

15 hrs.

**STATEMENT RE: INQUIRY INTO
NOONDIH-JITPUR COLLIERY
ACCIDENT**

THE MINISTER OF LABOUR AND REHABILITATION (SHRI RAGHUNATHA REDDY) Sir, in exercise of the powers conferred under sub-section (1) of section 24 of the Mines Act, 1952, the Central Government have decided to appoint Shri R C Dutt, Retired Secretary to the Government of India, to hold an inquiry into the accident that occurred in the Noon dih-Jitpur Colliery (District Dhanbad in the State of Bihar) on the 18th March, 1973 causing loss of lives

The Central Government have also decided to appoint Shri Kanti Mehta, General Secretary, Indian National Mine-workers Federation, and Shri Lalit Burman, Secretary, Indian Mine-workers Federation, and two technical specialists to act as assessors in holding enquiry. Necessary formalities in this behalf are being completed.

Necessary notification constituting the Court of Inquiry will be issued. This Court shall make a report to the Central Government in terms of Sub-Section (4) of Section 24 of the Mines Act, 1952

MR DEPUTY-SPEAKER, Now we take up the Private Members' Business

**HINDU SUCCESSION (AMENDMENT)
BILL***

(Insertion of new Section 24A)

जेगन्नाथ राव जोशी (साजापुर) में प्रस्ताव करता हू कि—“कि हिन्दू उत्तराधिकार अधिनियम, 1956 का और संशोधन करने वाले विधेयक को वापिस लेने की मुझे अनुमति दी जाए।”

MR. DEPUTY-SPEAKER, The question is:

“That leave be granted to withdraw the Bill further to amend the Hindu Succession Act, 1956”

The motion was adopted

SHRI JAGANNATHRAO JOSHI:
Sir, I withdraw the Bill

ABOLITION OF CAPITAL PUNISHMENT BILL—Contd

by Shri N K Sanghi

MR DEPUTY-SPEAKER Now we take up further consideration of the motion moved by Shri N K Sanghi on the 9th March, 1973 —

“That the Bill to provide for the abolition of capital punishment, be taken into consideration”

Only five minutes are left. Shri Ram Niwas Miridha was on his legs on the last occasion

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F H MOHSIN) Sir, he has gone on some urgent work

MR DEPUTY-SPEAKER Can he substitute himself in the middle of the speech? I do not think this is permissible (Interruptions) The point is that Mr Ram Niwas Miridha was on his legs on the last occasion. Today he has not been able to come and Mr Mohsin wants to speak in his place. I do not think it is in order that one Minister will substitute another in the middle of the speech. Therefore I will treat the speech of Mr Ram Niwas Miridha as having been concluded, and I Call Mr Sanghi now to reply

SHRI N K SANGHI (Jalore) I am grateful to you, Sir, for giving this ruling which is in the establishment of proper parliamentary procedure

[Shri N. K. Sangli]

dure of this House. It is a matter of discourtesy that, when a Private Member's Bill has been brought before the House, the hon. Minister is not here to reply. Irrespective of the fact whether the Bill has been piloted by a member of his own party or some other party, I say, it is height of discourtesy that the Minister is not here to complete his speech. In fact, on such an important matter, we were keen to hear the views of the Government through the Minister. Not only the hon. Members of this House but the whole country is very much concerned on this. In the few lines that Shri Mirdha had opened up, he said that it was really a controversial subject. He had taken his reply to great heights, but before he could tell us what the Government's views were on this, the matter had to be postponed; the matter was not concluded, and I thought that he would give us the benefit of knowing the Government's views today. But it is unfortunate that he is not here. We are debarred from hearing the Minister on this matter.

I am very grateful to all the members who have participated in the debate on this Bill. By and large, I can say that every one who has participated, except three members, is in favour of this Bill, that capital punishment be abolished.

Shri Bhattacharyya said that most of the crimes today were due to social, economic and other reasons, and to send a person to gallows giving capital punishment is not a fair thing.

We heard Shri R. R. Sharma advocating abolition of capital punishment.

I am grateful to Shri Vasant Sathe also who has said capital punishment should be abolished, unless it is a premeditated murder. But he was particularly of the view that in cases where there was loss of life caused by destruction of public properties the railway tracks and

bridges or where there was treason or sedition, capital punishment should be kept. I would reply to this argument of Shri Sathe. But I am grateful to him that, by and large, he agrees that this should be abolished.

I am also grateful to Shri Mavalanbe kept. I would reply to this with all the valid and reasonable arguments and had dealt with legal and moral aspects of this. He has brought out the humanitarian aspect of the problem and said that we must also put in penalties keeping in view the emotional aspect. When the country is going ahead, we have to give thought to the present day development of the social requirements of the country.

I am also grateful to Shri Amarnath Vidyalankar who said that capital punishment should not be a punitive punishment. To-day we have to come to believe that capital punishment should not be awarded just because we want life for life or just because we want that the punishment has got to be there. To-day, our values are changing. We do not see to the reasoning of the old days when we used to punish people by flogging. To-day we have abolished flogging in our jails. Not only this, we are making our jails reformatories. We are allowing people to have clemency. We are allowing open-air jails. We also occasionally allow families to stay with the prisoners. That is the concept of our reformation of our convicts and I am sure abolition of the capital punishment is the necessity of the day.

I am very grateful to Shri D. N. Tiwary who said that the Government should consider that it is advisable to acquit twelve guilty men than to hang one innocent man. That is one of fundamental principle on which I have been advocating the abolition of capital punishment and we have seen some people have been sent to the

gallows though they did not commit the crime and sometimes these things have to come light later. I have drawn your attention to the Rohtas case in Bihar where somebody was sent to the gallows and after his death only it was known that the person has not committed the crime and it was at the connivance of the doctor and the Sub-Inspector of Police that he was sent to gallows

Shri B K Daschowdhury and Ramji Ram also expounded the philosophy that capital punishment has no place in our society.

I would now like to deal with the members who had opposed this Bill on the floor of the House. They are (1) Shri Mohd Koya and (2) Shri Nathuram Ahirwar and (3) Shri Stephen. They did not somehow or other agree that capital punishment should be abolished. Shri Mohd Koya said we cannot excuse the political murders committed as by the Naxalites. He said Naxalites have done a lot of crime in Bengal and they should not be left scot-free. There is sense in his reasoning but the question is that he has not looked at the whole matter in its proper perspective. What have we done with the Naxalites who have been operating in Bengal some years ago? How many people were hanged? To-day, the people who are disrupting our railways in Andhra and many innocent people have been killed and of them how many you have caught and how many have been sent or could be sent to the gallows? This is a vital question to be considered. To-day we see a lot of people rise against the Government on what they feel is right and when it is not allowed they commit some-times crimes. But what do we really do? We do not send them to the gallows. The hon. Member, Shri Mohd. Koya's argument falls to the ground that those who commit such political crimes should be sent to the gallows. I will remind the House what happened in China. Mao-tee-Tung and his follow-

ers rose in revolt against the lawful government there and threw out the government. They could have very well been sent to the gallows. But, to-day, after the rebellion, they have become the heroes of the country and they rule the government.

Naturally, the philosophy and the ideas of thinking of the Government may change and in matters of sedition where people are disrupting public property and burning post-offices and like that, I am sure this Government is not thinking of sending them to the gallows.

I am also grateful to Shri Mool Chand Daga who has advocated that this Bill be sent to elicit public opinion. Mr Krishnan also said that this matter may be sent to a Select Committee. I would have been very happy on my part if this matter was sent to a Select Committee or referred to elicit public opinion.

I have drawn your attention in my opening speech that the Prime Minister was good enough to s.v on the floor of this House that this is a very highly controversial matter and that it is agitating the minds of people and that we have to give a thought whether we should do something or other about this matter. This is one of the very important matters.

Regarding treason and sedition the recent instance of Bangla Desh Sheikh Mujibur Rehman was sentenced to gallows. He was to be hanged by the military Junta of Pakistan but the incoming President of Pakistan gave him clemency and he was let off. Increase of killings or murders has nothing to do with the abolition of capital punishment and in the present atmosphere, I would beg of the Government to abolish capital punishment in the country. In Israel they have abolished capital punishment. We are aware of what is happening in that country with trouble of the Arab Commandoes and all that. This is one of the very important

[Shri N. K. Singh]

aspects for us to consider. Shri Mirdha said Ceylon which abolished capital punishment, reintroduced it again. What happened in Ceylon? That abolished the capital punishment. Within a few months the then Prime Minister of Ceylon, Shri Bandaranayaka was murdered. I think it was one of the political reasons why it was reintroduced in Ceylon. I would quote to him instances to prove that the numbers of murders etc. have not increased due to abolition of capital punishment.

I would like to quote to you from the report of the Law Commission. In Travancore and Cochin capital punishment was abolished in the year 1944. It was re-introduced again in 1951 when Travancore-Cochin joined the Indian Union. The following figures will show the rate of increase of decline from the year 1944 to 1951.

1944	—	123
1945	—	133
1946	—	148
1947	—	168
1948	—	203
1949	—	140
1950	—	164
1951	—	188

For 1952 to 1955 the figures are 165, 200, 171, 129 and 114 and it will be seen from this that with the re-introduction of capital punishment, the number of murders taking place have not been reduced.

With these few words, I suggest that Government should accept my plea for abolition of capital punishment and since the hon. Minister has not replied to my question it is very difficult for me to know what is the way in which Government wants to move, in this direction. I request the House to be good enough to pass this

Bill which I have introduced in the House. Thank you.

MR. DEPUTY-SPEAKER: I will now give a chance to Mr. Mohsin. Mr. Mohsin is not Mr. Mirdha. I will do that under rule 358(3) which says:

“A member who has moved a motion may speak again by way of reply, and if the motion is moved by a private member, the Minister concerned may, with the permission of the Speaker, speak (whether he has previously spoken in the debate or not) after the mover has replied.”

And, according to the definitions, the term “Member in charge of the Bill” means:—

“The Member who has introduced the Bill and any Minister in the case of a Government Bill.”

Mr Mohsin.

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F. H. MOHSIN): I am very much thankful to you, Sir for the opportunity given to me. In the first instance I must apologise for the absence of my senior colleague Mr Mirdha. Of course, this is not deliberate. He had to go on an urgent work but all the same, it is a mistake for which I apologise to you and to the hon. Members of the House.

I may be permitted to touch a few points which the honourable Mover and the other Members dealt with. This is a very important Bill. This is also of a controversial nature as my senior colleague has already said.

As the hon. Member who moved the Bill has pointed out, this question has been under discussion for many years.

In recent years, I may quote that in the year 1956 Shri Mukundlal Agarwal introduced a Private Member's Bill. In 1966 Prithvi Raj Kapoor also introduced a resolution and that was

discussed in the Rajya Sabha. Then again in the year 1961, Diwan Chamanlal moved a Resolution in the Rajya Sabha. Then again, in 1962, Shri Rajgurunath Singh, a former Member of the Lok Sabha, moved a resolution to this effect. So, this matter is under discussion since many years past and Government has considered time and again about this problem. These things were being considered by the Law Commission and as the Member is also aware the Law Commission have made their own recommendations in their Thirty-fifth Report. I may read out the recommendations of the Law Commission regarding the abolition of capital punishment. The main recommendation of the Law Commission is:

"having regard, however, to the conditions in India, to the variety of the social upbringing of its inhabitants, to the disparity in the level of morality and education in the country, to the vastness of its area, to the diversity of its population and to the paramount need for maintaining law and order in the country at the present juncture, India cannot risk the experiment of abolition of capital punishment. Arguments which would be valid in respect of one area of the world may not hold good in respect of another area, in this context. Similarly, even if abolition in some parts of India may not make a material difference, it may be brought with serious consequences in other parts. On a consideration of all the issues involved, the Commission is of the opinion that capital punishment should be retained in the present state of the country."

That is the main recommendation of the Law Commission. It is clear that the Law Commission has given its decision against the abolition of the capital punishment. In some of the countries it is true the capital punishment has been abolished. In countries where the capital punishment has been abolished the number of murders is definitely less. For example, in Sweden the propor-

tion of murders to the population at the time when the death sentence was abolished was four to a million population. In Netherland it was three to a million population. In Great Britain the average for the first fifty years of the century was 3.89 murders for a million population. Compared to these figures the murder rate in India is exceedingly high and it is more than thirty per million. The capital punishment was introduced in India since many years back. The European countries where there is abolition of capital punishment, or has been allowed to fall into disuse, are Belgium, Denmark, Finland, Holland, Iceland, Italy, Luxemburg, Norway, Portugal, Rumania, etc. In the U.S.S.R. it has been retained for murder. Austria had abolished capital punishment, but re-introduced it, and even included 'arson' in the list of capital offences. In the U.S.A. six states have no capital punishment, nine States restored it after having been without it for periods varying from 2 to 28 years. So, Sir, there have been such fluctuations in the very thinking about the abolition of capital punishment in these various countries.

All the countries of the British Commonwealth have retained capital punishment except that in Queensland and New Zealand it was abolished in 1941 and reintroduced in 1950. As our friend has already said, in Ceylon it was abolished and again revived after the murder of Shri Bandaranaike. I do not know why it was done; he says it was for political reasons. I cannot give my opinion about it, but they thought it worthwhile to reintroduce it. Even in UK, the death penalty was suspended in 1965 for five years, but in 1969 again they thought of continuing it for an indefinite period.

So this is the situation of capital punishment in other countries. For the information of members, I would quote the figures of murders in our country. I have figures upto 1970 of murders committed in the country. In 1961 the figure was 1,602. Slowly it went on increasing and in 1969 it

[Shri F. H. Mohsin] came to 14,732 This is an enormous number

SHRI N K SANGHI How many sent for capital punishment?

SHRI F H MOHSIN I will come to that I have the figures of the numbers of sentences of death In 1951 it was 558, 2,551 persons were awarded transportation for life or penal servitude In 1956, 533 persons were sentenced to death and 2,762 were awarded transportation for life or penal servitude I will quote the figures for 1966 because it may take a long time to quote the full statistics In 1966, 457 persons were sentenced to death and the persons executed were only 11 Even after the award of sentence of death some went to the appellate courts Then there was clemency So the numbers actually sent to the gallows—which are revealing—are

1951	62
1956	25
1959	77
1960	98
1961	48
1962	52
1963	76
1964	68
1966	11 only

Looking to the number of murders over 14 000 in one year the number actually sent to the gallows is less than 100 in all years So it means that the persons actually sent to the gallows are not many

MR DEPUTY-SPEAKER He should not take a long time

SHRI K S CHAVDA (Patan) The Hon Minister is pleading against abolition of capital punishment May I say that the Home Minister in the Penal Code (Amendment) Bill which is before a Joint Committee has proposed the abolition of capital punishment?

SHRI F H MOHSIN Let him have patience I am only giving the figures not expressing an opinion

SHRI K S CHAVDA: The Minister has got an open mind

SHRI F H MOHSIN. Surely an open mind

Even now also I have an open mind because Parliament is already seized of the matter in a Bill

Shri Daga and others have made a very philosophical speech They have brought in Vedanta also and have quoted the Bhagvat Gita

He quoted

नैनं छिन्दन्ति शस्त्राणि नैनं दहति पादक
न च न क्लदयव्यापा न शापयति मरुत ।।

So they say that even when the person dies, the *Atma* will always remain The *Atma* is not burnt or made wet I would quote another sloka in this respect

जातस्य किं धवा मृत्युश्च जन्म मनस्य न

A man who is born must die And a man who is dead is reborn according to the Hindu religion

MR DEPUTY-SPEAKER The hon Member's time is up

SHRI F H MOHSIN I am only replying to him There is another aspect also I would like the Member to note that all these punishments given in the Indian Penal Code were meant to safeguard the society against bad elements

Now there are one set of people who sympathise with the man who is going to the gallows who is condemned to death But we forget the man who is murdered and his family and children We have to think of both the families of the person who is murdered and of the person who is going to the gallows Many times it has been our experience that one murder leads to many Even when the accused is acquitted by the district court or the high court, there have been many instances where people take revenge even in the precincts of the court So it is the aggrieved party who will take recourse to revenge even if the accused

is let off by the courts. We have, therefore, to take this aspect also into consideration, namely the family of the murdered man. However our thinking is that society has changed and Government thinking has also undergone a change since all these years and we are thinking of taking corrective measures as to how to correct a man who is not basically criminal-minded. We do accept the principle that man is not born a criminal. He can be corrected also wherever it is possible. But we have to think of extreme cases, where a man has committed a series of murders just as was found in Bombay where one Ranganathan or somebody—I do not remember the details—was said to have committed hundreds of murders. What about those families who lost their earning member? We have to think of such hardened criminals who should be punished only by the award of death penalty and nothing short of it.

These are two sets of opinions. However a Bill has been already brought before the House seeking to amend the Penal Code and certain sections under which capital punishment is being awarded are proposed to be taken away from the Bill. Besides section 302 there are only six or seven other sections in the Penal Code—Sections 121, 132, 194, 303, 307, 391—for which the death penalty has been prescribed in the Bill. As regards the other offences it is proposed that the capital punishment may be taken away. However, Parliament is seized of the matter and the Indian Penal Code (Amendment) Bill is before the House. It has been referred to the Joint Committee. The Members will have ample opportunity

SHRI N K SANGHI Sir, am I to understand from the hon. Minister that he has given a direction to the Committee that under sections 192, 194, 303, 307, etc., the death penalty may be removed in case the Committee comes to that conclusion?

SHRI F H MOHSIN We have not given any direction. The Bill is before the House.

MR DEPUTY-SPEAKER How can the Minister give a direction to the Committee? He can only appear before the Committee.

SHRI F H MOHSIN The Bill is before the Committee and the Committee can take whatever decision they like. It is not for us to give any direction to any Committee. It is not true if the hon. Member has got that information. So the Committee is seized of the matter, and after the Committee report is laid before the House surely the House may take any decision as they like.

As I have already said the Government have got an open mind over this issue. Let this be discussed in detail and a decision be taken by the House. So I would appeal to the Members not to press this Bill.

SHRI N K SANGHI May I speak for just two or three minutes?

MR DEPUTY-SPEAKER You can only say whether you respond to the request made by the Minister. You cannot make a second speech. It is against the rule. I cannot allow it.

SHRI N K SANGHI In view of what the hon. Minister said, namely that the Bill to amend the Indian Penal Code is already before the Committee of Parliament, I request the pleasure of the House to withdraw the Bill.

MR DEPUTY-SPEAKER I shall now put SHRI M C DAGAS' amendment for circulating the Bill for public opinion.

The question is

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st October, 1973.” (1)

The motion was negatived.

MR. DEPUTY-SPEAKER: Now, the question is.

"That leave be granted to Shri N. K. Sanghi to withdraw his Bill".

The motion was adopted

SHRI N. K. SANGHI. Sir, I withdraw the Bill.

15.30 hrs.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

(Amendment of section 8) by Shrimati Subhadra Joshi

MR DEPUTY-SPEAKER Now, we shall take up the Bill further to amend the Representation of the People Act, 1951 by Shrimati Subhadra Joshi.

श्रीमती सुभद्रा जोशी (चादनी चौक) उपाध्यक्ष महोदय, मैं "रिप्रजेंटेशन ऑफ़ दी पियूपिल एक्ट, 1951" को आगे अमेन्ड करने के लिये अपना बिल मूव करती हूँ।

उपाध्यक्ष महोदय, पिछली लोक सभा के सदन ने एक ऐसा कानून पास किया था जो क्रिमिनल-ला-एमेन्डमेंट बिल के नाम से जाना जाता है। उसके अन्दर जो धारा 153 (बी) जोड़ी गई थी, उसके मुताबिक अन-लाफुल एक्टिविटीज़ की परिभाषा भी बदल दी गई थी और यह कहा गया था कि जो लोग ऐसी ट्रिजल, एक्सरसाइज़ या इस किस्म, की हरकतें करें, जो क्रिमिनल ला एमेन्डमेंट बिल के अनुसार अपराध हों तो उनको भी 153 (बी) के अन्तर्गत लिया गया था। उसका उद्देश्य यह था कि जो लोग प्रोपेगन्डा करें, जाति के नाम से, धर्म के नाम से, रैस के नाम से, भाषा के नाम से मनफरत फैलाये, उसके लिए ट्रिजल या एक्सरसाइज़ करें जिससे कि दूसरे लोग डरे और उनमें गंकरत फैले तो क्रिमिनल कोड के मतानुसार उसको भी अपराध समझा जाये।

उस समय होम मिनिस्टर साहब ने यह कहा था—यह इस लिये आवश्यक है कि अगर एक आदमी किसी दूसरे को नुकसान पहुंचाता है या उसके खिलाफ प्रचार करता है तो सजा पा सकता है। लेकिन अगर कोई समूह उस अपराध को करता है, तो वह कुमूर नहीं समझा जाता है, तो इस उद्देश्य से वह कानून पास किया गया था।

15.32 hrs

[SHRI K N TIWARY in the Chair]

मेरा जो अमेन्डमेंट पियूपिल रिप्रेजेंटेशन एक्ट में है, वह यह है कि जिस तरह से आप ने इस कानून की धारा 152 (ए) के अन्तर्गत एमे व्यक्ति के लिये सजा रखी है कि वह 6 साल के लिये डिस्कवालीफाई कर दिया जाता है, किसी विधान-सभा या लोक-सभा के चुनाव के लिए खड़ा नहीं हो सकता, उसी तरह में आपने जो क्रिमिनल ला एमेन्डमेंट बिल पास किया था और उसमें जो दूसरी धारा 153 (बी) जोड़ी थी, उसी तरह की व्यवस्था इसमें भी हो कि जो 153 (बी) के मुताबिक सजा पा जायेगा उसको भी विधान सभा या लोक सभा में या ऐसी जगहों में लोगों का प्रतिनिधित्व करने की इजाजत नहीं होगी और वह भी 6 साल के लिए डिस्कवालीफाई कर दिया जाएगा।

सभापति महोदय, यह कानून इतना आवश्यक था कि लोक सभा ने उस को पास कर के अपना कर्तव्य तो पूरा कर दिया लेकिन उस कानून को सरकार ने अभी तक लागू नहीं किया है। इस तरह नफरत फैलाने या दंगे फिसाद कराने के पीछे क्या उद्देश्य है? ये दंगे फिसाद, जो कभी भाषा के नाम से, कभी धर्म के नाम से, कभी रिजन के नाम से, कभी सूबे के नाम से—इस लिये फैलाये जाते हैं कि वे लोग उस के जरिये ताकत में आने की कोशिश करते हैं। अगर लोक सभा ऐसा कानून बना दे कि वे लोग पाकड