

LOK SABHA

SYNOPSIS OF DEBATES*

(Proceedings other than Questions & Answers)

Monday, August 5, 2019 / Shravana 14, 1941 (Saka)

OBSERVATION BY THE SPEAKER

HON. SPEAKER: Hon. Members, the biggest temple of Indian Republic, the Parliament House has completed 92 glorious years of its existence. All political decisions are taken in this building which holds the distinction of being the temple of the largest democracy of the world. Ever expanding horizons of democracy since independence has obviously entailed the accountability of this sacrosanct and great heritage of the country thereby substantially adding to the aspirations of the nation. Seeing that, we all harbour aspirations to witness the Parliament House of the largest democracy of the world as the most magnificent, attractive and well equipped with state of the art technology. At a time when we are going to complete 75 years of our independence, we have a dream to transact the proceedings of Parliament sitting within a building with all kinds modern

* Hon. Members may kindly let us know immediately the choice of language (Hindi or English) for obtaining Synopsis of Lok Sabha Debates.

technological devices. Therefore, I would like to urge upon the hon. Prime Minister to make endeavours to fulfil the resolve of making a New India on attaining 75 years of independence in the year 2022.

This House urges upon the hon. Prime Minister to help us translate our cherished dream of sitting in the completely transformed and well equipped Parliament in the year 2022 on completion of 75 years of our independence. We all do share the vision of witnessing Parliament of India as the most splendid temple of democracy of the world.

**THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL,
2019**

THE MINISTER OF STATE IN THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (SHRI KRISHAN PAL) *moving the motion for consideration of the Bill, said:* Transgender persons are discriminated against in our society. The Government has brought this Bill for protection of their rights. The Government will certainly consider the suggestions of hon. Members on this subject.

SHRIMATI APARAJITA SARANGI *initiating said:* This is a historic piece of legislation which has the potential to change the lives of lakhs of transgender persons in our country. There are about 19 lakh transgenders in our country of which around 4779 stay in my State Odisha. The hon. Supreme Court judgement in 2014 termed the transgenders as ‘third gender’. The earlier proposal of identification of the transgenders through a District Screening Committee has been scrapped. Now a person will be going through self-identification exercise and the District Magistrate will issue a certificate to that effect. This is definitely a very progressive step taken by the Ministry. Begging for this particular segment has also been decriminalized. And most importantly, the Bill envisages to set up a National Council which will be monitoring the welfare measures taken up for the welfare of the transgender persons. The Bill prohibits discrimination against transgender persons in every area.

SHRIMATI SATABDI ROY (BANERJEE): Transgender persons are absolutely different mentally, physically and emotionally. The society must embrace them. The Government should arrange habitation for them. We need to empower them financially and educationally. They should also get opportunities in jobs. The society needs to be sympathetic with them because they are not responsible for their condition.

SHRIMATI VANGA GEETHA VISWANATH: This Bill is aimed at recognizing and protecting the rights of the transgender persons who face a lot of discrimination and disrespect in the society. They are mostly excluded from all privileges which may lead to bias and injustice to them. They are even thrown from their own families and villages. Every transgender persons shall have right to reside and be included in his household. We find that getting a residence for members of this community is the most difficult thing. The minds of the people are so prejudiced that it is very difficult to change things at the ground level. The Bill provides for the educational institutions, sports and recreational facilities for transgender without discrimination. I have a major concern regarding educational and healthcare facilities to transgender persons. The Constitution of National Council for transgender persons is a welcome step in this direction. If we provide them job opportunities, they need not beg or do any anti-social activity as they are accused of.

PROF. ACHYUTANANDA SAMANTA: I rise to speak in favour of the Transgender Persons (Protection of Rights) Bill, 2019. The Bill addresses problems ranging from social exclusion to discrimination, lack of educational facilities, unemployment, lack of medical facilities and so on. It bolsters their right to live a life with dignity. Lack of access to education and non-availability of jobs often forces them to take to begging and prostitution. I hope that through this Bill

their condition will be made better definitely. Many transgenders have proved their worth by becoming judges.

SHRIMATI SANGEETA KUMARI SINGH DEO: This Bill is about social inclusion and protection of fundamental rights of the transgender community. Through this legislation, the transgender community will have a legal record in case of violation of their rights. If we want to bring them into the mainstream of our society, then we have to treat them at par with other citizens of the community. I would request the hon. Minister kindly to incorporate their right of inheritance into the bill. The welfare measures taken by the Government are commendable. But the parents of the transgender child cannot wash their hands off financial responsibility. I would like to request the hon. Minister that the right of adoption of transgender should also be addressed.

SHRI JAYADEV GALLA: This Bill will pave the way for bringing self-respect and dignity to a marginalized society. This Bill substantiates that we have not been treating transgender as per what the Constitution mandates us to do. So, it is a laudable move. I had gone through the Bill and did not find a provision treating transgender as OBCs as per an earlier judgement of the Supreme Court. So, I request the hon. Minister to please consider this. With these observations, hoping that my suggestions will be taken into consideration, I support the Bill.

SHRIMATI KIRRON KHER: I rise to support the historic Bill. This Bill established a law for lakhs of transgender persons who have been deprived of their rights. To bring the marginalized communities to the centre is a core objective of this Bill. It is shameful that access to basic facilities and basic services is not given to them. This is the more failure. The State Governments and the Central Government will prepare their own Health Manual. I would like to say that it is this Government which has stood by the marginalized whether it is was the Muslim women, whether it was the SCs, STs and now, the transgenders who have always been respected in Indian society.

SHRI P. RAVEENDRANATH KUMAR: This Bill will benefit a large number of transgender persons, will mitigate the stigma, discrimination and abuse against this marginalized section and bring them into a normal society. This Bill stipulates that no establishment shall discriminate against transgender persons in matters relating to employment, recruitment, promotion and other related issues. I welcome this Bill.

DR. VIRENDRA KUMAR: I would like to thank the Prime Minister of the country and the Minister of Social Welfare and Empowerment for bringing in this Bill for the protection of the rights of the transgender persons and for their welfare. This Bill has been amended as per the recommendations made by the Parliamentary Standing Committee. The transgender persons are viewed with a

discriminatory approach in our society. Hence, all the possible efforts are required to be made to bring them into the mainstream of the society. I support this Bill which is intended to provide opportunities of education, employment and healthcare facilities to the transgender persons.

SHRI KALYAN BANERJEE: I am supporting the Transgender Persons (Protection of Rights) Bill, 2019.

DR. (PROF.) KIRIT PREMJI BHAI SOLANKI: I would like to express my heartfelt gratitude to my Government for bringing in the Bill in this temple of democracy in order to sort out the problems of the transgender persons. This Bill aims at eliminating all sorts of discriminations being meted out to them. We should also ensure that they are not discriminated against in matters of their employment and promotions. The transgender persons have to face a number of health related issues due to the unscientific procedure of transformation into eunuch. That's why, I would like to urge upon the Government to ensure that the procedure of transformation into eunuch is undertaken through cervical surgery in a hospital. They need to be provided the opportunities of education and employment in order to bring them into the mainstream of the society.

SHRI KAUSHLENDRA KUMAR: Even today the transgender persons are subject to social boycott and discrimination in our society. They have to face a

number of difficulties in the pursuit of earning their livelihood. Not only that, they are compelled to take recourse to begging. This Bill provides for adequate measures for the recognition of the identity of the transgender persons, equal opportunity of education and employment, social security and healthcare facilities along with eliminating the discrimination being meted out to them. At the same time, such a mechanism is required to be set up that may facilitate the persons of this community to avail of the pension benefits. With these words, I support this Bill.

SHRI AJAY MISRA TENI: I rise to support the Transgender Persons (Protection of Rights) Bill, 2019. The way this Government is making efforts to provide proper education, healthcare facilities and employment opportunities to all along with ensuring a quality and uncomplicated life for them irrespective of their caste, religion and community shows that our Government is a sensitive Government. The transgender persons would constantly face discrimination right from their home to the society. So, the Supreme Court had issued directives direct to the Central Government and the State Governments on 15th April 2014 to take various steps for the welfare of the transgender community. The Government has defined the transgender persons and made a number of provisions for the protection of their rights in this Bill. We have taken a slew of measures to remove the difficulties of the transgender children through this Bill. The Bill provides for

27 such provisions that may facilitate the transgender persons to avail of the benefits of all the schemes being implemented by the Union Government without being subjected to any discrimination. Our Government has decided to constitute a National Council for the protection of the rights of the transgender persons. Our National Council has been entrusted with the task of preparing policies, programmes, legislation and projects for the transgender persons. A effort has also been made to eliminate all sorts of discriminations in the matters of their education and employment through this Bill. Under this Bill, provision have been made to issue certificates to transgender persons. Our Government would provide the benefits of welfare schemes to transgender persons without any discrimination. I would also like to request the Government to provide reservation benefits to transgender persons in jobs. Apart from that, facilities like housing, toilets, electricity and cooking gas should be provided to these persons. Our government has made an endeavour to bring them into the mainstream of the society so that their capabilities could be used in the nation building.

DR. SANJAY JAISWAL: Today, this country is making an honest effort to provide justice to transgender persons. Till now, transgender persons were deprived of their rights in this country. Now, efforts are being made to ensure them their rights. Through this Bill, they will get a certificate to this effect. Apart from that, right of residency is also being provided to them. Through this Bill, all

the discrimination against these persons has been done away with. This is for the first time, a National Council for transgender persons is being constituted. Representation of NITI Aayog would also be ensured in this Council so that all the schemes could be formulated in the country with a greater focus on transgender persons. So I would like to request all the hon. Members to support this Bill unanimously and create a new history in this country.

SHRI MANOJ TIWARI: It is a matter of immense pleasure for me that most of the demands of the transgender persons have been incorporated in this Bill. A demand was also made to bring a stringent law with regard to the cases of harassment, rape and murder against transgender persons. Similarly, there is also a need to provide reservation in various sectors to these persons. Moreover, people need to change their view and inculcate positive feeling towards them. Similarly, arrangements should be made to provide education, job and skill development to them. A demand has also been made with regard to providing shelter for the transgender persons who have been thrown out from their families. Moreover, instead of rehabilitation, focus should be given on their skill building and providing them soft loans for entrepreneurship. I would request that this Bill should be passed unanimously.

SHRI VINAYAK BHAURAO RAUT: Today, an important section of the society is being conferred their rights through this Bill. There are lakhs of

transgender persons in our country and particularly in Mumbai their number is more than three lakhs. They had been a life with a bleak future. Now, through this Bill, all of their problems have been done away with. This Bill opens the doors for education, jobs etc for them. If any person tries to perpetrate any injustice against transgender persons, then they can approach the court. Apart from that, Government has also made provisions regarding funds through this Bill, however, there is also a need to provide funds to the State Governments. Once again, I would like to thank the Government for providing justice to one of the deprived sections of this country through this Bill.

PROF. S.P. SINGH BAGHEL: As per the anatomy of human body, the systems of our body and that of transgenders is same. They should not suffer just because of some fault by nature in their reproductive system. They should not be ill-treated due to some shortcoming in only one organ of the body. This Bill provides for giving recognition to the identity of the transgenders, to end discrimination against them, adopt welfare measures for them, setting up of a national council for the education, social security and health of transgenders. Till now, they had to remain deprived of their civil rights. According to a survey, around 40 per cent of the total population of the transgenders had to face psychological violence, physical molestation, rape, inequality, discrimination in jobs and prejudice in educational institutions. Not only this, they were abandoned

by their parents. They had to face atrocities like no reservation in jobs, disinherited from their property rights, forcibly challaned by police under sections of obscenity etc. Sex change operations by transgender people should be made completely free.

SHRI JANARDAN SINGH SIGRIWAL: Transgender community in the country is a community which is most marginal because they do not fit under the general categories of male or female. As a result thereof, they have had been facing problems like social boycott, discrimination, lack of educational facilities, unemployment, lack of medical facilities etc. Today, the Government has tried to bring equality to them. In clause 6 of this Bill, a provision has been made for the education, social security and health of the transgenders separately. The Government has been taking not only one but many welfare measures for them. There is a provision for constituting a national council for the transgenders. A facility of pension could have been provided to them on the lines of handicapped persons. This Bill will remove the pain or harassment faced by the families, especially the parents on the birth of transgender children. This Bill will provide to the transgenders not only the Right to Equality in the society but also remove the feeling of being a separate category from their mind. Today is an historic day, I support this Bill.

SHRIMATI QUEEN OJA: Only we have discriminated against the people of transgender community in the society. The society has not tried to understand their feelings. They also have the right to live in the society but they have to get separated from their family itself. Due to lack of understanding, the parents abandon their transgender children. Now, after the passing of this Bill, the parents will not behave with their transgender children in this manner because now they will not be required to give answer to the questions raised by the society. It is a very important Bill and our Government deserves accolades for that because this Bill has been brought to reform the society.

THE MINISTER OF STATE IN THE MINISTRY OF JAL SHAKTI AND MINISTER OF STATE IN THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (SHRI RATTAN LAL KATARIA) *replying said:* Today, the Transgender Bill was discussed in the House in which 18 hon. Members took part and expressed their important views. This Bill talks about the protection of the interests of the transgenders like to provide penalty for the crimes committed against the transgenders, and setting up of a national council for protection of their interests. In the year 2014, a ruling by the Supreme Court granted recognition to the transgenders as the third gender. Supreme Court had also given various instructions for the protection of their interests. Even after so many years of independence, there was no law for the protection of their interests. A number of

complaints of various kinds of discrimination like sexual exploitation have had been received. On many occasions they were even made to face humiliation in public places. A few people would not let them their house. Under such circumstances, the Government was faced with a grave issue as to how to provide a dignified life and take care of their health profile which has led to bringing in a comprehensive Bill in this House. I appeal to all the Members of this House to pass this Bill unanimously so that we can protect the interests of transgenders.

The Bill was passed.

THE SURROGACY (REGULATION) BILL, 2019

THE MINISTER OF HEALTH AND FAMILY WELFARE; MINISTER OF SCIENCE AND TECHNOLOGY, AND MINISTER OF EARTH SCIENCES (DR. HARSH VARDHAN) moved that the Bill to constitute National Surrogacy Board, State Surrogacy Boards and appointment of appropriate authorities for regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto, be taken into consideration. In recent years, India has emerged as a hub for surrogacy especially for couples from other countries. There are about two to three thousand surrogacy clinics running illegally in the country and the whole issue is thoroughly unregulated. There have been reports concerning unethical practices including exploitation of

surrogate mothers. The 228th report of the Law Commission had recommended that the Government should enact legislation. Besides assurances given by various Governments, there was also a Public Interest Litigation in the Supreme Court and the Supreme Court had also suggested to the Government that there should be a law to regulate surrogacy in the country. I would like to inform the hon. Members as to what is the international scenario right now. Commercial surrogacy is banned and is considered illegal in many countries. There are only two or three places in the whole world where it is allowed, that is, in Russia, Ukraine and California, province of USA. The European Parliament also recently condemned the practice of surrogacy. The purpose of the Bill is to ensure effective regulation of surrogacy, prohibit commercial surrogacy and also allow ethical surrogacy. It will also prevent exploitation of surrogate mothers and children born through surrogacy. I think, this is a very important social issue. I would request this House to pass this unanimously.

DR. KAKOLI GHOSH DASTIDAR *initiating said:* I stand here to support this Surrogacy (Regulation) Bill, 2019. This is actually being brought before the ART Bill, which is not right. This is all a hullabaloo. I cannot speak.

PROF. RITA BAHUGUNA JOSHI: I congratulate hon. Minister for bringing this Bill on such a sensitive issue. I feel that parenthood is the most satisfying and the most beautiful experience for a married couple. We all know

that there may be several reasons for a woman not able to give birth to a child. Some individuals want that their body should not bear the burden of giving birth to a child and they should get a child using some alternative method. Therefore, this is an alternative to giving birth to a child in a natural manner. The Indian Council of Medical Research issued the guidelines and legalized surrogacy, but there was no legislative backup to these guidelines. Gradually, surrogacy has become an industry worth Rs.25 thousand crore. About 2000 to 3000 foreign couples come to India for surrogacy each year. This legislation was needed because the body of the woman was being exploited or was likely to be exploited. Are we making a woman a factory of producing children? We all know that there is a large number of people belonging to the weaker sections in our country. Such women do not even know on what grounds a contract has been signed with them. The middleman makes maximum profit in such a scenario. Surrogacy also leads to health issues in women. I am glad that our Government has been bringing various Bills for the overall well-being of the women. Only such married couples could go in for surrogacy who do not get child upto five years after marriage and they will have to submit a certificate also in this regard. The age of the woman should be from 23 to 50 years and that of man from 26 to 55 years. The Bill also provides for regulating the surrogacy clinics. The intended parents will have to get insurance for the surrogacy mother. The child born out of surrogacy will have the same right as that

of their own child. It is our bounden duty to keep the women safe and healthy. This should also be linked with Aadhaar as it will ensure that the woman cannot go in for surrogacy more than once. I would, therefore, like that this Bill may be passed unanimously.

DR. BEESETTI VENKATA SATYAVATHI: The Bill is introduced for regulation of the practice and process of surrogacy. The global infertility rate is also increasing. As we are increasing the scientific technologies, surrogacy has come into existence. The eligibility criteria for intending couple are to mandatory have as certificate of essentiality and a certificate of eligibility. I would also like to bring to your kind notice about some issues which are to be defined in this Bill. Close relative is not defined. The other point to be considered is authorization for termination of pregnancy if in the process of surrogacy, sometimes the surrogate mother of the intended couple do not want the surrogate child, the rules should also be framed correctively. An abortion of the surrogate child requires written consent of the surrogate mother and an authorization by the appropriate authority. If a child being born out of surrogacy arrangement is at the risk of physical or mental abnormalities, under the Bill, only the surrogate mother's consent will be required to abort the child. This Bill does not allow the storage of embryo or gamete for surrogacy. This prohibition may have adverse health implications for the intending mother.

DR. SUBHAS SARKAR: This is an important Bill. I would like to request all the Members of this House to support this Bill. My suggestion to the hon. Minister is that the waiting time of five years after marriage should be minimized to two years. Further, the National Surrogacy Board should allow any friend of the couples to become a surrogate mother.

SHRI KESINENI SRINIVAS: I applaud the Government for their effort to regulate the practice of surrogacy. I request the Minister to reconsider the provision which lays down the waiting time of five years. The Bill should define 'close relative' term clearly. I also request the Minister to ensure anonymity of the surrogate. There should not be any overlap of authority between the national and state level boards. The Bill must provide a review and appeal procedure for surrogacy applications which would give couples the right to challenge the decision of the Boards. There should be single uniform agenda to guide doctors or patients. The Government should invite successful surrogacy specialists on board and consult with them to give a decent plan for the aspiring parents.

SHRI P. RAVEENDRANATH KUMAR: I rise to support the Surrogacy (Regulation) Bill, 2019. My suggestion to the hon. Minister is that considering the health point of view of the intending mother, the existing provisions in Indian Council for Medical Research guidelines, 2005 should be continued which allow the storage of eggs for a period of five years.

SHRI LAVU SRIKRISHNA DEVARAYALU: I want the Minister to frame this Bill in such a way that it regulates rather than restricts the practice of surrogacy. The Bill should clearly define the term 'close relative' and this restriction should be done away with. Second, the provision of five years of waiting period after the marriage should not be there in the Bill. We should also allow the people who are having same sex relationship of having a baby through surrogacy. The Bill should provide insurance cover for six years from the date of confirmation of pregnancy. The Bill also need to clarify as to how the NRIs, PIOs and OCS card holders can go through this process.

SHRI RAVI KISHAN: I would like that this Bill should be more stringent in nature so that people do not misuse the practice of surrogacy. This Bill intends to support only those mothers who are sick and cannot conceive. The practice of surrogacy should not become an industry. I thank the Government for bringing in this Bill.

SHRIMATI SANGEETA KUMARI SINGH DEO: This type of Bill should be realistic, pragmatic and difficult to circumvent and it should help the genuinely needy persons. I request the hon. Minister to widen the scope of clause 4 of the Bill. My humble submission is that provision of an egg or sperm donor should be incorporated in the Bill. Secondly, five years waiting period is too long and it runs counter to right to reproductive autonomy. As per the WHO standards,

after one year of married life, the couple should be considered infertile. In fact in a society like ours five year's wait may lead to divorce or second marriages and disturb our social fabric. Besides, the term 'close relative' has to be clearly defined. I would request the hon. Minister to widen the scope of surrogacy to members of the LGBT community, widows, divorcees, overseas citizens of India and to the PIOs.

SHRI SYED IMTIAZ JALEEL: There is no denying the fact that we need an urgent law to deal with surrogacy as in the absence of a concrete law, many illegal and unethical practices had surfaced. However, if national and State Surrogacy Boards are set up without providing for any financial expenditure, it would turn out to be a toothless tiger. Not just that, the provisions of the Bill in a way goes against Supreme Courts Puttuswamy judgement wherein it has been ruled that everyone has a right to autonomy in respect of his or her body. Besides, Section 9 of the Bill prohibits the forcing of any surrogate mother to have an abortion except in such conditions as may be prescribed. This effectively leaves no procedure for the surrogate mother to terminate the pregnancy while the law protects the bodily integrity and privacy of every woman to seek termination of pregnancy regardless of their contractual obligations. Leaving it to the administration would be violation of fundamental right to privacy. To my mind, the most vulnerable person in this equation is the surrogate mother. We must

ensure their protection and proper health care. Not just that, the Constitution recognizes every person with a disability as a full citizen with the same rights and protections as everyone else. Seeing that, allowing the couple having a physically or mentally child would not be appropriate.

SHRIMATI HEMA MALINI: Surrogacy is all about sacrifice and happiness-sacrifice by a mother and happiness for a woman, who cannot become mother. However, it is unfortunate that India has become a surrogacy hub with a rise in unethical practices. Therefore, the Government has come with the Surrogacy Regulation Bill, 2019. The path of surrogacy is adopted when women, who have medical problems or are in such conditions that they cannot conceive. At times, surrogacy is a great abiding solution even for those who are not able to adopt a child because of their age or marital status. This also includes the gays. Where there is no biological connect, the Surrogate mother merely carries the baby to term and delivers to the couple. In the wake of the passage of the Bill, there would be an effective check on the exploitation of women and the role of intermediaries would be a thing of the past. Further, as per the provisions of the Bill Indian couples legally married for at least 5 years would be allowed to exhaust the option of surrogacy. However, there are a few concerns we need to look into. In the first place, surrogate mothers should be adequately compensated for coupled with proper strict rules in place lest it should be subjected to commercialization.

Moving further, in view of the reports of the failure of altruistic surrogacy in several countries, I would like to urge upon the Minister to make the Bill more inclusive and not to restrict it to close relatives alone.

SHRI ANUBHAV MOHANTY: While the intended purpose of the Bill is well founded, there are some issues that are missing. As per the provision of the Bill, the surrogate mother has to be a close relative of either of the two partners whereas the term 'close relatives' remains undefined. My suggestion is that even a 'close relative' chooses to be a surrogate mother, she should be adequately compensated for. Further, there is no mention of any specific time frame for obtaining eligibility certificate from the competent authority by the intending couple. Besides, five years is a rather long period to be eligible, so it should be reduced to 2 to 3 years. Alongside, transgenders including unmarried couples, homosexual couples should also be included within the ambit of surrogacy. More importantly, couples with mentally or physically challenges child have been made eligible to opt for surrogacy. It's not fair. Last but not the least, complete ban on commercial surrogacy would place surrogate mothers in a dangerous situation. Therefore, I would urge upon the Minister to allow it on case to case basis subject to close scrutiny of circumstances.

SHRI UNMESH BHAIYYASAHEB PATIL: Today, India is going to be the hub of surrogacy at the global level which warranted some stringent legislation.

A lot of provisions have been made in the Bill to put a check on the commercialisation of surrogacy. However, I would like to strongly suggest to get to the bottom of the problem and do the needful to fix the issue of infertility which is on the rise for quite some time and can be largely attributed to air pollution, water pollution, lifestyle issues etc. I hold the conviction that prevention is always better than cure.

SHRI GAJANAN KIRTIKAR: Surrogacy is a viable option available to women who are not able to conceive. However, given the rampant commercialisation of surrogacy, sale and purchase of human embryo and gamete leading to potential exploitation of innocent and poor women, this Bill was essentially called for. Among the whole host of provisions contained in the Bill what assumes greater significance is that a surrogate mother will be allowed to enter into surrogacy only once in their life time. This would put a severe check on the alleged tendency of being lured to be a surrogate mother. This apart, setting up of a Surrogacy Board at the national level to regulate surrogacy is really a good step in the right direction. Lastly, I would like to suggest that inclusion of the provision of IVF and Donors' aids would prove to be very helpful.

DR. SUKANTA MAJUMDAR: I would like to congratulate the hon'ble Minister for this Bill. It will streamline the practice of surrogacy in our country. The hon'ble Minister has made a lot of provisions for ethical surrogacy in the Bill

like the setting up of National and State Boards. Board will be set up at national and state level. These Boards will advise people regarding the Central Government policy matters relating to surrogacy. The National Surrogacy Board will also supervise the state bodies. There is a regulation in the Bill that only “close relatives” can be surrogate mother and no one else could be. It has some problem as the speaker prior to me has said – ‘closeness’ is not defined here. Suppose some spouse live in orphanage who does not have any close relatives and if some infertility case comes before them, where will they approach and who will become their close relative in such a situation? I would like the Minister to ponder over this. The provisions of penalty in the Bill are very good. If you want to implement the penalty in a proper way and if you want to regulate it, some kind of inspection mechanism should be there. The inspection mechanism should be better to implement rules and regulations in a proper manner and see their effect, otherwise problem will occur.

SHRI GAUTHAM SIGAMANI PON: The present Bill is a welcome effort on the part of the Government. Regulating surrogacy is an urgent need and the regulation of the same will go a long way in alleviating the difficulties faced by the infertile couples. But the Bill in the present form is thoroughly unrealistic and self-defeating. ‘Close relative’ is not defined in the Bill. Further, a close relative surrogate may not be medically fit to be a surrogate mother. Having a known

biological mother around is a serious issue and will have a bearing on the child bonding with the intending parents, and it will surely impact the property rights and succession laws. Hence, the word 'close relative' should be removed. Altruistic surrogacy should be replaced with compensatory surrogacy as in the UK. The modalities and terms of compensation may have to be worked out and legalized. The five-year duration after marriage is not correct particularly in those cases where some congenital defects or serious medical disorders are present. The five-year wait clause has no meaning in cases where women are born without uterus, that is congenital absence of uterus. The insurance of the child born through surrogacy should be included. Maternity benefit should be given to the altruistic surrogate mother if she is working, as per the Government law. The law should provide for surrogacy in legalized relationships as well. The offence under this Bill has been considered as cognizable, non-bailable and non-compoundable which is too harsh and should be considered as non-cognizable offence only.

DR. BHARATI PRAVIN PAWAR: This Bill aims to regulate the surrogacy services in the country. This Bill prohibits the sale and purchase of human embryos and gametes. This Bill prevents commercialization of surrogacy and prohibits potential exploitation of surrogate mothers. This Bill aims to protect the rights of children born through surrogacy. Infertility is growing in India. Surrogacy is helpful in such cases. Surrogacy has become powerful way of saving

marriages of childless couples. It is mentioned in the Bill that a surrogate mother should be a close relative. I would like to know from the hon'ble Minister as to what is the definition of a close relative. Our Government is sensitive towards women, their safety, their health and dignity. I support this Bill.

SHRIMATI JASKAUR MEENA: I support the Bill introduced by hon'ble Minister of Health. Along with this, I want to see in practice that it is implemented in a transparent, disciplined way and with a far-reaching approach in the context of practice and process of surrogacy. But with this facility we'll have to ensure that it is accepted easily in our society and this acceptability will be there only when the surrogate mother belongs to that very family. Woman should not be treated as machine of reproduction. There should be special provision in this regard. As it is being practiced in hospitals, clinics, we should be very much concerned about the health of would be mothers. There should be thorough investigation of the couple before State or Central Board and permission should be given only if they are found unfit for reproduction. Second, we have to strictly keep an eye on such women who are engaged in commercial surrogacy. This treatment is costly, the poor cannot adopt it. There should be some provision in this Act for our those poor sisters who remain in distress due to their infertility. I thank you while supporting this Bill from the core of my heart.

DR. SANJAY JAISWAL: There are two types of problems in Surrogacy (Regulation) Bill. This Bill has been brought in pursuance of the order of Supreme Court. Supreme Court has taken cognizance of two peculiar types of incidents. One Israeli couple came to Chennai for getting a surrogate mother as both of them were infertile. They got a surrogate mother.

MINISTER OF HEALTH AND FAMILY WELFARE; MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF EARTH SCIENCES (DR. HARSH VARDHAN) *replying said:* All the hon'ble Members expressed their views in support of this Bill. The definition of close relatives was discussed in the meeting of Ministers and all types of points were attended to. The definition of closed relatives as per many of the Members is quite narrow but you will get the description of its scope in detail in rules. Several hon'ble Members expressed their views in the context of National Surrogacy and State Surrogacy Boards and appropriate authorities. I just want to say that there will be perfect coordination between them. Regarding the concern expressed about disable children, we want to say that in these cases parents would be provided opportunity because later such children would take care of disable children. The Bill provides all opportunity for the infertile couple to establish a family through surrogacy. Regarding commercial surrogacy I told in the beginning that it was totally banned in all the major countries of the world and was considered illegal. Whatever you have said broadly

will be incorporated in rules and regulations. In a broader way, all of you have agreed to the intentions and provisions of the rules. India had become a hub of surrogacy, there were many cases of exploitation. There are court cases etc regarding this. After studying all this, the Bill has been introduced.

The Bill was passed.

GOVERNMENT RESOLUTION

THE MINISTER OF HOME AFFAIRS (SHRI AMIT SHAH) moved that the President of India has referred the Jammu and Kashmir Reorganisation Bill, 2019 to this House under the proviso to Article 3 of the Constitution of India for its views as this House is vested with the powers of the State Legislature of Jammu and Kashmir, as per proclamation of the President of India dated 19th December, 2018. This House resolves to express the view to accept the Jammu and Kashmir Reorganisation Bill, 2019.

The Resolution was adopted.

THE SUPREME COURT (NUMBER OF JUDGES) AMENDMENT BILL,

2019

THE MINISTER OF LAW AND JUSTICE; MINISTER OF COMMUNICATIONS AND MINISTER OF ELECTRONICS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD)

moving the motion for consideration of the Bill, said: This is an important Bill. There are three wings of judiciary in the Indian Constitution – District Court, High Court and Supreme Court. Under the Supreme Court Judges Act of the Indian Constitution, the number of judges in the Supreme Court has been fixed. On 21 June, 2019, the Chief Justice of Supreme Court sent a letter to the Government saying that the pending cases in the Supreme Court had increased a lot. For the fast disposal of the cases in the judiciary, we are increasing the number of Supreme Court judges by 3 which means it will be increased to 33. We have also increased the number of judges in High Courts from 906 to 1,079. It is high time that India had an all-India National Judicial Service. I am very clear about this. One thing which concerns me is that the children of the deprived society doesn't get a position in the judiciary. Today, we are discussing to increase the number of Supreme Court judges, so, there should also be a discussion on these general issues of the Judiciary.

SHRI P. P. CHAUDHARY *initiating said:* There are about 59,000 pending cases in Supreme Court. After enactment of this Bill, the number of judges will be increased by three and pending cases will also be resolved. The cases will be disposed at the earliest, be it Ayodhya case or any other case related to public interest. If we talk about the entire judiciary, there is a huge pendency in subordinate courts also. According to the Supreme Court verdict, appointments will be done by the collegium system. There is a clear provision in Article 124 and 217: *“The President of India shall appoint the High Court and Supreme Court Judges after consultation with the Chief Justice of India.”* According to the fourth judgment of the year 2015, there will be primacy of collegium and Chief Justice of India in appointment of judges. Today, the collegium system is working behind a dark curtain. If we look at the appointments of judges category-wise, we will not find judges from OBC, SC and ST and there is a shortage of judges from minority and women judges. As far as the matter of accountability is concerned, there are three major pillars of democracy – Parliament, Executive and Judiciary. Parliament is accountable to the public and Executive is accountable to the Parliament, but Judiciary is the only wing which is accountable to none. The more accountability any institution will have, the stronger it will become. So, every institution should have accountability. The word ‘Consultation’ should be defined in Article 366 so that the intention of Constitutional framers that the word ‘Consultation’ simply

means an opinion could be restored. Information communication technologies should be used for quick disposal of the cases. When the cases are not disposed in time, it affects the credibility of judicial system and courts. The provision of fast track courts has been made to make quick judgment in the cases of heinous crimes. After introduction of specialized courts and National Integration Policy, arrears in litigation will be reduced and cases will not be delayed.

SHRI A. RAJA: This is a Bill to increase the number of Judges. We are worried about the quantity of Judges since the pendency of cases are astronomically high in this country. I am a little bit worried not only about the quantitative analysis, but also the qualitative analysis of the judiciary. But are we going to fix any accountability to maintain qualitative judiciary? The higher judiciary is having no direct accountability to the people. Some sort of accountability must be there. The Government wanted to bring accountability to the Judiciary. That is why it brought the Judicial Appointment Commission Bill. But what happened in the court? They declined it. Your Act has been struck down as unconstitutional and ultra vires. How are you going to fix accountability? That is my only worry. You are silent on bringing a new law to appoint three more judges. What would be the fate of three more judges? How we are going to appoint them. My last point is that there must be social justice in the appointment of judges. When it is about All-India Services, we have reservations; when it is

about other important posts, we have reservations; but what is the problem with the reservation in the judiciary? Even backward classes are not getting adequate representation in the judiciary. Women have no representation at all in many High Courts. Even in the Supreme Court, there is only one woman Judge. I would like to say that the judiciary should reflect the plurality of the society. If you are really fond of Dr. Ambedkar, please bring the Reservation Bill in the higher judiciary also.

SHRI KALYAN BANERJEE: I am supporting this Bill which has been brought regarding increasing the strength of the Judges. As on 1st July, 2019, even in the hon. Supreme Court, number of pending admission matters were 38,982 and complete miscellaneous matters were 25,419. As on June 28, 2018, 3.3 crore litigations are pending in the entire country. Now I come to quality of the judges. I saw judges spending hardly two or three minutes for taking admission of a matter. Now the judges are taking 45 minutes or an hour for admission of matters. This speaks of the quality of lawyers who are being elevated as judges. If you want to pick up brilliant lawyers, then do not wait up till 45 years. The second point relates to behavior of the judges. Behavior of some of the judges is really shocking. They do not treat the lawyers as lawyers. There are recommendations of collegiums for appointment of the judges. One of the lawyer's case in Calcutta High Court, who had been recommended two years back, is still pending before the

Central Government. If you want to have an independent Judiciary, please stop giving appointments not only to retired judges but also to retired IAS officers and retired IPS officers. Everywhere vacancies are being increased. Has the Government ever thought how many Members of Parliament are now required because of the increase in number of voters? Only in the case of Members of Parliament, there is no increase in strength. In 1950, when the Supreme Court was established, the strength of judges was eight. After this Bill has been passed, this strength would be 34 which means more than 400 per cent increase. But in case of Members of Parliament, our strength is only 544. The Government should either increase the strength of Members of Parliament or it should give them helping hands. I want to bring this to the knowledge of the Central Government. I hope the Government will hear it.

SHRIMATI VANGA GEETHA VISWANATH: The Supreme Court (Number of Judges) Amendment Bill, 2019 is a small but a very important Bill. Inadequate strength of judges was a major reason for backlog of cases. There is still a shortage of about 5,132 judges which led to a huge increase in the number of pending cases in lower courts. As the Hon. Minister has said there are many other factors also such as frequent adjournments, indiscriminate use of writ jurisdiction, vacation period of courts etc. which are causing pendency of cases in High Courts and lower courts. I would like to request the Hon. Minister to take immediate steps

to do away with these factors for early disposal of cases. I would also like to request the Hon. Minister to appoint more judges in the High Court of my State Andhra Pradesh as many cases come from the High Court of Telangana to Andhra Pradesh. The Central Government had said that it would provide financial aid for the welfare of advocates. The Government should provide a common insurance policy or separate policies for covering accidental and natural deaths in the families of advocates.

SHRI VINAYAK BHAURAO RAUT: It is commendable that the Hon. Minister has taken serious note of the shortage of judges and decided to increase the number of judges in Supreme Court. However, I would like to request the Government that to sort out the problem of shortage of judges in the country the retiring age of Supreme Courts' judges can be raised from 65 years to 70 years and for the judges of High Court it can be raised to 65 years. Quality of judges should also be maintained and justice should be delivered to the common man as early as possible. Lok Adalats are a good option. I also request the Government that the name of Bombay High Court should be changed to Mumbai High Court. There is a long standing demand for Kolahapur High Court because people have to go to Mumbai from Konkan in respect of their cases. I request the Hon. Minister to consider my demands sympathetically.

SHRI PINAKI MISRA: Undoubtedly increasing the number of judges in the Supreme Court is an urgent requirement and I support this Bill. However, my concern is that as High Courts are the substratum of justice, it is important that the fearless and brilliant judges of High Court who form the bedrock of the pool that come to the Supreme Court mostly on the very last day of their tenure at the age of 62 years, should continue in High Courts. These extra three years that they get when they come to the Supreme Court has made the race from the High Court to the Supreme Court which is totally undesirable. And unfortunately there is no transparency in the entire collegium system and the system of appointment. Many High Court judges would like to stay in High Courts only if they are in collegium of the High Court or serving as the Chief Justice of the High Court rather than joining the Supreme Court. Therefore, the age of High Court judges should be increased from 62 to 65 . The Hon. Law Minister should consider it seriously. Secondly, the National Judicial Appointment Commission has been struck down. I request the Government that this Commission should be brought back. Lastly, I believe that the time has come for bringing the National Judicial Service and the entire House should support it. It is the need of the hour. I also feel that more judges should be appointed from the SC/ST Communities. The problem of opaqueness in appointments can only be solved by a fresh National Judicial Appointment Commission.

***SHRI M. SELVARAJ:** This Bill paves the way for increasing the number of judges from 30 to 35. As so many cases are pending, additional judges should be appointed. Similarly, there is a need for additional number of courts also. I request the Union Minister of Law and Justice to increase the number of Lok Adalats also. A person filling a case for compensation has to spend higher than the compensation he receives. I request the Union Minister to take appropriate steps to change this situation. Some steps have to be taken to complete the trials in civil courts in a speedier way. In the appointment of judges, principle of reservation has to be followed.

KUNWAR DANISH ALI: Over 3 crore cases are lying pending in Indian Courts. Some of the cases outlive the life span of generations of people seeking justice yet they fail to get justice. I would like to suggest the Government that the lower judiciary should be made secular. The collegium of Supreme Court recommends for appointments of judges, but the Government fails to approve the files for months. On the one hand there is inadequate number of judges in Supreme Court and High Courts, on the other hand, the Government does not take its decision promptly. I fail to understand the reason once the collegium has recommended the names of judges, the Government is entitled either to reject it or accept it but the decision has to be taken without any delay. There is very low or

* Original in Tamil

negligible representation of judges belonging to SCs, STs and minorities in the higher judiciary. There must be a system in place to ensure the fair representation of weaker sections in the judiciary. Allahabad High Court is the Largest High Court Centre in the country. The umpteen number of cases are pending there. A High Court Bench should be set up in Meerut in Western Uttar Pradesh. The Government had promised to set up a High Court Bench in western Uttar Pradesh. The people of western Uttar Pradesh have to travel about 700-800 kilometers to Allahabad High Court. So, this is their long standing genuine demand.

SHRI KOTHA PRABHAKAR REDDY: As the House is aware, 'justice delayed is justice denied'. I would, therefore, request that the number of Supreme Court Judges may kindly be increased to, at least, 42 so that litigations can be resolved expeditiously. There is a dire need to set-up a Supreme Court Bench at Hyderabad, which is the long-pending demand of the people, to provide timely justice and to reduce the expenditure of the litigants. Our hon. Chief Minister of Telangana State, Shri K. Chandrasekhar Rao Garu is ready to extend full cooperation and ensure adequate infrastructure required for running the Supreme Court Bench at Hyderabad. Post bifurcation of the Andhra Pradesh States, Telangana High Court has a sanctioned strength at 24 Judges but it has on its rolls only 12 Judges, which is just 50 per cent filled up.

SHRI SUNIL DATTATRAY TATKARE: This Bill is an important judicial reform and will assist in reducing the pendency of cases before the Supreme Court, which is currently pegged at around 60,000. I request the Government to make tenure appointments of retired apex court Judges and High Court Judges under Articles 128 and 224A of the Constitution respectively to clear backlog of cases pending for years. I request the Government to bring a Constitutional Amendment to increase the retirement age of High Court Judges from 62 to 65 years. At present, out of 1079 sanctioned posts, the actual Judges are 673 which means, there is a vacancy of 406 Judges. I also request that the Bombay High Court should be renamed as Mumbai High Court. There is one other request pending which is the establishment of Kolhapur Circuit Bench. Our hon. Chief Minister has already taken initiative for that.

SHRI K. NAVASKANI: More than three crore cases are pending in various courts across India. There are many reasons for the pendency of cases. The most important reason among them is inadequate number of judges. I welcome the decision to increase the number of judges to thirty four. I also request that the number of judges should be increased to fifty. I request that a Southern Bench of Supreme Court has to be established in Chennai, as Delhi is far from southern States, the number of appeals filed in Supreme Court from southern

States, are comparatively less. I also suggest that the number of working days for courts should be increased.

SHRI RAM MOHAN NAIDU KINJARAPU: As far as increasing the number of Supreme Court Judges is concerned, it has been happening on a timely manner. Now, with the increase in the number of Judges by three, it is becoming 34 including the CJI. There are a lot of cases which are waiting for justice in the country. The increase in the number of Supreme Court Judges will definitely help in addressing that issue. I would like to bring to the notice of the Government the 229th Law Commission Report which suggests that other than having the Supreme Court sittings in Delhi, it needs to have other four Cassation Benches which need to be set up in different regions of the country. As my colleague from the TRS Party has requested, one Bench can definitely be established in Hyderabad also. There is a need to think over how to fill up the vacancies existing in the courts across the country. The retirement age for High Court Judges is 62 and the retirement age for the Supreme Court Judges is 65. I would also like to know from the Government whether the Government is thinking of increasing age limit.

SHRI GOPAL SHETTY: I support Supreme Court (Number of Judges) Amendment Bill, 2019. There has been remarkable change in the judicial system during the tenure of the hon. Law Minister. I would like to request the hon. Law Minister that the language used in the courts in various States should be respective

official language of that State. It would bring about great change in the judicial system. Litigation is becoming costly and cost of litigation in the Supreme Court is even more. The Government should study it and try to address this issue. I would like to appreciate the Supreme Court that cases are disposed of expeditiously there. A number of hon. Members have put forth their views regarding National Judicial Appointments Commission. Our Government has taken concrete steps to improve the judicial system. We are moving ahead towards a new India. Our Law Minister should try to take steps to ensure disposal of all the pending cases in the country by the year 2022.

***SHRI THOL THIRUMAAVALAVAN:** There are so many cases pending in the Supreme Court, High Courts and lower courts. Therefore, it is essential to increase the number of judges. In the appointment of judges, social justice should be followed. A division bench of Supreme Court may be established in Southern states, either in Chennai or in Hyderabad. I support this Bill.

SHRI P. RAVEENDRANATH KUMAR: As per the Law Commission report four Supreme Court benches in four corners of the country needs to be established. One of them is in Chennai. Representation of women judges in the Supreme Court must be increased and necessary amendments should be brought in for this purpose. I request the hon. Minister to take necessary action for getting the

* Original in Tamil

Supreme Court judgements published in Tamil language on its website. Through this Bill, I hope that speedy disposal of important cases will be ensured. I support this Bill.

SHRI RAVI SHANKAR PRASAD *replying said:* All the hon. Members have supported this Bill. I am grateful to all the hon. Members. The role of the Government is to give the infrastructure. But as far as hearing of the case and delivering the judgement is concerned, that is the job of the judiciary. The Government should not play a role in interfering with the judiciary. Definitely, the Government needs to fully support the judiciary. Firstly, we raised the number of judges of High Courts from 906 to 1079. This increase has been of more than 50 judges. Today, we are going to raise the number of judges in the Supreme Court by three. We appointed 126 judges in High Courts during the year 2016 which is the highest in last 30 years. 115 judges were appointed in the year 2017, 108 judges were appointed in the year 2018 and during the year 2019 till date we have appointed 31 judges. There are 5262 vacancies in subordinate judiciary in which we do not have, neither do the State Governments have any role to play in filling up these vacancies. For these, High Courts conduct their own examinations or the Public Service Commissions do the needful at their direction. If appointments are made for these posts in time, things will be expedited. The Supreme Court has objection in having the Minister of Law and Justice to be a member in the NJAC.

However, we have been elected by the people and are accountable to the House and through this House accountable to the country. The judges must ponder over their accountability as to where does it lie and to what extent? We are in full support of probity, impartiality, autonomy and independence of judiciary. There must be a bit of screening with regard to judicial appointment. The people belonging to the deprived classes of the society have also loads of capability and talent. The same thing applies with regard to women as well. For the first time, a woman has been appointed directly to the Supreme Court as a judge and this has been done during our Government. I would submit a few figures with regard to pendency of cases: there are 43.07 lakh cases in High Courts, 58000 cases in Supreme Court and 3.07 crore cases pending in the subordinate courts. Now a days, the burden of PILs is increasing, though it has also played a role in unearthing big corruptions. There is a need to ponder over a bit about the sweeping commentary made by the judges in their judgements. The differences within judiciary must not be divulged outside, they must be settled within. When they come out, they create a lot of concern across the country. Pre-mediation before litigation is needed to be taken forward. This will bring out the number of cases. At last, I would like to submit that the Government has full respect for the judiciary and it will always extend its cooperation to it.

The Bill was passed.

SNEHLATA SHRIVASTAVA
Secretary General

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NOTE: It is the verbatim Debate of the Lok Sabha and not the Synopsis that should be considered authoritative.

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