

## Sixteenth Loksabha

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Title: The Transgender Persons (Protection of Rights) Bill, 2016-Bill passed.

HON. SPEAKER: Now, item no. 12, the Bill for consideration and passing, the Transgender Persons (Protection of Rights) Bill, 2016 – hon. Minister.

... (*Interruptions*)

HON. SPEAKER: Hon. Members, please go back to your seats.

... (*Interruptions*)

**सामाजिक न्याय और अधिकारिता मंत्री (श्री थावर चंद गहलोत):** अध्यक्ष महोदया, मैं प्रस्ताव करता हूँ:

“कि उभयलिंगी व्यक्तियों के अधिकारों का संरक्षण और उनके कल्याण का उपबंध करने तथा उनसे संबद्ध तथा आनुषंगिक विषयों का उपबंध करने वाले विधेयक पर विचार किया जाए।”

अध्यक्ष महोदया, इस विषय पर लम्बे समय से संबंधित लोगों द्वारा और अनेक उनके संगठनों द्वारा एक कानून बनाने का विषय माँग के रूप में सरकार के समक्ष आता रहा है।...(व्यवधान) इस आशय का विषय सुप्रीम कोर्ट में भी गया था। सुप्रीम कोर्ट ने अप्रैल, 2014 में एक निर्णय देकर के सरकार से अपेक्षा की कि इनके हित संरक्षण के लिए, इनको समाज की मुख्यधारा में लाने के लिए और इनके भले के लिए योजना बनाने हेतु कोई कानून बनाया जाए।...(व्यवधान) तदनुसार भारत सरकार के सामाजिक न्याय और अधिकारिता मंत्रालय ने इस विषय पर प्रक्रियात्मक कार्रवाई करके एक विधेयक तैयार किया और वह संसद में प्रस्तुत किया गया है, जिस पर आज चर्चा निश्चित है और मैं चर्चा प्रारम्भ कर रहा हूँ।...(व्यवधान)

HON. SPEAKER: Hon. Members, an important Bill is there. Please take your seats.

... (*Interruptions*)

**श्री थावर चंद गहलोट:** मैं इस विषय पर यह भी निवेदन करना चाहता हूँ कि राज्य सभा में प्राइवेट मैम्बर के बिल के रूप में वहाँ के माननीय सांसद तिरुची शिवा जी ने एक विधेयक प्रस्तुत किया था और उसको वहाँ सर्वानुमति से पारित किया गया था...(व्यवधान) उस पर यहाँ भी लम्बे समय से चर्चा हुई है और इतनी विस्तृत चर्चा हो गई है कि अब इस पर बहुत ज्यादा चर्चा करने की आवश्यकता नहीं है। फिर भी मैं इस सदन में इसके जो उद्देश्य हैं, हम इसको क्यों लेकर आए हैं, उस संबंध में कुछ जानकारी देना उचित समझता हूँ। उभयलिंगी व्यक्ति (अधिकारों का संरक्षण) विधेयक, 2016 निम्नलिखित के लिए हैं-

उभयलिंगी व्यक्ति को परिभाषित करने के लिए उभयलिंगी व्यक्ति के विरुद्ध विभेद का प्रतिषेध करने के लिए हैं...(व्यवधान) उभयलिंगी व्यक्ति को उस रूप में मान्यता देने के लिए, उसे अधिकार प्रदत्त करने और स्वतः अनुभव की जाने वाले लिंग पहचान का अधिकार प्रदत्त करने, उभयलिंगी व्यक्तियों को पहचान प्रमाण-पत्र जारी करने, ये उपबंध करने की कोई स्थापन, नियोजन, भर्ती, प्रोन्नति और अन्य संबंधित मुद्दों से संबंधित विषयों में किसी उभयलिंगी व्यक्ति के विरुद्ध विभेद नहीं करेगा।

प्रत्येक स्थापन में शिकायत निवारण तंत्र स्थापित करने, राष्ट्रीय उभयलिंगी परिषद की स्थापना करने, विधेयक के उपबंधों का उल्लंघन करने के लिए दण्ड देने आदि प्रावधानों को लेकर यह विधेयक प्रस्तुत किया गया है...(व्यवधान)

मैं आपके माध्यम से सदन से अनुरोध करना चाहता हूँ कि इस पर बहुत चर्चा हो गई है। यह विधेयक संसदीय स्थायी समिति के समक्ष भी गया था और उन्होंने भी इस पर गहन विचार-विमर्श करके बहुत सारे सुझाव दिए थे...(व्यवधान) हमने उन सुझावों में से 27 सुझावों को स्वीकार करते हुए इस मूल विधेयक में उन्हें संशोधन के रूप में प्रस्तुत किया है...(व्यवधान) मैं सोचता हूँ कि यह जो विधेयक बन रहा है, यह परिपूर्ण है। इस पर बहुत ज्यादा चर्चा करने की आवश्यकता नहीं है...(व्यवधान) सदन इस विधेयक को पारित करे, ऐसा मेरा निवेदन है...  
(व्यवधान)

HON. SPEAKER: Motion moved:

“That the Bill to provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto, be taken into consideration.”

... (Interruptions)

HON. SPEAKER: Dr. Shashi Tharoor.

Please go to your seats. He is speaking.

... (*Interruptions*)

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Madam Speaker, I just wish to begin by saying that I am fully in support of my colleagues' demands that this Parliament should create a Joint Parliamentary Committee on the Rafale deal.... (*Interruptions*)

संसदीय कार्य मंत्रालय में राज्य मंत्री तथा जल संसाधन, नदी विकास और गंगा संरक्षण मंत्रालय में राज्य मंत्री (श्री अर्जुन राम मेघवाल) : महोदया, ये क्या बोल रहे हैं?... (व्यवधान)

DR. SHASHI THAROOR : But, I believe, this Bill is important and, therefore, I will speak on it. But, I want to stress that my speaking is not dissociating from the very strong stand taken by my Party.... (*Interruptions*)

The Congress Party has been asking for a Transgender Bill for some time. But the Bill given to us by this Government is weak and flawed. I myself have had to submit 21 amendments. If this Bill is going to get my Party's support, it needs severe reconsideration.... (*Interruptions*) I want stress, I am proud to represent Thiruvananthapuram which witnessed the first legally registered trans couple marriage in Kerala May of this year.... (*Interruptions*) I also stand here as a proud Indian because our country has the rich heritage of holding members of the transgender community in very high regard. We have accepted their place in society.... (*Interruptions*) According to Hindu theology, as you know, Lord Ram gave transgender persons the power to confer blessings on people. The Aravanis in Tamil Nadu consider themselves to be the children of both Aravan and the female form of Vishnu, namely, Mohini.... (*Interruptions*) It must be noted that the transgender community has played an important role in the royal courts of the Mughals as well.... (*Interruptions*) We should remember that our country is home to the

oldest transgender community in the world, the Hijra community.... (*Interruptions*) But, sadly, with the advent of the British and the searing of archaic Victorian ideas of morality in our minds, we have seen havoc created in India for transgender people especially after the adoption of the Criminal Tribes Act, 1871 which deemed the entire community as a criminal tribe..... (*Interruptions*) The British have moved on. They have now adopted progressive laws like the UK Gender Recognition Act, 2004.... (*Interruptions*) But, we are continuing the old negative British colonial legacy and their prejudice against the transgender community is continuing in this country. They are subjected to discrimination in all forms, subjected to mental and physical abuse and sexual abuse.... (*Interruptions*) They are denied jobs. Many are abandoned by their families. This is why my Party has always said, it is time that we should take important legislative and policy steps to correct this anomaly, this injustice against the transgender community.... (*Interruptions*)

We, of course, know that Article 14 of our Constitution says that every "person" has equality before law. It does not say man or woman; it says "person", which means everybody in the gender spectrum has equality in our country.... (*Interruptions*) Articles 15 and 16 prohibit discrimination on the ground of sex. The Supreme Court, as the hon. Minister has mentioned, has made it clear that the word 'sex' in the Constitution includes any gender identity and not merely the binary of male or female.

The need of the hour is a robust law which can transform these gender inclusive Constitutional values into ground reality. But Madam Speaker, this is where the Bill is a flawed Bill. It does not give us the robustness that we seek. ... (*Interruptions*) The law must clearly define and recognise transgender persons if we are going to protect their rights. But we need to recognise the term 'gender identity' both beyond the biological issues of male and female. In fact, we have principles established internationally for all this. The Yogyakarta principles say that gender identity is an individual's deep and personal experience. It need not correspond to the sex assigned at birth. ... (*Interruptions*) It includes the personal sense of the body and other expressions such as one's speech and

idiosyncrasies and the sad thing is, the Bill that has been given to us by the Government, still uses phrases like 'neither wholly female nor wholly male' or 'a combination of female and male' while defining a transgender person, which confines a transgender to a biological determination of gender which is reminiscent of the regressive and outdated principles rejected by the Supreme Court of India. The so-called corbett principle had been rejected by the Supreme Court. But the Minister, who has mentioned the Supreme Court, still has put this into his Bill. The Government has blindly borrowed this definition from the definition of 'intersex persons' under the Australian Law, thereby conflating two different concepts. From what we have seen in our research, persons who have variations in their primary sexual characteristics and their biological feature, when compared with a normative standard of female or male bodies, are referred to as intersex. We cannot confuse the two here. ... (*Interruptions*)

I had written to the Minister on the first of January of this year to tell him to revise the definition of transgender persons. While I am glad that he has agreed to drop his earlier definition and has adopted a large part of the definition that I am proposing before this House, the definition he is pushing for is still defective as it deems all intersex persons to be transgender persons. ... (*Interruptions*) The point is that clause 3 of the Bill prohibits discriminatory practices against transgender persons but it fails to define discrimination and it limits itself to only nine types of practices. It prohibits certain acts but it fails to specify the civil or criminal liability that may arise if somebody commits these acts. It is important for us to redraft this clause. So, we have an inclusive definition so that practices, which may not be stipulated under the provisions but which violate the rights of transgender persons, are covered under the ambit of the Act. ... (*Interruptions*)

The law must make it clear that even transgender persons without the certificate of gender identity must be allowed to complain of gender discrimination. ... (*Interruptions*)

Clause 12 of the Bill states that every establishment consisting of 100 or more persons shall designate a person to be a complaint officer to deal with complaints relating to

the provisions of this Act. ... (*Interruptions*)

But Madam, the average employment size of any economic establishment in India is 2-3 people according to the Sixth Economic Census. We are a country of small and micro enterprise. By placing such a high numerical threshold the Bill will exclude a majority of the establishments in India ... (*Interruptions*)

Furthermore, the Bill does not specify a mechanism to deal with complaints. It does not lay down a timeline to redress grievances. The redressal system is a complete failure from start to finish in this Bill. The Bill has prescribed the procedure involving a District Screening Committee to certify someone as a transgender person whereas we, in the Congress Party on every occasion, have insisted that self-determination of gender is an integral part of personal autonomy and that we cannot take away the liberty of a person to say "I believe I am transgender". By putting a Committee to decide for this person, what gender the person should belong to is unacceptable. ... (*Interruptions*) This is by the way is a fundamental right affirmed under Article 21 by the Supreme Court of India and it cannot be abridged by a District Screening Committee. What is the Minister thinking if he is going to ask a District Screening Committee to do something which the Supreme Court has said cannot be done? I want to stress also that this Committee has a Chief Medical Officer. ... (*Interruptions*) The Medical Officer may do physical test. Any form of such physical test to determine whether a person is transgender violates the dignity, the privacy and the autonomy of the transgender person.

It must be vehemently opposed and even prohibited. ... (*Interruptions*) Now the fact is, we need an identity provision so that people can actually be beneficiaries of the provisions envisaged in this Bill. ... (*Interruptions*) But what the Minister should do is, amend the law, take into account these suggestions, prescribe a swift time-bound approach whereby a transgender person can make or submit a self-declaration of gender to the District Magistrate supported by a report from a registered psychologist ... (*Interruptions*). Right now, we have got complete red tape and an inefficient bureaucratic system. ...

*(Interruptions)* The law must also prescribe a time-bound procedure, if somebody wants to change their gender and change their names. ... *(Interruptions)* All of this should have been similar to Section 3 of the Gender Expression, Gender Identity and Sex Characteristics Act, 2015 of Malta and of the best practices in the world. ... *(Interruptions)*

We are very happy to convey to the Government very specific amendments that will help the Minister fulfil these objectives. ... *(Interruptions)* This Bill sets up a National Council to advise the Government on its policies relating to the transgender community but the composition of the Council does not represent the various diverse groups within the transgender community. ... *(Interruptions)* The Council has no power to deal with grievances of the members of the community. And, surely, if you are going to have District Councils, we need State Councils to be set up along with the National Council on the same principle as the National Human Rights Commission and the State Human Rights Commissions. We need the same for this too. ... *(Interruptions)*

Now, there is a vexed question of sexual abuse. As per clause 19 (d) of the Bill, a person who subjects a transgender person to sexual abuse, gets punishment of minimum six months. ... *(Interruptions)* It is highly discriminatory as well as insulting. Madam Speaker, when women are subjected to sexual offences, we have harsh levels of punishment. The whole House supported a Bill on that. ... *(Interruptions)* Why should transgender persons be treated as second-class citizens when people who commit offences against them get much smaller punishment when they are abused? ... *(Interruptions)* This is in violation of Article 14 of the Constitution. ... *(Interruptions)* I would urge the Minister to amend this Bill whereby all applicable provisions under the IPC should apply when sexual offences are committed against transgender persons. ... *(Interruptions)* A sexual offence is a sexual offence. Whether the victim is a woman or man or child, there are very precise laws. Why should the transgender persons not also require that abuse of their person will attract the same kind of punishment? ... *(Interruptions)*

The criminalisation of those who indulge transgender persons to beg is also completely revealing the Government's lack of understanding on matters of the transgender community. ... *(Interruptions)* Very often, they do beg. We know the Hijras come often at traffic lights. They work in collectives of groups and beg. But this provision will be used to target such groups. ... *(Interruptions)* The Hijra community has so many practices in our culture where they come and get gifted money or alms at times of wedding and other celebrations. If we consider them begging, certainly, this law will criminalise most Hijra behaviour of this nature. ... *(Interruptions)*

I also fear that the Bill has completely omitted to address critical issues such as the application of laws of marriage, divorce and inheritance from members of the transgender community.... *(Interruptions)* Even though the Supreme Court ruled that transgender persons are entitled to reservations, this has been neglected in the Bill. ... *(Interruptions)* So, my worry, Madam Speaker, to summarise, is that instead of supplementing the Constitutional rights of the transgender community, this Bill actually supplants their rights and its flawed provisions defeat the very purpose of this legislation. ... *(Interruptions)*

I had pointed out these flaws before to the Minister in my letter of January, 2018. I once again urge him to withdraw this Bill, to consult the transgender community and to introduce a robust and comprehensive legislation for our consideration. ... *(Interruptions)*

Madam Speaker, my Party is prepared to support a constructive Bill. We have in the past spoken for the rights of transgender persons but this Bill is not it. ... *(Interruptions)* Madam, given the disturbance in the House, given that many are not participating, given the legitimate demand of my Party for a JPC on Rafale, may I request that before consideration that the Minister will rethink his Bill, look at these amendments and bring the issue back to the House where we can have a serious discussion on this issue?. ... *(Interruptions)*

I thank you, Madam Speaker. Please request the Minister to withdraw the Bill. ... *(Interruptions)*

SHRI BHARTRUHARI MAHTAB (CUTTACK): Madam Speaker, I would like to draw the attention of the Minister to the term transgender described by the World Health Organisation (WHO). According to the World Health Organisation, “Transgender” is an umbrella term that includes persons whose sense of gender do not match with the gender assigned to them at birth. ... (*Interruptions*)

According to 2011 Census, the number of persons who do not identify as male or female but as others stands at 4,87,803, which is just 0.04 per cent of the total population of this country. This ‘other category’ applies to persons who did not identify as either male or female and included as transgender persons as per primary census abstract data for others in 2011. ... (*Interruptions*)

In 2013, the Government set up an Expert Committee to examine issues related to transgender persons. This Committee stated that transgender persons face social stigma and discrimination which affected their access to education, healthcare, employment and Government documents. ... (*Interruptions*)

In 2014, the Supreme Court recognized transgender persons right to self-identification as male, female or the third gender. Further, the Court directed the Central and the State Governments to grant legal recognition to transgender persons, address issues of social stigma and discrimination and provide social welfare schemes for them. The Supreme Court has held that self-determination of one’s gender is a part of the fundamental right to dignity, freedom and personal autonomy guaranteed under Article 21 of the Constitution. ... (*Interruptions*)

The Court upheld the right of transgender persons to determine their self-identified gender as a man, woman or as a third gender. This should protect their right to live with dignity and respect. This is the history on which the Government has bought this Bill for consideration of this House. ... (*Interruptions*)

Earlier, there had been a Private Member Bill which was passed in Rajya Sabha and has been subsequently pending in Lok Sabha for quite some time. I have three points to make for consideration of the Minister which deal with the incongruity that has been built in into this Bill. ... (*Interruptions*)

The first point is relating to clause 3 and clauses 9 to 16, which create provisions to protect transgender persons from discrimination and provide welfare schemes. ... (*Interruptions*)

In doing so, the Bill provides for both – self-perceived gender identity and a screening process to recognize the identity of transgender persons. These are the two pillars on which a transgender has to be identified. When it is said ‘self-perceived gender identity’, what does that actually mean? When the Bill states that a person will be recognized as transgender on the basis of a certificate of identity issued through the District Screening Committee and that certificate will be a proof of identity as transgender and confer rights under this Bill, then it is very unclear what the term ‘self-perceived gender identity’ entails and how it will be enforced. This provision is provided in clauses 4 to 7. ... (*Interruptions*)

If a person on his own perception claims that he is a transgender, he does not have to get a certificate. But what you are saying is that he has to get a certificate. In this Bill you have two branches. One is, self-perceived identity and the other is, identity through certificate from the District Screening Committee. So, my point is, if a self-perceived person says that he is a transgender, how is he going to get all the benefits that accrues after this Bill becomes an Act? ... (*Interruptions*)

If a transgender person is denied a certificate of identity, this Bill does not provide any mechanism for appeal or review of such decision of the District Screening Committee. This is another way by which you are denying it. If somebody is denied it, where is he going to appeal? There is no such mechanism in this Bill, which needs to be built in, in this Bill. ... (*Interruptions*)

My second point is that in sub-clause (i) of clause 2, the Bill defines transgender person as one who is neither wholly female nor wholly male; or a combination of female or male; or neither female nor male. In addition, the person's sense of gender must not match with the gender assigned to that person at the time of birth. This definition is not complete. It has ambiguity. ... *(Interruptions)* The Bill does not specify if the terms male and female refer to biological sex which includes human anatomy and chromosomes. Madam, you are very much aware that some weeks or some months back, I had raised that issue during 'Zero Hour'. ... *(Interruptions)* Subsequently, the Sports Minister also supported it. Ultimately, the Government of India also took that up in the court in Switzerland that the chromosome of Dutee Chand was being contested and ultimately, she was declared a female. But here, how do you define a male and a female? It has not been defined in this Bill whether it is human anatomy or chromosome, or if being a male and female also refers to one's psychological sense of gender which includes how one chooses to feel, identify and express oneself. ... *(Interruptions)* International expert bodies like the World Professional Association for Transgender Health, the World Health Organisation and the American Psychological Association define a transgender person as one whose gender identity does not align with the sex assigned at birth. These expert bodies do not specify any biological criterion in their definition of transgender persons. ... *(Interruptions)* In line with such international standards, the Supreme Court of India, expert committee of the Ministry of Social Justice and Welfare and the Private Member's Bill of 2014 define transgender persons based on psychological criterion only. This Bill before us is at variance. Would the hon. Minister tell us why this Bill is at variance from all these criteria that have been defined? ... *(Interruptions)*

Further, I would say that terms like trans-men, trans-women, persons with inter-sex variations and gender-queers have been used in this Bill, but these terms have not been defined. If they are not defined, then it becomes unclear as to who would be covered under these terms. ... *(Interruptions)*

Now, I come to my third and last point. I would like to draw the attention of the House and the hon. Minister to the issue relating to transgender persons and their status under the existing laws. Currently, several criminal laws and civil laws recognise two categories of gender, that is, man and woman. These laws include Indian Penal Code; 1860, National Rural Employment Guarantee Act, 2005; Hindu Succession Act, 1956 which contain some gender specific provisions. ... (*Interruptions*) This Bill recognises a third gender and that is transgender, but this Bill does not clarify how the laws that I mentioned just now apply to the transgender persons. This House is aware that the penalties for similar offences may vary because of the application of different laws based on gender identity. ... (*Interruptions*) For example, under IPC, sexual offences related to woman attract a higher penal provision up to life imprisonment while the specified penalty for sexual abuse under this Bill is up to only two years as per clauses 19 and 21. I have a list of the laws that are prevalent today in India. ... (*Interruptions*)

Other than the Indian Penal Code of 1860 and the Code of Civil Procedure of 1973, Indecent Representation of Women Prohibition Act 1986, Protection of Women from Domestic Violence Act 2005 have gender specific provisions. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Hindu Marriage Act 1955, the Special Marriage Act 1954, Hindu Adoption and Maintenance Act 1956, Hindu Succession Act 1956, the Muslim Personal Law (Shariat) Application Act 1937 are the civil laws. You have other laws also, like the Mines Act of 1952, Factories Act of 1948, National Food Security Act of 2013, National Rural Employment Guarantee Act, 2005, the Companies Act 2013, where only male and female is mentioned. Where are you going to bring in transgenders? How are you going to give them protection? That is the right to life which is enshrined in the Constitution. This is missing in this Bill. ... (*Interruptions*)

When this is the case, it seems adequate attention has not been paid in drafting the Bill. Despite a lapse of two years and deliberations on the Private Members' Bill in both the Houses, does the Minister intend to bring in more amendments in course of this discussion

and add more rules to make this Bill an effective law? The Minister is already moving 27 amendments today. Shri Shashi Tharoor has moved 20 amendments on this Bill. Shri Premachandran, who is not present here, has also introduced a number of amendments. When the Minister himself is moving 27 amendments, can we not expect some more amendments from the Minister which I have mentioned in my speech today? We need answers to these questions. ... (*Interruptions*)

Thank you Madam.

SHRIMATI SUPRIYA SADANAND SULE (BARAMATI): Madam Speaker, I stand on behalf of my Party in support of this Bill. The issue is very serious. Since they are all in the well, I will just mention a few points and will not repeat them. ... (*Interruptions*)

There is a category called 'others'. Most times it is male, female and others. The 'others' should be stopped completely and it should be made 'TGs', that is 'Transgenders' in every application. ... (*Interruptions*) This is going to be a social change. I know in a society like ours, it is not going to be easy for us to accept it. But we need to sensitise people right from schools and colleges for the society to accept these changes. Even in the Bill there is a point about Transgender Commission. A Transgender Commission just at the national level is not good enough. There are several States which have got their own Commission. If we can get these things implemented at the State level, it would be effective. There is no system today in any State for them to get any help.

The other demand which we are making is a Welfare Board. We need a separate Welfare Board for the transgenders because this is the first time they are coming out and they need equal rights. We have Welfare Boards for everybody. Earlier Dr. Tharoor and Shri Mahtab talked about giving them equal rights. We need a helpline for them. I am ashamed to share this information with you. But even in the police cases, there are several transgender cases where there are allegations that even police use their power to ill-treat them. So, why can we not have a helpline for them? If women can get several rights which

this august House has given, then transgenders also deserve a redressal system where they will get help and they should get equal rights in every society. ... (*Interruptions*)

So, we must have a good helpline for the transgender people like we have for our children and women. Dr. Tharoor has talked about the punishment for abusing the transgender people. This is a completely neglected section of our society. Even their families do not give them respect. We need to look how we can make the law more applicable. We need laws for marriage, divorce and inheritance for them. Even reservation for them is very very critical. ... (*Interruptions*)

Madam, these people even do not get homes. Even if they are well-to-do, professionals or educated, it is very hard for these people to get homes. These are only people in the society who do not get equal rights of quality education and homes for them. ... (*Interruptions*)

So, I urge the Hon. Minister to take this Bill back for a better debate and give more time because it is a very serious and emotional issue for us. It is a big issue for social change in India. ... (*Interruptions*)

Madam, I think because of the JPC issue, we will not be able to discuss this issue. So, I urge the Hon. Government to agree to the Joint Parliamentary Committee so that we can get the House in order and debate all other issues. So, I request the Government to relook into this Bill.

HON. SPEAKER: How can a discussion go on like this?

... (*Interruptions*)

HON. SPEAKER: The House stands adjourned to meet again at 3 o'clock.

**14 36 hrs**

*The Lok Sabha then adjourned till Fifteen of the Clock.*

**15 01 hrs**

*The Lok Sabha re-assembled at One-Minute past  
Fifteen of the Clock.*

*(Hon. Speaker in the Chair)*

*... (Interruptions)*

**15 01 ½ hrs**

*At this stage, Shrimati V. Sathyabama and some other hon. Members came and stood on  
the floor near the Table.*

HON. SPEAKER: The next speaker to speak on the Bill is Dr. Kakoli Ghosh Dastidar.

*... (Interruptions)*

**15 02 hrs**

*At this stage, Shri Gurjeet Singh Aujla and some other hon. Members came and stood on  
the floor near the Table.*

**15 03 hrs**

DR. KAKOLI GHOSH DASTIDAR (BARASAT): Thank you, hon. Madam. ... *(Interruptions)* I stand here to participate in the Transgender Persons (Protection of Rights) Bill, 2016. ... *(Interruptions)*

At the outset, I would like to congratulate the West Bengal Chief Minister, Kumari Mamata Banerjee, for already having formed a Board for the welfare of transgenders three years back, which is the call of the day. ... *(Interruptions)* The Central Government and all the other States should follow this to look after the transgenders. ... *(Interruptions)*

Now, I think that this is a very hastily drafted Bill, and the different clauses mentioned are totally inconclusive. ... *(Interruptions)* We have to first define what a transgender means. ... *(Interruptions)* Here, it is written that : "... a transgender person means neither wholly female nor wholly male; or a combination of female or male; or neither female nor male ...". ... *(Interruptions)*

On this earth, as per medical science, there can be no being who is neither a 'male' nor a 'female'. ... *(Interruptions)* A person's external sexuality, that is, the phenotype is determined by the internal sexuality, that is, the genotype -- combination of genes and chromosome ... *(Interruptions)* So, either it is 'X' 'X' or it is 'X' 'Y'. ... *(Interruptions)* A person who has 'X' 'Y' is a male, and a person who has 'X' 'X' is a female. ... *(Interruptions)* But sometimes, there are three 'X' chromosomes in a person who are known as super female or there is a combination of these in a person who are known either as true hermaphrodite or false hermaphrodite. ... *(Interruptions)* But transgender is not always a hermaphrodite. ... *(Interruptions)*

A transgender is a person who has the internal genetic code made up in such a way that the sexuality granted to the child after birth is not aligned to his or her mental capability, and gender dysphoria is a kind of distress that such a person goes through that can lead to distress related to it like eating disorder, suicide, depression, anxiety and social isolation. ...

(Interruptions) None of this is mentioned in the copy of the draft that we have here. ...

(Interruptions)

This is a hastily drafted Bill. ... (Interruptions) I do not know who has done it. ...

(Interruptions)

Doctors are still grappling with it because the American Association of Psychiatrists only as late as 2013 have defined this disease. In this disease, when a person has no discrimination between genotype and phenotype, that is the internal and the external manifestation of the chromosome, and still might feel being a female and that I am more comfortable being a male, that is the actual Transgender. This is not mentioned in the Bill. The Bill is totally null and void in that sense.

A lawmaker's actual duty is to look at the justice meted out to every kind of human being as is given by the Article 14 of the Constitution of India. We are indebted to the hon. Supreme Court for the verdict given on the 15<sup>th</sup> April, 2014 in which various steps have been directed to be taken by the Central and the State Governments for the welfare of the Transgenders. So, this Bill does not cater to those provisions. The American Society of Psychiatrists have described in detail the clauses those have to be brought into the Bill to make it a welfare Bill for the actual Transgenders.

As far as their educational help is concerned, there should be a third column during admission – the male, the female, and the Third Gender. They should be given reservation in jobs because they feel differently. They might dress differently. So, the provision must be there. Social milieu must be such that the society is compassionate to their disease condition. ... (Interruptions)

**ग्रामीण विकास मंत्री, पंचायती राज मंत्री, खान मंत्री तथा संसदीय कार्य मंत्री (श्री नरेन्द्र सिंह तोमर):** अध्यक्ष महोदया, यह सदन की अवमानना है...(व्यवधान) मैं सभी सदस्यों से अनुरोध करना चाहता हूं चाहे वे एआईएडीएमके पार्टी के हों या कांग्रेस पार्टी के हों, सरकार पूरी तरह से किसी भी मसले पर चर्चा करने के लिए

तैयार है...(व्यवधान) अभी बिल पर चर्चा चल रही है, इसलिए सभी सदस्य अपने स्थान पर चले जाएं और अपनी बात कहें...(व्यवधान) इस मामले में सरकार को कोई आपत्ति नहीं है...(व्यवधान)

जहां तक राफेल के बारे में कांग्रेस के सांसद चर्चा मांग रहे हैं, मैं उन सभी से अनुरोध करना चाहता हूं कि सरकार चर्चा के लिए तैयार है...(व्यवधान) आप लोग अपने स्थान पर बैठ जाएं। जैसा आप चाहेंगे, सरकार हर हालत में चर्चा करने के लिए तैयार है...(व्यवधान)

HON. SPEAKER: Please cooperate. This is not fair. You can't do something like that.

... (Interruptions)

**माननीय अध्यक्ष :** आप सभी का यह व्यवहार अच्छा नहीं है।

...( व्यवधान)

HON. SPEAKER: Yes, Dr. Kakoli.

DR. KAKOLI GHOSH DASTIDAR : So, it appears that this Bill has been very hastily drafted and the opinion of specailists has not been taken into consideration because it says that even after a person has been identified he has to go to the municipality and he has to then take a certificate from the municipal doctor. When the American Society of Psychiatrists have only described this in 2013, how will the municipal doctor be informed of the latest disease? We don't take a Transgender person as an abnormality anymore. This is just a disease condition. The disease has to be studied. So, a Specialists Board has to be formed and the person has to be certified through that Specialists Board who are duly qualified.

It appears that proper attention was not given to different clauses while drafting the Bill. So, this Bill has to be recalled and a properly drafted Bill has to tabled.

**सामाजिक न्याय और अधिकारिता मंत्री (श्री थावर चंद गहलोत):** माननीय अध्यक्ष महोदया, मैं माननीय शशि थरूर जी, आदरणीय भर्तृहरि महताब जी, आदरणीया सुप्रिया सुले जी और आदरणीया काकोली घोष जी का आभार व्यक्त करता हूँ कि उन्होंने इस विधेयक पर अपने विचार व्यक्त किये हैं और कुछ बातों का उल्लेख भी किया है।

मैं निवेदन करना चाहता हूँ कि हमने जो विधेयक तैयार किया है, वह लम्बे विचार-विमर्श और विधि विभाग के साथ चर्चा करने के बाद किया है। संबंधित महानुभावों से, लोगों से, जो ट्रांसजेंडर लोगों के हित में काम करते रहते हैं, ऐसे संगठनों से भी बातचीत की है। इस विधेयक पर हमने वर्ष 2015 से कार्रवाई प्रारम्भ की थी। वेबसाइट पर भी डालकर राय मांगी गयी थी। उसके बाद इसकी निरन्तर प्रक्रिया चलती रही। प्राइवेट मेम्बर बिल के माध्यम से भी इस सदन में इस पर खूब चर्चा हो चुकी है। इसके साथ ही यह विधेयक पार्लियामेंट्री स्टैंडिंग कमेटी के पास गया था। उसने जो सुझाव दिये थे, उनमें से 27 सुझावों को हमने माना है। जिन माननीय सदस्यों ने अभी अपने विचार व्यक्त किये हैं, उनके भी सुझाव हमने संज्ञान में लिये हैं। कुछ विषय ऐसे हैं, जिन पर नियम बनाते समय, हम इस एक्ट के दायरे में उनका प्रावधान करने की कोशिश करेंगे।

मैं सदन से प्रार्थना करता हूँ कि इस विधेयक को पारित करवाया जाए।

HON. SPEAKER: The question is:

“That the Bill to provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto be taken into consideration.”

*The motion was adopted.*

HON. SPEAKER: The House will now take up clause by clause consideration. Hon. Minister may now move amendment Nos. 3 to 8 to clause 2.

### **Clause 2**

### **Definations**

संशोधन किए गए:

पृष्ठ 2, पंक्ति 19 के पश्चात् अंतःस्थापित करें-

‘(खक) “कुटुंब” से रक्त या विवाह या विधि के अनुसार किए गए दत्तक से नातेदार व्यक्तियों का समूह अभिप्रेत है।’

(3)

पृष्ठ 2, पंक्ति 20 और 21, “अन्य विद्यार्थियों के साथ उभयलिंगी विद्यार्थी शिक्षा ग्रहण करते हैं” के स्थान पर, “अन्य विद्यार्थियों के साथ उभयलिंगी विद्यार्थी विभेद, उपेक्षा, उत्पीड़न या अभित्रास के भय के बिना शिक्षा ग्रहण करते हैं” प्रतिस्थापित करें।

(4)

पृष्ठ 2, पंक्ति 25, “पुनर्वास” का लोप करें।

(5)

हिन्दी पाठ में संशोधन की आवश्यकता नहीं है।

(6)

पृष्ठ 2, पंक्ति 33 के पश्चात् अंतःस्थापित करें-

‘(छक) “अंतःलिंगी भिन्नताओं वाले व्यक्ति” से ऐसा व्यक्ति अभिप्रेत है, जो जन्म के समय अपने या अपनी मुख्य लैंगिक विशेषताओं, बाह्य जननांग, गुण सूत्रों या हार्मोन में पुरुष या महिला शरीर के प्रासमिक मानक से भिन्नता उपदर्शित करता है/करती है।’

(7)

पृष्ठ 3, पंक्ति 2 से 8 के स्थान पर प्रतिस्थापित करें-

‘(i) उभयलिंगी व्यक्ति से ऐसा व्यक्ति अभिप्रेत है जिसका लिंग उससे उसके जन्म के समय नियत लिंग से मेल नहीं खाता है और इसके अंतर्गत उभय-पुरुष या उभय-स्त्री (चाहे ऐसे व्यक्ति में लिंग पुनःनिर्धारण शल्यक्रिया या हार्मोन चिकित्सा या लेजर चिकित्सा या ऐसी अन्य चिकित्सा करवाई हो या नहीं), अंतःलिंग भिन्नताओं वाले व्यक्ति, लिंग-समलैंगिक और किन्नर, हिजड़ा, अरावाणी और जोगता जैसी सामाजिक आर्थिक पहचान रखने वाले व्यक्ति सम्मिलित हैं।’

(8)

(श्री थावरचन्द गहलोत)

HON. SPEAKER: Shri N. K. Premachandran – Not present.

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Madam, I beg to move:

Page 2, lines 8 and 9,--

*for* “transgender students”

*substitute* “transgender and gender non-conforming students”.

(37)

Page 2, line 12,--

*for* “rehabilitation”

*substitute* “housing”.

(38)

Page 2, *for* lines 23 to 29,--

*substitute* ‘(i) “transgender person” means a person whose gender does not match with the gender assigned to that person at birth and includes trans-men and trans-woman, irrespective of whether or not such person has undergone sex reassignment surgery or hormone therapy or laser therapy, and includes gender-queers and a number of sociocultural identities such as kinnars, hijras, aravanis, jogtas and other similar identities.’.

(39)

HON. SPEAKER: I shall now put amendment Nos. 37 to 39 to clause 2 moved by Dr. Shashi Tharoor to the vote of the House.

*The amendments were put and negatived.*

HON. SPEAKER: The question is:

“That clause 2, as amended, stand part of the Bill.”

*The motion was adopted.*  
*Clause 2, as amended, was added to the Bill.*

**Clause 3**

**Prohibition against discrimination**

संशोधन किया गया:-

पृष्ठ 3, पंक्ति 11, “कोई व्यक्ति” के पश्चात् “या स्थापन” अंतःस्थापित करें। (9)

(श्री थावरचन्द गहलोत)

DR. SHASHI THAROOR : I beg to move:

Page 2, for lines 32 and 33,--

*substitute* “3. (1) No person shall discriminate against a transgender person on the basis of such person’s gender identity and, or expression.

(2) For the purposes of this Act, discrimination shall mean any distinction, exclusion or restriction imposed on a transgender person which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights, fundamental rights and fundamental freedoms, including:--”.

(40)

Page 3, after line 6,--

*insert* “(j) For the purposes of this section, gender identity includes being a self-identified transgender person who does not possess a certificate of identity.”.

(41)

HON. SPEAKER: I shall now put amendment Nos. 40 and 41 to clause 3 moved by Dr. Shashi Tharoor to the vote of the House.

*The amendments were put and negatived.*

HON. SPEAKER: The question is:

“That clause 3, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 3, as amended, was added to the Bill.*

**Clause 4**

**Recognition of identity**

**of transgender person.**

DR. SHASHI THAROOR : I beg to move:

Page 3, for lines 11 and 12, --

*substitute* "(2) Every person shall have the right to determine their gender identity, whether as male, female or transgender."

(42)

HON. SPEAKER: I shall now put amendment No.42 moved by Dr. Shashi Tharoor to clause 4 to the vote of the House.

*The amendment was put and negatived.*

HON. SPEAKER: The question is:

“That clause 4 stand part of the Bill.”

*The motion was adopted.*

*Clause 4 was added to the Bill.*

**Clause 5            Application for certificate  
of identity**

DR. SHASHI THAROOR : I beg to move:

Page 3, for lines 13 to 15, --

*substitute* "5. (1) A transgender person may make an application to the District Magistrate for issuing a certificate of gender identity, in such manner, as may be prescribed.

(2) The application form shall include the following:-

(a) A declaration stating that the applicant is a transgender person as defined in section 2(i) of this Act;

(b) A declaration stating that the applicant identifies as a male or female or transgender person and wishes to be recognized as such; and

(c) Where the applicant also wishes to adopt a new name, a declaration stating such change in name.'

(3) The application form shall be accompanied by:-

(a) a recent passport size photograph of the applicant; and

(b) a report by a clinical psychologist or a psychiatrist, as defined under the Mental Healthcare Act, 2017 confirming gender incongruence of the applicant."

(43)

HON. SPEAKER: I shall now put amendment No.43 moved by Dr. Shashi Tharoor to clause 5 to the vote of the House.

*The amendment was put and negatived.*

HON. SPEAKER: The question is:

"That clause 5 stand part of the Bill."

*The motion was adopted.*

*Clause 5 was added to the Bill.*

**Clause 6                      District Screening Committee**

HON. SPEAKER: Shri N.K. Premachandran            -            Not present.

DR. SHASHI THAROOR : I beg to move:

Page 3, for lines 18 to 26, --

*substitute* "6. (1) The District Magistrate may, while examining the application referred to in section 5, call for additional documents, if necessary, to verify the contents of the said application:

Provided that no applicant shall be required to provide proof of having undergone sex reassignment surgery, hormonal therapy or other similar

medical interventions for the purpose of legal  
recognition of general identity:

Provided further that no applicant shall be subjected to any physical examination for the purpose of legal recognition of gender identity.

(2) The District Magistrate shall, after examining the application, grant a certificate recording the gender as male or female or transgender, as indicated by the applicant within a period of 30 days of receipt of such application:

Provided that where the applicant wishes to adopt a new name as provided under clause (c) of sub-section (2) of section 5, the certificate shall also record the adopted name of such applicant.

(3) The certificate referred to in sub-section (2) shall be issued in such form and manner as may be prescribed." (44)

HON. SPEAKER: I shall now put amendment No.44 moved by Dr. Shashi Tharoor to clause 6 to the vote of the House.

*The amendment was put and negatived.*

HON. SPEAKER: The question is:

"That clause 6 stand part of the Bill."

*The motion was adopted.*

*Clause 6 was added to the Bill.*

**Clause 7**

**Issue of Certificate of  
identity**

HON. SPEAKER : Shri N.K. Premachandran - Not present.

DR. SHASHI THAROOR : I beg to move:

Page 3, for lines 27 to 34, --

*substitute* "7. Every change in gender and name, as applicable, shall be published in the official gazette within a period of 60 days of obtaining the certificate referred to under sub-section (2) of section 6." (45)

HON. SPEAKER: I shall now put amendment No.45 moved by Dr. Shashi Tharoor to clause 7 to the vote of the House.

*The amendment was put and negatived.*

HON. SPEAKER: The question is:

"That clause 7 stand part of the Bill."

*The motion was adopted.*

*Clause 7 was added to the Bill.*

**Clause 8                      Change in gender**

संशोधन किए गए :

पृष्ठ 4, पंक्ति 31 से 33 के स्थान पर प्रतिस्थापित करता हूं,-

लिंग में परिवर्तन।

“8. (1) धारा 7 की उपधारा (1) के अधीन प्रमाणपत्र जारी करने के पश्चात्, यदि उभयलिंगी व्यक्ति पुरुष या महिला के रूप में अपने लिंग में परिवर्तन के लिए शल्यक्रिया करवाता है तो ऐसा व्यक्ति इस निमित्त उस चिकित्सा संस्था, जिसमें उस व्यक्ति ने शल्यक्रिया करवाई है, के चिकित्सा अधीक्षक या मुख्य चिकित्सा अधिकारी द्वारा जारी प्रमाणपत्र के साथ जिला मजिस्ट्रेट को पुनरीक्षित प्रमाणपत्र के लिए ऐसे प्ररूप और ऐसी रीति में आवेदन करेगा, जो विहित की जाए।” (10)

पृष्ठ 5, पंक्ति 2 “उपधारा (1) के अधीन किसी आवेदन की प्राप्ति पर और जिला छानबीन समिति द्वारा की गई सिफारिशों पर” के स्थान पर “उपधारा (1) के अधीन प्रमाणपत्र के साथ और ऐसे प्रमाणपत्र की शुद्धता के प्रति समाधान हो जाने पर” प्रतिस्थापित करता हूं। (11)

पृष्ठ 5, पंक्ति 5 “वह व्यक्ति, जिसे पुनरीक्षित प्रमाणपत्र जारी किया गया है” के स्थान पर “वह व्यक्ति जिसे धारा 7 के अधीन प्रमाण पत्र या पुनरीक्षित प्रमाणपत्र जारी किया गया है” प्रतिस्थापित करता हूं। (12)

पृष्ठ 5, पंक्ति 8 “उपधारा (1)” के स्थान पर, “उपधारा (2)” प्रतिस्थापित करता हूं। (13)

(श्री थावर चंद गहलोत)

HON. SPEAKER: Shri N.K. Premachandran - Not present.

DR. SHASHI THAROOR : I beg to move:

*substitute* "8(1) The certificate granted by the District Magistrate under sub-section (2) of section 6 or the publication in the official gazette under section 7, shall be valid for the purpose of changing one's gender and name (where applicable) in all official identity documents, whether issued by the appropriate Government or any other entity.

(2) All records related to the legal recognition of gender shall be kept confidential by the concerned authority and shall not be disclosed except for the purposes of this Act.

(46)

HON. SPEAKER: I shall now put amendment No.46 moved by Dr. Shashi Tharoor to clause 8 to the vote of the House.

*The amendment was put and negatived.*

HON. SPEAKER: The question is:

"That clause 8, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 8, as amended, was added to the Bill.*

**Clause 9                      Obligation of the appropriate  
Government**

DR. SHASHI THAROOR : I beg to move:

for "rehabilitation"

substitute "housing",

(47)

Page 4, line 13, --

*insert* "(6) The appropriate Government shall take measures to include an entry for 'transgender' in the sex/gender column of every document, form or application issued or used by it", (48)

HON. SPEAKER: I shall now put amendment Nos. 47 and 48 moved by Dr. Shashi Tharoor to clause 9 to the vote of the House.

*The amendments were put and negatived.*

HON. SPEAKER: The question is:

"That clause 9 stand part of the Bill."

*The motion was adopted.*

*Clause 9 was added to the Bill.*

**Clauses 10 and 11**

**Non discrimination in employment**

**and obligation of establishments**

HON. SPEAKER: Shri N.K. Premachandran - Not present.

The question is:

“That clauses 10 and 11 stand part of the Bill.”

*The motion was adopted.*

*Clauses 10 and 11 were added to the Bill.*

**Clause 12**

**Grievance redressal mechanism**

संशोधन किया गया :

पृष्ठ 5, पंक्ति 32 “एक सौ या उससे अधिक व्यक्तियों से मिलकर बना है” का **लोप** करता हूँ।  
(14)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That clause 12, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 12, as amended, was added to the Bill.*

**Clause 13**

**Right of residence**

संशोधन किए गए:

पृष्ठ 6, पंक्ति 1 “उभयलिंगी व्यक्ति” के स्थान पर, “बालक” प्रतिस्थापित करता हूँ।  
(15)

पृष्ठ 6, पंक्ति 4 “व्यक्ति” के स्थान पर, “बालक” प्रतिस्थापित करता हूँ। (16)

(श्री थावर चंद गहलोत)

DR. SHASHI THAROOR : I beg to move:

Page 4, line 24,-

*for "transgender person"*

*substitute "transgender or gender non-conforming child".* (49)

Page 4, line 25,-

*for "transgender"*

*substitute "transgender or gender non-conforming".* (50)

Page 4, line 35,-

*for "rehabilitation centre"*

*substitute "a shelter, established by the appropriate government, for as much time as desired by the transgender person".* (51)

HON. SPEAKER: I shall now put amendment Nos.49 to 51 to clause 13 moved by Dr. Shashi Tharoor to the vote of the House.

*The amendments were put and negatived.*

HON. SPEAKER: The question is:

“That clause 13, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 13, as amended, was added to the Bill.*

**Clause 14**

**Obligation of educational institutions  
to provide inclusive education to  
transgender persons**

संशोधन किया गया :

पृष्ठ 6, पंक्ति 16 "सभी शैक्षिक संस्थाएं" के स्थान पर, प्रत्येक शैक्षिक संस्था" प्रतिस्थापित करता हूं  
(17)

(श्री थावर चंद गहलोत)

DR. SHASHI THAROOR : I beg to move:

Page 4, line 38,-

for "14"

substitute "14(1)".

(52)

Page 4, after line 40,-

*insert* "(2) All educational institutions funded or recognised by the appropriate Government shall ensure inclusion of comprehensive, affirmative and accurate material on sexual, biological, physical and psychological diversity, and the human rights of people of diverse sexual orientations, gender identities, gender expressions and sex characteristics, in curricula, taking into consideration the evolving capacity of the child.

(3) The appropriate Government shall ensure inclusion of comprehensive, affirmative and accurate material on sexual, biological, physical and psychological diversity, and the



HON. SPEAKER: I shall now put amendment No.54 to clause 15 moved by Dr. Shashi Tharoor to the vote of the House.

*The amendment was put and negatived.*

HON. SPEAKER: The question is:

“That clause 15 stand part of the Bill.”

*The motion was adopted.*

*Clause 15 was added to the Bill.*

**Clause 16                      Health care facilities**

संशोधन किए गए :

पृष्ठ 6, पंक्ति 27 “पूर्व और पश्च” के स्थान पर, “पहले और पश्चात्” प्रतिस्थापित करता हूं।  
(18)

पृष्ठ 7, पंक्ति 3 और 4 के स्थान पर अंतःस्थापित करें,-

“(छ) उभयलिंगी व्यक्ति की समग्र बीमा योजना द्वारा लिंग पुनः निर्धारण शल्यक्रिया, हार्मोन चिकित्सा, लेजर चिकित्सा या किन्हीं अन्य स्वास्थ्य मुद्दों पर चिकित्सा व्यय को चुकाने के लिए उपबंध”।  
(19)

(श्री थावर चंद गहलोत)

DR. SHASHI THAROOR : I beg to move:

*after "medical expenses"*

*insert "including expenses for sex-reassignment surgery, hormonal therapy and other related medical procedures,".* (55)

HON. SPEAKER: I shall now put amendment No.55 to clause 16 moved by Dr. Shashi Tharoor to the vote of the House.

*The amendment was put and negatived.*

HON. SPEAKER: The question is:

“That clause 16, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 16, as amended, was added to the Bill.*

### **Clause 17**

### **National Council for transgender**

संशोधन किए गए :

पृष्ठ 7, पंक्ति 10 “परिषद्” के स्थान पर, “राष्ट्रीय परिषद्” प्रतिस्थापित करता हूं।  
(20)

पृष्ठ 7, पंक्ति 17 और 18 “आवास और शहरी गरीबी उन्मूलन मंत्रालय” के स्थान पर “आवासन और शहरी कार्य मंत्रालय” प्रतिस्थापित करता हूं।  
(21)

पृष्ठ 7, पंक्ति 20 “नीति आयोग” के स्थान पर, “राष्ट्रीय भारत परिवर्तन संस्थान आयोग”  
प्रतिस्थापित करता हूँ (22)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That clause 17, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 17, as amended, was added to the Bill.*

**Clause 18                      Functions of the Council**

संशोधन किया गया:

पृष्ठ 8, पंक्ति 12 के पश्चात् अंतः स्थापित करें,-

“(गक) उभयलिंगी व्यक्तियों की शिकायतों को दूर करना;” (23)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That clause 18, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 18, as amended, was added to the Bill.*

**Clause 19****Offences and penalties**

DR. SHASHI THAROOR : Madam, I beg to move:

Page 6, lines 19 and 20,-

*omit* “the act of begging or other similar forms of” (56)

Page 6, after line 31,-

*insert* “(2) Notwithstanding anything contained in the Indian Penal Code, 1860, all provisions dealing with offences under the said code shall be applicable to transgender victims of such offences.

(57)

HON. SPEAKER: I shall now put amendment nos. 56 and 57 to clause 19 moved by Dr. Shashi Tharoor to the vote of the House.

*The amendments were put and negatived.*

HON. SPEAKER: The question is:

“That clause 19 stand part of the Bill.”

*The motion was adopted.*

*Clause 19 was added to the Bill.*

**Clause 20****Grants by Central Government**

संशोधन किया गया:

पृष्ठ 9, पंक्ति 4 “परिषद्” के स्थान पर, “राष्ट्रीय परिषद्” प्रतिस्थापित करें।

(24)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That clause 20, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 20, as amended, was added to the Bill.*

*Clauses 21 and 22 were added to the Bill.*

**Clause 23**

**Power of appropriate**

**Government to make rules**

संशोधन किए गए:

पृष्ठ 9, पंक्ति 12 “अधिसूचना द्वारा” के स्थान पर “अधिसूचना द्वारा पूर्व प्रकाशन की शर्त के अधीन रहते हुए” प्रतिस्थापित करें। (25)

पृष्ठ 9, पंक्ति 20 और 21 के स्थान पर-

“(ग) वह प्ररूप और रीति जिसमें धारा 8 की उपधारा (1) के अधीन आवेदन किया जाएगा;

(गक) धारा 8 की उपधारा (2) के अधीन पुनरीक्षित प्रमाणपत्र जारी करने का प्ररूप, अवधि और रीति;” प्रतिस्थापित करें। (26)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That clause 23, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 23, as amended, was added to the Bill.*

**Clause 24**                      **Power to remove difficulties**

संशोधन किया गया:

पृष्ठ 10, पंक्ति 7 “केन्द्रीय सरकार, राजपत्र में प्रकाशित आदेश द्वारा या निदेशों द्वारा” के स्थान पर  
“केन्द्रीय सरकार, राजपत्र में प्रकाशित आदेश द्वारा” रखें।                      (27)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That clause 24, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 24, as amended, was added to the Bill.*

**Clause 1**                                      **Short title, extent and  
commencement**

संशोधन किया गया:

पृष्ठ 1, पंक्ति 6, “2016” के स्थान पर, “2018” प्रतिस्थापित करें।                      (2)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That clause 1, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

### **Enacting Formula**

संशोधन किया गया:

पृष्ठ 1, पंक्ति 1, “सड़सठवें” के स्थान पर, “उनहत्तरवें” प्रतिस्थापित करें। (1)

(श्री थावर चंद गहलोत)

HON. SPEAKER: The question is:

“That Enacting Formula, as amended, stand part of the Bill.”

*The motion was adopted.*

*The Enacting Formula, as amended, was added to the Bill.*

*The Long Title was added to the Bill.*

HON. SPEAKER: Shri Badaruddoza Khan. You may speak for only one minute.

... (*Interruptions*)

**श्री मोहम्मद बदरुद्दोजा खान (मुर्शिदाबाद) :** अध्यक्ष महोदया, मैं चाहता था कि जब बिल पर डिस्कशन हो रहा था तब कुछ बोलूंगा, लेकिन मुझे तब मौका नहीं मिल पाया। फिर भी मेरे पास जितने दो-चार पाइंट्स हैं, मैं उनको आपके समक्ष रखता हूँ।

The definition of transgender person mentioned in the Bill is not sufficient and clear. As per the Standing Committee Report, it is against global norms and violates the rights of

self-determined gender identity. A transgender person may choose to identify as man, woman, or transgender irrespective of sex reassignment surgery and hormonal therapy.

The Standing Committee Report also recommended that the Bill must include definition of discrimination. It also recommended a redressal mechanism for those facing discrimination to be included in the Bill. As per the Bill, any establishment with more than a hundred persons is required to designate a person as a complaint officer. This requirement must be extended for all establishments.

A transgender person must not be separated from parents. There is some provision in this Bill but the provision should be imposed strictly so that the transgender person can get some relief. In cases of sexual harassment, the punishment is for six months. This is not enough; it must be corrected.

In case of sports at the district, State, and national levels, under what group would these transgender people take part? There is no mention about that in this Bill. It must be made clear in the Bill.

HON. SPEAKER: The Minister may now move that the Bill, as amended, be passed.

**श्री थावर चंद गहलोत** : अध्यक्ष महोदया, मैं प्रस्ताव करता हूँ :

“कि विधेयक को यथा संशोधित पारित किया जाए।”

HON. SPEAKER: The question is:

“That the Bill, as amended, be passed.”

*The motion was adopted.*

HON. SPEAKER: The House stands adjourned to meet again on Tuesday, the 18<sup>th</sup> December, 2018 at 11 a.m.

**15 32 hrs**

*The Lok Sabha then adjourned till Eleven of the Clock on  
Tuesday, December 18, 2018/Agrahayana 27, 1940 (Saka).*

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[1] The Report was presented to Hon'ble Speaker, Lok Sabha on 4 September, 2018 when the House was not in Session and the Speaker had permitted printing, publication and circulation of the Report under Rule 280.

\* Not recorded