

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU) : Because of that I announced that if you had any objection, at that point of time you could have pointed out, "No, we are not going to discuss it today." I think, Mr. Minister, you, please, make the statement, and then we will carry on with the discussion. ...*(Interruptions)*... That is what I am suggesting. ...*(Interruptions)*... Just a minute. If you want to seek the clarifications first, I have no problem. But, then, we will have to sit late in the evening to discuss and conclude this Bill.

SHRI K. RAHMAN KHAN: Sir, clarifications can be sought tomorrow. ...*(Interruptions)*...

SHRI PRAMOD MAHAJAN : Sir, if they want to seek clarifications now, then my Minister will make a statement before the House rises.

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU): No, no; you don't understand this. What we have discussed and decided is that he can make the statement now and, subsequently, tomorrow or a day after tomorrow, whenever it is convenient to the House, he can give a reply.

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### STATEMENT BY MINISTER

#### **Situation in the All India Institute of Medical Sciences, New Delhi**

THE MINISTER OF HEALTH AND FAMILY WELFARE (DR. C.P. THAKUR): Sir, the health care services in the All India Institute of Medical Sciences were affected since 22<sup>nd</sup> August, 2001 due to an agitation by the Resident Doctors' Association and the Karamchari Union of the Institute, following an incident in which some employees of the Union and Resident Doctors were involved. The OPD services and casualty had been affected during the period between 22<sup>nd</sup> and 27<sup>th</sup> August, 2001. However, the indoor patients were looked after by the faculty. The Institute had also prepared a contingency plan to ensure maintenance of essential services and support system for patient care, and all vital installations were guarded.

A Committee under the Chairmanship of Dr. H.K. Tiwari inquired into the incident which occurred on the 22<sup>nd</sup> August, 2001. On submission of the inquiry report, AIIMS issued suspension orders in respect of five employees. Also, the services of eight temporary-status employees were terminated for their misconduct during the period of agitation.

During the period between 22<sup>nd</sup> to 27<sup>th</sup> August, 2001, the AIIMS administration held several meetings with the Resident Doctors' Association (RDA) and the Karamchari Union to resolve the issue. A Division Bench of hon. Delhi High Court took *suo motu* notice of the strike by doctors and employees of AIIMS and the situation created on account of such a strike. In an order issued on 27<sup>th</sup> August, 2001, the hon. Court directed the Secretary, Ministry of Health and Family Welfare and the Director, AIIMS, to take necessary steps and ensure that normalcy in services is restored within a period of 36 hours. The RDA and Karamchari Union have since unconditionally withdrawn the strike. All the units in the Institute are now functioning and the health care services have returned to normalcy.

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU): Now, we will continue with the Protection of Plant Varieties and Farmers' Rights Bill, 2001. Dr. Biplab Dasgupta.

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**THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS BILL,  
2001 - Contd.**

DR. BIPLAB DASGUPTA : Sir, I was a Member of the Joint Parliamentary Committee which discussed this Bill. I admit that there was some qualitative difference between the Bill into which the JPC went and the Bill which had gone out of the JPC. There was some improvement in the Bill. However, the Bill is not good enough for me to accept it fully. Dr. Kidwai has already expressed his sentiments. From the BJP side also one Member spoke. The general position is that there are some problems in the Bill, which should have been looked into, but have not been looked into by the Government.

The first problem is that this is an agricultural Bill. As far as agriculture is concerned, what does our Constitution say? It is very categorically stated under the Seventh Schedule in clause 14 of the State List: agriculture, including agricultural education and research, protection against pests and prevention of plant diseases. These are the subjects which are given to the States. If you look at article 246 of the Constitution, you will find that only the State Legislatures can legislate laws on these subjects. It is not within the competence of the Indian Government to legislate on the issue of agriculture or on the issue of plant varieties. But under certain circumstances you can legislate here on State subjects. If there is an emergency, it can be done. If it is in the national interest, for

one month it can be done. But, usually speaking, it cannot be done. It can be done only under article 252 and each and every State has to endorse what the Parliament is doing. That procedure is there. But my feeling is that this is a subject which should be referred to the State Assemblies. This House is the Council of States. It protects the interests of the States. It safeguards the authority of the States. It cannot allow this Bill to undermine the authority of the States and to make it a law. That is what we are doing. We are now discussing a subject which is very much a State subject. Now, it has been stated that the Bill was introduced on 14<sup>th</sup> December, 1999, that is, two years ago. We had got two years within which the process could have been completed. This should have been referred to the States and their reply could have been received within these two years. But that was not done by the Central Government in its wisdom within these two years. I don't know why. Even now it can be done because the Biodiversity Bill, which is linked with it, would not be taken up for a month. There is still one year left for us to take up the Bill, complete the procedure of sending it to the State Governments, getting their approval and bringing it for Central legislation.

Sir, this procedure has not been followed by this particular Bill. I am opposing this Bill because it does not conform to the Constitutional provisions. Now there is one thing by which this particular Bill has circumvented this provision of the Constitution, i.e. is by saying that this is an international treaty. Now if it is an international treaty under article 253 of the Indian Constitution, the implementation of the treaty is a subject of Parliament. So the State Legislatures can be ignored. The Bill further mentions the TRIPS Agreement which was signed at Marrakesh along with other deals in 1994 by the Indian Government. It says that because this deal was signed as part of the Marrakesh Agreement, so we are conforming to the international agreement and we can circumvent the provisions of the Constitution on the basis of that argument. This is the argument the Government has given in the Bill. Sir, in the Joint Select Committee, there were Members from the BJP, there were Members from the Congress and there were Members from many other parties. If I remember correctly, what they said was in conformity with the Indian national interests. Never did they indicate that they worked under any international compulsion. They never worked under compulsion. Whatever was done by the Committee, was done in the interest of the country, not in the interest of any international agency. This process of changing it began long before the TRIPS Agreement came into existence in 1994. The other day I went to the

Chamber of the Minister. Some of his senior officers were also present there. They said in front of the Minister that this process was initiated long before the TRIPS Agreement was signed. What is the point in mentioning about the TRIPS Agreement in the Bill? I do not understand it. It need not be there because no American law mentions about an international agreement. All international agreements have to be approved by the American Congress. They have to be approved by the Legislature. But whatever decision is taken under any international treaty that America enters into, that has to be approved by the American Congress. In our case it is just the opposite. In fact the American Congress goes beyond this. After the Marrakesh Agreement, they passed a law saying that whatever is there in the Marrakesh Agreement, if that contravenes the national law, then the national law will prevail over the international law. Whenever there is a conflict between the international law and the national law, the national law will prevail. They said it very categorically. In our case the Minister goes and enters into an agreement at the international level, but that agreement or treaty is not ratified by Parliament. It is a very serious issue. It should be changed. Any international treaty that we enter into should be ratified by Parliament. If it is not ratified, then whatever treaty has been signed has no value. In this particular case, it has been said that India did sign the treaty at Marrakesh. It is our international obligation to conform to it. Now when this Treaty was signed, Parliament was not a party to this Treaty. So this Parliament has no moral obligation to support this international Treaty and we can change it. Moreover, if you look at it, the international situation has changed. In 1994, when the treaty was signed, it was America and Japan which worked out an agreement and imposed it on the poor countries in 1994.

Today, seven years later, we see a sea change in the world situation; the world over, the coalition of forces has changed. Now, it is much more difficult to get an agreement like the Marrakesh passed. Now, the Minister has mentioned about the Seattle WTO meeting; I had been to that meeting. In that meeting, I heard many poor countries speaking, and I was surprised to note that there was not a single poor country which said that they benefited from the Marrakesh Agreement. In fact, there is a demand for division on the Marrakesh Agreement; some discussion is going on. Now, should we weaken our position by conforming to whatever is there, by complying with their directives and thus show ourselves to be very weak at the bargaining table? Now, whatever is passed here will be followed by Malaysia, Thailand, Indonesia and other countries. We will set

an example to them; so, one has to be very careful. As far as our country is concerned, we must be very careful to see that whatever example we set is not at variance with our international obligation. Now, India has been a leader of the poor countries for a long time, and these countries follow India because they know that India can take a balanced view of the situation. So, we cannot compromise our position on this point. So, at this stage, passing this Bill would be, really, a compromise on this issue; it will be derogatory and it will set a bad example to the rest of the countries. So, I feel that this reference to TRIPS is demeaning and undignified and, hence, should be removed.

Coming to the TRIPS itself, there is one article of TRIPS, which refers to this particular Bill; it is article 27 (3) (b). This is a very important article. It mentions three alternatives to the poor countries, to the developing countries, as a whole. No.1 is that, they suggest that the plant varieties should be given protection. By protection, they mean, there should be protection, in terms of patents. Patent is the protection they want to give to the plants and they think that patent protection should be given to the plants within a short time -- it is one year for the rich countries and five years for the poor countries. Now before this, even in Europe, there was no patent on life. The patent on life started from Marrakesh. Earlier, it was that you cannot have patent on life, because life is something which cannot be patented. But this particular provision, article 27 (3) (b) was discussed today, without knowing that that provision, actually, makes life patentable. But one recognition in this article was that a country could choose, as an alternative to this patenting, a *sui generis system*; *sui generis* means, it would be a new system, completely new. And the third benefit was a combination of the two. Now, with *sui generis*, either, it could be completely *sui generis* or we could be following some other agencies. Now, there are some international organisations; there is the UPOV 91, UPOV 78, undertaking of the FAO; there are also some local organisations. So, Sir, there are four or five different alternatives conforming to *sui generis*, to this protection to plant varieties in the form of patents. Now, unfortunately, in the Select Committee, we did not discuss any of these things. It was completely ignored, although some of us wrote to the Chairman; it was not discussed. But in the Bill itself, we find references to Convention countries, which means, our country is going to join a convention without it being discussed by the Select Committee or any Committee. So, this reference to Convention countries shouldn't be there because it doesn't make any sense; also, it has not been discussed in the Standing Committee or the Select

Committee. Now, it has also not been discussed as to which one of these alternatives is the best for our country. We have not discussed the UPOV 78, UPOV 91 or the FAO undertaking.

Now, it has been left to the Government to join one of the conventions, which is why there is this reference to convention in article 2(f). But why is there this particular reference, when you have not discussed the conventions at all in our Standing Committee? That is something very wrong. If something is there, you reveal what has been discussed in the Committee.

Then, I will come to another major thing. I think, in December, 1999, seven Bills in respect of WTO agreements came before Parliament. If you remember, seven Bills came before Parliament in 1999. They were all time-bound. Of the seven Bills, three were sent to various committees. The other four were passed by Parliament. I do not know whether the Members had the technological competence to go through the various terminologies and so on. These were very difficult Bills but were passed by Parliament, virtually, without any discussion. Because WTO wanted it, Parliament passed them, without any meaningful discussion. We had the Patents Bill and two other Bills only left. Mr. Minister, you should consider this. There is this Plant Varieties Bill sponsored by the Ministry of Agriculture, in response to article 27.3(b) of TRIPS. The Patents (Second Amendment) Bill is being considered by another JPC chaired by Shri T.N. Chaturvedi of the BJP. Then we had the Patents Bill, as a whole, in response to the TRIPS agreement and the Ministry of Commerce was in charge of this Bill. The third was the Bill on biodiversity. The Ministry of Environment was in charge of this Bill. It has been referred to the Standing Committee on Science and Technology and it will take about an year to finish its work.

SHRI B. P. SINGHAL (Uttar Pradesh) : It will take ...*(interruptions)*...

DR. BIPLAB DASGUPTA: How long?

SHRI B. P. SINGHAL: I think it should come by the next session.

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU): There should be no discussion across the table.

DR. BIPLAB DASGUPTA: So, there are these three different Bills of three different Ministries and there are three different agreements. And they are all in conflict with each other. For example, in each of the Bills, there is an authority. This Bill has an authority. The Patents Bill has an authority. The biodiversity Bill has an authority. All these Bills...

SHRI LALITBHAI MEHTA (Gujarat) : Sir, on all the points the hon. Member is making, there has been a threadbare discussion, whether it is the Patents Bill or the Biodiversity Bill that is being considered by the Standing Committee on Science and Technology. I just wanted to know from the hon. Member, through you, Sir, whether he had sent any note of dissent or whether he had made any suggestions or whether the report of the Committee had been accepted unanimously.

DR. BIPLAB DASGUPTA: I did send my note of dissent, along with four other Members, and it is very much there in the report. I had sent letters to the Chairman. I have also brought the copies here.

SHRI LALITBHAI MEHTA: Whatever you were referring to, we sat for the whole day and had a threadbare discussion on it.

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU) : Again, you are not addressing the Chair. Why? Secondly, you are eating into his time. Thirdly, it is also an adverse comment on you, that you have not read the report which contains his note of dissent.

DR. BIPLAB DASGUPTA: Now, lastly, there are two other points, Mr. Vice-Chairman, Sir, if you kindly permit me. The first point is that this Bill is supposed to be a Bill for the protection of plant varieties and for the protection of the rights of the farmers. Now, generally, the breeders are multinational corporations. Our interest in the Bill was that the Bill will allow us an opportunity to make it possible for the farmers to become breeders. That was the objective.

The objective was that the farmers would become breeders. If you look at the Bill, what are the criteria for registration of seeds? The criteria are : novelty, distinctiveness, uniformity and stability. These are the four conditions, namely, novelty, distinctiveness, uniformity and stability. When we went to different States in the course of our journey, we discussed this point with the scientists and asked whether it would be possible for the farmers to satisfy the criteria. Almost all of them said uniformly, everywhere, that no farmer can conform to these four criteria of novelty, distinctiveness, uniformity and stability. That is not possible. If you look at the Patents Bill, the criteria are : novelty, non-obviousness and commercial application. These three points are there. These three points could be repeated here. The same criteria could be there for the Patents Bill as well as for the Plant Varieties Bill. Unfortunately, in the Plant Varieties Bill, there is a different set of criteria from the criteria of the Patents Bill. So, this is a departure from

the Patents Bill. Actually, you are making the criteria for the farmers more difficult than for the patents as such. This is very unfair to the farmers. The farmers would not be able to really conform to these criteria, and the breeders could be the multinational corporations and others. Our objective is to make the farmer, the breeder. That is the main objective of the Bill. That would be lost because no farmer will be able to produce a seed which would conform to the four criteria which have been given here. We had suggested some amendments to this, to conform to the Patents criteria, but that was not taken up by the Committee.

Sir, the last point I am making is, the committee allows trees a very long period of protection; 18 years for the trees and 15 years for others. We feel that this is a very long period; it should be 12 years and 9 years, not 18 years and 15 years. We had discussed this in the course of our tours. They also told us that it is not possible for us to give such a long period of protection to the companies because, after all, these are multinational companies which would take advantage of this. In the beginning, at least, the farmers would be far behind. So, this protection would be beneficial only to the multinational corporations and not to us.

Lastly, Sir, I fully agree with Dr. Kidwai who spoke before me. The punishment which is suggested here is a punishment for whom? It is a punishment for the infringement of the provisions of the Bill. Who will infringe the Bill? Mostly, in the beginning, it will be the small farmer who will infringe many of the provisions of the Bill, and he will be punished. Should we inflict punishment on the small farmers of our country? This is another point on which we should think over. There are many, many other points, I am not going into them because they are small points. We have suggested some changes, in the form of amendments. But these are some of the major points in relation to the provisions of the Bill. We would like you to take this into account and to revise the Bill and bring it before Parliament later.

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU) : Shri Eduardo Faleiro, not present.

SHRI RAMA MUNI REDDY SIRIGIREDDY (Andhra Pradesh): Thank you, Mr. Vice-Chairman, Sir, for having allowed me to speak on this very important piece of legislation. The present-Bill is the fifth revised draft in the last eight years. The issues that are dealt with in this Bill are technical in nature and, as we all know, we have no experience of plant variety regulatory system in our country. This Bill is extremely important for the



future growth of industrial sector and the agricultural sector. The Bill has been made under an obligation of Article 27(3)(b) of the TRIPS agreement which mandates for the protection of plant varieties either by patent or by an effective *sui generis* system or combination thereof. It is also provided under Article 27(3)(b) that the provisions of the same shall be reviewed after four years, i.e., in 1999; it was brought in 1995. This mandated review process has already been initiated in the WTO and that is yet to be concluded. Many developing countries have also raised problems of implementation and the need for extending the transition period. These are still receiving the consideration of the General Council of the WTO.

Sir, even if you read Article 65(4) of the TRIPS, it has given a clear indication that so far as framing of the laws for the protection of plant varieties is concerned, there is a transitional period of ten years. But, I think, the Government is enacting this legislation to protect the research achievements of our agricultural scientists, research laboratories and others.

Anyway, the Bill is before us and the JPC has recommended for a lot of changes for the protection of rights of the farmers, local communities and others. Majority of the recommendations have been accepted by the Government. But, there are still some gaps here and there and I would like to concentrate on them.

Sir, clause 3 of the Bill deals with the establishment of an authority consisting of the Chairman and 15 ex-officio members, including many bureaucrats. This Bill is technical in nature and having so many bureaucrats on the body corporate is something to be looked into. So, instead of having so many bureaucrats, I suggest for having an expert in the field of environment and forests under sub-clause (vii), a biotechnologist under sub-clause (vi). You have specialists in CSIR, CCMB, National Chemical Laboratory, etc. You can include experts from these institutions. And, sub-clause (xiv) of clause 3 nominates two representatives of the States nominated by the Central Government. I suggest that the State representatives should be nominated on the recommendation of the State Government concerned instead of chosen by the Central Government.

Sir, clause 14 of the Bill, to my mind, enlarges the coverage of a number of plants or species. Sir, UPOV, i.e., Union for Protection of Plant Varieties, stipulates that its Member-States must protect a minimum of 15 plant genera or species at the first go. I think, though we are not a signatory to the UPOV 1991, we are going much beyond the stipulations of UPOV 1978 and 1991. This, to my mind, is something to be looked into very

seriously. Because, India has an agricultural-based economy and still more than 80% of our farmers use farm-saved seeds and it is imperative to have a provision for protection of not more than 5 genera or species to start with. However, all plant varieties related to food security, such as grains, vegetables, fruits, etc., should be exempted from the purview of this Bill for, at least, 15 years. The farmers should be allowed freely to produce food from seeds and develop new varieties best suited to their needs, and not having to pay any extra royalty and are allowed to save and exchange seeds of protected varieties.

A very welcome recommendation has been made by the JPC by inserting a separate Chapter on farmers' rights in the Bill. In the earlier Bill, it was not there. Sir, clause 39(1)(iv) deals with the farmers' rights. It says, "A farmer shall be deemed to be entitled to save, use, sow, resow, exchange, share or sell his farm produce including seed of a variety protected under this Act in the same manner as he was entitled before the coming into force of this Act. Provided that the farmer shall not be entitled to sell branded seed of a variety protected under this Act." Sir, we know that the Union for Protection of the Plant Varieties, UPOV, 1991, severely limits the rights of the farmers to save and exchange seeds or even the varieties of plants. The above provision clearly restricts the rights of the farmers since he will not be able to sell the protected varieties which the right holder will be selling under his registered brand name. It did not even allow the farmers to sell surplus seeds of protected varieties identifying the same as the distinct denomination assigned under clause 17 of the Bill. The identification of such seeds is important at the time of sale in the market.

And the explanation to Clause 39(1)(iv) also goes against the farmer and the sale of surplus protected seeds will remain a serious problem for the farmer. Internationally, farmers' rights have only been acknowledged in a non-binding Resolution of the FAO Conference. So, the question arises that the farmers' rights should be specifically provided in the proposed legislation in India which, as such, under the TRIPS, is meant only for regulating the exclusive rights granted to breeders of their new plant varieties. In view of this, I would suggest that the farmers should be allowed to enjoy the rights and privileges enjoyed by them so far even after passing of this legislation. Once this is done, the peasants will have the right to save seeds from his new harvest, exchange seeds with other farmers and sell surplus seeds to his requirement which needs to be disposed in the market under the registered distinct denomination. I agree that legally he cannot use the

same brand name used by the breeder for sale of his surplus produce, but he can sell his produce with a distinct denomination as per clause 17 of the Bill. Of course, if the farmer want to sell on commercial basis, naturally, he has to obtain a compulsory licence. The Bill pays a lip service to the idea of royalty under clause 35 -- payment to the farmers or rural families or tribals or local communities, if they are able to establish the linkage of the new protected variety and there is no novelty attached to the essentially derived varieties. However, given the fact that farmers' varieties even developed by millions of farmers across the country, it is difficult to identify and equitably distribute the benefit. Hence, I request the hon. Minister for establishment of an agency which exclusively deals with this issue speedily and judiciously.

Coming to clause 45 of the Bill, I would like to submit that this clause provides for constitution of the National Gene Fund. Here, I would like to mention that I think, the Biological Diversity Bill also provides for a similar fund. The point is, the Biodiversity and the Protection of Plant Varieties Bills are almost similar but a thin layer separates them. Since we are already proposing such a kind of fund in the Biological Diversity Bill, is it necessary to have the similar kind of fund in this Bill as well? The hon. Minister may kindly explain this point.

Sir, Chapter VII of the Bill deals with the compulsory licensing. So far as my understanding of clause 47 is concerned, the compulsory licensing will be to safeguard the public interest. I would like to be enlightened by the hon. Minister as to how the Authority will determine the duration of the compulsory licensing. The hon. Minister may explain this point.

So, these are some of the points which I thought that I should bring, through you, Sir, to the notice of the hon. Minister and would like to be enlightened by the hon. Minister. With these words, I once again support the Bill. Thank you.

**श्रीमती सरोज दुबे (बिहार) :** मान्यवर उपसभाध्यक्ष महोदय, यह जो पौधा किस्म और कृषक अधिकार संरक्षण विधेयक, 2001 है, यह एक ऐसा विधेयक है जो ऊपर से देखने में तो ठीक लगता है लेकिन अप्रत्यक्ष रूप से यह लूट को निमंत्रण देता है, यह विधेयक किसानों के हितों पर कुठाराघात करने वाला है। इसका टाइटल बहुत ही आकर्षक और अर्थपूर्ण है - प्रोटेक्शन आफ प्लांट वेराइटी, लेकिन मैं यह नहीं समझ पाई कि यह कौन से पौधों का संरक्षण करने वाला है, प्रोटेक्शन करने वाला है और अभी तक किन पौधों का प्रोटेक्शन नहीं हो रहा था? यह किसानों के कौन से अधिकारों का संरक्षण करने वाला है और कौन से ऐसे अधिकार थे जो अभी तक किसानों को नहीं मिले थे? इसका टाइटल बहुत ही भ्रामक है। जो किसान है, छोटा

किसान है, जिसके पास भले ही थोड़ी सी जमीन होती है लेकिन वह गर्व में रहता है, उसको स्वाभिमान होता है कि मेरे पास अपना खेत है। वह उस पर खेती करता है, बीज बचा कर रखता है तो उसको बड़ा गरूर रहता है, आत्म-स्वाभिमान, आत्म-संतोष रहता है, उसको भी आप उस गरीब से छीन लेना चाहते हैं। जिन किसानों ने हरित-क्रांति लाकर देश के अन्न भंडारों को भर दिया, उस गरीब किसान का छोटा सा स्वाभिमान और आत्म-संतोष आप इस विधेयक के माध्यम से छीन लेना चाहते हैं।

उपसभाध्यक्ष महोदय, भारत एक खेतिहर देश है और इसकी जैव-विविधता कमाल की है लेकिन ताकतवर देश और बहुराष्ट्रीय कंपनियों की कुछ अलग मंशाएं हैं। उनकी नजरों में भारत एक खजाना है। न जाने कब से इस देश का खजाना लुटता चला आ रहा है और बाजार के चक्कर में यह देश गुलाम बनता चला जा रहा है परंतु इस बार तो संसाधनों की लूट एक निराले प्रकार की है। हम विदेशी कंपनियों को अपनी खेती-बाड़ी का पूरा कब्जा देने जा रहे हैं। हम उन्हें अपना बीज बाजार बेच रहे हैं और हमारी खाद्यान्न सुरक्षा जो स्थिर थी, उसको हम असुरक्षित कर रहे हैं, खाद्य सुरक्षा को हम डगमगा रहे हैं।

उपसभाध्यक्ष महोदय, WTO में शामिल होने के बाद इस देश को मजबूर किया गया कि यह ऐसे नए कानूनी तौर-तरीके बनाए जिससे यहां अमीर और ताकतवर कंपनियों का एकाधिकार कायम हो सके। इन नए तरीकों को बौद्धिक संपदा प्रणाली कहा गया। इन बड़ी कंपनियों की निगाहें आज हमारी समृद्ध जैव-विविधता पर हैं। महोदय, बीज तो किसानों की जीवनरेखा है। तब क्या होगा जब किसानों की यह जीवनरेखा छिन जाएगी और बीज पर किसी और का अधिकार हो जाएगा? आज किसान अपने बीजों का इस्तेमाल करता है, आदान-प्रदान करता है, उनका भंडारण करता है और जरूरत पड़ने पर उनको बाजार में भी बेचता है लेकिन जब बीज बनाने वाली बड़ी कंपनियां यह दावा करेंगी कि सारे बीज उन्हीं के हैं, तब किसान को मजबूरन हर साल इन बहुराष्ट्रीय कंपनियों के दरवाजे पर बीज खरीदने के लिए जाना पड़ेगा।

उपसभाध्यक्ष महोदय, हमारे देश में खेती, पानी, जंगल, कंटीले और घास के मैदान, ये सभी पहलू जैव-विविधता के अंग हैं। ऐसे में इस अंधाधुंध दोहन के अत्यंत गंभीर परिणाम हो सकते हैं। महोदय, जैव-विविधता, स्वास्थ्य और खाद्य सुरक्षा से जुड़ी हुई है। ये पारंपरिक औषधियां स्वतः नहीं मिलतीं। यह पीढ़ियों के अनुभव, विभिन्न वनस्पतियों के सतत अध्ययन तथा परंपरागत ज्ञान से विकसित होती हैं। एक अशिक्षित किसान और एक आदिवासी महिला, आपके बड़े-बड़े अनुसंधान केन्द्रों से ज्यादा ज्ञान रखते हैं। आप हर साल बाढ़ और सूखे से प्रभावित होने वाले किसी भी क्षेत्र में चले जाइए, वहां वह आदिवासी महिला या किसान आपको यह बता देंगे कि यहां धान की कितनी किस्में हैं, यहां की मिट्टी किन-किन चीजों के अनुकूल है, यहां की जलवायु कैसी है। इन सारी बातों का उन्हें ज्ञान होता है। इस प्रकार उनकी जानकारी बेमिसाल होती है और आपके यहां जो लोग खेती के क्षेत्र में अनुसंधान कर रहे हैं, उनको भी ये नेतृत्व दे सकते हैं, इतना ज्ञान उन्हें होता है। खाद्यान्न के बारे में जो यह परंपरागत ज्ञान और अनुभव उनके पास है, उसका लाभ हमें उठाना चाहिए। जब बाढ़ आती है या सूखा पड़ता है तो वे लोग जमीन के अंदर से कंद-मूल खोदकर खा लेते हैं, हर किसी को इसकी जानकारी नहीं होती है। इसलिए मैं माननीय मंत्री जी से निवेदन करना चाहूंगी कि वे किसानों के अधिकारों पर कुठाराघात न करें।

7.00 P.M.

उपसभाध्यक्ष महोदय, माननीय मंत्री जी ने पौधा किस्म और कृषक अधिकार संरक्षण प्राधिकरण बनाने की बात की है। ठीक है, प्राधिकरण आप बनाइए, यह बहुत अच्छी बात है लेकिन यह प्राधिकरण गांवों के उस छोर तक नहीं पहुंच पाएगा जहां पर एक गरीब आदिवासी खेती करता है और जो तमाम औषधियों के बारे में ज्ञान रखता है, तमाम प्रजातियों के बारे में ज्ञान रखता है। इसलिए मेरा आपसे अनुरोध है कि ग्राम-पंचायत स्तर पर आप विभिन्न प्रजातियों के जीन बैंक खोले, बीज बैंक खोलें, राष्ट्रीय स्तर पर जैव-विविधता कोष बनाएं, उसके साथ-साथ राष्ट्रीय जैव-विविधता प्राधिकरण को भी आप इस तरह से गठित करें कि हर ऐसा व्यक्ति जिसको थोड़ा-बहुत प्रजातियों की विलक्षणता का ज्ञान है, वह आकर उसका लाभ ले सके। जब विदेशी कंपनियां ही बीजों का शोधन और उत्पादन भारत में करने लगेंगी तो फिर हमारे जो कृषि अनुसंधान केन्द्र हैं, इनका कोई फायदा नहीं है। इसलिए यह नाटक करने की कोई जरूरत नहीं है और इन पर अरबों रुपया खर्च करने की कोई जरूरत नहीं है। मैं आपसे यही कहना चाहूंगी कि आप इन बातों पर विचार करें। हमारी जो स्टैंडिंग कमेटी है, उसने भी इस पर डिस्सेंट नोट लगाया है। महोदय, यह बात भी सच है कि कृषि राज्य का विषय भी है। कृषि के ऊपर कोई भी आप नया कदम उठाने जाएं तो आपको राज्य सरकारों से सलाह करनी चाहिए थी। राज्य सरकारों से सलाह नहीं की गई और यहां तक कि किसानों से भी सलाह नहीं की गई और आनन फानन में डब्ल्यू.टी.ओ. के इशारे पर और गेट समझौते के तहत में यह बिल तैयार कर दिया गया। इसमें कुछ सुधार किए जा रहे हैं, कुछ संशोधन लाए गए हैं साहब सिंह कमेटी के माध्यम से। लेकिन केवल यह कह देने से कि यह विधेयक किसानों के हितों का संवर्धन कर सकता है, यह बात समझ में नहीं आती है। क्योंकि विदेशों से जो बीज आएंगे वे बीज भी हमारी स्थानीय मिट्टी में, उसकी जलवायु में, उस तरह के वातावरण में फलित नहीं हो सकेंगे। यह सब हमारे देश के अनुकूल नहीं होंगे। यह बड़े अनुभव के बाद और बड़ी तपस्या के बाद ही जाना जा सकता था।

विकासशील देशों के लिए एक और प्रचार हो रहा है कि जो हमारे अपने परम्परागत बीज हैं उनकी उत्पादकता कम होती है, यह भी एक दुष्प्रचार किया जा रहा है। हमारे यहां के बीजों की उत्पादकता इतनी कम नहीं है जितना कि प्रचार किया जा रहा है। यह बाहर के लोगों की बहुराष्ट्रीय कंपनियों का एक ऐसा प्रचार चल रहा है ताकि विकासशील देश अधिक उपज के लिए इस तरह के नए उपायों को अपना लें। यूरोप के देशों ने इसको नकार दिया है क्योंकि उसके नुकसानों का उनको पूरे तौर पर पता चल गया है। लेकिन हम जो विकासशील देश हैं, हम भारत के लोग हर चीज जो विदेशों से आती है उसको अपनाने के लिए आतुर बने रहते हैं। मैं आपसे यह कहना चाहती हूँ कि किसान इस देश की रीढ़ है इसलिए किसानों के हितों पर कुठाराघात न करें। यह किसान की फसल और हमारी अपनी एक पहचान है, अपने बीज हैं, हमारे यहां तरह-तरह की प्रजातियां हैं। अभी कैलाश जोशी जी ने बताया कि ऐसी-ऐसी औषधियां हमारे यहां पड़ी हुई हैं कि अगर किसी को सांप काट ले और उसको जड़ी-बूटी सुंघा दें तो वह ठीक हो जाता है। एक ऐसी भी जड़ी-बूटी आती है कि यदि अंधाधुंध खून बह रहा हो तो उस पर डाल दें तो वह ठीक हो जाता है। हमारा यह गरीब देश है, यहां पर 40-50 प्रतिशत लोग तो जड़ी-बूटी से ही ठीक होते रहते हैं। हमारे यहां इस प्रकार का भंडार भरा पड़ा है जो असीमित रूप में है। हम उसको पहचानने का प्रयास करें, उनको प्रोटेक्शन दें। हमारी लापरवाही और काम

करने की गति इतनी धीमी है और नौकरशाही इतनी हावी है कि दूसरे देश हमारी चीजों का पेटेंट करा रहे हैं, हमें पता नहीं चलता है। बाद में जब हमारे हाथ से वह चीज निकल जाती है तब हम उस पर लीक पीटते रहते हैं। तो विश्व की जो आधुनिकीकरण की दौड़ है उसमें जरूर शामिल रहना चाहिए, हमें अपने बीजों को जरूर उन्नत बनाना चाहिए। लेकिन ऐसा भी नहीं करना चाहिए कि जो बीज है एक फसल के बाद अंकुरित नहीं हो और उसके साथ ही साथ उसका यह भी नुकसान है कि ये बीज अगर एक खेत में बोए जाते हैं और बगल में कोई दूसरा परम्परागत बीज बोया जा रहा है तो उसका बगल वाले खेत पर भी असर चला जाता है। इस तरह यह अपने आप ही पूरे देश में फैल जाएगा अगर इस तरह के बीज आएं। तो मैं आपसे यही कहना चाहती हूँ कि आपका यह बिल ठीक है लेकिन अभी इसमें बहुत विचार करने की बात बाकी है, बहुत सावधानी बरतने की जरूरत है। इसमें कोई जल्दी नहीं होनी चाहिए। अपनी बरबादी करने में जल्दी किस बात की? अगर हमें बरबाद होना है तो थोड़ी देर बाद हो लेंगे। अगर हमारे किसानों के अधिकारों का हनन होना है तो हम कुछ दिन और उनके अधिकारों की रक्षा कर सकें तो बहुत अच्छी बात है। पता नहीं किस-किस का दबाव है? आपने कहा कि कांग्रेस ने "गैट" समझौता कर दिया, अतः हम मजबूर हैं। लेकिन अगर आप चाहें तो आज भी अपने देश के किसानों के अधिकारों की रक्षा कर सकते हैं। अभी सिएटल में जो कुछ हुआ है उस ढंग से आप लोग मिलकर अपने देश की रक्षा कर सकते हैं। इसमें कोई जल्दी की बात नहीं है और जो डिसेंट नोट आया है उस पर गौर करने की बात है। इसलिए मेरा आपसे यह अनुरोध है कि आप जो भी कदम उठाएं बहुत सोच समझ कर उठाएं। आप, माननीय कृषि मंत्री जी, किसानों के बीच से आए हैं और किसानों के नेता के रूप में मशहूर हैं। तो कम से कम किसानों को यह लगना चाहिए कि अजीत सिंह जी के हाथों में किसानों का भविष्य सुरक्षित है और इस देश की जो विभिन्न जैव विविधताएं हैं, प्राकृतिक संपदा वह आपके हाथों में सुरक्षित रहे। हम अपने हित को, अपनी कृषि को, अपने बीज भंडार को, अपनी प्राकृतिक सम्पदा को दूसरे के हाथों में सौंपने की जल्दी न करें। इस पर फिर से विचार किया जाना चाहिए और गंभीरता से सोचना चाहिए। हमारे किसानों के हितों पर कभी कोई वार न करे तो अच्छा होगा। बाकी सब चीजों में तो हम बिक चुके हैं, विदेशी माल से हमारे बाजार पटे पड़े हैं। अब एक हिस्सा यह बचता है आप इसको मत बेचिए। इस देश के स्वाभिमान को बनाए रखिए, इस देश के गरीबों को इज्जत से जीने दीजिए।

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU): I have to take the sense of the House. Since I have to leave, and no other Vice-Chairman on the Panel is available here, I propose that Shri K. Rahman Khan may occupy the Chair.

SHRI M. VENKAIAH NAIDU (Karnataka) : No problem, Sir.

[THE VICE-CHAIRMAN (SHRI K. RAHMAN KHAN) In the Chair]

SHRI KA. RA. SUBBIAN (Tamil Nadu): Thank you, Mr. Vice-Chairman, Sir, for having given me this opportunity to associate myself with the learned hon. Members of this august House on the Bill. With the good intention of protecting the tillers of the soil, the Protection of Plant Varieties and Farmers' Rights Bill, 2001, has been brought before the House by our

hon. Minister. He hails from an agriculturist family. Sir, as far as this Bill is concerned, the Protection of Plant Varieties and Farmers' Rights Bill, it is a major step towards incorporating the ethics and the equity provisions of the Convention on Biological Diversity, namely, CBD, in a *sui generis* system of varietal protection. As far as our agriculturists are concerned, they are the backbone of the Indian economy. About 70% of the Indian economy depends on agriculture. In fact, by straining their every nerve, the agriculturists, from the nook and corner of this country, have converted all the dry lands into one smiling gardens throughout the country. They have brought this country to the stage of self-sufficiency, from a stage of deficit. In fact, now, we are having a surplus and we are in a position to even export the foodgrains. As far as the agriculturists are concerned, our great saint, Valluvar, while comparing all other professionals, said, all those people who are in various kinds of professions have to follow the agriculturists. But, as far as India is concerned, the percentage of cultivable land is more compared to the other agriculturist countries throughout the world. But when we take into consideration the productivity aspect, it is not up to the mark. It is less than that of countries like China and other countries who produce agricultural products. Mr. Vice-Chairman, Sir, as far as Tamil Nadu is concerned, there are no perennial water sources, except one river, namely, Cauvery. In this regard, our hon. Chief Minister had strained his every nerve for the past five years, during his tenure. As a result, as far as production of paddy and sugarcane is concerned, we have been able to attain the number one position in India and world respectively. To produce agricultural products, the traditional hybrid plant varieties have become sub-standard because there is no research and development work up to the mark as we expected. The knowledge on bio-technology is also less. We have not reached a stage which other countries have attained. The quality of plant varieties and seeds should be produced in such a way and supplied to the farmers as is being done in Western countries. They have got the certified plant varieties and a proper index is maintained. But when it is not certified and indexed how are you going to protect our farmers? I hope the hon. Minister will take into consideration this aspect and ensure that our farmers are not affected. Further there is every chance that under the guise of the investment, people may produce low variety of plants and seeds. If they succeed in their attempt, then, our farmers will be affected. When we go through the Bill, we can find that it is going to be a Central Act. As far as agriculture is concerned, it comes under the Concurrent List of the Constitution. According to the Bill, the Central Office will be located in Delhi

and there is every chance to open branches throughout the country. My respectful submission is the powers vested in the Bill should be given to the State Governments. There should be a decentralisation of powers. The real farmer has to obtain the licence. It has to be defined in the Bill as to who the real farmer is, or, is it a farmer who cultivates the land personally? So, it is very difficult to prove who the real farmer is, whether the real farmer should approach the competent authorities to obtain the licence and serve the people. The Government should open more offices not only in the State capitals, but in the district centres also so that real cultivators of the land can approach and obtain the licence, as provided in the Bill. Then only the object and the intention of this Bill will be achieved.

I would request the hon. Minister to take into consideration this aspect; and the real farmer should be protected because we can see even the people who are selling the seeds and plant varieties apart from the agriculturists and farmers everywhere, throughout the country, only the business people used to exploit the agriculturists, whereby farmers and agriculturists are not able to get good varieties of plants and seeds. So,...

THE VICE-CHAIRMAN (SHRI K. RAHMAN KHAN): Please conclude now.

SHRI KA. RA. SUBBIAN: Farmers should be protected. For that, the hon. Minister should take into consideration all these aspects. More powers should be given to the State Governments and more offices should be opened in the State centres so that the real farmers will get benefits under this Act.

With these words, I conclude.

SHRI N.R. DASARI (Andhra Pradesh): I thank you, Mr. Vice-Chairman, Sir. As a Member of the Joint Parliamentary Committee on the 1999 Plant Varieties Protection Bill, I had submitted a "Note of Dissent" to the Report of the Committee. The main contention of my dissent was that the Bill denied the right of the farmers to sell their seed. I am happy to note that the new Bill has incorporated this demand and the farmers are given the same right as breeders and they can save, use, re-sow, exchange, share or sell their farm produce including seeds.

But the registration of a variety of seed is made compulsory. It will be very difficult for ordinary farmers as breeders to produce seeds that would comply with all the four criteria of "novelty, distinctiveness, uniformity and stability" for the purpose of obtaining registration. Only big companies



and MNCs will benefit from this legislation as breeders and not farmers. So these criteria have to be relaxed to help farmers to get their seeds registered easily.

Moreover, we know that some multinational companies are indulging in a fraudulent and deceitful practice by patenting many of our indigenous produces such as turmeric, neem, basmati rice, etc. Some developed countries and MNCs are trying to divest us of our right on our own local produce. The Government should take a serious note of it.

Another threat that we are facing from the MNCs is the import of "terminator seed". This seed will yield a single crop only and cannot be re-used as seed again. So, every time, the farmer has to purchase new imported seed at a high cost. I would like to know from the Government what measures are proposed to be taken to save our farmers from the potent dangers of the terminator seed.

It is found that a special treatment is given to "Essentially Derived Varieties" in the Bill for the purpose of registration. The essentially derived varieties are generally the Genetically Modified varieties. It is alleged that the use of genetically engineered seeds will contaminate the seeds of our farmers and the use of genetically engineered food items are health hazards. So, the Government has to take care while allowing the entry of genetically modified varieties of seeds into the country.

Sir, it is a fact that the yield per acre of almost all the agricultural products in the country is very low compared to our neighbouring countries. If this legislation will give a significant thrust to the productivity and agricultural growth of the country, I welcome it. At the same time, I urge upon the Government to take steps to provide better irrigation, power and credit facilities to the farmers which will help to improve the productivity. But the Government should be cautious of the onslaught of the multinational corporations which are about to invade our agricultural sector through corporatisation of agriculture, patenting our traditional agricultural plants and produces, etc.

Finally, I would like to request the hon. Minister to accept the amendments we have submitted to strengthen the Bill in the interests of our nation and farmers. Thank you.

[THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) in the Chair]

†SHRI R. KAMARAJ (Tamil Nadu): Mr. Vice Chairman, Sir, I rise to speak on the Protection of Plant Varieties And Farmers Rights Bill on behalf of AIADMK. I feel it my duty to express my views on this Bill. Because, I come from an agrarian family besides being a Member of Parliamentary Standing Committee of Agriculture. We are experiencing a feeling of disappointment right now. We all know that even 1000 years before, South Asian countries were producing Basmati rice. But today, American companies, as small as roadside bunks are patenting our traditional produces. A small company known as Rice Tech in the US has patented three varieties of Basmati rice after having grown that rice varieties just for 18 years. Under these circumstances, we are discussing this Bill. It is like crying over spilt milk.

Sir, we are facing a challenging situation wherein our traditional items such as neem, turmeric and basmati are being claimed and patented by certain foreign nations such the U.S. had the Government taken similar decision earlier, we would not have had to face this kind of a situation where we are at the disadvantageous position. It is only now that we think of our farmers and their produces. Those days our ancestors, our farmers, ploughed the land just wearing a loincloth. But they had no protection from the Government. There were great scientists like G.T.Naidu of Tamil Nadu who produced lot of hybrid varieties. But the Government did not encourage them. Or else we would have been in proud possession of various varieties of agricultural products. I wish to put on record that the Government had delayed in taking this step.

Mr. Vice-Chairman, Sir, we all know our country exported cardamom, garlic and clove to countries like Greece, Rome and Persia. Though India comprises of just 2.4%. of the total area of the globe, it is in possession of 8% flora and fauna of the entire globe. The statistics show that India has over 46,000 plant varieties and over 81,000 animal species. This Bill proposes to recognize and reward farmers, private farm production and agricultural research. The Bill also proposes to give farmers and other agricultural researches a share out of the profit of any kind of invention or improvement in production. If these provisions are implemented in letter and spirit we shall welcome it wholeheartedly.

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† English Translation of the original speech delivered in Tamil.

I am constrained to speak of a known fact lest we forget it. A report released by the World Bank in 1997 says that 65 per cent of Indian population depends on agriculture for its sustenance. We should think for a while as to why such a huge population is engaged in agriculture. Are they engaged in farming to come out with some scientific formulations? No, they are engaged in farming, they are ploughing their land because, they want to eke out a living, they want to feed their families. If we think of changing this attitude of agriculture for sustenance and commercialize it, we have to give proper training to the farmers and equip them with necessary implements. This Bill under clause 45 sub-clause (i) provides for setting up National Gene Fund. That fund should be utilized for the scientific advancement of agriculture. Otherwise, the emaciated farmers and farm research centers will soon disappear.

Sir, of the total cultivable land, rain-fed lands alone comprise of 60 to 65 per cent. They contribute 45 percent of the total foodgrain production. Every year, lot of lands turns barren due to soil erosion and neglect. With all our water resources, we would be able to bring only 50% of the total cultivable land under irrigation. The rest of 50% land has to depend on rain for cultivation. The rain fed land and the barren land have great share in increasing foodgrain production to meet the growing demand due to population explosion.

That is why the Goddess of our heart and the Hon'ble Chief Minister of Tamilnadu, Dr. Puratchi Thalaivi has launched a scheme to convert 20 lakh hectares of barren land into agricultural farms. I feel proud in saying in this august House that our leader has taken such a commendable step.

Sir, the goal of this Bill can be achieved only when our traditional agricultural produces such as herbs, pulses, tubers etc. are registered, patented and protected. Today the standing crops in the Cauvery basin of Tamil Nadu are drying up due to non-release of water by Karnataka. The Hon'ble Chief Minister of Tamilnadu, Dr. Puratchi Thalaivi has demanded immediate release of water in Cauvery to save the standing crops. So, I appeal to the Government and the Hon'ble Agriculture Minister to intervene in the matter and save the paddy crops in Tamilnadu. Thank you