the other House said that she will give Rs. 474 crore.

**HON. CHAIRPERSON:** Please do not quote the other House.

**SHRI ASADUDDIN OWAISI :** I am not quoting, Sir. The Supreme Court has taken note of a *suo moto* PIL. Will the Government give all the financial resources, as the Supreme Court said, to establish exclusive courts for this?

Lastly, look at this Bill. If a crime is committed on a boy of penetrative sexual assault, the sentence is 10 years; for a girl it is 12 years. Why is it so? That is why, I have to oppose this Bill. I hope the Minister sends it to Standing Committee for further scrutiny.

**KUMARI RAMYA HARIDAS (ALATHUR):** Thank you, Sir. Respected Chairperson, whenever I spoke here earlier, I used English to speak. But I select Malayalam to speak today. It is because the Protection of Children from Sexual Offences (Amendment) Bill is very crucial and is related to children, women and victims. I stand here to speak for those persons who need support of the whole of India. I believe in my mother tongue and I can express my feelings and emotions through it in depth. So, I would like to participate in the discussion by speaking in Malayalam.

\* “If you want true peace in this world, and a movement to stop war, it must begin with children”. These are the words of Mahatma Gandhi. It is a paradox that BJP, was compelled to bring such a bill in the Lok Sabha today. They have suspended an MLA, who is facing charges of rape and sexual abuse. The truth is that the party, was compelled to take such a step. The Supreme Court, media, and society at large had exerted pressure, and the BJP was compelled to take such a step, though belatedly.

It is the need of our times that strong and exemplary action should be taken against those who sexually abuse children.

It is the responsibility of our society and the Government of the day to ensure security and protection for our children, but if you talk about the amendment bill that has been brought today...(Interruptions)

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\* English translation of the speech originally delivered in Malayalam



Sir, this is my right. I am a Parliament Member, participating in the discussion on this subject'. If you speak of the amendment bill, I am compelled to express some fears. I wonder, whether enough home work has been done in the preparation of the bill. Also, I wonder, whether, enough discussions were made with people and bodies who are working in this field.

It is also a matter of suspicion, why the bill has been taken up before referring it to the standing committee. There is a clause added in the amendment bill, which is regarding, awarding of death sentence to the perpetrators of the crime. When you ensure safety and protection for our children, the perpetrators of the crime, can even be awarded death sentence as per this amendment bill. Death sentence, is awarded in rarest of the rare circumstance. Sir my time...(Interruptions)

Death sentence is awarded when there are clinching evidences against the perpetrators. When death sentence clause is added, the offenders will be provoked to exterminate the victim, and there by destroy evidence. This is a criminal tendency that is seen across the world. What happened in Uttar Pradesh, Unnao, is another proof to this tendency. Not just the victim, a murder attempt was made on the family, and also the lawyer who was fighting the case for the victim. So, the very clause of giving death sentence to rapists is sabotaged.

So, this clause in effect, becomes a provocation for perpetuating further crime. The CBI is how investigating the Unnao case, when there was not even a ray of hope for the victim and her family.

The victim had to seek the help and intervention of the Supreme Court as the bureaucracy and the State Government and the police, had failed her.

There should be speedy disposal of such cases, and the victim should get justice and help to come back to a normal life...(Interruptions)

**SHRI P. R. NATARAJAN (COIMBATORE):** After widespread outrage over the Kathua rape and murder, the Government of India brought an ordinance amending the IPC to treat the child rape as a separate crime in the IPC in addition to the earlier additions under the Protection of Children from Sexual Offences Act, 2012. The death penalty does not find any place in that Act.

The ordinance introduced the death penalty for the rape. Here it is important to remember that the Supreme Court has specifically disallowed mandatory death penalty for any crime.

Child rape evokes a strong emotional response and many supporters of the death penalty for this crime feel that the death penalty will act as a deterrent. The experience in India and across the world, however, is that this is not the case. In fact, this is one of the reasons that most countries now do not have a provision for capital punishment.

It is extremely important that other aspects of this crime also need to be taken into consideration. Counselling of the victim, rehabilitation, compensation, and speedy delivery of justice are some of the crucial steps that are urgently required. Even after the Act was passed, the conviction rate remains only 20.6 per cent and there is a high pendency of 89 per cent of these cases across the country. What is the point of stressing for enhancement of punishment, if conviction is not taking place?

On behalf of CPM party, I oppose the capital punishment in principle. While it remains on the statute books in our country, it may be resorted to

heinous cases – rarest of the rare. What is more important is that the speedy delivery of justice and every possible help must be provided to the victim.

**HON. CHAIRPERSON:** Hon. Members, please confine speeches to minimise the time. The Minister has to reply and one more Bill has to be taken.

**SHRIMATI SUMALATHA AMBAREESH (MANDYA):** I appreciate the hon. Minister of Women and Child Development for this comprehensive Bill which seeks to investigate cases in a time bound manner for I believe that no victim or their families should be subjected to prolonged agony of delayed investigations.

Sir, I recall with horror, not just as a Member of this House but as a woman and as a mother, some of the instances recounted by the hon. Minister today. And as for those who are questioning the justification of death penalty in this House and outside of this House, I want to ask if death penalty is enough for the perpetrators of this kind of monstrous and barbaric acts. As a mother, I would say no and I would like to ask you to just imagine what the families and the parents of those victims go through and may be what they would like to see happen in these cases.

Sir, POCSO needs to be implemented swiftly and also keeping in mind the sensitivity and care of survivors. I have a few suggestions to the hon. Minister through you that a child psychiatrist's presence has to be made mandatory during each investigation to aid and advice especially in cases of female victims, the questioning should be done under female supervision

during all times and every time. Offenders are punished once but the victims are punished repeatedly during the course of interrogation.

I think the sensitivity and the approach during the interrogation becomes very important. That is why, I feel, along with the deterrent punishments, the victims and the survivors should be ensured utmost sensitivity and safety during the course of interrogation.

I support this Bill whole-heartedly. With these words, I conclude.

**HON. CHAIRPERSON** : Now, Shri Hanuman Beniwal. I caution you in advance to conclude on time.

**श्री हनुमान बेनीवाल (नागौर):** सभापति जी, मैं सबसे पहले प्रधान मंत्री जी और मंत्री जी को बधाई देना चाहता हूँ कि वे इतना महत्वपूर्ण बिल लाई हैं। इस बिल के लिए लम्बे समय से देश में मांग उठ रही थी और निठारी कांड के बाद निर्भया कांड हुआ। आज कल हम हर राज्य में देखते हैं कि किस तरह हैवानियत लोगों में घर कर गई है। अपराधी बच्चों की उम्र नहीं देखते हैं, एक साल, दो साल, तीन साल के बच्चों के साथ अपराध किया जा रहा है। सामूहिक दुष्कर्म की घटनाएं बढ़ रही हैं। संसद ने इस बात की चिंता की, हर राज्य ने चिंता की और सारी राजनीतिक पार्टियों ने चिंता की कि ऐसा कानून बने, जिसके माध्यम से अपराधियों को सख्त से सख्त सजा मिले। मैं मंत्री जी को बधाई दूंगा कि इसमें वर्ष 2012 के पॉक्सो कानून में बदलाव किया गया और फांसी की सजा का प्रावधान किया गया। मेरी तो यह भी राय है कि फांसी की सजा सार्वजनिक स्थान पर दी जाए, ताकि लोगों में और ज्यादा कड़ा मैसेज जाए।

महोदय, आज मंत्री जी ने इस बिल में कई महत्वपूर्ण बातें भी कही हैं। आज सारा देश देख रहा है और सभी राजनैतिक दल इस बिल का समर्थन कर रहे हैं। बच्चों के साथ यौन अपराधों की बढ़ती घटना पर काबू पाने के मकसद से सरकार द्वारा लाया गया यह बिल निश्चित रूप से एक महत्वपूर्ण कदम है। हाल ही में सुप्रीम कोर्ट के चीफ जस्टिस ने चिंता व्यक्त की कि जिलेवार आंकड़ा मांगा जाए। बाल अधिकारों के लिए काम करने वाली गैर सरकारी संस्था 'क्राई' के विश्लेषण के मुताबिक भारत में हर पन्द्रह मिनट में एक बच्चा अपराध का शिकार बनता है। दिल्ली में बीते साल पॉक्सो एक्ट के तहत दर्ज हुए बच्चों के खिलाफ यौन अपराधों में दो गुना वृद्धि दर्ज की गई। पिछले दस सालों में नाबालिगों के खिलाफ अपराधों में 500 प्रतिशत ज्यादा वृद्धि हुई।

**HON. CHAIRPERSON:** Please wind up.

**श्री हनुमान बेनीवाल:** सभापति जी, आप मात्र एक मिनट का समय बोलने के लिए दीजिए। उत्तर प्रदेश, मध्य प्रदेश, महाराष्ट्र, दिल्ली और वेस्ट बंगाल में 50 प्रतिशत अपराध बढ़े हैं। बच्चों के खिलाफ यौन अपराधों के निपटारे के लिए 1023 विशेष फास्ट ट्रैक अदालतें मंत्री जी ने बनवाई हैं,

इसके लिए इन्हें बहुत-बहुत धन्यवाद, लेकिन गवाहों की सेफ्टी के लिए भी चिंता करने की जरूरत है।

**श्रीमती दर्शना विक्रम जरदोश (सूरत):** सभापति जी, लोक सभा के इस मंदिर में जब वर्ष 2012 में पॉक्सो एक्ट लाया गया, तब भी हमारे में से कई लोग इसके साक्षी बने थे और उसके बाद इस कानून में बदलाव आया और राज्य सभा से यह बिल पास हो कर मोदी सरकार-2 में माननीय स्मृति जी द्वारा यहां लाया गया है। मैं इसका समर्थन करने के लिए मैं यहां खड़ी हुई हूँ। आज मैं सूरत की सभी अखबारों की हैडलाइन्स के बारे में बात करने के लिए बार-बार अपना हाथ खड़ा कर रही थी, क्योंकि आज 3 साल 7 महीने की लड़की के साथ बलात्कार के बाद हत्या करने के अपराध में 8 महीने के अंदर पॉक्सो एक्ट के तहत जज श्री पी.एस.काला ने और सरकारी वकील नयन सुखडवाला के माध्यम से आज फांसी की सजा सुनाई गई। वर्ष 2012 के एक्ट के बाद शायद यह पहला वाक्या है जो सूरत में इस जघन्य अपराध के लिए किसी को फांसी की सजा दी गई है। कॉस्मोपोलिटन सिटी के नाते यहां कई सारे ऐसे केसेज बनते हैं। वर्ष 2012 में निर्भया कांड हुआ। मुझे याद है, उस समय भी स्मृति जी महिला मोर्चे की अध्यक्ष थीं। एक सात साल की बच्ची के साथ भी यह घटना हुई थी, हम सफदरजंग अस्पताल में उसे देखने गए थे। उस समय हमने तय किया था कि हमें क्या चाहिए। उसके बाद कई बदलाव लाए गए, कई सारे सुझाव आए और संशोधन किए गए। मैंने अपनी दोस्त मीनाक्षी जी से भी पूछा, संशोधनों के बारे में बात की। चाइल्ड पोर्नोग्राफी दिखाने के बाद उनका यूज करने पर सात साल के बदले दस साल की सजा के प्रावधान का मैं स्वागत करती हूँ।

सोलह साल से छोटे बच्चे के साथ पेनिट्रेटिव सेक्स पर 20 साल की सजा का प्रावधान करने के लिए भी मैं धन्यवाद करती हूँ।

सभापति महोदय, मैं गुजरात की बात करूंगी। मेरा एक ही सुझाव है। आज एक तारीख से 14 तारीख तक महिला सशक्तीकरण कार्यक्रम के तहत 'गुड टच – बैड टच' के बारे में महिलाओं और स्कूलों में छोटी बच्चियों को ज्ञान दिया जाता है, इसके बारे में अवेयर किया जाता है। इसमें जो कम्पनसेशन है, वह उन्हें जल्दी ही दिया जाए, जिससे वे लोग अपना इलाज करवा सकें। उनके



लिए साइकोलॉजिकल काउंसलिंग सेंटर्स भी होने चाहिए । यह बिल लाने के लिए जो प्रयत्न हुए हैं और सर्व-सम्मति से पास होने वाले इस बिल में मैं सरकार का समर्थन करती हूँ । धन्यवाद ।

**\*DR. THOL THIRUMAAVALAVAN (CHIDAMBARAM):** Hon. Chairman Sir, Vanakkam. I get solace in registering my views on a very important Bill. I welcome this Bill. Every day, the number of rape incidents is on the rise in the society. Our children, boys and girls are worst affected due to these incidents. I welcome the amendment to this Bill enhancing the quantum of punishment for such heinous offences. Our Party, VCK has a stand that in principle, there should be capital punishment or death penalty. But in the rarest of the rare cases, death penalty can be awarded for cruel and gruesome offences. I therefore welcome this Bill. Prevention is better than cure. Implementation is more important than legislation. I want to say something on the aspects like prevention and implementation. After finding the reasons for increase in the number of such offences against children, the Government should address such issues in a serious manner. This Government should concentrate more in the implementation of this Act. We have to look at how and the manner in which the law is at present being implemented. If we look at the incidents which took place in Kathua of Kashmir and Unnao of Uttar Pradesh, the nation is aware of the fact that how far the Police personnel have proceeded in furthering the investigation. Therefore, the Government should give additional care and attention in the implementation part of this Act. Victims are not given protection. Law provide for giving compensation to the rape victims, but only a

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\* English translation of the speech originally delivered in Tamil.

meager 15 per cent are provided with compensation that too interim compensation. Between January and June of 2011, 24,212 First Information Reports have been registered under POCSO Act. Investigation process has not been started in almost 11981 cases. One more point. Section 33(2) says that affected children should not be interrogated or investigated directly by the Investigation Officer. It is stated that queries have to be provided to the Public Prosecutor and answers should be received thorough him. But this Section of POCSO Act is not followed in letter and spirit. Child victims are subjected to direct investigation. This should be stopped. This Law provides for Special Courts in all the Districts of the country. Union Government has now ordered that the existing Courts can be designated as Special Courts. I therefore urge that Special Courts should be set up in all the districts of the country in order to ensure safety to of Children during investigation process. Thank you for this opportunity. Vanakkam.

**SHRIMATI KIRRON KHER (CHANDIGARH):** Mr. Chairperson, thank you very much. I congratulate the hon. Prime Minister and the hon. Minister, Smt. Smriti Zubin Irani for bringing these amendments in the POCSO Bill. I support it.

I know that people are giving data that the number of such crimes has increased. But obviously that is because more of these instances are being reported. Tough times require tough measures, which is why this Bill is so important. This Bill increases the punishment for offenders because nobody in the right frame of mind would even think of such a thing. It is horrifying to imagine here about these incidents happening sometimes with babies and school children. The increase in punishment is justified in every such incident where the collective conscience of society is shocked, a phrase I have chosen carefully because it mirrors the criteria laid down by the hon. Supreme Court, for giving death penalty to a convict.

ऐसा जुर्म, जिससे समाज की रूह कांप जाए, किसी भी बच्चे के साथ किया गया ऐसा कोई भी अननैचुरल एक्ट हमें सोचने पर मजबूर कर देता है। कौन सी सभ्यता, कैसी इन्सानियत जब ऐसी कोई भी घटना हो तो उसके लिए एक ही सजा होनी चाहिए- सजा-ए-मौत and nothing else. सर, वैसे यह फर्क क्या है जो कहते हैं कि रेप तो रेप ही होता है, मगर मेरी माननीय मंत्री जी से यह अपील है कि मैडम, 15 साल से कम किसी भी बच्चे पर कोई भी सेक्सुअल असॉल्ट हो, उसे डैथ पैनल्टी ही होनी चाहिए, not anything else. बहुत लोग बोल रहे थे कि अगर डैथ पैनल्टी देते हैं, तो घर में कमाने वाला चला जाता है। 'I am an alternate for you' is present

in some countries. You can go for chemical castration also. Let the man live with the pain that he has inflicted on somebody else.

Another important feature of this Bill is that it has increased the punishment for using children for pornography.

Sir, please give me at least two minutes. After me, only the Minister is speaking.

**HON. CHAIRPERSON:** No. There are two more Members who want to speak.

**SHRIMATI KIRRON KHER :** Well, it is okay then.

यह बहुत जरूरी बात है मैडम। यह जो चाइल्ड पोर्नोग्राफी की बात है, आप 40-50 रुपये में कोई भी पोर्नोग्राफी अपने मोबाइल पर डाउनलोड कर सकते हैं। We should try and block these child pornography sites. And if not, the constable on the beat and the police forces on the ground must be equally accountable क्योंकि आपको इसमें छापे मारने पड़ेंगे। आपको इस पर और कार्रवाई करनी पड़ेगी।

**HON. CHAIRPERSON:** Shri P. Raveendranath Kumar.

**SHRIMATI KIRRON KHER :** Sir, please give me just two minutes.

मैडम, इस चाइल्ड पोर्नोग्राफी की डेफिनिशन बेहद जरूरी थी, मगर साथ ही साथ, जैसा कि माननीय सदस्य ने कहा कि उतना ही जरूरी यह भी है कि चाइल्ड पोर्नोग्राफी से रिलेटेड किसी भी मटीरियल की पजेशन को भी ऑफेंस की कैटेगरी में लाया जाए। आप दुनिया में कितने ही देश देख लें, यूके, यूएसए, ऑस्ट्रेलिया, अगर आपके पास चाइल्ड पोर्नोग्राफी मटीरियल है तो उसके लिए आपको 10 साल की जेल हो सकती है। ऐसा ही कानून हमारे देश में भी होना चाहिए।

**HON. CHAIRPERSON:** Madam, please conclude.

**SHRIMATI KIRRON KHER:** Sir, I want to say only one last thing. Everybody in this House has supported this Bill across party lines.

With great grief and sadness, I would say that Ramya Haridas of the Congress has politicised this and done this very cleverly. When she could speak in English, she has spoken it in Malayalam and she has talked ...(*Interruptions*)

**HON. CHAIRPERSON:** Shri P. Raveendranath Kumar, the floor is for you.

**SHRI P. RAVEENDRANATH KUMAR (THENI):** Sir, I thank you for offering me this opportunity to speak on this Bill on behalf of my AIADMK Party.

...(Interruptions)

**HON. CHAIRPERSON:** Nothing except Shri Raveendranath Kumar's speech will go on record.

...(Interruptions) ...\*

**SHRI P. RAVEENDRANATH KUMAR:** Sir, I appreciate our hon. Prime Minister, Shri Narendra Modiji, who has always tried to incentivise a gender neutral law. ...(Interruptions)

**HON. CHAIRPERSON:** That is not on record.

... (Interruptions)

**SHRI P. RAVEENDRANATH KUMAR:** Accordingly, the hon. Minister, Shrimati Smriti Iraniji, has formulated and brought this Bill in order to prevent the rising cases of child sex abuse. I am seeing my leader, Puratchi Thalaivi Amma's courage and boldness in her duties and actions.

I welcome the speech of hon. Minister. I also thank the Central Government for providing financial assistance as grant-in-aid to the States and the Union Territories under a Centrally-sponsored scheme – Child Protection Service. Sir, I have the list, but in order to save time, I would conclude by speaking on only two points.

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\* Not recorded.

Sir, I would like to present the few messages of our Tamil Nadu. So far, we have conducted 175 capacity-building sensitisation programmes in which 15,136 members or persons were trained and more than 6,23,207 people have benefited from the scheme. There have been conducted 74 POCSO awareness rallies in my State during 2018-19. The Government sanctioned Rs. 35 lakh for the creation of child-friendly courts in five children courts in my State. Training programmes are also being conducted with the support of the UNICEF.

I agree with one of my colleagues, hon. Member Ravikumarji. Keeping in view all the good factors of the Bill, I support this Bill.

Thank you.



**श्रीमती जसकौर मीना (दौसा)** : माननीय सभापति जी, मैं इस बिल के संदर्भ में एक ही बात कहूंगी कि सर्वसम्मति से सभी पार्टियां और पूरा हाउस इस बिल का समर्थन कर रहा है। मैं माननीय मंत्री जी, जो इस विधेयक को लेकर आई हैं, वह खुद इतनी अधिक सेंसेटिव हैं और महिलाओं और बच्चों के मामले में जो उनकी सोच है, मैं भी अपने विचारों को उनके साथ आत्मसात करती हूँ। इसके साथ ही मैं यह भी निवेदन करती हूँ कि मुझे माननीय अटल जी के समय में महिला और बाल विकास मंत्री के पद पर काम करने का एक मौका मिला था। इसलिए, मैं आज यह कहना चाहती हूँ कि उस समय हमारे समाज के अंदर यह विकृतियां थीं, जिस तरह से समाज में इस तरह के पाप हो रहे हैं। उन पापों के दोष को उस समय भी दूर करने की बहुत कोशिश की गई थी। लेकिन आज यह जो बिल आया है, निःसंदेह इस बिल के माध्यम से जो दंड तय किए गए हैं, उन दंडों की वजह से हमारे समाज के अंदर जो विकृतियां हैं, उनको दूर किया जा सकेगा।

इसके साथ ही मैं माननीय मंत्री महोदया जी से एक निवेदन करना चाहती हूँ कि समाज के अंदर जागरूकता लाने के लिए भी इस तरह का कोई न कोई प्रावधान किया जाए कि ग्राम पंचायत स्तर पर और पारिवारिक स्तर पर यह जागरूकता आनी चाहिए। जैसे कहा जाता है कि बाढ़ ही खेत को खा रही है। आज घरों के अंदर भी हमारी बेटियां और बच्चे सुरक्षित नहीं हैं। ऐसी परिस्थिति में मेरा यह निवेदन है कि हमें सामाजिक जागरूकता लाने के लिए भी कुछ करना चाहिए।

**SHRIMATI SMRITI ZUBIN IRANI:** Mr. Chairman, Sir, thank you. Close to 28 Members of Parliament spoke on this Bill. At the outset, let me express my gratitude, for I share their angst to ensure justice is done. I also share their concern with regard to implementation.

**18.37 hrs**

(Hon. Speaker *in the Chair*)

आदरणीय अध्यक्ष जी, मैं आपका सर्वप्रथम आभार व्यक्त करना चाहती हूँ कि जब आपने इस बिल के ऊपर चर्चा की शुरुआत की थी, तब आपने पूरे सदन को यह संकेत दिया था कि यह ऐसा विषय है, जो किसी वोट बैंक से संबंधित नहीं है, क्योंकि बच्चे वोट नहीं देते हैं। कैसे भारत के भविष्य को मान-सम्मान के साथ सुरक्षित दिशा में लेकर जाया जाए, यह बिल उससे संबंधित है। आज जिन माननीय सांसदों ने दलों के अंतर से ऊपर उठकर इस बिल का समर्थन किया है, मैं उनका भी आभार व्यक्त करना चाहती हूँ। लेकिन मैं बिना उस सांसद का नाम लिए, आपकी अनुपस्थिति में एक सांसद इस विषय पर बोली हैं। मैं एक बात कहना चाहती हूँ कि उन्नाव रेप केस के बारे में एक सांसद ने यहां पर अपने अधिकारों का पूरा इस्तेमाल करते हुए उल्लेख किया है। शायद उस सांसद को यह लगा होगा कि भारतीय जनता पार्टी एक राजनीतिक कठघरे में खड़ी हो जाएगी, इसलिए मैं इस पर बोलूँ। ऐसा बोलना निश्चित रूप से उनका राजनीतिक अधिकार है। मुझे आक्रोश इस बात पर है कि उनके आस-पास जो चार-पांच पुरुष सांसद बैठे हुए थे, वे जोर-जोर से बेंच को थपथपा रहे थे, जैसे बड़े मजे की बात है।...(व्यवधान) मैं उन सांसदों का नाम नहीं ले रही हूँ।...(व्यवधान) मुझे नहीं पता है कि क्यों कोई व्यक्ति खड़ा होगा...(व्यवधान) यह कहते हुए...(व्यवधान) आज शताब्दी जी ने मुझसे एक प्रश्न किया है और अपने प्रश्न में उन्होंने कहा है कि उनको एक मंत्री के नाते नहीं, बल्कि एक मां के नाते मुझसे जवाब की अपेक्षा है। मोदी सरकार की मंत्री होने के नाते, वह मंत्री चाहे महिला हो या पुरुष हो, मैं आज इस सदन को आपके माध्यम से यह बताना चाहती हूँ कि चाहे क्रिमिनल लॉ अमेंडमेंट एक्ट, 2018 हो या चाहे आज का पॉक्सो का

अमेंडमेंट हो। अगर जघन्य अपराध होता है, तो हमारे देश की इस संसद ने हमारे जजों का यह अधिकार दिया हुआ है कि अगर वह चाहे, तो सबूतों के आधार पर सजा-ए-मौत दे सकते हैं।

मोदी जी की सरकार ने इस सदन के आशीर्वाद से उस कानून में कहीं यह नहीं बोला कि उससे एमपी या एमएलए अछूता रहेगा। मैं आज इन-फेक्ट दर्शना जरदोश जी ने जो विषय उठाया, इस सदन की कार्यवाही अगर वे जजेज, पब्लिक प्रोसीक्यूटर्स सुन रहे हों, जो समय-अवधि के अंदर पॉक्सो के केसेस का समाधान और बच्चे को न्याय दिलवाते हैं तो आपकी अनुमति से सदन की ओर से ऐसे सभी जजेज को, पब्लिक प्रोसीक्यूटर्स को आभार व्यक्त करना चाहती हूँ कि सदन कानून बनाता है, समय-अवधि तय करता है और वे उस समय-अवधि के अंतर्गत न्याय दिलवाने में अपनी ओर से योगदान देते हैं।

अध्यक्ष जी, आपने सही संकेत दिया, इसे हम राजनीति के चश्मे से न देखें, न इस पर अपनी निजी राजनीति करने का प्रयास करें और इस दिशा को देने के लिए इस सदन की सांसद होने के नाते यह मेरा पहला बिल है, मैं आपका आभार व्यक्त करती हूँ।

**माननीय अध्यक्ष :** पहला बिल भी और सारा सदन आपके साथ है।

**श्रीमती स्मृति जूबिन ईरानी :** इसलिए आज जिन लोगों ने अपनी-अपनी चिन्ताओं को रखा, उनको जवाब की अपेक्षा में आपकी अनुमति से सूक्ष्म समय में जवाब देना चाहूँगी। ओवैसी साहब आज सभागार में नहीं हैं, लेकिन उन्होंने एक चिन्ता कन्सेन्सुअल सेक्स की दृष्टि से व्यक्त की।

**माननीय अध्यक्ष :** ओवैसी साहब, आज कल हर बार बोल कर चले जाते हैं।

**श्रीमती स्मृति जूबिन ईरानी :** उन्होंने उल्लेख किया कि कैसे कन्सेंट के संदर्भ में स्टैंडिंग कमेटी के सम्मुख इस विषय को रखा जाए। कन्सेंट का विषय पार्लियामेंट्री स्टैंडिंग कमेटी के सम्मुख रखा गया था और पार्लियामेंट्री स्टैंडिंग कमेटी ने मना कर दिया कि 18 साल से कम उम्र का कन्सेंट मत कीजिए।

महोदय, एक हमारे सांसद ने यह भी कहा कि आईपीसी की धारा और पॉक्सो की धारा के बीच में मतभेद होता है, जब चाइल्ड मैरिज की बात आती है। सुप्रीम कोर्ट ने इस विषय पर अपना निर्णय देते हुए कहा, रवि जी मुझसे बेहतर, क्योंकि यह जो फ्रेज में बोलने वाली हूँ- एब इनिशियो वॉइड, शुरू से ही यह सोच निष्क्रिय है, जिस सांसद महोदय ने यह कहा कि यह न हो कि 18 साल से कम उम्र की लड़की के माथे पर सिंदूर लगा दिया, गले में मंगलसूत्र पहना दिया, उसके बाद असॉल्ट किया, अब्यूज किया, रेप किया और संरक्षण शादी का माँगा। सुप्रीम कोर्ट इस विषय पर अपना मत दे चुकी है, यह क्राइम भी है। मैं आपके माध्यम से सदन को बताना चाहती हूँ कि चाइल्ड मैरिज एक्ट में इसके संदर्भ में हम मंत्रालय में काम कर रहे हैं, ताकि कोई एनोमली इन टर्म्स ऑफ लॉ न रहे।

आज सदन में शताब्दी जी के साथ-साथ कई लोगों ने उल्लेख किया कि किस प्रकार से हम, बच्चा परेशान न हो, लड़का, लड़की या थर्ड जेंडर, बार-बार उसे टेस्टिफाई करना पड़े, बार-बार अपने उस ट्रॉमा को जिए, मैं सदन को अवगत कराना चाहती हूँ कि सैक्शन 24 से 27 तक चाइल्ड फ्रेंडली प्रोसीजर्स क्या है? बच्चे के वक्तव्य की रिकॉर्डिंग से लेकर, पूरी इनवेस्टिगेशन तक बच्चे का संरक्षण कैसे किया जाए, उसका पूरा प्रावधान, पूरा ब्यौरा है। उसमें यह भी है कि अग्रेसिव क्वेश्चनिंग न हो, बच्चे का करेक्टर असेसिनेशन न हो और बच्चे को बार-बार लाकर गवाही देने पर मजबूर न किया जाए। यह पहले से ही प्रावधान हो चुका है।

कुछ वरिष्ठ सांसदों ने यह भी चिन्ता व्यक्त की कि अगर बच्चा दिव्यांग हो तो दिव्यांगता की दृष्टि से क्या संरक्षण का विशेष प्रावधान है? न सिर्फ चाइल्ड विद स्पेशल नीड्स के लिए ट्रांसलेटर्स, स्पेशल एजुकेटर्स के प्रावधान हैं? अगर उसे कोई मेडिकल भी मदद चाहिए तो उसका भी प्रावधान इस कानून के तहत किया गया है।

महोदय, जे.डी.यू. के हमारे एक वरिष्ठ नेता ने विटनेस प्रोटेक्शन की दृष्टि से अपनी चिंता व्यक्त की। राजीव रंजन जी ने कहा कि कई बार केस के समयावधि में पूरा न होने की वजह से विटनेस के ऊपर बार-बार प्रेशर डाला जाता है कि वह रिकैंट करे। सदन में कई सांसदों ने इस चिंता को व्यक्त किया। मैं आपके माध्यम से उन्हें बताना चाहूंगी कि गृह मंत्रालय के अन्तर्गत विटनेस प्रोटेक्शन स्कीम, 2018 की पूरी जानकारी, सरकार सभी राज्यों को दे चुकी है। डिस्ट्रिक्ट और सेशन जज के अन्तर्गत एक स्टैण्डिंग कमेटी होगी, जो इसकी कम्पिटेंट ऑथोरिटी है। अगर किसी भी विटनेस को प्रोटेक्शन की जरूरत है तो वह ग्रेट असेसमेंट करता है और उसके बाद अगर विटनेस की आइडेंटिटी भी चेंज करनी है तो उसका निर्णय लेने में भी वह सक्षम है। वह विटनेस को री-लोकेट करने के लिए भी सक्षम है। भारत सरकार ने आग्रह किया है कि सभी राज्य अपने यहां विटनेस प्रोटेक्शन फण्ड स्थापित कर लें।

काँग्रेस की हमारी सांसद जोतिमणि जी ने विशेष रूप से यह उल्लेख किया कि अगर पर्पेट्रेटर चाइल्ड हो तो क्या होगा? उसको सजा-ए-मौत नहीं होनी चाहिए। The JJ Act covers this very aspect. If the Juvenile Justice Board finds the person to be of adult mind, and if the child is above the age of 16, only then, under the supervision of the Juvenile Justice Board, and taking into cognisance the Juvenile Justice Act, a court is deemed fit to take its decision. Hence, nobody here presumes that if perpetrator is below the age of 16 will be hanged till death. Enough precautions are available in the Act to ensure that proper justice and facilities are given even to child perpetrator. It should however be a matter of concern that the number of child perpetrators in our country is increasing.

Many hon. Members of Parliament here spoke about the data pertaining to 2016. It is my assumption, I may be corrected by the hon. Members, some

read out of newspaper reports, some read out of magazine clips possibly or some news channel. The data the Government has with regard to 2016 is this. Sir, 36,022 cases under the POCSO were registered, and 42,196 people have already been arrested. Yes, I concede that the rate of conviction in these cases is very slow. That is the concern that is shared not only across the aisle, across the Benches but also even by people within the Government. I must compliment my leadership for this.

Mohammed Basheer *saheb* was speaking that the Government Departments should work together to ensure that protection is given, awareness is created. It is a significant reflection of intra-ministerial cooperation to ensure protection of women and children. Under the 'Nirbhaya Fund', Department of Legislative Affairs proposed setting up of 1,023 fast track courts in the country. This is the proposal on which the Ministries of Women and Child Development, Home Affairs, Legislative Affairs and the Finance already had its meetings.

I would like to inform, through you, Sir, to the august House that the Government is committed to ensure that Rs. 75 lakh is given to each of these 1,023 fast track courts so that the administrative cost is borne. On this issue the Government has found that more than 18 States have come on board to say that they will work with the Government to ensure that these courts are established between 2019-20 and 2020-21, which means in one financial year.

It is not only the intention of the Government of India but also the States which have said, yes, resolution should be done in a timely fashion.

Sir, there are some questions Smt. Supriya ji spoke about, 'छेड़छाड़ मुक्त भारत'. Sexual harassment is covered under POCSO. She did ask one of the questions with regard to the National Database. I reminisce though we are not allowed to reminisce about activities in the other House, when this Bill came in 2012 in the Rajya Sabha, as a Member, I had spoken about the need for a National Database. I find that many female MPs actually had that feeling resonate in both Houses of Parliament. I am happy to report to this House that in 2018, a National Database functionally became available to our police forces and investigative agencies. But what I am unhappy to state here is that 6,20,000 sexual offenders are, as of this day, listed in the National Database; 6,20,000 sexual offenders are listed today in that National Database on Sexual Offenders. They are being tracked by investigative agencies.

As Mohd. Basheer Sahab asked, "How do you work with even Ministries like HRD"? मैं आपके माध्यम से इस समय सदन को अवगत कराना चाहती हूं कि शिक्षा मंत्रालय, आई एंड बी, लॉ एंड जस्टिस, एम.एच.ए., हमारे रवि शंकर प्रसाद जी एक और विभाग आई.टी. का भी काम देखते हैं, इन सभी मंत्रालयों व विभागों के प्रतिनिधियों से मिलकर हम सभी दो दिन पहले ही बैठे थे, and we discussed how we converge our efforts. MHA has informed us that they will help us in ensuring that a special dashboard is created to follow POCSO cases in terms of investigation by police across the

country so that investigation is completed within the specified timelines and that is something that the Centre and the States can work together.

Ministry of HRD has informed us that, through CBSE and all the State Boards, they will initiate 'Good Touch, Bad Touch' interventions across all the schools. They will ensure that close to 44 lakh teachers in our systems get specially trained to handle POCSO cases.

Today, Supriya ji implored literally on the floor of this House, "How can we as MPs contribute to strengthening the system?" I have already written to each Chief Minister. It is my intention to write to every Member of Parliament so that in the next DISHA meeting at the level of their district in their constituency, they take up POCSO cases with the police and with the District Magistrates so that they are seen to be a part of the solution and also indulge in all the awareness activities that we undertake.

The National Commission for Protection of Child Rights (NCPCR) along with the State Commissions is mandated to ensure that this particular law is implemented. So, it is our intention to call for a special meeting for implementation post the blessings of this House and the blessings of the hon. President of India to ensure that all the amendments that we bring forth are amendments in terms of implementation and we can bring on board not only the National Commission but also the State Commissions.



जम्मू-कश्मीर से हसनैन मसूदी साहब अभी नहीं है, उन्होंने बोला था और चिंता व्यक्त की थी कि जम्मू-कश्मीर में वर्ष 2012 का पॉक्सो एक्ट ऐप्लिकेबल नहीं है। उन्होंने यह भी चिंता व्यक्त की थी कि देश में जुवेनाइल जस्टिस बोर्ड और चाइल्ड वेल्फेयर कमेटीज की कमी है।

महोदय, मैं आपके माध्यम से सदन को अवगत कराना चाहती हूँ कि वर्तमान में देश में 680 डिस्ट्रिक्ट्स में चाइल्ड वेल्फेयर कमेटीज बनी हैं। In fact, 444 Child Welfare Committees are working with full strength. Also, I would like to inform the House in the absence of Hasnain Sahab that, insofar as Juvenile Justice Board is concerned, 675 are functional across all districts in the country and 509 are functioning with full strength. It is also my intention to call for a special meeting with all the States to ensure not only to enhance the capacity of these Child Welfare Committees but also to strengthen the District Child Protection Units and the activities of the Juvenile Justice Boards.

सर, आज आपने सभी को बोलने के लिए समय दिया, इसके लिए मैं आपका आभार व्यक्त करना चाहती हूँ। कुछ लोगों ने यहां काउंसलिंग की दृष्टि से चिंता व्यक्त की कि कितने बच्चों को हम काउंसलिंग दे पा रहे हैं? वर्तमान में सरकारी सिस्टम में प्रदेश सरकारों के समन्वय के साथ लास्ट काउंट में 75 हजार बच्चे पूरे देश में विविध प्रकार के इंस्टीट्यूशनल होम्स में भारत सरकार और प्रदेश सरकार के सहयोग से हैं। उनकी देख-रेख का वहां प्रावधान है।

सुप्रिया जी ने पूछा था कि किन-किन राज्यों से बात हो रही है? मैं स्वयं हर राज्य में जा रही हूँ और मुख्य मंत्रियों से बात कर रही हूँ, न सिर्फ पॉक्सो के इम्प्लीमेंटेशन के बारे में, बल्कि चाइल्ड केयर इंस्टीट्यूशंस को कैसे बेहतर तरीके से चला सकते हैं, बच्चे के पोषण को लेकर, महिला के स्वास्थ्य तक सारी चर्चाएं मुख्य मंत्री जी के स्तर पर हम कर रहे हैं। अब तक हमें एक भी ऐसे मुख्य मंत्री नहीं मिले, जिन्होंने मदद करने से इनकार किया हो। मैं काउंसलिंग के नाते इतना ही

कह सकती हूँ कि हम हेल्थ मिनिस्ट्री के साथ, सोशल वेलफेयर बोर्ड के साथ, एन एजेंसी लाइक नमिहांस के साथ बात कर रहे हैं, ताकि हम एक अप्रूव्ड लिस्ट ऑफ काउंसलर्स की लिस्ट प्रकाशित कर सकें। कई लोगों को इससे सुविधा होगी कि मेरे राज्य में, मेरे जिले में अप्रूव्ड लिस्ट ऑफ काउंसलर्स कौन हैं? चूंकि उसमें राज्य की भी मदद की दरकार होगी, इसलिए उसमें थोड़ा सा समय लग सकता है, लेकिन मैं प्रयत्नशील हूँ, यह आपके माध्यम से मैं सदन को अवगत कराना चाहती हूँ।

अध्यक्ष महोदय, आपने जिस उदारता के साथ आज सभी सांसदों को इस पर बोलने का मौका दिया, इसके लिए और सभी सांसदों ने, जो दलगत राजनीति से उठकर इस विषय पर अपनी चिंता को व्यक्त किया है उसके लिए, मैं अपनी ओर से, अपने विभाग की ओर से आभार व्यक्त करती हूँ।

**माननीय अध्यक्ष :** माननीय सदस्यगण, कोई स्पष्टीकरण पूछना है, तो पूछिए।

...(व्यवधान)

**माननीय अध्यक्ष :** माननीय सदस्य, आपको किसने आदेश दिया कि इनको बैठने के लिए कहें। माननीय सदस्यगण मैं फिर आपसे आग्रह करता हूँ। टीवी लगा हुआ है, जिस किसी माननीय सदस्य ने अगली बार ऐसा बोला, मैं सदन में खड़ा होकर उससे माफी मंगवाऊंगा। सदन में किसी भी माननीय सदस्य के लिए बैठे-बैठे कोई टिप्पणी करने की आवश्यकता नहीं है। आपको भी यह इजाजत नहीं है कि आप किसी को बैठ जाओ या खड़े हो जाओ, कहो।

**SHRI ADHIR RANJAN CHOWDHURY :** Sir, there is sufficiency in our country in terms of legislation; there is no doubt about it. At the same time, there is a stark deficiency in terms of implementation.

सर, मैं जिस राज्य से आता हूँ, वर्ष 2003 में ...\* को रेप एंड मर्डर केस में फांसी की सजा हुई थी। उस समय पॉक्सो नहीं था, लेकिन कोर्ट ने रेयरेस्ट ऑफ दी रेयर केस में उनको फांसी दिलवाई। इसका मतलब यह है कि लेजिस्लेशन की सफीशिएंसी है, लेकिन इम्प्लीमेंटेशन में हमारे यहां डेफीशिएंसी है। ...\* के बाद हिंदुस्तान में ...\*, ...\* और ...\* को फांसी हुई।

मैडम ने बहुत अच्छे तरीके से सारी चीजें हमें समझाईं। विपक्ष में होने के नाते भी, अपोज करने की हमारी कोई मंशा नहीं है और करेंगे भी नहीं, लेकिन डर लगता है जब मैडम कहती हैं कि 6 लाख से ज्यादा सेक्सुअल आफेंडर्स डाटा में हैं। डाटा के बाहर और कितने हैं, यह पता नहीं है। हम किस तरफ जा रहे हैं? मैं एक स्टडी की रिपोर्ट आपके सामने रखना चाहता हूँ। यह स्टडी मैपिंग ऑफ नीड्स एंड प्रायोरिटीज पर है। स्टडी के हिसाब से निकाला गया कि

“An analysis of the study revealed that the families of victims are largely poor. Most of the family members are not educated. Forty-two per cent of the child victims are dropped out of school, 50 per cent of the children suffered from rape-related illness, only 15 per cent of the victims have received compensation, 38 per cent of victims have not received any legal aid, and 68 per cent of the victims who were helped by support persons did so for only five or less days.”

मैं आपके सामने यह इसलिए रख रहा हूँ, ताकि आपको कुछ सुविधा हो, क्योंकि हम सब आपकी मदद करना चाहते हैं।

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\* Not recorded

**19.00 hrs**

मैडम, सिर्फ सरकारी मैक्निजम से नहीं बल्कि इसे एक सोशल मूवमेंट बनाइए। रेप और चाइल्ड रेप के खिलाफ हिन्दुस्तान में एक सोशल मूवमेंट बने। हमारे यहां कितने पोक्सो कोर्ट हैं? जितने केस हैं, क्या उनके बराबर पोक्सो कोर्ट का इंतजाम आपके पास है? At present rate, the victims of the pending cases will have to wait till 2029 for justice if no new case of child abuse is reported. यह हालत है।

**संसदीय कार्य मंत्रालय में राज्य मंत्री तथा भारी उद्योग और लोक उद्यम मंत्रालय में राज्य मंत्री (श्री अर्जुन राम मेघवाल):** अध्यक्ष महोदय, इन्होंने जो पहले तीन नाम लिए, उनका इससे कोई रिलेशन नहीं है, वे नाम कटने चाहिए, ... \* इस एक्ट से तुलना करना ठीक नहीं है।

**श्री अधीर रंजन चौधरी :** महोदय, वे टेरेरिस्ट थे, ये रेपिस्ट, कुल मिलाकर चार फांसी की सजा हुई। एक रेपिस्ट और तीन टेरेरिस्ट, मैंने यही बोलने की कोशिश की। रिहैबिलिटेशन हो, लेकिन इससे काम नहीं बनेगा, सोशल रि-इंटिग्रेशन जरूरी है।

**डॉ. सत्यपाल सिंह (बागपत):** अध्यक्ष महोदय, मैं आपका अत्यंत आभार व्यक्त करता हूं। सबसे पहले एक सख्त कानून के लिए मैं माननीय प्रधान मंत्री जी और माननीय स्मृति ईरानी जी का बहुत-बहुत अभिनंदन करता हूं। मैं आपके माध्यम से बताना चाहता हूं।

**माननीय अध्यक्ष:** आपको बताना नहीं है, मंत्री जी बताने में सक्षम है। आप कोई स्पष्टीकरण है तो पूछिए।

**डॉ. सत्यपाल सिंह :** अध्यक्ष महोदय जी, मैं एक बात कहना चाहता हूं और इसे कई माननीय सदस्यों ने भी कहा है। नब्बे परसेंट से ज्यादा रेप, जानने वाले, पड़ोसी और रिलेशन के लोग ही

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\* Not recorded.

करते हैं। यह डेटा भी एवेलेवल है, इसलिए कानून बहुत सख्त होना चाहिए, इसमें कोई बात नहीं है। केवलमात्र कानून इस समस्या का हल नहीं है।

मैं निवेदन करना चाहता हूँ कि जब तक हमारे शिक्षा संस्थानों, स्कूल, कॉलेज और घरों में संस्कारों की शिक्षा नहीं दी जाएगी, बच्चों को संस्कार नहीं मिलेंगे। कानून के पेड़ में जब फल सड़ने लगे और हम ऊपर से इन्सेक्टिसाइड की दवा देंगे तो केवल उससे बात नहीं बनेगी, जब तक जड़ से इलाज नहीं करेंगे।

मेरे एक-दो सजेशनस थे, अगर आप एलाऊ करें। जब निर्भया कांड हुआ। मंत्री महोदया माफ करें। जो इंटरनेट या सोशल मीडिया है, क्या उसको इसके लिए मॉनिटरिंग करने का काम करेंगे, क्योंकि जब तक हम मोनिटरिंग नहीं करेंगे, तब तक बहुत मुश्किल है। निर्भया का भी हम लोगों को मालूम चला। मुंबई पुलिस ने दिल्ली को बताया था कि ऐसा आपके यहां हो रहा है। एक मेरा यह सजेशन था।

दूसरा, पोर्नोग्राफी के साइट जिसका इंजन गुगल है, अगर वह उसे बैन नहीं करते, हम लोग क्या एक्शन लेने वाले हैं? जो बैगर्स के सिंडिकेट हैं। मुंबई या बड़े-बड़े शहरों में छोटे-छोटे बच्चों के हाथ-पैर काट देते हैं, उन बच्चों को सेक्सुअली एब्यूज भी करते हैं, उसका भी उसमें प्रोविजन होना चाहिए। जो बच्चे पीड़ित हैं, क्या उनके लिए स्पेशल रिओरिन्टेशन कोर्स शुरू करने का विचार करेंगे?

**श्री अधीर रंजन चौधरी:** अध्यक्ष महोदय, हम जान तो ले सकते हैं, लेकिन जान वापस नहीं दे सकते हैं। डेथ पैनल्टी के ऊपर रिकन्सिडर करना चाहिए।

**माननीय अध्यक्ष:** अगर स्पष्टीकरण हो तो पूछें।

**श्रीमती अपरूपा पोद्दार (आरामबाग):** अध्यक्ष महोदय, माननीय मंत्री जी ने स्पीडी जस्टिस के बारे में कुछ स्पष्टीकरण नहीं किया। पोर्नोग्राफी पर पांच हजार से दस हजार का फाइन किया है।

यह फाइन बढ़ाया जाए क्योंकि यह नामिनॉल है। इसे कोई भी देकर बिजनेस के हिसाब से कर सकता है। पांच से दस हजार नहीं बल्कि पांच लाख फाइन होना चाहिए।

**SHRIMATI KANIMOZHI:** The hon. Minister in her reply said that a national database of child sexual abusers has been created. Will it be available for schools and institutions who deal with children so that they can be careful?

**डॉ. निशिकांत दुबे:** माननीय अध्यक्ष जी, मुझे लगता है कि पूरे डिस्कशन में माननीय मंत्री जी को महत्वपूर्ण बात बतानी चाहिए। बच्चों को इलैक्ट्रानिक मीडिया, प्रिंट मीडिया, सोशल मीडिया में फेसबुक, ट्विटर, व्हाट्सअप आदि एक्सपोज कर रहे हैं क्योंकि आइडेंटी सामने आ रही है। केवल बच्चे ही बदनाम नहीं हो रहे हैं, उनके परिवार वाले भी बदनाम हो रहे हैं, कानून में उनको जो प्रोटेक्शन मिला हुआ है, वह प्रोटेक्शन इम्प्लीमेंट नहीं हो पा रहा है। इसके बारे में मंत्रालय क्या सोच रहा है?

**SHRI ANUBHAV MOHANTY (KENDRAPARA):** Hon. Speaker, Sir, as this Bill is being brought forward by the Ministry of Women and Child Development, it should look into the deterrent aspect as well as provide a method to successfully assist the traumatised children. While the POCSO Act and rules provide for a support person who will guide the child and the family through the process and steps for the trial, such support must continue in the form of aftercare also even after the trial and conviction as such children are equally vulnerable to social stigma at this stage. In fact, the Parliamentary Standing Committee on Human Resource Development of Rajya Sabha in its 264<sup>th</sup> report titled 'The Juvenile Justice Care and Protection of Children Bill 2014', of which I was a part and which looked into various aspects of the mindset of a

juvenile perpetrator, stated, "The Committee strongly feels that aftercare should be visualized as a full-fledged programme which includes a range of services towards enabling mainstreaming of young adults who have been children in need of care and protection." If an Act deals with aftercare of a child who commits a crime, should an Act, which protects children subject to sexual abuse, not have at least a similar, if not more, concrete system of aftercare which ensures that the child is re-integrated properly into the society?

**श्री गौरव गोगोई (कलियाबोर):** माननीय अध्यक्ष जी, जिन शिक्षा संस्थानों में किसी अध्यापक ने सैक्सुअल ऑफेंस कमिट किया है और उस स्कूल का मैनेजमेंट उस शिक्षक की रक्षा करता है। वह छात्रों का पक्ष न लेकर शिक्षक की रक्षा करता है तो मैं आदरणीय मंत्री जी से पूछना चाहता हूँ कि क्या एचआरडी मंत्री ऐसे स्कूल और मैनेजमेंट पर भी कार्रवाई करेंगे?

**SHRIMATI SUPRIYA SADANAND SULE :** Hon. Speaker, I had put this point before the Minister. I just want to put it on record for the media. If the Minister can write to media in a nice way, it will be a good thing.

**प्रो. एस. पी. सिंह बघेल (आगरा):** माननीय अध्यक्ष जी, मुझे बाल विकास मंत्री और पॉक्सो अमेंडमेंट पर थोड़ी कानून मंत्री और गृह मंत्री की झलक दिखाई दी, मां की और बहन की झलक दिखाई पड़ी। मेरे पुलिस में इस्तीफा देने के 19 साल बाद पॉक्सो आया लेकिन वर्ष 2012 में ढीला ढाला आया। वर्ष 2019 वाला अमेंडमेंट ठीक है, लेकिन मैं थोड़ी सी क्लेरिफिकेशन चाहता हूँ।

हम इन्वेस्टिगेशन के दौरान चार्जशीट के बाद अदालत जाते थे, गवाह मुकरता था, वादी मुकरता था, हम लोग हाथ मलते थे, बहुत गुस्सा आता था। एविडेंस एक्ट, सीआरपीसी और पुलिस रैगुलेशन में थोड़ा सा परिवर्तन होना चाहिए क्योंकि सजा दिलानी है। आज जो सारा दिन चर्चा हुई, कन्विक्शन करने के लिए होनी चाहिए थी। पॉक्सो का मुकदमा लगभग उत्तर प्रदेश के हर

थाने में कायम होता है, लेकिन नारको टेस्ट, लाई डिटेक्टर, फुट प्रिंट, फिंगर प्रिंट, बालों का टेस्ट, डीएनए और ब्लड टेस्ट बहुत कम लोग कर पाते हैं। बहुत से मुकदमे आईओ की लापरवाही से, कम जानकारी से और एविडेंस कलैक्ट न होने की वजह से नहीं हो पाते हैं। टाडा, पोटा और गैंगस्टर में मुकदमे छूट रहे हैं। मैं नारको टेस्ट के बारे में कुछ कहना चाहता हूँ।

**माननीय अध्यक्ष:** आप रिटायर्ड पुलिस वाले हैं, आप तो लंबी डिबेट कर सकते हैं।

**श्री अर्जुन सिंह (बैरकपुर):** माननीय अध्यक्ष जी, मेरा कहना है कि पॉक्सो कानून का पश्चिम बंगाल में दुरुपयोग हो रहा है। राजनीतिक विरोधियों को पॉक्सो कानून के तहत फंसाया जा रहा है।

**श्रीमती स्मृति जूबिन ईरानी:** सबसे पहले सुप्रिया जी ने पूछा कि क्या हम मीडिया वालों से विनम्र निवेदन कर सकते हैं। एनसीपीसीआर ने मीडिया के लिए विशेष गाइडलाइन्स बनाई हैं, उसको न सिर्फ मिनिस्ट्री ऑफ आई एंड बी के साथ शेयर किया है बल्कि प्रसार भारती के साथ भी शेयर किया है। लेकिन, मुझे लगता है कि मीडिया अंततोगत्वा सारी राजनीतिक और संसदीय गतिविधियों पर रिपोर्ट करती है। वह यह भी जानती होगी कि बच्चे की आइडेंटिटी को एक्सपोज करना अपने आप में एक अपराध है। मैं उस अपराध की सजा को यहां दोहरा देती हूँ ताकि आज इस डिबेट को देखने वाले अगर कोई मीडियाकर्मी ऐसे हों, जिनको पता न हो कि अपराध की क्या सजा है, वे जान लें-

“The punishment would be jail of not less than six months, which may extend to one year, or with fine, or with both.”

लेकिन इसके इम्प्लीमेंटेशन का अधिकार पॉक्सो एक्ट के अंतर्गत सिर्फ पुलिस और लोकल एडमिनिस्ट्रेशन के पास रहता है। इसलिए, अगर माननीय सांसद महोदया को लगता है कि किसी ने इस प्रकार की गतिविधि की है, जिससे चाइल्ड विक्टिम की न सिर्फ आइडेंटिटी एक्सपोज होती है बल्कि कानून का उल्लंघन भी होता है, कानून उनको इस प्रकार की क्षमता देता है कि वे पॉक्सो एक्ट के अंतर्गत लोकल पुलिस में इस संदर्भ में शिकायत दर्ज करवा सकते हैं।



चैनल ओनर्स, क्योंकि मीडिया संक्षेप में सिर्फ न्यूज चैनल तक सीमित नहीं है, सुप्रिया जी ने ब्रेकिंग न्यूज, होड़ के बारे में बात की है। चैनल ओनर्स के साथ-साथ निशिकांत जी ने सोशल मीडिया के विषय को रखा है। कभी-कभी कई लोग इतने आवेश में आ जाते हैं कि विक्टिम के लिए ही सही, लेकिन विक्टिम को ही एक्सपोज कर देते हैं। मैं आज सदन के माध्यम से राष्ट्र भर के उन नागरिकों को जो ऐसे केसेज को देखकर आक्रोशित होते हैं, उनसे कहना चाहूंगी की आप निश्चित रूप से अपना आक्रोश व्यक्त करें, लेकिन कानून की मार्यादा में करें ताकि बच्चे का नाम या उसका चेहरा एक्सपोज न हो सके।

जहां तक एस.पी.सिंह बघेल जी ने बात की, अध्यक्ष महोदय, आपने सही कहा कि पुलिस में लंबी अवधि तक सेवा देने की वजह से वे इस विषय पर मुझसे बेहतर और लम्बा बोल सकते हैं। लेकिन, उन्होंने एक बात सही कही कि प्रशिक्षण की किस आयु पर जरूरत होती है। कलेक्शन ऑफ एविडेंस के संदर्भ में और स्पेशिएली अगर सेक्सुअल एसॉल्ट के केसेज में फारेसिक एविडेंस हैं तो उसके संदर्भ में प्रशिक्षण की जरूरत है। मैं आपके माध्यम से उन्हें अवगत कराना चाहती हूँ कि मिनिस्ट्री ऑफ होम अफेयर्स ने एडिक्वेट कैपेसिटी इन मैन पॉवर की दृष्टि इन्वेस्टिगेशन ऑफिसर्स, प्रोसिक्यूशन ऑफिसर्स और मेडिकल ऑफिसर्स की कैपेसिटी बिल्डिंग और ट्रेनिंग का कार्यक्रम शुरू कर दिया है। अब तक 2575 ऑफिसर्स इस विषय में कलेक्शन हैंडलिंग ट्रांसपोर्टेशन ऑफ फारेसिक एविडेंस में ट्रेड हो चुके हैं। 3120 सेक्सुअल एसॉल्ट एविडेंस कलेक्शन किट्स राज्यों को ओरिएंटेशन की ट्रेनिंग के अंतर्गत दिलवाई जा चुकी है।

अध्यक्ष महोदय, अधीर रंजन जी ने इम्प्लीमेंटेशन की दृष्टि से, अवेयरनेस को बिल्ड करने की दृष्टि से यहां अपनी चिंता व्यक्त की। जैसे मैंने सुप्रिया जी को अपने जवाब में कहा था वही बात सांसद महोदय को आपके माध्यम से कहना चाहूंगी कि राज्य क्या, शहर क्या, जिला क्या, ब्लॉक क्या अगर गांवों में भी, राम मोहन जी ने एक अच्छा सुझाव दिया कि पंचायत स्तर पर इसकी जानकारी होनी चाहिए। पंचायती राज मंत्रालय के माध्यम से इस सुझाव पर मैं निश्चित रूप से काम

करूंगी ताकि पॉक्सो की जानकारी सिर्फ एमपी, एमएलए तक सीमित न रहे बल्कि पंचायत स्तर तक जाए।

**माननीय अध्यक्ष :** प्रश्न यह है :

“कि लैंगिक अपराधों से बालकों का संरक्षण अधिनियम, 2012 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित, पर विचार किया जाए।”

प्रस्ताव स्वीकृत हुआ।

**माननीय अध्यक्ष :** अब सभा विधेयक पर खंडवार विचार करेगी।

### **Clause 2**

### **Amendment of section 4**

**माननीय अध्यक्ष :** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 1 प्रस्तुत करना चाहते हैं?

**SHRI N. K. PREMACHANDRAN (KOLLAM):** Sir, I did not speak on this Bill. I fully support this Bill. The whole House is unanimously supporting it, except regarding the capital punishment.

The hon. Minister, in her reply has said that some of the hon. Members have different opinions about the capital punishment. It is a debating point. I am not going into the merits of it. World over the debate is going on regarding this. I would club all the amendments. I think the hon. Minister is ready to respond to it. I had a personal talk with the hon. Minister. I have given notice of three amendments. The hon. Minister is positively responding to them.

The first amendment is regarding 'morphing'. That word is not there in the definition of child pornography. My suggestion would be that the word 'morphing' should also be included in the definition.

Second one is regarding Clause 3 - 'just and reasonable', that is, the compensation to the victim should be 'just and reasonable'. My amendment is 'just and reasonable sufficient to meet the medical expenses and rehabilitation of the victim.' The main problem is that after the controversy and after the political libel regarding sexual abuse and killing and all these things, the victim's case becomes pathetic. So, the rehabilitation of the victim is important. So, my amendment is 'sufficient to meet the medical expenses and rehabilitation of the victim'.

The word 'morphing' should be included in the definition of the child pornography.

These are the three amendments which I would like to move, but subject to the response from the hon. Minister.

**SHRIMATI SMRITI ZUBIN IRANI:** I have, with your kind permission, risen to respond to the hon. Member who wants to include 'morphing'. The definition of 'child pornography' in itself, actually encompasses modifications, computer generated images and adaptation of the same. We have consulted with the Legislative Affairs. Morphing is very much a part of it. If there is a need to further clarify it in the rules, I have no hesitation in making that clarification.

But in so far as the other amendments that the hon. Member of Parliament seeks to move of limiting compensation only to medical expenses, I would beg to disagree. It is because 'just and reasonable' gives a Judge enough scope to go beyond the medical bills and expenses.

Hence, I would just hope that the hon. Member agrees with my understanding of how we have presented, at least, the 'just and reasonable' compensation. It gives the Judge more scope and if you say 'medical expenses', it will limit the Judge in terms of giving the compensation.

**SHRI N. K. PREMACHANDRAN** : On the basis of the reply given by the hon. Minister, I am not moving any of the amendments.

**माननीय अध्यक्ष**: प्रश्न यह है:

“कि खंड 2 विधेयक का अंग बने।”

प्रस्ताव स्वीकृत हुआ।

खंड 2 विधेयक में जोड़ दिया गया।

खंड 3 से 11 विधेयक में जोड़ दिए गए।

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

**SHRIMATI SMRITI ZUBIN IRANI**: Hon. Speaker, Sir, with a sense of gratitude towards you and the House, I beg to move:

“That the Bill, as passed by Rajya Sabha, be passed.”

**माननीय अध्यक्ष**: प्रश्न यह है:

“कि विधेयक, राज्य सभा द्वारा यथापारित पारित किया जाए।”

प्रस्ताव स्वीकृत हुआ।

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**19.18 hrs**

**BUSINESS ADVISORY COMMITTEE**

**7<sup>th</sup> Report**

**SHRI SUDIP BANDYOPADHYAY (KOLKATA UTTAR):** I beg to present the Seventh Report of the Business Advisory Committee.

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**19.19 hrs**

**ARBITRATION AND CONCILIATION (AMENDMENT) BILL , 2019**

**माननीय अध्यक्ष:** आइटम नम्बर 3, माननीय मंत्री जी ।

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

“कि माध्यस्थता और सुलह अधिनियम, 1996 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित, पर विचार किया जाए ।”

**माननीय अध्यक्ष:** सभी माननीय सदस्य संक्षिप्त में बोलेंगे ।

**श्री रवि शंकर प्रसाद:** मैं बहुत संक्षेप में बोलूंगा । मैंने एक संशोधन प्रस्तावित किया था, उसे मैं प्रेस नहीं करूंगा, जैसे राज्य सभा से पारित हुआ है वैसे ही पारित होगा ।

सर, हमारी सरकार की कोशिश है कि भारत की अर्थव्यवस्था बढ़ रही है तो भारत में आर्बिट्रेशन का एक बड़ा सेन्टर बनना चाहिए । सदन ने न्यू दिल्ली इंटरनेशनल आर्बिट्रेशन बिल पारित किया । जस्टिस श्रीकृष्णा, जो सुप्रीम कोर्ट के प्रसिद्ध न्यायाधीश थे ।... (व्यवधान)

**माननीय अध्यक्ष:** माननीय मंत्री जी एक मिनट रुकिए । माननीय सदस्यगण, जिन्हें जाना है वे चले जाएं । माननीय मंत्री जी बोल रहे हैं ।

**श्री रवि शंकर प्रसाद:** सर, जस्टिस श्रीकृष्णा कमेटी की रिपोर्ट आई, उसमें एटॉर्नी जनरल वेणुगोपाल जी एवं कई विद्वान लोग सदस्य थे । उन्होंने कहा कि दुनिया में आजकल इंस्टीट्यूशनल आर्बिट्रेशन बहुत महत्वपूर्ण है, तो अगर भारत को बढ़ना है तो हम इंस्टीट्यूशनल आर्बिट्रेशन को प्रमोट करें । ऐसी लगभग 35 संस्थाएं भारत में हैं, लेकिन इसके लिए उन इंस्टीट्यूशनल की प्रेडिंग होनी चाहिए कि वे कैसा काम कर रही हैं, कैसे आर्बिट्रेटर्स वहां पर हैं । इसलिए एक आर्बिट्रेशन

काउंसिल बननी चाहिए। हम इस कानून में एक आर्बिट्रेशन काउंसिल बना रहे हैं, जिसके अध्यक्ष सुप्रीम कोर्ट के रिटायर्ड जज, हाई कोर्ट के चीफ जस्टिस या जज होंगे या बाकी लोग होंगे और बाकी मेंबर्स होंगे। इसमें व्यापारिक संस्थाओं से भी लोगों को लेंगे।

सर, यह संस्था क्या काम करेगी? यह संस्था भारत के सारे इंस्टीट्यूशनल आर्बिट्रेशन को ग्रेड करेगी, एक्क्रेडिट करेगी कि how they are working, the Arbitrators are good or not, their performance is good or not and they have completed their work within time frame or not. जो उनको एक्क्रेडिट करेगी तो इंटरनेशनल आर्बिट्रेशन के मामले में सुप्रीम कोर्ट और स्टेट आर्बिट्रेशन के मामले में हाई कोर्ट उनको डेजिग्नेट करेंगे। अब किसी को आर्बिट्रेशन के लिए हाई कोर्ट या सुप्रीम कोर्ट नहीं जाना है, सुप्रीम कोर्ट और हाई कोर्ट ने जिस संस्था को डेजिग्नेट किया है, उसी संस्था के पास जाना है। क्लॉज 43ए में यह प्रावधान किया गया है कि भारत सरकार से कंसल्टेशन करके, रेगुलेशन बना करके कि कैसे आर्बिट्रेटर्स होंगे, उनका स्तर क्या होगा, उनकी क्वालिटी क्या होगी, यह सारा कुछ वे विस्तार से तय करेंगे। इसलिए मैं उस संशोधन को प्रेस नहीं कर रहा हूँ।

सर, मैं एक अन्य महत्वपूर्ण बात बताना चाहता हूँ कि जो आर्बिट्रेशन काउंसिल ऑफ इंडिया है, देश में आर्बिट्रेशन बार बने, इसकी ट्रेनिंग हो, इसकी रिकलिंग हो, पूरे देश में आर्बिट्रेशन का सिस्टम डेवलप हो, जिससे भारत दुनिया में आर्बिट्रेशन का एक बड़ा केन्द्र बने, इसका एक पूरा स्ट्रक्चर यह विधेयक डेवलप करता है। It has been formulated after recommendation of a high-powered Committee headed by the eminent Supreme Court Judge, Justice Srikrishna. मैं उम्मीद करूंगा कि भारत सिंगापुर और लंदन के साथ बढ़ता हुआ एक बड़ा सेंटर बने।

सर, मैं इस बारे में एक आग्रह करना चाहता हूँ। हम जानते हैं कि भारत में योग्य वकील हैं, योग्य जज हैं, बाकी क्षेत्रों में अनुभवी लोग हैं, कोई रिटायर्ड फाइनेंस सेक्रेटरी हो, रिटायर्ड आईटी

प्रोफेशनल हो, कोई वैज्ञानिक हो, उन सभी को हम आर्बिट्रेशन में लाना चाहते हैं कि तकनीक की दुनिया में जज भी हों, वकील भी हों, अन्य क्षेत्रों से जुड़े लोग भी आर्बिट्रेटर के रूप में उपलब्ध हों। यह सारी पूरी प्रक्रिया इसमें है और उसी दिशा में हम यह विधेयक लेकर आए हैं। मुझे लगता है कि यह पूरा सदन से सर्वानुमति से इसे पास करेगा।

**माननीय अध्यक्ष:** प्रस्ताव प्रस्तुत हुआ:

“कि माध्यस्थता और सुलह अधिनियम, 1996 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित, पर विचार किया जाए।”

**SHRI N. K. PREMACHANDRAN (KOLLAM) :** Sir, I would like to seek one clarification. Amendments have been circulated. I would like to know whether it has been passed by the Rajya Sabha or not.

**SHRI RAVI SHANKAR PRASAD:** Sir, I must clarify it. It has not been passed by the Rajya Sabha. The Council has enormous powers under Section 43(j) whereby depending upon the need, time and the quality of the Arbitrator, they can themselves name them. Therefore, we are not pressing it here.

This Bill has been passed by the Rajya Sabha and I wish this Bill may be passed by this House as well.



**SHRI KODIKUNNIL SURESH (MAVELIKKARA):** Sir, I thank you for giving me this opportunity to speak on the Arbitration and Conciliation (Amendment) Bill, 2019.

The new age business needs and demands swift and efficient solutions. For that arbitration and reconciliation conducted in a professional and legal way of settling disputes is conducive for the easy conduct of business without losing the most critical element, which is 'time'.

According to a report by E&Y, it is seen that the arbitration clause constitutes almost 95 per cent of agreements between parties. Inclusion of the arbitration clause in the contract is high in the construction, infrastructure, oil and gas sectors.

**19.25 hrs**

(Shri Rajendra Agrawal *in the Chair*)

The increase in the number of arbitration and reconciliation cases in businesses are sure indicators of emerging trends of modernisation of businesses and optimal utilisation of time and effort. However, there is a need to draft clear provisions for checking the independence and impartiality of arbitrators appointed and the Government must bring detailed guidelines aided by legislation to ensure impartial and unbiased arbitration in the country, as even a single resolution that is alleged of bias can bring down the reputation of the country as a favourable destination for international arbitration and in the process lose millions in foreign exchange.

Technical and domain experts, including accountants, engineers, architects, scientists, doctors etc. are increasingly being considered indispensable by arbitral tribunals in matters requiring expertise and technical knowhow. Definitive provisioning of ethical clarity and probity are mandatory.

Hon. Chairperson, Sir, I would now refer to some of the salient features of this Bill. I must say that the Bill fails to consider the crucial aspects in its totality. Clause 43(C) of the Bill states that the Council shall consist of the following Members, namely, a person, who has been a judge of the Supreme Court or, Chief Justice of a High Court or, a judge of a High Court or an eminent person having special knowledge and experience in the conduct or administration of arbitration, to be appointed by the Central Government in consultation with the Chief Justice of India. There is no clarity on what constitutes his/her eminence. It is vague and unclear. I suggest that a separate clause be added to define in detail the qualifications and pre-requisites and eligibility criteria for the 'eminent member' as it is required beyond any doubt since we need to maintain integrity in matters of business reconciliation.

Sir, in clause 43C (f) it is stated that one representative of a recognised body of commerce and industry chosen on rotational basis by the Central Government who would be a part-time member. Here again the same problem will arise as the qualifications and eligibility criteria are not detailed in the Bill and such an ambiguity will give way to unethical and influenced inclusions

thereby affecting the purpose of the process. I suggest that a detailed criterion be added as an amendment to ensure ethical probity.

In order to defend the probity for international arbitration, one cites the case of article V(2)(b) of the New York Convention and article 36 of the UNCITRAL Model Law as enshrined in the public policy of the forum based on which arbitral awards may be refused enforcement by the courts. They provide that recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that the recognition or enforcement of the award would be contrary to the public policy of that country.

Sir, I would like to urge upon the Government that ethical probity must be the cardinal content and principle of arbitration and the Bill must not be vague or unclear about this as international arbitration is an area where even a single omission of honesty will be damaging the integrity of the country and its standing.

The Bill does not adhere to certain recommendations of the Srikrishna Report such as creation of specialist arbitration benches before various courts and recommendations on introducing the International Bar Association Rules on taking of evidence which would have brought uniformity in rules for recording evidence in arbitration as per the international standards. The Report had also suggested that time limit to challenge an award under the Amendment Act be reduced with a mandatory deposit of 75 per cent of the

sum awarded. These recommendations of the High-Level Committee are not adhered to in this Bill. I would request the hon. Minister to consider these recommendations in a strong manner and only then, this Bill will be useful to the country.

**श्रीमती मीनाक्षी लेखी (नई दिल्ली):** अध्यक्ष जी, आपने मुझे इतने महत्वपूर्ण बिल पर बोलने का मौका दिया, इसके लिए मैं आपको धन्यवाद देती हूँ। मैं इस बिल पर बोलने से पहले प्रधान मंत्री श्री नरेन्द्र मोदी जी को, माननीय मंत्री जी को और अपनी सरकार को धन्यवाद देना चाहती हूँ कि यह माहौल बदलने की कोशिश है, संस्थाओं को ठीक करने की कोशिश है और जिन-जिन चीजों से सारा देश इतने लम्बे समय से सफर कर रहा था, उन सभी में सुधार की कोशिश है। आर्बिट्रेशन और कंसिलिएशन एक्ट उसी प्रथा का एक स्वरूप है, जिसमें सरकार ने कानून की व्यवस्था को सुधारने की कोशिश करने का प्रयत्न किया है।

इसका दूसरा पक्ष है कि जो इंटरनेशनल आर्बिट्रेशंस हैं, जिनमें बहुत सारी लिटिगेशन्स में भारत पार्टी है सरकार के रूप में भी और बहुत सारी बायलेट्रल इन्वेस्टमेंट ट्रीटीज हैं, बहुत सारी और चीजें भी हैं। इसके अलावा भारतीय मूल की कम्पनियां और भारतीय लोग आर्बिट्रेशन में उलझे हुए लोग हैं और वह सारी आर्बिट्रेशन देश के बाहर हो रही है। यदि मैं कहूँ तो इम्पीरियलिस्टिक माहौल है कि आपको आर्बिट्रेशन करनी है तो आप सिंगापुर जाएंगे, हाँगाँग जाएंगे, लंदन जाएंगे, स्टॉकहोम पहुंच जाएंगे। दोनों कम्पनीज जिनके बीच में आर्बिट्रेशन है, वे दोनों हिंदुस्तानी हैं। जो आर्बिट्रेटर है, वह भी हिंदुस्तानी है और जो वकील वहां पेश हो रहे हैं, वे भी हिंदुस्तानी हैं और सिर्फ कहीं-कहीं जगह को बदल दिया। मुझे लगता है कि उस माहौल को भी ठीक करने की इस बिल के माध्यम से कोशिश है। इसलिए मैं अपनी सरकार का, माननीय मंत्री जी का और आपके माध्यम से सभी का धन्यवाद देना चाहती हूँ कि ये सभी बदलाव लाने की कोशिश की गई है।

Now, I come to the merits of this particular legislation. In the words of former Chief Justice of Singapore who, by name, is a person of Indian origin, Justice Sundaresh Menon, Alternate Dispute Resolution should be renamed as Appropriate Dispute Resolution which means there is a paradigm shift in the

manner of litigation, there is a paradigm shift in the resolution of problems and there is a paradigm shift in the thought process which leads to dispute resolution. For efficient and comprehensive dispute resolution, it has been sought that these mechanisms are the best mechanisms which means arbitration, conciliation and mediation. These are three or four processes. Unfortunately, there have been many problems while we are a country which thrived on panchayati raj. We are a country which believed in conciliation processes across and we are the originators of conciliatory mechanisms and even *nyaya prakriya*. If we go to ancient philosophy, you may find that there were different schools of thought in which we had laws where reformatory things and dispute resolution happened.

'Panchayat' means five elders who will solve the problems. That is how the word 'Panchayat' originally originated. So, we are basically the founders of conciliatory and arbitral mechanisms in the world. But unfortunately, over a period of time, we lost these processes, and the kind of Government support, the kind of legislative support, the kind of public approval, the kind of institutionalisation which was needed to build this mechanism was lacking, and it is in this rightness and this earnestness that this law is one such change which the Government has sought to bring.

Now, before this, the Commercial courts, Commercial Division, and Commercial Appellate Divisions were formed so that there is an expeditious disposal of commercial disputes. At the end of the day, time is money. If, in

litigation, multiple crores of rupees are going to get stuck, nobody is a gainer and economy will suffer. So, for that reason, arbitration is an expeditious methodology.

Sometimes, you just need to make people understand. There could be two sides to the coin. You just need to make the two sides understand, mediate between them, and pass an order but that order should be binding. So, if both the sides agree on a certain order or a certain mechanism, you can have *ad-hoc* arbitration. लेकिन जहां दोनों पक्ष एक-दूसरे की बात नहीं मानते हैं तो आर्बिट्रेशन उसका एक अच्छा मैकेनिज़्म है। जहां पक्ष एक-दूसरे की बात मानते हैं, वहां एडहॉक मैकेनिज़्म चलेगा। जैसे किसी ने कहा कि फलां को हमने पंच बनाया और वह जो तय करेगा, वह हमारे लिए मान्य होगा, लेकिन जहां पर दोनों पक्ष यह मानने के लिए राजी नहीं हैं और उनके बीच आपसी झगड़ा है तो उस झगड़े को तय करने के लिए या तो आप गवाही का कोई सिस्टम, पूरा कोर्ट प्रोसेस या स्यूट डालो, डिसप्यूट रिजॉल्व करो और अपील में जाओ और उसके बाद सैकेंड अपील में जाओ।

इसके अलावा दूसरा तरीका है कि इंडिपेंडेंट ट्रांसपेरेंट मैकेनिज़्म से एक आर्बिट्रेटर अपॉइंट हो, क्योंकि वहां भी कई तरीके के पक्षपात की बू आती थी कि कहीं कोई किसी से कनेक्टेड है तो उसका आर्बिट्रेटर बना दिया। किस तरीके के लोग आर्बिट्रेटर होंगे, इसका कोई तरीका नहीं था। इन सब चीजों को सुधारने की ज़रूरत थी और उस मैकेनिज़्म को बेहतर करने की ज़रूरत थी। मुझे इस बात की खुशी है कि the Arbitration and Conciliation Act itself, apart from the New Delhi International Arbitration Centre Bill, 2019 which we brought in this Session itself and about 20 such amendments which we brought earlier in the Arbitration and Conciliation Act, and which have already come, is basically a

dynamic area in which a regular improvement is going on, and as a part of the regular improvement, these changes have been brought in. What these changes are trying to do is this. As the hon. Minister himself said, there are 35 institutions, and in addition to these 35 institutions, there are Public Sector Undertakings and PSEs who have their own mechanisms. When they are in dispute or conflict with the Government of India, they follow a mechanism but that particular mechanism is not applicable for the simple reason that ACA was not applicable.

In addition to this, there are certain Chambers of Commerce like FICCI, and so on and so forth who are also doubling up as arbitral centres. Then, there are certain other merchant bodies which are working as Dispute Resolution Centres with the result that there is a certain type of *ad-hocism*, and on the basis of that *ad-hocism*, the commerce and trade cannot operate. Commerce and trade needs certain amount of certainty, and that certainty will come when you have defined rules, when arbitrators are credible, and institutions are credible. There is a certain class associated with the entire mechanism, and that class will come only when you have some kind of established criteria. For establishing that criteria, for establishing those rules, for establishing those institutions, all these changes are being brought in, and these changes are basically determining that which kind of disputes go where, how the mechanisms will operate, and how formalisation of the processes need to happen.



Formal institutional mechanisms establishment is what this particular Act is trying to establish. All I need to say is that the twin objective of all these Acts put together has been: efficient disposal of commercial disputes, and international and national disputes which happen. Some kind of legislation and legal mechanism need to be given.

Ultimately, this is also a business. It is as much part of business as it is important for 'Ease of Doing Business' as litigation itself is a business. Especially, as a lawyer I can say that this is very much a part of certain class of profession, and we cannot have certain classes within a class. Like, lawyers by themselves are a class. Now, within this class of lawyers, you make segregation -- Queen's Counsel, Stockholm based lawyers, London based lawyers. You cannot have all that. I think, lawyers across board are qualified and they all are capable of handling litigation along with arbitration. A certain change in thought process is what is needed from a kind of aggressive litigation to resolution based processes. Certainty of time is needed that within this time, all these resolutions will happen.

So, what this Act is particularly trying to do is make the whole thing more efficient, bring justice at the doorsteps and help people resolve their commercial disputes. So, grading of arbitral institution is one such mechanism, which this Act is doing apart from accreditation of arbitrators themselves. It is also trying to keep abreast with international practices in arbitration. I for one believe that lawyers in India are as good, as qualified as you can get anywhere

else in the world. These lawyers can bring on the table, what any lawyer anywhere else can, propagate a theory or fight a case either way.

But then the question is: 'Why is our business getting shifted to other centres; and if it is getting shifted to other centres, why can't the same class of comfort in terms of assistance, in terms of legal provisions, in terms of legislative assistance, in terms of Governmental assistance, quality of people, transparency in appointments, be brought in?' Once all those parts of ecosystems are built, India itself -- with the kind of economy we support, with the kind of number of lawyers that we have, with the kind of brainpower this country has -- can be the hub of arbitration in the world. For that purpose, the Governmental support and the legislative support, which is needed, is being given to them.

We have plenty of institutions. There were a couple of problems. One problem was excessive courts' interpretation. It was a major issue. It is because whenever the court's interpretation comes in, there is a delay in the process, and money gets stuck.

Then, the other part is, judicial excessive courts' involvement in the whole process. Now, the Supreme and the High Courts are already overworked. There are some three crores odd cases, which are pending disposal. With all that, efficiency of the system needs to be built; and this is one methodology.

So, what this Act itself is trying to do is: efficient and effective resolution of commercial disputes, fairness in the process. I have also pointed out earlier that for everything, you do not have to approach the High Court or the Supreme Court. But their involvement in the process has to be there. So, appointment of arbitrators needs to be done in a very transparent manner. जो भाई-भतीजावाद बाकी जगह चलता है, कम से कम आर्बिट्रेटर के अप्वाइंटमेंट में नहीं चलना चाहिए कि आप फलां के बेटे हैं तो आप आर्बिट्रेटर बनेंगे और आपके पिताजी ही कोर्ट में केस डिसाइड करेंगे। ऐसा नहीं होना चाहिए। आर्बिट्रल प्रॉसेज ज्यादा ट्रांसपैरेंट होनी चाहिए।

Then comes the point of authorised arbitral institution. अभी कौन सा चैंबर कहाँ पर है? आर्बिट्रल इंस्टीट्यूशन है या नहीं है? I have already said that there are 35 institutions already in work. PSUs are there. Several chambers are also there. Now, which is an authorised arbitral institution, will be designated by the Supreme Court and the High Courts. Now, with this, a certain amount of distinction within the institute must exist before a High Court or a Supreme Court. They can actually designate a particular institute as an arbitral institute. So, it will bring quality to the table and offer easy solution and responsibility towards the process itself.

As far as fairness in the process is concerned, I talked about appointing of arbitrators through several other methodologies. About confidentiality clause, many a times, the settlement between the companies happens, some give and take happens and some buttering happens. That confidentiality clause is very important. Sometimes, some newspapers, which have

commercial interest of all kinds, somebody is a shareholder, somebody is giving advertisement and a particular award has been assigned against that particular group, the confidentiality clause becomes very important because you may just want a closure there. Therefore, the confidentiality clause is a very important clause.

Now, I am coming to the Arbitration Council of India. This was basically Justice B.N. Srikrishna's Report. Our Government has only assigned him this task: "The objective is to make India as an arbitration hub. Keeping in view the kind of problem we are dealing with; you please give us your suggestions." So, Justice B.N. Srikrishna, along with several others on board, gave a Report to the Government of India in which one suggestion was about establishing the Arbitration Council of India. So, this, particular, enactment is trying to set up an Arbitration Council of India. The constitution of Arbitration Council of India will involve all that this Act brings and that is: "Constitution of ACI consists of experienced Judges of the Supreme Court and the High Courts including eminent persons having the expertise in administration of arbitration and eminent arbitration practitioners with experience in research and teaching in the field of arbitration. Such an eminent constitution enhances basically, the quality of work which needs to be delivered by the Council."

Then, we come to the duties. I talked about the professional institutes providing accreditation to the arbitrators themselves. These are part of the duties and functions of the ACI.

Now, we talk about enforceability. Whenever the arbitration award is granted, the kind of litigation we have seen in the courts is terrible. Thus, further strengthening the enforceability of decision of the arbitration award is necessary and that enforceability needs to be taken care of by the system.

Then comes the track of arbitral awards. Many a time, we did not have a depository. We did not know what kind of past awards against a particular company have been given. What is the accreditation of that particular company? What kind of litigation has happened in the past? Who the arbitrators were? So, the Council has to maintain an electronic depository of the awards being granted which also forms part of this particular amendment which the Government is seeking to bring. I think, the law is about having faith. When the communities have faith, the system works very well. Today also, whenever we are discussing about institutions, the Judicial institution is one. Its reputation has gone down and gone up but faith of people in Judiciary is immense. That is one institution which people respect across board. Since people have so much faith in that Institution; arbitration connected with that also causes that faith.

I have already talked about transparency mechanism. So, I am not going to lay much emphasis. There is only one point. Like I said, suppose, father is listening to the matter in the court and son is an arbitrator, it will not work. If a son is appearing before an arbitral bench where father is an

arbitrator, that kind of fairness mechanism and transparency of processes is very important. This is what this Act chooses to give.

As far as fast-tracking of entire litigation is concerned, the time limit of 12 months has been prescribed and that is very important. I have already spoken on 'why arbitration'. I will not speak much except that injustice is, particularly, egregious in commercial disputes. According to one survey of 2011, Rs. 54,000 odd crore was stuck only in infrastructure development projects like roads, transport projects, etc. A large sum of money is stuck which can easily be sorted by arbitration. This is one such process. There are several judgements like Oil India Limited versus S.R., Union of India versus Niko, etc., where, basically, there has been a nudge by the Court to all the arbitrators and where the Court has ordered to decide the matter expeditiously and within a reasonable time.

This is what has been the demand of the courts and this is what this Act is about, that is, setting up a time limit and easy disposal. Repeating myself, time is money. If we do not want to lose money, we need to expedite the timely disposal. This is what this particular Act chooses to do.

I have just one simple suggestion to make to the hon. Minister. In our country, we have several regimes about arbitration operating right now. We have pre-BALCO era; we have post-BALCO era; we have 2012 era; then we have 2015 era. This Act itself is saying, this Act will be applicable to 2015. My suggestion to the hon. Minister is this. If in the rules or somewhere, this can

be introduced that if both the sides consent to applicability of 2015 enactment even if the dispute is pre-2015 era, pre-BALCO, pre-whatever, we will find easy resolution and both the conflicting sides can opt to come under this particular enactment. That is my suggestion.

Thank you very much. I support the Bill and completely agree with the enactment.

**SHRI A. RAJA (NILGIRIS):** Thank you, Sir, for calling me to give my views on this Bill. I am having no hesitation to appreciate the Minister's initiative to bring the Bill before the House. I think, a lot of labour has been done by the Minister.

When there is a commercial dispute, in that dispute, one party has to succeed and the other has to lose. In that sense, arbitration is having a vital role to play under which no person can be defeated and, as such, a win-win situation can be offered to both the parties. So, arbitration is a must for harmony in business. Even, on the other hand, institutional arbitration is the need of the hour, since we are lagging behind for more than 20-30 years in the arena.

I think, the Government is very keen in this regard. I carefully watched the television and listened to the detailed speech that was delivered by the hon. Minister when he introduced the Bill and, after the discussion, when he gave the reply. I think, the intention of the Government is to create an arbitration hub in the country. There is no doubt that the intention is good and the aim of the Bill is good. But, why are we lagging behind for more than 25 years or 30 years?

See, what is happening in the other countries of the world. In the year 1992, one of the prominent arbitration centres was set up in London. Thereafter, arbitration centres were established in Singapore, Paris, Tokyo, New York, Zurich and so on. Time has come now to see how we are going to



match up or equate ourselves with them in the course of time. It is because it is having a very big business. I came to know through newspapers that ICC Paris handles arbitration cases from 135 countries and the value of the arbitration is more than US\$ 200 billion. In that sense, I am having my own worries. I think, the initiatives taken by the Minister or by the Government will address the problem in due course of time.

While appreciating the Minister and the Government, I have my own doubts, apprehensions and claims. The entire exercise was done on the basis of the Report of Justice Srikrishna Committee. My only question is this. You appointed the Committee. There were legal luminaries in the Committee and they gave the Report. Why are there certain departures which are all little bit worrisome? One of the recommendations made by the Committee is this.

I am coming to the composition of Arbitration and Conciliation body. The recommendation is that a retired Judge of the Supreme Court of India or of a High Court who have substantial experience dealing with arbitration matters or has acted as an arbitrator nominated by the Chief Justice to be appointed. Nominated by the Chief Justice means that it is well within the ambit and scope of the exclusive jurisdiction of the Chief Justice of India of the Supreme Court. You brought the Bill. Section 43C(1)(a) states:-

“A person, who has been, a Judge of the Supreme Court or, Chief Justice of a High Court or, a Judge of a High Court or an eminent person, having special knowledge and experience in the conduct or administration of arbitration, to be appointed by the Central Government in consultation with the Chief Justice of India -Chairperson;”

The role of the judiciary has been mitigated and diluted by putting a simple phrase “in consultation with the Supreme Court”. What is the intention of the Government? I do not know. Let the Minister address this.

My second point is about Section 43C (1)(b). The recommendation is, “eminent Counsel having substantial knowledge”. But here you are brilliantly putting an eminent arbitration practitioner having substantial knowledge. What is the difference between the arbitration practitioner and counsel? I think that there is a gulf between these two things. In spite of that, I think the intention of the Minister is good. I have no hesitation. I want to know the causes for these deviations and departures. I feel, as a student of law, that these departures have to be considered very seriously.

There is a recommendation for the nominee from the Ministry of Law and Justice. But what has been done in Section 43C (1)(d). It states:-

“Secretary to the Government of India in the Department of Legal Affairs, Ministry of Law and Justice or his representative not below the rank of Joint Secretary – Member, *ex officio*; ”

You are introducing a new person. The recommendation is that one representative of Commerce and Industry who will be chosen on rotational basis.

But as per Section 43C(1)(e), you are bringing one more person.

“Secretary to the Government of India in the Department of Expenditure, Ministry of Finance or his representative not below the rank of Joint Secretary- Member, *ex officio*; ”

This is a new addition. All these departures trigger some doubts. What is the intention of the Government? Whether the entire structure of the Council is going to be mitigated or diluted or in course of time, it may not work.

I will come to another thing. This is about the functions and powers of the Arbitration Council of India. For the purpose of performing the duties and discharging the functions under this Act, the Council may review the grading of arbitration institutions. This is the recommendation. But Section 43D(2)(c) says:-

“review the grading of arbitral institutions and arbitrators;”

So, you are going to regulate both arbitrator and the arbitration. The recommendation is for arbitrator institutions only. But you are regulating not only the institutions but also the individuals. What does this mean? You are going to regulate both at the same time which is antithetical. This is going to kill the very purpose of the Act or it will defeat the very purpose of the Act. That is my apprehension.

Sir, disregarding specific warning of the Committee, Arbitration Council of India has been introduced as a regulator. It has been given broad powers and they also frame regulations. Why is there a specific warning by the recommendation? Why has that been introduced in the new clause? I am not able to understand that.

Sir, coming to the timeline, the Bill excludes international commercial arbitrations from the purview of the timeline whereas I think for domestic arbitration, it is applicable.

Sir, international arbitration is having a heavy impact. The Minister may correct me if I am incorrect. This Government, under the instruction of the Prime Minister, gave a good solution in order to minimise the time to finish the arbitration because those persons who feel aggrieved by the arbitration, they may feel that this has to be prolonged. What is the problem in India? After the arbitration, you can go to the High Court. As the Minister, I had served in various Ministries. Even in the Ministry, if any case is succeeded by the other party against the Government, the note will be sent to the Department. Nobody will say that on the merit, the case is correct when the Government gets defeated. Everybody will say let us go for appeal because they do not want to take risk. Tomorrow, some CBI may come or tomorrow, somebody will inquire whether you did any favour to the company. That is why, you are not filing an appeal.

**20.00 hrs**

So, every officer will say, yes, go for appeal. Then, we will go to the Division Bench. Ultimately, we will go to the Supreme Court.

**HON. CHAIRPERSON** : Please try to conclude.

**SHRI A. RAJA** : Sir, please give me three minutes more.

So, this is the problem with the Government. When we have full knowledge about the mindset of the officers -- and sometimes even of the Ministers -- after having signed by the Joint Secretary, after having signed by the Additional Secretary and after having signed by the Secretary, the Minister will be hesitant to take the risk. The Minister will ask, "Why should I take the risk? If at all I am taking the risk, tomorrow, the CBI will come; tomorrow, the C&AG will come; and they will give some report." So, this is the problem wherein the arbitration is going to be diluted. So, we must have a time limit so that within a stipulated time it has to be done.

Coming to trained professionals, we really wanted to have an arbitration hub in the country. We are only depending upon the former judges of the High Courts and Supreme Court. They are being appointed as arbitrators. I think we have not created a separate and an exclusive manpower, professional power, to talk and do the arbitration. It is a very big lacuna in the system. An assurance has been given by the Minister through this Bill that they are going to create an academy. We started the Arbitration Council. When the Council was started, it should have been simultaneously initiated to create the professionals to talk. That is very important and that has to be taken care of.

Finally, I am a little bit confused because with regard to the 2014 amendment, section 26 made a distinction between the arbitrary proceedings commenced before the Act came into force, that is, on 23.10.2015, and after the amending Act came into existence. Whether it is applicable before the

commencement or after the commencement is the distinction which was made in section 26. What is the impact of section 26 on section 36? Section 36 talks about automatic stay of the award. A person files the appeal. Automatically, the arbitration in the lower court will be stayed. Does it not have a direct impact on sections 26 and 36? As a student of law, I am not able to understand this but let the Minister clarify this.

With these points on which we want clarifications, let me say that we are having no hesitation to support the Bill. Thank you.

**SHRI KALYAN BANERJEE (SREERAMPUR):** Sir, in respect of the Arbitration and Conciliation (Amendment) Bill, 2019, I do not find any reason to disagree with any of the sections of this Bill. Rather, as far as Clause (3) of the Bill is concerned, I would say, through you, Sir, to the hon. Law Minister that I would have been happier to see that Clause (3) is substituted by section 11 itself. The system of choosing the arbitrator by the parties themselves -- a third man will be appointed by the High Court or the district court or whatever it may be -- should be abolished and a permanent Arbitral Tribunal should be established. So, a party should not choose its own arbitrator, that means, its own person. The other party also should not choose any other person. It creates a division. Ultimately, it turns into a personal equation. In practical sense, it is a personal equation. I would have been happier to see that all the arbitrations are sent to the arbitral institution. You think about my suggestion for the future.

I have only a few suggestions to make. So long as it is there, every arbitrator should be treated as a public servant within the meaning of the Indian Penal Code, as far as the arbitration proceedings are concerned, because the arbitrator, who is being appointed under section 11(1)(2)(3) of the principal Act, does not have any accountability.

Even if someone has committed something wrong but has done the arbitrator some favour, his award can be set aside. You cannot catch him. You cannot give him any punishment. Therefore, every arbitrator appointed under

the Act should be treated as a public servant and he should disclose his assets. It is my suggestion.

Now, I share my practical experience. The arbitration proceeding is only a Saturday-Sunday job. The lawyers work in Courts, the High Court or the Supreme Court, from Monday to Friday and on the rest two days they do arbitration work. Some exceptions can be there in certain cases. But normally it is a Saturday-Sunday job. If this work of arbitration is also made a regular work, that is, from Monday to Friday, one has to either go to the Court or take the arbitration route. One cannot have everything – bread, cake, butter, milk and everything. Therefore, it should be changed.

Hon. Chairperson, Sir, through you, I would request the hon. Law Minister to kindly bring in a provision that whenever an arbitrator is appointed, he should not take arbitration in more than 5 or 7 or 8 cases. In Delhi itself, probably you would be aware, that a number of retired judges are overburdened with the arbitration work. They do not have time. After hearing one matter in an arbitration proceeding, they give another date almost five or six months later. Therefore, they are very much overloaded. The hon. Minister may fix the limit himself. I am just sharing the idea that they should not take more than this. After finishing one, they should take another. Otherwise, it will not be an arbitration proceeding.

I give you an example of an arbitration case. I would not go into detail of that case on the floor of this House. One arbitration case is pending before an



ex-Chief Justice of India for seven years. He is so overburdened that he could not give time for hearing it even though the evidence has already been completed for almost two years. So, the entire objective of the Act has failed. So far as time limit is concerned, there is a fixed limit of six months. But it is extended for another six months by submission of an application. Then, again it can be extended for another six months. But what is happening? All are suffering. This is also one point on which we are very practical. Through you, Chairman, Sir, I invite the attention of the hon. Law Minister towards this issue.

Sir, when the Government is a party to any arbitration proceeding, whether it is the Central Government, or the State Government or a Public Sector Undertaking, they cannot pursue the arbitrator in other ways. It is not possible for the Government to do. But the other parties are doing it. I myself have come across such cases where arbitrator is sitting in some hotels or restaurants with the party, which has nominated him. Therefore, the role of the arbitrator needs to be examined.

Then, please refer to Part I(A) regarding Arbitration Council of India. I request the hon. Minister to clarify this part. Now, let me come to Clause 43B (1). It says:

“The Central Government shall, by notification in the Official Gazette, establish, for the purposes of this Act, a Council to be known as the Arbitration Council of India to perform the duties and discharge the functions under this Act.”

The term 'functions under this Act' covers the whole Act, but Section 43(D)(ii) says "For the purposes of performing the duties and discharging the functions under this Act, the Council may—". It is followed by other sub-clauses. The question is that if it is written here 'to perform the duties and discharge the functions under the Act', it will cover the whole Act. I can also read about Arbitral Council. Arbitral Council can also discharge its functions. They can be appointed under Section 11. Therefore, kindly clarify this part. Only a confusion has been created. If it is written that 'discharge the functions under the Chapter', then it would have resolved the problem. Then, there would have been no confusion, but it seems that it covers the whole Act. Therefore, Sir, through you, I request the hon. Minister that it is needed.

I will again, at the cost of repetition, say that you remove Section 11 totally and make it like Section 11(3). You substitute that. In the entire India, Arbitral Tribunals should be there. It should be a full-time job and they should be treated as public servants.

These are all the points which I would like to put forth. Thank you.

**SHRI RAGHU RAMA KRISHNA RAJU (NARSAPURAM):** Sir, knowing the importance of quicker arbitration, I will also not take much time. So, I will try to finish my speech in the shortest possible time as I wish that the arbitration should also be settled within the time.

Coming to the formation of Arbitration Council of India, only the Chairman is being nominated along with the Supreme Court judge while all other members are being directly nominated by the Government. Nowhere in the world, to my limited knowledge, if at all there is any Arbitration Council, it is appointed by the Government. In an arbitration are involved mostly two private parties having a dispute. In India, most of the litigations, fortunately or unfortunately, involve the Government. When a litigation is there with the Government and the Government nominates almost all the members, without consultation with the Supreme Court of India except in the case of Chairman, what kind of confidence the other people would have? Regarding nominee in arbitration procedure under Section 9 or Section 11, when we go to the court, it is the court which has to decide whether the claim made by him or the arbitration is maintainable or not. In this case, except one judge, there may not be any judicial people. If the litigation is with the Government and the Government is a party, they may not even say that arbitration is maintainable. So, this would give lot of discomfort to the people who wanted to come for the arbitration and that too, when we want to compete with Singapore, London and so on. Here, the members are being totally nominated by the Government. I

would request the Government that just like they are nominating the Chairman, you involve a Supreme Court judge or Chief Justice in the selection process of other members also.

Under Section 23, six-month timeframe has been given to file the claim. There is some confusion as to whether one-year time period, that is given for the arbitration to be completed, starts after these six months or also includes this period of six months. Otherwise, the purpose for which the time that has been fixed for quicker settlement of the arbitration would not be served.

The last point is this. An amendment has been brought in section 26. According to that, this will not apply to arbitral proceedings commenced before 23<sup>rd</sup> October, 2015. Earlier whoever had gone to the court, even if there is no stay, used to get it prolonged somehow or other without paying the claim. Suppose the claim is settled by the arbitrator, they simply go for appeal. As one of our learned colleagues has said, out of fear for agencies like the CBI, they are going for repeated appeals. Once the appeal is filed in the court, then there is no chance for settlement and they are kept pending. A lot of Government litigations are there, which are cases filed before 2015. The cases filed before 23<sup>rd</sup> October, 2015 do not come under this Bill's purview. That is the amendment that has been brought under section 26. It may not be appropriate. The intention may be good. But it would appear that this has been brought in just for the sake of Government companies. This is what people outside are saying. Anyhow the Bill will be passed. We are also supporting the

Bill. If the Government feels that this suggestion is appropriate, I would request the hon. Minister to consider it, whichever way he feels. Thank you.

**श्री कौशलेन्द्र कुमार (नालंदा):** माननीय सभापति जी, आपने मुझे माध्यस्थता और सुलह (संशोधन) विधेयक, 2019 पर चर्चा में भाग लेने का मौका दिया, इसके लिए बहुत धन्यवाद। आज वैश्विक युग में जैसे-जैसे व्यापार में वृद्धि हो रही है, व्यापारिक विवाद से संबंधित मामले काफी बढ़े हैं। न्यायालयों में व्यापारिक मामले और अब जो बैंक एनपीए हो रहा है, इससे भी काफी मामले सामने आए हैं। अब इन कंपनियों को बचाने की प्रक्रिया भी सरकार कर रही है। इन मामलों में मुकदमेबाजी बढ़ी है, जिसके कारण इनके निपटारे में काफी विलंब होता है, अधिक धन भी खर्च होता है और प्रक्रिया भी जटिल होती जाती है। विदेशी निवेशक भी यहां निवेश करने से घबराते हैं। इन्हीं सब प्रश्नों को ध्यान में रखते हुए और विधि आयोग की रिपोर्ट के अनुसार सरकार द्वारा माध्यस्थता और सुलह कानून, 1996 में संशोधन के प्रस्ताव को चर्चा के लिए लाया गया है। इसमें कानून की धारा 11ए, 23 एवं 26 का संशोधन करने का प्रस्ताव है। इसके साथ ही नया खंड 42ए, 42बी और खंड 78 को जोड़ने का प्रस्ताव है। सरकार का यह अच्छा प्रयास है।

सभापति जी, किसी भी व्यापारिक विवाद के निपटारे के लिए संस्थागत मध्यस्थता को प्रोत्साहित करने की दिशा में यह सही कदम होगा। मैं इसके लिए माननीय मंत्री जी को भी बधाई देना चाहता हूँ। मध्यस्थता द्वारा अगर कोई मामला सुलझ जाता है तो इससे समय के साथ-साथ आर्थिक हानि भी नहीं होगी, मामलों का त्वरित निपटारा होगा और न्यायालयों में मुकदमों का बोझ कम होगा। इसके द्वारा घरेलू और अंतर्राष्ट्रीय विवादों को पहले आर्बिट्रेशन के द्वारा सुलझाने की भी कोशिश होगी।

इस कानून के बनने से मध्यस्थता प्रक्रिया सुलभ, सस्ती और शीघ्र निपटाने का मार्ग प्रशस्त करेगी। साथ ही न्यायालयों का हस्तक्षेप भी कम होगा और निष्पक्षता भी सुनिश्चित होगी। ऐसा नहीं है कि अभी कोई कानून नहीं है, मध्यस्थता का कानून मौजूद है किंतु वह पूरी तरह कारगर नहीं होने के कारण पक्षकार इसे मानने के लिए तैयार नहीं होते एवं इसे लंबे मुकदमेबाजी में ले जाने के लिए विवश हो जाते हैं। अंतर्राष्ट्रीय मामलों में देश में मध्यस्थता को न मानकर विदेश में

मध्यस्थता पर ज्यादा विश्वास किया जाता है। अब इस कानून द्वारा भारत को घरेलू और अंतर्राष्ट्रीय स्तर पर संस्थागत मध्यस्थता का उत्तम केंद्र बनाने के लिए योजना में सहायता मिलेगी। किसी भी तरह की मध्यस्थता का मतलब लोग मान लेते हैं कि यह स्वैच्छिक है, कानून बाध्य नहीं है। यही कारण है कि मध्यस्थता को लोग जल्दी स्वीकार नहीं करते और निष्पक्षता पर सवाल खड़ा कर दिया जाता है।

किन्तु इस कानून को बनाने में न्यायालयों के कुछ फैसले काफी सहायक हुए हैं। कोर्ट ने मध्यस्थता के विरुद्ध मामले लेने और दखल देने से इन्कार कर दिया है। इससे आर्बिट्रेशन व्यवस्था में विश्वास बढ़ा और पक्षकारों का झुकाव भी हुआ है। सरकार का यह कदम भारत को अंतर्राष्ट्रीय आर्बिट्रेशन का हब बनाने की दिशा में काफी महत्वपूर्ण होने वाला है। ऐसा इस विषय के जानकारों का मानना है।

विदेशी संस्था, जो मध्यस्थता के लिए लंदन, पेरिस, जिनेवा, सिंगापुर, न्यूयार्क के अंतर्राष्ट्रीय आर्बिट्रेटर के पास जाते थे, अब वे भारत का रुख करेंगे। इसमें नीति आयोग का भी अहम योगदान है, इसलिए उसकी भी सराहना होनी चाहिए।

मैं एक सुझाव देना चाहता हूँ कि अगर किसी भी प्रकार का असंवैधानिक निर्णय नहीं है तो इस कानून में सिविल कोर्ट्स के हस्तक्षेप और दखल को पूरी तरह से समाप्त किया जाए। दूसरा, मध्यस्थता को एवार्ड के क्रियान्वयन और एग्जीक्यूशन प्रोसीडिंग करने का अधिकार हो तथा सभी संबंधित सरकारी एजेंसी उसको पालन करने के लिए बाध्य हों, तभी कानून पूरी तरह से सक्षम होगा।

इन्हीं शब्दों के साथ मैं आपनी पार्टी जदयू की ओर से इस बिल का समर्थन करता हूँ।  
धन्यवाद।

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**20.21 hrs**

**MESSAGES FROM RAJYA SABHA  
AND  
BILL AS PASSED BY RAJYA SABHA ...Contd.\***

**HON. CHAIRPERSON** : Secretary-General.

**SECRETARY-GENERAL**: Sir, I have to report following message received from the Secretary-General of Rajya Sabha:-

I am directed to inform the Lok Sabha that the Motor Vehicles (Amendment) Bill, 2019 which was passed by the Lok Sabha at its sitting held on the 23<sup>rd</sup> July, 2019, has been passed by the Rajya Sabha at its sitting held on the 31<sup>st</sup> July, 2019, with the following amendments:-

**CLAUSE 30**

That at page 11, line 25, **for** the word "consultation", the word "concurrence" be **substituted**.

**CLAUSE 34**

That at page 14, line 2, **for** the word "consult", the words "seek concurrence of" be **substituted**.

**CLAUSE 77**

That at page 37, line 24, **for** the word, bracket and figure "sub-section (4)", the word, bracket and figure "sub-section (1)" be **substituted**.

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\* Laid on the Table.



I am, therefore, to return herewith the said Bill in accordance with the provisions of rule 128 of the Rules of Procedure and Conduct of Business in the Rajya Sabha with the request that the concurrence of the Lok Sabha to the said amendments be communicated to this House.'

Sir, I lay on the Table the Motor Vehicles (Amendment) Bill, 2019, as passed by Lok Sabha and returned by Rajya Sabha with amendments.

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**20.22 hrs**

**ARBITRATION AND CONCILIATION (AMENDMENT) BILL, 2019 -- contd.**

**HON. CHAIRPERSON:** The next speaker is Shri Pinaki Misra.

**SHRI PINAKI MISRA (PURI):** Thank you, hon. Chairperson.

The Arbitration Act, 1996 was amended by the Act of 2015 to make the arbitration process cost-effective, speedy and with minimum court intervention. It just shows what a tangled web now our Indian arbitration system is that it did not obviously work. Therefore, the Government, in its wisdom, had this High-Level Committee instituted in order to identify the roadblocks in the development of arbitration institutions, and I am glad that they did it because a large number of very significant observations and recommendations have been made, as a result of which, now we have the Bill of 2019.

Nearly, 2-3 observations and a couple of queries is all that I will trouble the hon. Minister with. Obviously, the Arbitration Council is a very good idea, but this Act says that : “The Council shall be a body corporate”. Does that mean that it is going to be a company? I am asking this because that is the normal nomenclature. A ‘body corporate’ means that it will be a company registered under the Companies Act. If that is so, then it does not seem to give the contours of how this ‘body corporate’ will be formed. Will it be by shareholders? Who will be the shareholders I cannot understand? So, why is it called a ‘body corporate’?

I think, the fact that the Chairperson can also be an eminent person is a very good idea. I think that the time has come when we should rely less and less on retired Supreme Court and High Court Judges. I think thus far too much reliance has been placed on retired Judges. There are a large number of very eminent people in this country who would be able to discharge these functions with much greater promptitude, may I say. I do agree with one of my earlier speakers who said that some of the Judges are so overburdened that they do not have dates to give for the next 4-6-8 months. Therefore, it is important that we draw up on a much larger talent pool since we have it in this country.

Now, a couple of queries to the hon. Minister. In the Eighth Schedule, which has qualifications and experience of an Arbitrator, the first eight provisions seem to be indicating that only Indians can be part of it, but the ninth provision is something where even a foreigner can be part of it. In principle, may I say that if a number of international companies are going to choose India as a destination for international commercial arbitrations, then they would like foreign nationals also to be able to become arbitrators in this country. This can possibly be another amendment, which can come in the future. Therefore, in principle, I do not believe although there will be a very large body of lawyers and other professionals who will object to it as the hon. Law Minister well knows.

Hon. Minister knows about this. I believe that if we want to make India a hub for international arbitration, we will have to open the doors for international persons to also become arbitrators. Towards that, the Schedule IX seems to suggest that foreigners can also be arbitrators. If foreigners can be arbitrators, then, there is no reason why eminent counsel, lawyers, and professionals from abroad cannot become arbitrators in India, particularly in international arbitration. Perhaps, the Law Minister might consider limiting it where there is an international arbitration; there can be foreigners of whatever persuasion, who can become arbitrators in this country. I think, that will have a much greater impact in terms of confidence building as far as international companies are concerned.

A number of significant measures have been brought in. It is unfortunate that in India we have to bring this. For instance, there is no corresponding provisions of Section 29(a) in either the U.K., Hong Kong or Singapore, but we had to bring it in India. Unfortunately in terms of timelines, in terms of cost reductions, peculiar to Indian conditions, it is said that our institutions have not grown enough, not to be able to do away with these kinds of provisions. But I would say that these were important, and therefore, they were brought in. Of course, the High Level Committee has noted that the international arbitral institutions have strongly criticised the setting of timelines for conducting international commercial arbitrations in India. But I am afraid

that looking at the Indian conditions, there was no other way. Therefore, the Law Minister was right in bringing these provisions in.

The only thing I would like to say is that the whole crux of arbitration is the parties have the abilities to choose their arbitrators, and that is sacrosanct. Subject to the fact that there should no conflict of interests, parties could decide whoever they want as the arbitrator. That is the whole idea of arbitration. This seems to circumscribe because the qualifications and norms that have been imposed here have very high degree of restraints. Therefore, this seems to be circumscribed to a large extent. I am not sure that this may not have to be loosened or relaxed going forward in the future. But my congratulations to the Law Minister.

Obviously, we support a Bill like this. There certainly is a need to institutionalise the entire arbitration set up in India. The Arbitration Council, the arbitration institutions that are conceived under this, the strict timelines that are envisaged, all of them need have salutary provisions. I wholeheartedly support the Bill. I do believe though going forward this Act to be ironed yet further in order to ensure that the desired objectives are met. I support the Bill in its entirety. Thank you.

**SHRI NAMA NAGESWARA RAO (KHAMMAM):** Thank you, Mr. Chairman, Sir. I congratulate the hon. Minister for bringing this amendment considering the requirement in the field of arbitration.

In this regard, my opinion is that already certain contracts were signed between parties. In that context, there was no mention of Arbitration Act. What would happen to such type of contracts? Contract itself has already been signed. Different types of contracts are signed with the Government or private parties where there is a mention of courts, etc. Would these contracts too come under the Arbitration Act?

Dispute is between two parties. Both parties choose their own arbitrators. In turn, these arbitrators choose who would preside over the arbitration. It is good to know that the entire thing is changed.

You have made some changes...(*Interruptions*). Okay, if he is not doing it. At page 2, serial no. 3, Section 11, the amendment is giving powers to the High Court and the hon. Supreme Court, but why not to the district courts? Small disputes are there in the district courts and they also have to go to the Supreme Court. My request is that we should think of district courts also.

Coming to the provision of six months' period, in my opinion, whatever I have gone through, this is total one year including six months. The hon. Minister has to clarify it. Why I am saying this is because अगर आप सभिशन ऑफ क्लेम्स और डिफेंस, दोनों को छः के महीने के अंदर करने के लिए कहेंगे, and if it is within one year, then you are giving six months for pleading. इसमें सबसे इम्पोर्टेंट यह है कि

सब्मिशन ऑफ क्लेम्स, डिफेंस, रिज्वाइंडर और एडमिशन के लिए छः महीने का टाइम फ्रेम करना है । If both parties agree on admission, then there is no problem. Otherwise, arbitration takes time. You have simply given six months. अगर उसको भी दो-दो महीने का टाइम दें, तब भी यह ईजी हो जाएगा ।

उसके साथ-साथ, अगर मान लीजिए पैनल ऑफ आर्बिट्रेटर्स ने अवार्ड दे दिया, उसके बाद फिर कोर्ट को एप्रोच करने का प्रॉविजन नहीं होना चाहिए । यह बात मैं इसलिए बोल रहा हूं कि जल शक्ति के बारे में ट्रिब्यूनल में डिस्प्यूट्स को जिस तरह से हम लोगों ने कंट्रोल किया है, otherwise, you start from the court once again. If the panel of the arbitrators agrees completely and it has given the arbitration award, then it should not be allowed in the court. कल जल शक्ति मंत्रालय के बारे में भी यह बात हुई थी, उसको भी थोड़ा देखना होगा । With these words, I am supporting this Bill.

**SHRIMATI SUPRIYA SADANAND SULE (BARAMATI):** I stand here on behalf of my Party to support the Bill. After hearing so many illustrious Members here, it is actually intimidating to speak on something that I have not studied and when so many eminent lawyers have spoken today. Whatever little that I have read about it is, 'arbitration is justice blended with charity'. That is what the lawyers say. But there are just quick and short questions that I would like to ask the hon. Minister.

In the Bill, on the composition of the Council, I slightly disagree with Mr. Pinaki Misra. He said that the person would be a High Court Judge. I appreciate that they are already overworked, but the word 'eminent person' Mr. Pinaki Misra thought was very apt. I appreciate that you have a Government right now who you probably are allied with but 'eminent person' is something which is so vague. Could the hon. Minister kindly clarify it? 'Eminent person' is a very relative term. What you may find eminent, I may not and what I find eminent, you may not. But I think we could cover something to make sure that there is no ambiguity ever and there is no misuse of it.

The other part is the norms of accreditation in 43J...(*Interruptions*). Yes, but eminent is Lokpal. Then there is a lot of importance of the Government. I would like to read out to you 43J – the qualification, experience and norms of accreditation of arbitrators shall be such as specified in the Eighth Schedule:

Provided that the Central Government may, after consultation with the Council, by notification in the Official Gazette, amend the Eighth Schedule and



thereupon, the Eighth Schedule shall be deemed to have been amended accordingly.

So, whatever little I understand from this is that Parliament really has no role once you change it. The hon. Minister should explain it to us because, otherwise, the Government will have all the power to do it and it is surprising that I found a quote, “Do I believe in arbitration? I do. But not in arbitration between the lion and the lamb, in which the lamb is in the morning found inside the lion” – Samuel Gompers, American Labour Union leader. So, when I read this, I sort of thought to myself that I hope any of this is not happening.

There are two small questions. During the debate on the New Delhi International Arbitration Centre Bill, I think Shri Shiv Kumar Udasi pointed out a concern to the hon. Minister that after an award is passed, the final order in Singapore and London is never challenged while in India it could be. I think even Raja Ji made that point in his speech. So, I would like the hon. Minister to clarify that so that it can come on record.

Meenakashi Lekhi Ji said that once this comes in, it is going to substantially reduce the burden. But there are 3,28,000 cases pending in arbitration. This could reduce litigation to a large extent. But pre-litigation mediation is prevalent in the US and several other countries also do this. So, do we also have an opening to simplify, to make everybody's life easier and have an effective thing. If you do want to do this for ease of business, I think in a country like us we need it.

I come from a State which for decades has had foreign investments. We have had challenges even probably 30 years ago when we had foreign companies coming in, and we have had litigations. They have gone to foreign land and India is not in a position to grapple with it. We are just bleeding because our States cannot afford making payments in dollars. I think this is a great intervention.

If the hon. Minister could give these two-three clarifications, it will just make us understand the Bill better. I support the Bill. Thank you.

**SHRI RAM MOHAN NAIDU KINJARAPU (SRIKAKULAM):** Sir, I stand in support of the Arbitration and Conciliation (Amendment) Bill, 2019 and this support also emanates from the intention of the Government. The Government's intention is very clear that in terms of arbitration it wants to make India the global hub. We have seen this while the New Delhi International Arbitration Centre Bill was being discussed and passed in this House. During the discussion on that Bill, it was also stated that there has to be a proper grading of arbitral institutions and accreditation to arbitrators should be given. This Bill serves that purpose also, Sir.

The most important aspect of this Bill is setting up of the Arbitration Council of India. The recommendations to this effect had come from Justice Srikrishna Committee. We in Andhra Pradesh have our own experience with another Committee chaired by Justice Srikrishna which was appointed for the purpose of reorganisation of the State of Andhra Pradesh. Many of the recommendations of that Committee were not given effect to by the Government of the day and we are facing problems because of that.

Justice Srikrishna Committee recommended that the Chairperson of the ACI should be a judge of the Supreme Court or the Chief Justice of a High Court with substantial experience in dealing with arbitration matters or has acted as an arbiter and has been nominated by the Chief Justice of India. This is what the Committee recommends.

However, now we see that the Government of India is making the appointment. Why should the Government of India come in here? I would like to know from the hon. Minister as to why the Government of India has to be included in that clause which says that they have to appoint the Chairperson in consultation with the Chief Justice of India.

My previous speaker Supriya Ji has also mentioned about inclusion of an 'eminent person'. The term 'inclusion of an eminent person' itself is a little vague. Even though it says, 'having special knowledge and experience in the conduct and administration of arbitration', the limits are not very clear. He is going to be the Chairperson. An eminent person maybe equal to a Judge of the Supreme Court or the Chief Justice of a High Court. So, what is that eminent stature which would differentiate him from the others? There has to be some boundary, some limitation on the qualification of people from among whom that eminent person can be picked up.

Clause 43(1)(c) of the Bill says, 'an eminent academician having experience in research and teaching'. I would like to know how inclusion of a research person or a teaching person is going to add value to the Council. Is it a recommendation made by someone? What is the theory behind the inclusion of this?

Completion of pleadings within six months is also proposed in this Bill. It is definitely a shorter period than what is there in the earlier proposal but our

target should be to get the gap down to three months. Maybe the Government would definitely look at this also in the future.

Sir, the fourth point which I would like to make is that once the award is given, it should be made binding on all parties and they should not be given further chance of litigation in other legal forums, either on the pretext of not being satisfied, or on the pretext of technicalities or other various reasons. So, I want to have clarity from the hon. Minister in this regard.

Clause 9 of the Bill has a very important provision saying that providing immunity to arbitrators against suits or other legal proceedings for anything which is done in good faith or intended to be done under this legislation. This is a very important clause. I appreciate the hon. Minister for putting this clause because this is to respect the international traditions of arbitration. For example, Singapore arbitrators are not held liable for negligence in the capacity of an arbitrator or any mistaken law, or mistaken fact, or a mistaken procedure. So, definitely, there is the intention of going global in terms of arbitration and creating a nice arbitration hub in India also.

With these words, I would like to reassure the Government that we support this Bill. I hope the hon. Minister would be kind enough to throw some clarity on the suggestions that we have proposed.

**श्री अजय मिश्र टेनी (खीरी):** सभापति जी, मैं माध्यस्थम और सुलह (संशोधन) विधेयक, 2019 का समर्थन करने के लिए खड़ा हुआ हूँ। इस विधेयक का उद्देश्य जहां सिविल व कमर्शियल, ऐसे विवाद जो न्यायालय के बाहर निपट सकें, उनके लिए समर्थ और निष्पक्ष न्यायिक प्रणाली उपलब्ध कराना है। हमारा देश व्यवसाय की दृष्टि से इस समय पूरी दुनिया में न केवल अपना बेहतर स्थान बना रहा है, बल्कि देश और दुनिया के बहुत सारे व्यवसायियों को निवेश हेतु आकर्षित भी कर रहा है और उसका कारण है कि भारत एक बड़ा बाजार है और देश में व्यवसाय संबंधी कठिनाइयां भी कम हुई हैं। देश की अर्थव्यवस्था स्थिर गति से बहुत तेजी से बढ़ रही है, इसलिए ये आकर्षण का केंद्र बना है और जिसके कारण सामूहिक व सतत विकास जो धीरे-धीरे हो रहा था, उसकी वजह से विकासशील और विकसित देशों के बीच जो अंतर था, वह भी धीरे-धीरे समाप्त हो रहा है। इन स्थितियों को देखते हुए आधुनिक विवाद समाधान कानून की जरूरत है।

महोदय, त्वरित न्याय के लिए आर्बिट्रेशन एक वैकल्पिक व सफल तरीका है। हमारी प्रतिबद्धता वर्ष 2014 में हमारी सरकार बनते ही स्पष्ट थी कि हम सिविल और वाणिज्यिक विवादों के निपटारे के लिए एक बेहतर प्रणाली दें और उसके लिए हमारी सरकार ने उस समय ही प्रयास प्रारम्भ कर दिए थे। वर्ष 2015 में ही एक संशोधन विधेयक 1996 के लिए लेकर आए थे और उसके माध्यम से हमने कुछ संशोधन भी दिए थे। जैसा कि पूरी दुनिया में इस समय जो विकसित देश हैं, उनके 95 प्रतिशत ऐसे नागरिक और व्यावसायिक मामले मध्यस्थता के द्वारा ही सुलझाए जा रहे हैं। हमारे माननीय प्रधान मंत्री जी और कानून मंत्री जी ने जहां प्रतिबद्धता के साथ देश के अंदर ऐसे सिविल और व्यावसायिक प्रवृत्ति के मुकदमों को विधि से निपटाने के साथ अंतर्राष्ट्रीय कारोबारी विवादों के निस्तारण में भारत को मध्यस्थता का एक वैश्विक केंद्र हम बना सकें, इसके लिए एक बेहतर प्रयास किया है।

महोदय, मध्यस्थता व समझौता अधिनियम, 1996 को अनुकूल बनाने के लिए हमारी सरकार ने वर्ष 2015 में ही प्रयास किया था और उसके तत्काल बाद जैसा माननीय मंत्री जी बता

चुके हैं, उन्होंने सर्वोच्च न्यायालय के एक न्यायधीश के निर्देशन में एक उच्च स्तरीय समिति गठित की थी। मैं यही कहना चाहता हूँ कि उस समिति के द्वारा मध्यस्थता संस्थानों के कामकाज के प्रदर्शन व प्रभाव का अध्ययन किया गया। भारत में संस्थागत मध्यस्थता सिस्टम को आगे बढ़ाने के लिए योजना बनाई गई और वाणिज्यिक विवाद समाधान के लिए एक प्रभावी व कुशल मध्यस्थता प्रणाली व कानून बने, इसके लिए उन्होंने अपने जो सुझाव दिए हैं, उन्हें हमारी सरकार ने ध्यान में रखते हुए उच्च स्तरीय समिति, जिसकी रिपोर्ट वर्ष 2018 में प्राप्त हो गई थी, उसके तहत एक विधेयक लेकर आए थे और चूंकि तब 16वीं लोक सभा का कार्यकाल समाप्त हो गया, इसलिए आज इस विधेयक को लेकर आए हैं। इस विधेयक का वास्तविक उद्देश्य यह है कि मध्यस्थता की नियुक्ति, पैनल बनाना ताकि भारतीय मध्यस्थता परिषद की एक स्वतंत्र निकाय के रूप में स्थापना कर सकें। उसके क्रियान्वयन, दावे व प्रतिरक्षा तथा कार्रवाई संबंधी कई संशोधन हैं, जिनका मैं समय के अभाव के कारण जिक्र नहीं करूंगा, लेकिन कई धाराओं में संशोधन लाए गए हैं।

हमारी सरकार ने यह भी कहा था, जैसा कि अभी माननीय मंत्री जी ने भी कहा, कि भारत में योग्य पेशेवर लोग मानव संसाधन के रूप में किफायत में उपलब्ध हैं। यह हमारे लिए अंतर्राष्ट्रीय मामलों के निस्तारण के लिए एक अतिरिक्त अवसर है। इस अधिनियम में हमने प्रक्रिया को सुसंगत बनाने के लिए, प्रक्रिया की अवधि को तय करने के लिए, तेजी सेवादों का निपटारा हो, इसके तहत दिए किसी निर्णय के खिलाफ अदालत में भी जाने पर समाधान के लिए एक वर्ष का समय निश्चित किया गया है। हम इसे इस विधेयक में यह अधिनियम बड़े महत्वपूर्ण रूप से लेकर आए हैं। सभापति महोदय, देश की अदालतों में लंबित मामलों के बारे में अभी माननीय मीनाक्षी लेखी जी ने चर्चा की थी कि उनको देखते हुए ऐसे कानूनों की ज़रूरत है, जैसा कि उन्होंने तीन करोड़ से ज्यादा केसेज़ का जिक्र किया था। मैं इस विषय पर माननीय मंत्री जी का ध्यान आकर्षित करते

हुए यह कहना चाहूंगा कि इन तीन करोड़ मामलों में लगभग 46 प्रतिशत ऐसे मामले हैं, जिनमें सरकारी विभाग और सरकारी निगम ही आपस में अदालतों में मुकदमे लड़ रहे हैं।

महोदय, मैं समझता हूँ कि इस कानून के बनने के बाद सरकार इस पर विशेष ध्यान देगी। सरकार के मध्य जो ऐसे 46 प्रतिशत मुकदमे चल रहे हैं, यदि हम उनको निपटाने में सफल हो जाएंगे तो उन मुकदमों की संख्या तीन करोड़ से सीधे डेढ़ करोड़ पर पहुंच जाएगी। अभी माननीय मंत्री जी ने हमारे सामने लंदन और सिंगापुर में वाणिज्यिक मामलों का जिक्र किया। उनके जो अंतर्राष्ट्रीय मध्यस्थता संस्थान हैं, वे हमारे सामने एक बड़ी चुनौती हैं। इसमें सबसे बड़ी बात, जिसका उन्होंने जिक्र भी किया, मैं उसमें बहुत विस्तार से नहीं जाऊंगा, यह है कि वहां निर्णय के लिए लंबितवादों में से ज्यादातर भारतीय ही हैं। जैसा कि उन्होंने जिक्र किया था कि दोनों वकील पक्ष भारतीय ही हैं।

अतः इस कारण यह जरूरी हो गया है कि हम कम से कम अंतर्राष्ट्रीय स्तर पर इस तरह का मानक बनाकर मध्यस्थता की ऐसी न्यायिक प्रणाली दें, जिससे हमारे देश में ही हम लंदन और सिंगापुर की अपेक्षा अच्छा प्रदर्शन करते हुए इस अधिनियम का लाभ अपने देश में दे सकें। आज हमारा देश विकास की तरफ बहुत तेजी से बढ़ रहा है, उसमें यह विधेयक बहुत ही आवश्यक है।

माननीय सभापति जी, अभी हाल ही में एक अध्ययन आया है, जिसमें यह जानकारी आई है कि हमारी बहुत सारी विकास की, इन्फ्रास्ट्रक्चर की ऐसी सरकारी योजनाएं हैं, जो दोनों विभागों के आपसी मुकदमे की वजह से सिरें नहीं चढ़ पा रही हैं, उन पर काम नहीं हो पा रहा है। इस अधिनियम से निश्चित ही मध्यस्थता का एक ऐसा ढांचा निर्मित होगा, जिससे अदालतों पर निर्भरता कम होने के साथ मतभेद कम होंगे और व्यापार व विकास के अनुकूल वातावरण बनेगा, ऐसी इस विधेयक की संभावनाएं हैं। विवादों का समयबद्ध निपटारा, मध्यस्थों की नियुक्ति व उनकी जवाबदेही तय करना इस अधिनियम का उद्देश्य है। संस्थागत मध्यस्थता को बल देना, भारतीय



मध्यस्थता परिषद बनाने के साथ-साथ भारतीय मध्यस्तता परिषद को संबंधित इकाइयों को मान्यता और ग्रेडिंग देने की भी शक्ति इस अधिनियम द्वारा दी गई है।

सभापति महोदय, मैं समझता हूँ कि इन प्रभावों के कारण यह अधिनियम एक मील का पत्थर साबित होगा, जिससे देश के अंदर तथा देश के अंतर्राष्ट्रीय विवादों का निस्तारण होगा। इससे भारत एक वैश्विक केन्द्र बनेगा, इसकी पूरी संभावनाएं हैं। मैं मानता हूँ कि इससे भारत इस क्षेत्र में प्रतिष्ठा अर्जित करेगा।

सभापति महोदय, मैं माननीय प्रधान मंत्री जी व माननीय कानून मंत्री जी को पुनः धन्यवाद देते हुए इस बिल का समर्थन करता हूँ। आपका बहुत बहुत धन्यवाद।

**SHRI N. K. PREMACHANDRAN (KOLLAM):** Hon. Chairperson, Sir, I will be very brief. All the Members are in a mood to adjourn the House. The Bill is further to amend the Arbitration and Conciliation Act of 1996. My point is that a series of amendments have come these days, especially in the Companies Act, the Insolvency and Bankruptcy Act and now in the Arbitration and Conciliation Act.

This piecemeal legislation is not good for a healthy Parliamentary practice. It is not good for law making process also. Law making should always be comprehensive. The hon. Minister may suggest that it is on the basis of the experience that he is rectifying the defects by means of amendments. I agree to that. But it should be comprehensive.

How can a Bill be more comprehensive? The only way is the micro-level scrutiny of the provisions of the Bill. How is the micro-level scrutiny of the provisions of the Bill possible? It can be only through the scrutiny by the Parliamentary Standing Committees. Most of the Bills are not being scrutinized by the Parliamentary Standing Committees. That is the reason why one amendment after another is coming and the time and money of the Parliament are being spent for this purpose. So, I urge upon the hon. Minister and the Government to not undermine the powers, authority and significance of the Parliamentary Standing Committees. That is my first appeal to the hon. Minister.

The Bill is institutionalising the arbitration proceedings in the country. I fully agree and support the contents of the Bill moved by the hon. Minister. This is a part of the recommendations of a High Level Committee headed by Justice B.N. Srikrishna. It is quite unfortunate to note that the recommendations of this Committee are not fully complied with. It has already been elucidated by my learned friends, so, I am not going into it.

I directly come to Clause 14 of the Bill, by which a new Schedule, Schedule No.8, is being incorporated, in which the qualifications and experience of arbitrators are well narrated one-by-one. I have given notices of amendments to Clause 14, as well as Clause 10 and Clause 3. I will not be speaking at the time of moving the amendments. I am very happy, with pleasure, to note that the hon. Minister, Shri Ravi Shankar Prasad has circulated amendment nos. 14 to 17 before this House. I fully support the amendment nos. 14, 15, 16 and 17, proposed by the hon. Minister, Shri Ravi Shankar Prasad. These amendments are not on record but they have already been circulated. It vindicates my case. The hon. Minister's notice of amendments, though they are not moved, vindicates the case of an hon. Member who has already given notices of amendments, which are more or less equal to that of the proposed amendments by the hon. Minister. With these words, I support the Bill. Thank you very much.

**SHRI RAVI SHANKAR PRASAD:** Sir, I am extremely grateful to all the distinguished Members who have given very enlightened suggestions and

have supported the Bill, except Shri N.K. Premachandran whose conventional caveat is there.

I will go point-by-point. I think no one could have placed it better than Meenakashi ji. In her inevitable Hindi, she said, संस्थाओं को ठीक करने और माहौल को बदलने का प्रयास। This is exactly what this Bill is about. I will go issue-wise and very quickly I will respond to all the issues. The Arbitration Council of India will not do arbitration itself. It is a body which will grade the institutions of arbitration. Therefore, there should be no confusion on that score. The Chairperson is very much there. The Government in consultation with the Chief Justice will make the appointment.

I may indicate to hon. Supriya Sule ji that the eminent member must be from the field of arbitration. The law very clearly says that. It is not ambiguous at all.

I would like to clarify one issue which many Members have raised. सर, यह सोचने का कारण कहां से है कि सरकार जब भी अप्वाइंट करेगी तो गलत ही करेगी। Why this apprehension is there? I have said it earlier also and I would like to say it again that we run the country and we are accountable to the House. We make some of the biggest appointments in the country. There is no presumption that the Government's appointments would be bad. On the contrary, I think Kalyan Babu and Shri Misra would bear me out, many a time the collegium's appointment has not been found to be correct. So, why should we talk only

about the appointment of Chief Justice? There are so many judges. So, let us not talk about that concept at all.

Shri A. Raja has asked, why the Expenditure Secretary is involved. You are very right. Expenditure Secretary and Law Secretary are designed to give this Council a proper administrative support, so that it functions properly, in terms of expenditure and in terms of infrastructure. The question then would be, will it work well. They are going to grade the institutions. They are not going to do arbitration themselves. What is the principle of grading? I would gently like to highlight the important section, 43 (i), which says that the Council shall make grading of arbitral institutions on the basis of criteria relating to infrastructure, quality, calibre of arbitrator, performance, and compliance of time limits.

अगर कोई इंस्टीट्यूशन अच्छा काम कर रहा है, समय पर काम कर रहा है, ईमानदार आर्बिट्रेटर्स हैं, टाइमफ्रेम में करते हैं, तो वहां पर लोग जाएंगे। अगर कोई इंस्टीट्यूशन ठीक तरह से काम नहीं कर रहा है, तो यह बात काउंसिल में भी आएगी कि आपने इसको कैसे ग्रेड किया है। So, the second thing that I would like the House to know is that grading by itself is not complete. After the grading or accreditation is done, there is a designation by the hon. High Court in case of domestic arbitration and designation by the hon. Supreme Court in case of international arbitration.

Therefore, there is a second-grade filtration also. Surely, if the ACI does the grading to a body which is not of a desirable standard, Mr. Raja, the hon. Supreme Court and the hon. High Court will take a contrary view. It will also

impinge. Therefore, while drafting it, apart from the guidance of Justice Srikrishna Committee, I personally applied my mind that it must work in a proper and healthy manner, with balance and accountability both.

My good friend, Shri N.K. Premachandran, has raised an issue as to why withdraw this. There was the reason for it. Shri Pinaki Misra said that there must be some international arbitration. You are very right. Yesterday, I was thinking about it while preparing for it that in the first flush, we should also not give an indication that we are ousting the foreign arbitrators completely. We are also not ousting the arbitrators of Indian-origin completely. Then, I thought over it. If you kindly go with me to one particular Clause, whereby the Council has got the power and I would just like to read it. In 43J, the qualifications, experience and norms for accreditation of arbitrators shall be such as it is specified in the Eight Schedule and the Central Government may change it after consultation with the Council. Suppose the Council decides that India requires these types of arbitrators. Let the Council take a call, come up with a proposal and the Government will include, it will be a part of the Eight Schedule. But what we have done is very important, which I would like to highlight here.

The arbitrator shall be a person of reputation of fairness, integrity and objectivity. The arbitrator must be impartial and neutral. We have mentioned all these things. But the quality of arbitrator depends upon the needs, business and the environment. Let the Council takes call.

I think, hon. Members, Shri. Kalyan Babu and Shri Pinaki Misra raised a very fundamental point that as to why Judges should always be the arbitrator. India is changing. We can use the services of the finest minds who are handling the IT and communication portfolios to settle disputes relating to IT. So, we can also take the finest minds of India from banking and infrastructure. Take the case of a former Banking Secretary. They can be used. I am repeating what I have said earlier. Suppose there is a public representative of great reputation as the Minister of Finance, Minister of Home and Minister of Public Affairs, but has withdrawn from politics, so why can we not use his services as an arbitrator in the event a particular institution needs him? Therefore, in order to have a robust arbitration institution, we must have these criteria. I am very clear about it.

I would like to flag one thing which the hon. Member, Shrimati Meenakashi Lekhi has mentioned. I hope she is here. आजकल दुनिया में एक नए प्रकार का इम्पीरीलिज्म चल रहा है। Shri Pinaki Misra, Section 11 is very clear. An arbitrator can be of any nationality. There is no bar on that. एक नई बात क्या चल रही है that only the Queen's Counsels or Barristers can be the best arbitrators – London, Singapore or whatever she has said. I have been a fighter against imperialism and I want to make it very clear on the floor of this House that India should not accept any imperialism in the field of arbitration.

Our country has got some of the finest lawyers; some of the finest judges; and some of the finest experts. I would like India to emerge. For me,

the best day would be when Indian arbitrators are sought globally and when Indian institutions are sought globally.

Therefore, for that purpose, it is important that our institutions must be fair and good. Why are we doing it?

**21.00 hrs**

(Hon. Speaker *in the Chair*)

We are doing it in line with the larger issue of 'Ease of Doing Business'. We have changed the commercial laws. We have changed the specific relief Act. So, we have done a range of legal activities. They are all designed to attract investment and make India a good place for development. But disposal of dispute is equally important for good governance.

Kalyan Babu has given me a lot of suggestions and food for thought. He said that there must be public servants. Hon. Kalyan Babu has said that the Arbitrator must be accountable. As regards, he may be public servant or not is an issue, let the Arbitration Council decide, but today I would take the benefit of the floor of this Parliament. There is a collective voice of this Parliament that India should become a big centre of arbitration and let the Arbitrators know that they must be fair; they must be intelligent; they must be accountable; and they must decide within time.

As regards time frame for a decision, provision is already there which says that it has to be done within six months then there could be six months more. Clause 29(a) clearly provides that if you do not complete within time



limit, then your mandate will go unless the court extends it. आपकी फी भी कटेगी, अगर आप लेट करते हैं।

So, we have given all these things. We are charting a new course and I think with the good wishes of this House as also the collective and unanimous voice of this House, surely India will become a good hub. It will send a good message for the world and we will surely ensure that India will become a hub. I am grateful to all.

**माननीय अध्यक्ष :** इसमें तो आप सभी सहमत होंगे।

श्री कल्याण बनर्जी।

**SHRI KALYAN BANERJEE (SREERAMPUR):** I said that arbitral tribunal is a good thing. I have also suggested to think about future. You delete Section 11(1) and (2). You bring arbitral tribunal and forget about arbitration by the parties. Let there be fixed arbitration tribunal. That was my suggestion to you.

**SHRI PINAKI MISRA :** What is the council of body corporate, I have not understood.

**SHRI RAVI SHANKAR PRASAD:** Let me clarify on the floor of this House that there is no shareholding at all. The Arbitration Council of India must be a juristic person with proper accountability.

Kalyan Babu, just to clarify your issue, today we have got 35 to 36 institutions of Arbitration in the country. I want their number to be 3000. I will be the happiest person if in Midnapore and in Malda, there are arbitration institutions. That is my vision. In the beginning, let that process continue but so long as that is not there, there has to be an interim arrangement.

I think I have clarified all the points.

**SHRI A. RAJA (NILGIRIS):** Section 26 (amendment of 2015) and Section 36 are overlapping and creating confusion.

**SHRI RAVI SHANKAR PRASAD:** There is complete clarity after Sridharan judgement. Some High Courts were saying that it is prospective and some were saying that it is retrospective. The Supreme Court took one view and to obviate any confusion, it said that it shall not apply. As Meenakashi Ji has

said, if the parties, by consent, agree to be covered by the new law, that flexibility should be given.

Sir, I have a last appeal to the judiciary because this appeal I can make only on the floor of this House. Judiciary should also be consistent in their pronouncements as far as arbitration is concerned. Kalyan Babu and Pinaki Babu both are smiling and so is Meenakashi Ji, I suppose. There was a Patel's case. First, there was a two-judge bench, then a five-judge bench, then a three-judge bench and then they again differed and went to a seven-judge bench. There must be stability in law.

**माननीय अध्यक्ष :** प्रश्न यह है:

“कि माध्यस्थता और सुलह अधिनियम, 1996 का और संशोधन करने वाले विधेयक, राज्य सभा द्वारा यथापारित, पर विचार किया जाए।”

प्रस्ताव स्वीकृत हुआ।

**माननीय अध्यक्ष :** अब सभा विधेयक पर खंडवार विचार करेगी।

### **Clause 2      *Amendment of section 2***

**माननीय अध्यक्ष :** प्रश्न यह है :

“कि खंड 2 विधेयक का अंग बने।”

प्रस्ताव स्वीकृत हुआ।

खंड 2 विधेयक में जोड़ दिया गया।

**Clause 3                      Amendment of section 11**

**माननीय अध्यक्ष:** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 1 से 5 प्रस्तुत करना चाहते हैं?

**SHRI N.K. PREMACHANDRAN :** Sir, I beg to move:

Page 2, line 16, --

*after*                      “section”

*insert*                      “for an interim period of one year from the date of commencement of this Act”.                      (1)

Page 2, *omit* lines 19 and 20                      (2)

Page 2, line 25,--

*After*                      “Supreme Court”

*Insert*                      “with the prior approval of the Supreme Court”.                      (3)

Page 2, line 26,--

*after* “High Court,”

*insert*                      “with the prior approval of the High Court”.                      (4)

Page 3, line 6,--

*after* “to appoint”

*insert*                      “after obtaining prior permission from the Supreme Court or the High Court, as the case may be”.                      (5)

**माननीय अध्यक्ष:** अब मैं श्री एन.के. प्रेमचन्द्रन द्वारा खंड 3 में प्रस्तुत संशोधन संख्या 1 से 5 को सभा के समक्ष मतदान के लिए रखता हूँ।

संशोधन मतदान के लिए रखे गए और अस्वीकृत हुए।

**माननीय अध्यक्ष:** प्रश्न यह है :

“कि खंड 3 विधेयक का अंग बने।”

प्रस्ताव स्वीकृत हुआ।

खंड 3 विधेयक में जोड़ दिया गया।

खंड 4 से 9 विधेयक में जोड़ दिए गए।

### **Clause 10**

### ***Insertion of new part***

**माननीय अध्यक्ष:** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 6 से 9 प्रस्तुत करना चाहते हैं?

**SHRI N.K. PREMACHANDRAN:** Sir, I beg to move:

Page 4, lines 33 and 34,--

*omit* “or an eminent person, having special knowledge and experience in the conduct or administration of arbitration”. (6)

Page 5, line 4,--

*after* “industry”

*insert* “having special knowledge and experience in general administration and in conduct of administration of arbitration”. (7)

Page 5, line 7,--

*omit* “,other than *ex-officio* Members,”. (8)

Page 5, line 10,--

*omit* “,other than *ex-officio* Member,”. (9)

**माननीय अध्यक्ष:** अब मैं श्री एन.के. प्रेमचन्द्रन द्वारा खंड 10 में प्रस्तुत संशोधन संख्या 6 से 9 को सभा के समक्ष मतदान के लिए रखता हूँ।

संशोधन मतदान के लिए रखे गए और अस्वीकृत हुए।

**माननीय अध्यक्ष:** प्रश्न यह है :

“कि खंड 10 विधेयक का अंग बने।”

प्रस्ताव स्वीकृत हुआ।

खंड 10 विधेयक में जोड़ दिया गया।

खंड 11 से 13 विधेयक में जोड़ दिए गए।

#### **Clause 14      *Insertion of new schedule***

**माननीय अध्यक्ष:** श्री एन.के. प्रेमचन्द्रन, क्या आप संशोधन संख्या 10 से 13 प्रस्तुत करना चाहते हैं?

**SHRI N.K. PREMACHANDRAN :** Sir, I beg to move:

Page 8, for line 5,--

*substitute* “(v) has been an officer of State Legal Service or Law Department not below the rank of Deputy Secretary with an experience of ten years”. (10)

Page 8, lines 10 and 11,--

*omit* “Autonomous Body, Public Sector Undertaking or at a senior level managerial position in private sector or self-employed”.

(11)

Page 8, lines 13 to 15,--

*omit* “or having experience of senior level management of a Public Sector Undertaking or a Government company or a private company of repute”. (12)

Page 8, lines 19 and 20,--

*omit* "Autonomous Body, Public Sector Undertaking or a senior level managerial position in a private sector". (13)

**माननीय अध्यक्ष:** अब मैं श्री एन.के. प्रेमचन्द्रन द्वारा खंड 14 में प्रस्तुत संशोधन संख्या 10 से 13 को सभा के समक्ष मतदान के लिए रखता हूँ।

संशोधन मतदान के लिए रखे गए और अस्वीकृत हुए।

**माननीय अध्यक्ष:** प्रश्न यह है :

“कि खंड 14 विधेयक का अंग बने।”

प्रस्ताव स्वीकृत हुआ।

खंड 14 विधेयक में जोड़ दिया गया।

खंड 15 और 16 विधेयक में जोड़ दिए गए।

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

**माननीय अध्यक्ष:** अब मंत्री जी प्रस्ताव करें कि राज्य सभा द्वारा यथा पारित विधेयक को पारित किया जाए।

**श्री रवि शंकर प्रसाद:** सर, मैं प्रस्ताव करता हूँ:

“कि विधेयक, राज्य सभा द्वारा यथापारित, पारित किया जाए।”

**माननीय अध्यक्ष:** प्रश्न यह है :

“कि विधेयक, राज्य सभा द्वारा यथापारित, पारित किया जाए।”

प्रस्ताव स्वीकृत हुआ।

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**माननीय अध्यक्ष:** मैं सभी माननीय सदस्यों को और मंत्रिमंडल के सभी सदस्यों को बहुत-बहुत धन्यवाद देता हूँ कि इस सदन में आज आप सब के सहयोग से तीन विधेयक पारित किए गए।

माननीय संसदीय कार्य मंत्री।

**THE MINISTER OF PARLIAMENTARY AFFAIRS, MINISTER OF COAL AND MINISTER OF MINES (SHRI PRALHAD JOSHI) :** Hon. Speaker Sir, I congratulate you for taking such an initiative in passing these three Bills and also all the hon. Members and all the staff.

**माननीय अध्यक्ष:** कल भी तीन विधेयक हैं।

**श्री प्रहलाद जोशी:** सर, कल भी तीन विधेयक हैं, कल भी इन्हें पारित करवाएं।

**माननीय अध्यक्ष:** सभा की कार्यवाही कल दिनांक 2 अगस्त, 2019 को सुबह 11 बजे तक के लिए स्थगित की जाती है।

**21.09 hrs**

*The Lok Sabha then adjourned till Eleven of the Clock on Friday, August 2, 2019/Shravana 11, 1941 (Saka).*

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