

Government steps in only at that stage. That is the procedure, as has been interpreted now in the recent judgement of the Supreme Court under Section 53 of the States' Reorganisation Act.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): The question is:

'That the Bill to repeal the Civil Codes Amins Act, 1856 and certain other enactments, be taken into consideration.'

The motion was adopted.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): Now, we shall take up clause-by-clause consideration of the Bill.

Clause 2 and the Schedule were added to the Bill.

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

SHRI ARUN JAITLEY: Sir, I beg to move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE PROTECTION OF HUMAN RIGHTS (AMENDMENT) BILL, 2000

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): Now, we will take up the rv item, i.e., the Protection of Human Rights (Amendment) Bill, 2000.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI CHENNAMANENI VIDYA SAGAR RAO) : Sir, I beg to move:

"That the Bill further to amend the Protection of Human Rights Act, 1993, as passed by Lok Sabha, be taken into consideration."

Mr. Vice-Chairman, Sir, this Bill has a very limited scope to provide an enabling provision in the Act to apply the Central Civil Services Revised Pay Rules of 1997 to the officers and staff of the National Human Rights Commission with retrospective effect, i.e., w.e.f. 1.1.1996. Sir, the hon. Members are aware that the Protection of Human Rights Act of 1993 was enacted with a view to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in the States, and Human Rights Courts for the better protection of the human rights, and for matters concerned thereto or incidental thereto. Section 41 of the Act provides that the Central Government may, by notification, make rules to carry out the provisions of this Act. Sir, for implementing the recommendations of the 5th Pay Commission, it has become necessary to make applicable the Central Civil Services Revised Pay Rules, 1997 to the officers and staff of the National Human Rights Commission with retrospective effect, i.e., w.e.f. 1.1.1996. As there is no provision in the Protection of Human Rights Act, 1993 to give retrospective effect, it has become necessary to make an amendment to this Act to this effect. The Protection of Human Rights (Amendment) Bill, 2000 was passed by the Lok Sabha on 23-11-2000 for providing an enabling provision to make rules with retrospective effect.

With these words, I commend the Protection of Human Rights (Amendment) Bill, 2000, as passed by the Lok Sabha to this august House for consideration and passage.

The question was proposed,

श्री संघ प्रिय गौतम(उत्तरांचल): उपसभाध्यक्ष महोदय, इस पर चर्चा की कोई आवश्यकता नहीं है।

SHRI RANGANATH MISRA (Orissa): The Bill provides for only one section for a particular purpose. But I would take advantage of this situation to indicate some more things.

Law is a regulator of human conduct. It would depend upon how we manage the law. Otherwise, it ceases to be a regulator. Today, we are actually in a situation where laws are no more regulating human conduct.

In the Protection of Human Rights Act, 1993, we have a provision for Human Rights Courts. About five years ago, when I was in the Commission, we had made a recommendation to the Government to amend this provision and to make the Human Rights Court a court of civil

and criminal jurisdiction. Both the powers were to be given. This court is a District Judge level court. Therefore, it could be a Court of Sessions Judge. It could also be a Court of District Judge. Both of them could be amalgamated together so that the person who has a grievance goes there both with a civil wrong, on the one side, asking for compensation, and, on the other side, asking for an offence to be handled in accordance with law and punishment given. Instead of duplicating the action, it could be done at one place.

We had also pointed out to the Home Ministry of the Government of India that offences against human rights should be indicated so that they would be subject matters to be handled by this Court. Some of the States have already notified a lot of Human Rights Courts. Uttar Pradesh, for instance, has declared every District Judge to be a Human Rights Court. Some additional Courts have also been created. Tamil Nadu has also done that. Most of the States have been doing this. Having only Human Rights Courts without finding out what offences can be tried, what are human rights offences, does not provide work to those Courts. In fact, the Madras High Court has indicated, "We do not know what offences are to be tried here. Therefore, nothing can be tried. The Courts are busy finding out what can be an offence. So, the recommendation that is pending with the Home Ministry is to provide a Schedule to the Act, saying that these are the sections or that these are the offences that could be handled by the Human Rights Court.

The other provision is in section 21. It is an enabling provision. This Act obliged the Union of India to set up a Human Rights Commission at the Centre. It enabled the State Governments to provide Human Rights Commissions of their own. Notwithstanding the efforts made for about five to seven years, many of the States have not created a Human Rights Commission.

The Uttar Pradesh Government is one that can probably be mentioned here. When the State was under the President's Rule, the Governor notified in the official gazette the Government's intention to set up a Human Rights Commission. The Allahabad High Court issued a writ calling upon the State to set up a Commission. Notwithstanding these, when the Kalyan Singh Government came to power there, it withdrew the

gazette notification of the Government's intention to set up a Commission and said, "We do not remain obliged to set up a Commission."

SHRIMATI JAYANTHI NATARAJAN (Tamil Nadu): Shame.

SHRI RANGANATH M1SRA: The maximum number of complaints that come to the Human Rights Commission, 45 to 50 per cent, belong to Uttar Pradesh alone. So, these are the things where the Government of India should really operate and impress upon the State Governments to set up the Commissions. I would, therefore, suggest that the Ministry of Home Affairs should take note of the fact that these recommendations which are useful and which are pending should be looked into immediately. The human rights system of adjudication and the human rights courts should be regulated in a way which would be helpful to the citizens of India.

The other thing which probably is required to be mentioned here is, While you are repealing obsolete laws, you should also keep the updating process in such a way that automatically, every year, every couple of years, whatever is becoming necessary for society is brought into the statute book. Deletions should go hand in hand with new provisions to be added. I am in support of this amendment. This is all that I suggest. Thank you.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA) Mr. Virumbi. you have two minutes. I thought you could finish before we adjourn for lunch.

SHRI S. V1DUTHALAI VIRUMBI (Tamil Nadu): Mt. Vice-Chairman. Sir. I hope you will be considerate. As my predecessor said, we want to avail of this opportunity to say something on the Protection of Human Rights Act. The Human Rights Act has been actually enacted for the protection of the vulnerable sections of the society -- cutting across language and other barriers - the poor, humble and the have-nots. In this connection. I want to make two or three points on how the people are being affected. Without going through the pros and cons of the issue or going into the merits or demerits of the case, I want to say that in recent years, people hailing from Tamil Nadu, nearly 51 people are languishing for nearly a decade. Now, the TADA is no more there. But whoever was arrested under TADA has to be dealt with under that Act. This was mentioned in the TADA Repeal Act. When the Government repealed it, they introduced this provision. What have they done? I will tell you. Under Ramapuram police jurisdiction, on 19-5-1992, 13 persons were arrested under the TADA. On 14.8.1992, under the same jurisdiction, 58

persons were arrested. On 9.4.1993, under the MM Hills Police jurisdiction, 29 people were arrested. On 25.5.1993, under the same police jurisdiction, 20 people were arrested. On 16.1.1994, under the same police jurisdiction, one person was arrested. The total number of persons arrested was 121. Out of that, 70 persons were given bail; and 50 persons are still languishing in the jail. In this connection, there was an interaction between the Chief Minister of Tama Nadu and the Chief Minister of Karnataka on 12.7.1997. The Chief Minister of Karnataka agreed that wherever specific charges were not made put, they could be released ; and wherever there were specific charges, trials could be conducted expeditiously. Out of these 51 persons, 12 were women; 9 women have lost their husbands in fake encounters. That much I can say in this august House. This is the situation. The Government of Tama Nadu wrote seven letters to the Government of Karnataka on 9-1-1997, 21-1-1998, 11-1-1999 - *lftme-be/l*) - it is a sensitive issue "m Tamil Nadu - on 23-2-1999, 28-3-1999, 5-5-1999, 28-5-1999. So seven letters have been sent to the Karnataka Government from the Government of Tama Nadu. But still, there is no response from the Karnataka Government in a positive manner. What I feel is that the Human Rights Commission should supplement the efforts of the courts in rendering justice. It should not be a stumbling block. That is my request. We must see that the right to equality, equality of opportunity in the matter of public employment, the right against exploitation are upheld. That is the main thing in respect of human rights. Therefore, my request is that the Central Government should direct or give instructions to the State Government, without affecting its powers, for the release of these people as early as possible. That is point No.1.

SHRI S. PETER ALPHONSE (Tamil Nadu): One clarification.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGROOIA): No, let him speak. He is not the Minister. Your turn will come. (*Interruptions*).

SHRI S. VIDLTTHALAI VIRUMBI: This is not a party issue. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI SANTOSH BAGROOIA): You please give your name. (*Interruptions*). Please do not interrupt like this. (*Interruptions*). If you interrupt, nothing will go on record.

SHRI S. VIOUTHALAI VIRUMBI; Sir, I have already said "without affecting the powers of the State, in whatever manner they can instruct,

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they may do it". I do not say that they must, the Central Government must, give directions (*Interruptions*).

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): Please do not interrupt. Your turn will come. You can speak then. Mr. Virumbi, why don't you finish now?

SHRI S. VIDUTHALAI VIRUMBI: We are for autonomy. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): Are you yielding, Mr. Virumbi?

SHRI S. VIDUTHALAI VIRUMBI: No, Sir.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA):: He is not yielding.

SHRI S. VIDUTHALAI VIRUMBI: Sir, he did not follow me. I have said that without affecting the powers of the State Government, the

Central Government may instruct, not direct.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA):: You conclude now.

SHRI S. VIDUTHALAI VIRUMBI: Another vulnerable section in this society which the Human Rights Commission has to help are the Scheduled Castes. For example, scavengers take the human excreta on their head. It is prevalent throughout India. In Tamil Nadu, our Chief Minister Dr. Kalamazhar has completely banned taking the human excreta on head. Last year, we spent about Rs. 11 crores to replace dry latrines with those with modern facilities. Sir, I will conclude in a minute or two. On the other Bills also, the time given is small. These things have to be taken care of.

In Tamil Nadu, we were prepared to provide teachers. But there was no teacher in the Scheduled Caste communities. Immediately, Dr. Kalamazhar has made extra classes in 17 schools, each class consisting of 50 students, only for the Scheduled Castes. Thereby, 850 teachers will come up within a year or two. Once they pass, they will be immediately appointed. We have done it in such a way. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): He is not yielding. Let him complete. Don't you want to go for lunch? Mr. Virumbi, please conclude now.

SHRI S. VIDUTHALAI VIRUMBI: Sir, this is no politics. There is another matter regarding reservation for the Scheduled Castes. Throughout

India, the backlog carry-over system has not been implemented in many places. For that, specifically, in 1989, we have passed an order. Again in 1991, Dr. Kalaignar has said that whatever backlog is there, would be carried from 1.4.1989. In 96 departments, we found out how many unfulfilled vacancies are there and by a time-bound programme.. (*Interruptions*),

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): Okay, okay. (*Interruptions*). It is all over now.

SHRI S. VIDUTHALAI VIRUMBI: Human rights have to be maintained.

SHRI R. MARGABANDU (Tamil Nadu): We are unable to understand how it is relevant to the Bill. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): Mr. Virumbi, please sit down now. You have taken enough time. Instead of two minutes, you have taken seven minutes (*Interruptions*). Mr. Margabandu, he is not yielding. Your turn will come. Please sit down now.

SHRI PRANAB MUKHERJEE (West Bengal): Mr. Vice-Chairman, I would like to draw the attention of the House, through you, to the fact that all of us agreed in the morning that if hon. Members want to make any specific reference to any subject of relevance to the Bill under consideration, they should do it and should not expand the scope of the Bill and bring everything under human rights to pass an innocuous amending Bill. Otherwise, we are under time constraint and this Bill is to make a provision to enable the Government to have a retrospective effect. That is the scope of the Bill. Otherwise, it will be an unending process. Therefore, my most respectful submission would be, if anybody wants to make any observation, that observation must be relevant to the subject matter of the Bill. It cannot be expanded in the manner in which some hon. Members are expanding it. (*Interruptions*)

SHRI S. VIDUTHALAI VIRUMBI: Sir, I may be allowed to answer that point, (*interruptions*)

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): No, no. You don't have to reply to every question. He has not made any comment.

SHRI S. VIDUTHALAI VIRUMBI: Sir, the Bill is regarding the salaries with retrospective effect. But from the other side, Shri Ranganath Misra has actually expressed something which is not at all related to the Bill, even though it is essential for the country. (Interruptions) When Shri Ranganath Misra spoke, ..(*Interruptions*).

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): : Mr. Virumbi, okay, it is over now. (*Interruptions*) Don't compel me to adjourn the House like this. (*Interruptions*)

SHRI S. VIDUTHALAI VIRUMBI: When I spoke, Shri Pranab Mukherjee, who is a very senior politician, has interrupted. I hope he will give the same treatment to his own party MPs along with the Opposition. With these words, I conclude.

THE VICE-CHAIRMAN (SHRI SANTOSH BAGRODIA): The House is adjourned for lunch till 2.05 PM.

The House then adjourned for lunch at six minutes past one of the clock

The House reassembled after lunch at seven minutes past two of the clock, THE DEPUTY CHAIRMAN in the Chair.

THE DEPUTY CHAIRMAN' We will now continue with the scission on the Protection of Human Rights (Amendment) Bill, 2000.

DR. L.M. SINGHVI (Rajasthan): Madam Deputy Chairperson, the Bill, as moved, is innocuous and deserves our whole-hearted support. AH that it seeks to do is to introduce a provision which was lacking in it, the retrospectivity of the rule, and to confine that retrospectivity to the date of the parent legislation, That is the principle implicit in jurisprudence. In any event, that retrospectivity cannot go farther than the Act itself. but i would like to take this opportunity, Madam, to pay my tribute to the successive Chairmen and Members of the Commission. One of the Chaumen is an hon. Member of this House; he has spoken; and, in a sense, he has expressed his support for several changes/requirements which need to be made, but, I think, on the broad aspects of the Human Rights Commission, I would like to share with the House the feeling that the National Human Rights Commission has done India proud all over the world. It is an institutional addition which is extremely useful, extremely powerful, and it is a persuasive instance of the world noticing that India stands firm on its commitment to human rights. I, for one, began

advocating the establishment of the Commission a long, long time ago, in the sixties and seventies. But that was a voice in the wilderness. I am glad that, fortunately, the then Prime Minister, Shri P.V. Narasimha Rao, listened to my advice and the clamour from different parts of the country that such a Commission would do a lot of good. The hon. Member, Shri Ranganath Misra, made a contribution which deserves to be acknowledged because he was the first Chairman and he established some basic ground rules and obtained a status and prestige for that institution. Successive Chairmen have done their best to make a contribution to the Human Rights Jurisprudence of India. Former Chief Justice, Shri M. N. Venkatachalaiah, who now heads the Constitutional Reforms Commission, and Mr. Justice J. S. Verma, who was Chief Justice of India a few years ago, a very dear and distinguished friend of mine in the Allahabad days and an alumnus of the Allahabad University, like Mr. Ranganath Misra, all of them have made their distinctive contribution to project the vision of India in the field of human rights. This is something which we ought to try to strengthen. I am sure, when the Constitutional Reforms Commission considers the whole matter, they will provide for this National Human Rights Commission a Constitutional status. That, I think, would be the culmination of a longstanding feeling in our country that human rights in a democracy are intertwined in an inextricable way. Human rights and democracy make very good companions and this companionship will result in strengthening our democracy.

Apart from a Constitutional status for the Human Rights Commission, Madam Deputy Chairperson, I think, it is important for us to have an opportunity in this House to consider the reports of the Human Rights Commission, from time to time, and, if possible, to constitute a Committee of the House to consider the human rights situation in the country. That would contribute to better human rights awareness. It is part of the freedom struggle. I think, we must acknowledge the words of Byron who said, "Freedoms battle once begun, ... Though baffled oft is ever won". It is in this Commission and through this Commission some of the freedoms battle can be won for one and all, for every citizen. Thank you.

THE DEPUTY CHAIRMAN: It is not that we have only one commission to protect human rights. We have many commissions to

protect different forms of human rights. We have the Women's Commission, the Minorities Commission, the SC & ST Commission, over and above this. Nowhere in the world there are so many overlapping commissions to take care of the loopholes in the society.

श्रीमती चन्द्रकला पांडे(पश्चिमी बंगाल): महोदया, आज हम यहां मानवाधिकार संरक्षण संशोधन विधेयक पर बहस कर रहे हैं। यह एक छोटा सा संशोधन विधेयक है। जब पांचवें वेतन आयोग की रिपोर्ट आई और अधिकारियों और कर्मचारियों के लिए 1996 से वेतन भत्ता कानून लागू करने पर विचार हुआ, तब यह महसूस किया गया कि इस तरह का कोई रूल नहीं है कि इसको भूतलक्षित प्रभाव से लागू किया जा सके। इसके लिए यह संशोधन विधेयक लाया गया है। अतः इस संशोधन का समर्थन करना ही चाहिए। मैं इसका समर्थन करती हूं।

महोदया, इससे कुछ चीजें उभरकर सामने आती हैं और यह प्रश्न खड़ा होता है कि इस देश के मानवाधिकार संरक्षण का क्या होगा जब यहां नियम बनाने में इस तरह से त्रुटियां और गड़बड़ियां होती हैं। महोदया, मेरा ख्याल है कि पूरे मानवाधिकार संरक्षण अधिनियम में व्यापक सुधार की जरूरत है ताकि हर मनुष्य को संरक्षण मिल सके। मेरे पूर्व वक्ता माननीय रंगनाथ जी ने जो सवाल उठाया है, मैं उनसे सहमत हूं और मैं यह कहना चाहती हूं कि जहां भाजपा सरकारें हैं, उन राज्यों में स्टेट ह्यूमन राइट्स कमीशन बनाने के प्रति इतनी बेरुखी क्यों है? ऐसा निर्देश दिया जाना चाहिए कि वहां स्टेट ह्यूमन राइट्स कमीशन सक्रिय हों और लोगों के अधिकारों की रक्षा की जाए।

महोदया, जून के महीने में प्रधानमंत्री जी ने एक बयान दिया था जिसमें उन्होंने यह कहा था कि वे ह्यूमन राइट्स कमीशन को और मजबूत करेंगे पर अब तक इस दिशा में क्या कदम उठाया गया है, यह स्पष्ट नहीं हो पाया है। महोदया, इस वर्ष की जो एच.आर.डी. रिपोर्ट संसद में पेश की गई थी, वह बताती है कि पुलिस हिरासत में 193 और न्यायिक हिरासत में 819 मौतें हुई हैं। कुछ विचारक निर्भय होकर यह भी कहने लगे हैं कि इस देश में मानवाधिकारों की बढ़ती संख्या के संदर्भ में यह कमीशन महज डाकघर का काम कर रहा है। हमारी आज जो केन्द्र सरकार है उसे कुछ ऐसा करना चाहिये जिससे कि ऐसा प्रश्न चिन्ह न लगाया जाए। मानवाधिकारों पर उल्लंघन की दिशा में सचमुच यह काफी विफल दिखाई पड़ रहा है। हम देख रहे हैं कि आए दिन हड़तालें हो रही हैं, आए दिन मजदूर भुखमरी के कगार पर खड़े हो रहे हैं, आए दिन लोग आत्म हत्याएं करने पर विवश हो रहे हैं जिसमें किसानों की संख्या ज्यादा है, मजदूरों की संख्या ज्यादा है। क्या इस तरह गरीबी और मुफलिसी के खिलाफ कोई सक्रिय कदम उठाने में यह मानवाधिकार कानून काम करेगा? गरीबी और पिछड़ापन भी तो मानवाधिकार के अधिकारों का हनन है। मैं अपनी बात बहुत संक्षेप में कहते हुए यह कहना चाहूंगी कि कहीं ऐसा न हो हम सभी यह प्रश्न उठाने लगे और कहने लगे कि यह ह्यूमन राइट्स कमीशन तो ऐसे ही है।

वहां शान से चौकस खड़े हैं, लुटेरे लूटकर घर जा रहे हैं।

RE. CYCLONE IN ANDHRA PRADESH AND TAMIL NADU

श्री सुरेश पचौरी(मध्य प्रदेश): महोदया, इससे पहले कि हम इस बिल पर चर्चा समाप्त