

A High Level Central Team consisting of Union Ministers, Shri Farooq Abdullah, Shri Ghulam Nabi Azad and Shri Prithviraj Chavan, visited the affected area on 07.08.2010 to assess the situation.

The situation is also being reviewed continuously and the Ministry of Home Affairs is coordinating with all Ministries/Departments/agencies concerned for convergence of the rescue and relief efforts.

The thrust now will be on the rehabilitation of the affected people. The Government of Jammu and Kashmir has been requested to assess the damage and submit a detailed memorandum so that necessary assistance is considered by the Government of India for relief operations as well as long-term rehabilitation.

I would like to assure this august House that Government of India would extend all possible help to the government of Jammu and Kashmir for relief and rehabilitation of the affected persons. I would also be happy to receive suggestions of the hon. Members in continuing to provide comprehensive and optimal response to the people in their hour of need.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now we shall take up the Personal Laws (Amendment) Bill, 2010 for consideration. Shri Veerappa Moily.

GOVERNMENT BILLS

The Personal Laws (Amendment) Bill, 2010

THE MINISTER OF LAW AND JUSTICE (SHRI M. VEERAPPA MOILY): Mr. Vice-Chairman, Sir, I beg to move:

That the Bill further to amend the Guardians and Wards Act, 1890 and the Hindu Adoptions and Maintenance Act, 1956 be taken into consideration.

...(Interruptions)...

SHRI M. VENKAIAH NAIDU (Karnataka): Sir, we want to seek clarifications on the statement made by the Home Minister. ...(Interruptions)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That will be taken up later. ...(Interruptions)...

SHRI P. RAJEEVE (Kerala): Sir, so many statements are pending. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We will take it up. ...*(Interruptions)*... It will be taken up, but not today. ...*(Interruptions)*... It will be taken up later. ...*(Interruptions)*...

THE MINISTER OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): You fix the time. Whatever time is fixed, I will come and you can seek clarification. ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): The Chairman will fix the time. ...*(Interruptions)*... It will be taken up. ...*(Interruptions)*...

MS. MABEL REBELLO (Jharkhand): Sir, ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, take your seat, please. ...*(Interruptions)*... You can't speak from there. ...*(Interruptions)*... If you want to say something you, come to your seat. ...*(Interruptions)*...

श्री राजनीति प्रसाद (बिहार) : सर, यहां सदन की घड़ियों में अलग-अलग टाइम आ रहा है ...*(व्यवधान)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We have taken note of it. ...*(Interruptions)*... Take your seat. ...*(Interruptions)*... Don't waste time. ...*(Interruptions)*... That is taken note of. Ms. Mabel Rebello, take your seat, please. MR. Moily, please.

SHRI M. VEERAPPA MOILY: Sir, while it is a very simple Bill, it has far-reaching consequences in so far as it relates to establishing gender neutrality in our Personal Laws. We have started a series of amendments. In fact, I constituted a Cell in my Legislative Department to scrutinize all the existing laws and wherever there is gender bias, we need to bring about amendments to create gender neutrality. This is one thing which we have done. In fact, in the National Common Minimum Programme of UPA-I we have taken initiatives to see that complete equality for women in all spheres of life will be made a practical reality, especially, by removing

discriminatory legislations and by enacting new legislations that give women, for instance, equal rights to ownership of assets like houses, land, etc. We have now proposed amendments only to two of the Acts. In fact, many more are to come and we are going to make a series of amendments. Ultimately we will not rest till our Personal Laws are made gender neutral. With these words, I commend this Bill to the House for consideration.

The question was proposed.

SHRI M. VENKAIAH NAIDU (Karnataka): Sir, I rise to support this Bill. I totally agree with the spirit of the Bill. But if I understood the Minister properly, this gender neutrality will apply to all communities irrespective of their faith. That is the direction in which we are moving. I hope it is so because you are subsequently amending the Hindu Adoptions and Maintenance Act of 1956 to provide the mother with the consent of the father and the father with the consent of the mother equal right to give in adoption of their children. This is a big debate which started in the Constituent Assembly itself. It is not only a question of gender justice but also a question of giving equal opportunity, equal protection and equal rights to all people irrespective of caste, creed, sex, religion and region. That was the aim of our Constitutional makers like Dr. Baba Saheb Ambedkar, Shri Anantasayana Iyenger, etc. Everybody, at that time, opined that we must make a beginning.

When Pt. Jawaharlal Nehru brought the Hindu Code Bill, there was so much opposition, Shri J.B. Kriplani stood up and asked, "Why aren't you bringing codification of other personal laws?" At that time, Pt. Jawaharlal Nehru said, "The Muslims are not ready for that." My point is, after 63 years of Independence, the country has become so much matured and we have learnt so much by our experience. We have to initiate a dialogue, a debate, a step in that direction. Just now the hon. Minister said that he has set up a Cell. Sir, setting up a Cell is not sufficient. You set up a Committee or a Sub-Committee and then start initiating this debate across the country. I am not saying that you

must rush it through and then you forcefully implement it on other communities. My point is, marriage, divorce, adoption, inheritance, etc., on these matters, there cannot be any difference on the basis of religion. After all, we are one country. Article 44 of the Constitution says that we must strive towards bringing a Uniform Civil Code. This has been enshrined in our Constitution and we have all agreed to that. But we have not moved, so far, in that direction. This is the right opportune time to initiate a discussion and also identify the areas where we can make forward movement and then show to the world that we have really matured and there is no discrimination on the basis of caste or religion. Sir, even many of the Muslim countries across the world, have common laws. We are a forward looking country; we are a secular country. We believe in equal justice to all sects of the people. But we are not able to move forward simply because of the vote bank politics. I do not want to make any criticism against political party on this issue because I want some concrete steps to be initiated towards the issue of bringing a Common Civil Code for the entire country. Common Civil Code or Uniform Civil Code does not mean a Hindu Civil Code. It has to be acceptable to all people. We have to take the good things from every personal law, codify them and then move on. This is my submission. The Supreme Court, a number of times, umpteen times, at least 20 times, has advised that the country must go in for a Common civil Code. The 1995 Sarla Mugal's case; the 2001 Daniel Latifi's case; the 2003 John Vallamattom's case; the 2007 Iqbal Bano's case; then the famous or infamous Shah Bano's case are there before us. Late Rajiv Gandhi had moved in the right direction. But subsequently, as I said just now, because of the political situation at that time, he had backtracked. Thereafter, even the thought process was not initiated properly. Unless we, the law-makers of the country, cutting across the party line, speak about the need for enacting a Common Civil Code, we cannot expect ordinary people of the country to fall in line. My point is, a woman is a woman. Whether she is a Christian, or a Muslim or a Hindu, how does it make any difference? Divorce is divorce. If you divorce somebody, then you have to give maintenance. It is a human

activity. Religion has nothing to do with it. Religion, mostly, is a way of worship. We are not supposed to interfere in the way of worship. We should not do it. It is their personal belief, personal liking. There are so many sub-sects even among the Hindus also who adopt various facets of worship. We are not supposed to interfere in that. But the question is about the common things, as I mentioned earlier, about marriage, divorce, adoption, maintenance, inheritance, etc. These are the major issues where the country needs to move forward. The hon. Minister just now gave an indication that they are trying to identify such things and then they would move forward. You concretize it. I am not saying that you bring a law tomorrow or a day after tomorrow or in the next Session. But you have to move in that direction with a concrete agenda for discussion across the country. Let there be a national debate, an enlightened national debate started by the Law Minister of the country, who himself has got knowledge on the subject, who is also aware of the feelings of the people of the country.

Common men, irrespective of their affiliations and beliefs, feel that a Common Civil Code is the need of the hour. But, unfortunately, political parties are shying away from it; they are not brave enough. They are not able to muster the courage to bring a Common Civil Code thinking that it may affect their votes. We have the Common Civil Code in the State of Goa. We have so many examples where common laws are there across the world, where different communities are living together; the Muslims and the Christians are living together. They are governed by one common law. There are no different laws for different sections of the people. Before the Constitution was adopted, the situation was different. But, today, we are an independent country; we are a sovereign country; we are a matured country. After so much of experience, if we are not able to even initiate the steps, our future generation will not forgive us. I hope the Minister has gone through an article which appeared in the Times of India on 16th, that is, yesterday. It read: "Is the Government ready for a Uniform Civil Code after 63 years?" A question has been raised. I hope the Minister will respond to it, and take

necessary steps in that direction. Sir, people are adopting dubious methods to escape from the laws. Some people convert to another religion, to simply divorce their first wife and go in for a second marriage. This is what they do to circumvent the law. We had the famous Sarla Mudgal case in 1995, where the gentleman converted to another religion. Similarly, we had the case of John Vallamattom in 2003. The Supreme Court, from time to time, has highlighted the desirability of achieving the goal set by article 44 of the Constitution. Nehruji, at that time, said, "People are not yet ready." Today, with all the advancements, scientific temper, technological advancements as well as the maturity which the country has achieved through democratic practices, we must really muster the courage and be brave enough to move in the direction of bringing in the Common Civil Code. This step is a small step, but a small step in the right direction. I appreciate the initiative taken by the Minister. The Constitution of India guarantees equality of status and equality of opportunity to all citizens, irrespective of the fact whether they are men or women. It provides that the State shall not deny to any person equality before the law or equal protection of laws, within the territory of India, and prohibits discrimination solely on the ground of sex. My point is, it should be said, 'solely on the ground sex of any community, of any religion'. What is the sin committed by the Muslim women? What is the sin committed by women of other religions? There will be resistance. I can tell you, Mr. Minister. When the Hindu Code Bill was brought, there was resistance, at that time, from the highest quarters. I do not want to mention those names. Still the Government of the day, our forefathers at that time, mustered the courage and started codifying all these. That is why you have the present situation. I want to see a situation where there is only one Personal Law for everybody, be it, the Hindus, the Muslims, the Christians or even those who do not believe in any of the religions. They must be governed by common laws, at least, on those four factors, as I told you, on matters of marriage, adoption, divorce and maintenance and inheritance. These are the areas where people would not like to see one law for one person and another law for another person simply because they

profess different religions. What has religion got to do with all these things? As I told you, my simple conviction is that religion is a way of worship. You believe in a certain path. You profess your religion. There is absolute freedom in our country. Some people say, "अहं ब्रह्मस्य"। He feels that he is God, or, that God is there in him. Even with him, nobody is quarreling in the country. That is the great freedom India has given to the people. That being the case, why should there be any discrimination? This is the second point which I wanted to make. And, this was included in the National Common Minimum Programme of the previous Government, that complete legal equality of women in all spheres of life would be made a practical reality, especially, by removing discriminatory legislation, by enacting a new legislation that gives women, for instance, equal rights of ownership of assets, like house and land. What are the steps, concrete steps, which you have taken in that direction? Mere pronouncement or appreciation from this side is not going to suffice. We need concrete steps. The Government must move in that direction of making the commitment, that they have given to the people of the country, a reality.

And whatever mandate the Constitution has given us through article 44 should be really practiced in principle, and then, we will be able to really hold our heads high and tell the world that here is a country which has got a common law, where there is no discrimination on the basis of religion, there is no discrimination on the basis of gender, there is no discrimination on the basis of any other factor. All are equal. I will be happy to see that day, and I hope, the hon. Minister who has taken this small step in the right direction would take further steps to take this forward. I would earnestly urge upon him to assure this House that he would take steps, appoint a commission, ask the Law Commission, or, appoint a sub-committee to study all these aspects, come back to Parliament within a period of six months, by the time the Budget Session meets here. And, then, let us all join together and move forward. Then, there should be an enlightened debate. This is not aimed against any religion. And amongst friends from different communities, including minorities, there are a lot of well-meaning people, in all sections, who will be happy to join that debate and conduct it in a proper manner, leaving the fundamentalists way behind. That is my only appeal to the hon. Minister. I request him to assure the House that he would take the needed steps in this direction.

I once again compliment him for bringing forward this legislation.

श्री राशिद अल्वी (आंध्र प्रदेश) : उपसभाध्यक्ष जी, आगरा में गोली चल रही है, किसान मारे गए हैं, मेरी यूपीए सरकार से सिर्फ इतनी दरखास्त है कि पूरी इन्फॉर्मेशन लेकर इस हाउस को बताए।

THE VICE-CHAIRMAN (PROF. P.J.KURIEN): Shrimati Prabha Thakur.

डा. प्रभा ठाकुर (राजस्थान) : उपसभाध्यक्ष जी धन्यवाद। मैं विद्वान विधि मंत्री माननीय श्री एम. वीरप्पा मोइली और इस सरकार को इस बात के लिए, इस भावना के लिए और इस संवेदनशीलता के लिए बधाई देना चाहती हूँ कि महिलाओं को समानता दिलाने के विषय में वे निरंतर कदम उठा रहे हैं कि किस प्रकार महिलाओं को समानता मिले। सर, जो समाज में कहीं पीछे रह गए हैं, कमजोर स्थिति में हैं, उन्हें आगे बढ़ाने के लिए, उनके लिए अलग से प्रयास किए जाने की आवश्यकता है। समाज में आज यह स्थिति महिलाओं की है। आज भी, पढ़ने-लिखने के बावजूद भी, गांव से शहरों तक कुछ परंपरागत सोच के कारण, पीढ़ियों से चली आई सोच के कारण समाज में काफी असमानताएं हैं। सबसे बड़ी असमानता तो इसी विचारधारा की है कि कुलदीपक जो है, वह पुत्र है, पुत्री को कुलदीपक नहीं कहा जाता है। समाज में यह मान्यता रहती है कि अगर पुत्र नहीं हुआ तो उस व्यक्ति की गति मुक्ति नहीं होगी। अगर किसी पुत्र ने चिता को अग्नि नहीं दी तो कैसे गति मुक्ति होगी, जब इस तरह की धारणाएं बन जाती हैं तो आप सोचिए कि उस समाज में पुत्री का स्थान कहां रह जाता है? इसी भावना के तहत आज स्थिति यहां तक पहुंची कि कन्या भ्रूण हत्या इसी की देन है। ये हत्याएं शिक्षित समाज में ज्यादा हो रही हैं, क्योंकि वहां एक तरफ, जहां यह जागरूकता आ गई है कि लड़कियों को पढ़ाओ, यह जाग्रति आ गई है कि परिवार नियोजन हो, वहीं साथ ही यह जाग्रति भी आ गई है कि दो बेटे हों, तो मंजूर है, लेकिन दो बेटियां हो जाएं, यह मंजूर नहीं है। एक बेटा जरूर होना चाहिए, वरना कुल का नाम आगे कैसे चलेगा?

सर, इस देश में ऐसी-ऐसी बेटियां हुई हैं, जबकि कहा यह जाता है कि बेटे तो दो कुलों का नाम रोशन करती हैं, पीहर का भी और ससुराल का भी, ऐसी-ऐसी बेटियां हुई हैं, जैसे झांसी की रानी लक्ष्मीबाई, अहिल्याबाई, इंदिरा गांधी, कस्तूरबा गांधी सरोजिनी नायडु ...**(व्यवधान)**... और भी कई, आप सुषमा जी का नाम भी ले सकते हैं, इसी श्रृंखला में उनका नाम ले लीजिए। जब आपकी बारी आएगी, तब आप बोलिएगा। ...**(व्यवधान)**... जब आपकी बारी आएगी, तब आप बोलिएगा। मैं बता रही हूँ कि ऐसी बेटियां हुई हैं। आज भी कोई टेनिस के क्षेत्र में प्रसिद्ध खिलाड़ी हो रही है, सानिया मिर्जा, कोई वैज्ञानिक होकर अंतरिक्ष में जा रही हैं, लड़कियां वहां तक पहुंच रही हैं।

विज्ञान के क्षेत्र में, तकनीक में, उद्योग में, राजनीति में, पत्रकारिता में, हर क्षेत्र में, जहां भी लड़कियों को अवसर मिला है, उन्होंने नाम किया है। सर, आज कल हर फैकल्टी में जब परीक्षाओं के परिणाम आते हैं, तो हम देखते हैं कि लड़कियों का प्रतिशत लड़कों से कहीं बेहतर होता है, कम नहीं होता। इससे यह प्रमाणित होता है कि अगर बेटियों को बेटों के बराबर अवसर मिले, तो वे अपनी श्रेष्ठता प्रमाणित कर सकती हैं।

पहले महिलाएं बहुत मजाक बनी थीं, जब राजीव गांधी जी ने यह महसूस किया कि महिलाएं समाज में कमजोर स्थिति में हैं, इसलिए उनको आरक्षण की आवश्यकता है और पंचायती राज, नगरपालिका, नगर निगमों में, grassroots से इसे आरम्भ किया। जब उनको पद मिला, तो लोग मजाक बनाने लगे कि अब नए पद बने हैं - सरपंचपति, प्रधानपति, प्रमुखपति, क्योंकि पत्नियों को, स्त्रियों को क्या आता है, उनके पति, उनके भाई, उनके पिता ही चलाएंगे। लेकिन महोदय, मजाक उड़ाने वालों ने यह नहीं सोचा कि इन सबने जो जन्म लिया है, तो किसी जननी, किसी स्त्री की कोख से ही जन्म लिया है। इसीलिए स्त्री को समाज में माता और मातृशक्ति कहते हैं। देवी भी कहते हैं, लेकिन कभी देवी, कभी दासी। सर, उन्हीं महिलाओं ने, जिन्होंने पंचायतों में काम कर लिया, कोई मां के पेट से सीख कर नहीं आता, जिन्होंने दो वर्ष-तीन वर्ष काम किया, जिनका एक कार्यकाल बीता, वे अपना काम समझने में सक्षम हो गईं, वे अच्छी तरह से अपने काम को पहचान गईं, क्योंकि अनुभव से ही तो सीखा जाता है। जब अवसर मिला, तो उन्होंने सीखा। यह राजीव गांधी जी की एक बहुत बड़ी देन है, जिसे इस देश की महिलाएं कभी नहीं भुला पाएंगी। वे आज भी प्रतीक्षा कर रही हैं कि उनका अधूरा सपना पूरा हो। महिला आरक्षण विधेयक, जिसके लिए यूपीए की अध्यक्ष, सोनिया गांधी जी, पूरी तरह संकल्पबद्ध हैं, मनमोहन सिंह जी की सरकार संकल्पबद्ध है कि पंचायत से संसद तक पहुंचने का महिलाओं के आरक्षण का सपना पूरा हो, ताकि जो महिलाएं पंचायतों तक पहुंच गईं, नगर निगमों तक पहुंच गईं, उनका रास्ता आगे खुले और वे संसद और विधान सभा तक पहुंच सकें।

महोदय, माननीय मंत्री जी समान अधिकार के ही तहत यह संशोधन लाए हैं कि दत्तक के लिए माता-पिता, दोनों ही सहमति आवश्यक है और अगर पिता न रहे, तो माता को अभिभावक माना जाए, किसी और को नहीं। सर, इसी हिन्दू समाज में यह जमाना था, जब पुत्र को मां के नाम से जाना जाता था। कुन्तीपुत्र, यशोदानन्दन कृष्ण। इस तरह से मां के नाम से पुत्र को जाना जाता था, वह समय था।...(व्यवधान)...

श्री एम. वेंकैया नायडु : माता और पत्नी के नाम पर, जैसे राधा-कृष्ण।

डा. प्रभा ठाकुर : पता नहीं राधा के नाम से कृष्ण को जाना जाता है या कृष्ण के नाम से ...(व्यवधान)...

श्री एम. वेंकैया नायडु : राधा-कृष्ण, उमा-महेश्वर, पार्वती-परमेश्वर, सीता-राम।

डा. प्रभा ठाकुर : महोदय, यहां पर मैं दूसरी बात कह रही हूँ, तब एक स्त्री को, एक मां को वह सम्मान प्राप्त था कि उसकी सन्तान को उसके नाम से जाना जाता था। यह उसके अपने अस्तित्व का सम्मान था। लेकिन आज जब स्कूल में बच्चे का नाम लिखवाने जाते हैं, तो सबसे पहले वे पूछते हैं कि पिता का नाम बताइए। क्या वहां पर केवल माता का नाम बताना पर्याप्त नहीं है? पासपोर्ट बनवाना हो, तो कहा जाता है कि पिता का नाम बताइए। क्यों? वे ऐसा क्यों नहीं कहते कि माता या पिता में से एक का नाम बताइए अथवा दोनों का नाम बताइए।

एक माननीय सदस्य : पिता या हरबैंड का नाम पूछते हैं।

डॉ. प्रभा ठाकुर : मेरा मतलब बच्चों से है, बच्चे के लिए माता-पिता दोनों का नाम हो या दोनों में से एक का नाम हो या फिर दोनों में से किसी का भी नाम न हो। वहां पर सिर्फ पिता के नाम को ही मान्यता क्यों दी जाती है?

हमारे यहां पर शिव का स्वरूप अर्द्ध-नारीश्वर का बनाया गया है। उस अर्द्धनारीश्वर का सांकेतिक अर्थ ही यही है कि स्त्री-पुरुष अथवा प्रकृति-पुरुष, समाज में दोनों एक समान हैं। स्त्री को पैनांगिनी नहीं कहा गया, अर्द्धांगिनी कहा गया है। कहने को तो पत्नी को जीवन संगिनी कहते हैं, दुःख-सुख की साथी कहते हैं, लेकिन वह संपत्ति की साथी नहीं थी। यह तो भला हो इस सरकार का, मैं इसे बधाई देती हूँ कि वे Hindu Succession Amendment Act लाए और पुत्री को भी पैत्रिक संपत्ति में पुत्र के बराबर भागीदारी दी। यह सरकार Domestic Violence Act लाई Right to Information Act लाई और भी कई तरह के कार्यक्रम और योजनाएं इस सरकार ने बनाईं। Mahatma Gandhi National Rural Employment Guarantee Act लाया गया, जिसमें 33 फीसदी महिलाओं को मजदूरी मिली, काम मिला। इस सरकार के द्वारा ऐसे काम भी हुए, जिनमें महिलाओं को पेंशन के जरिए आर्थिक, सामाजिक, शैक्षणिक, संवैधानिक, राजनैतिक हर दृष्टि से सशक्त बनाया गया। यह सरकार इतना काम कर रही है, इसीलिए चल रही है।

मैं दो विशेष बातों की ओर सदन का ध्यान आकर्षित करना चाहूंगी। समानता लाने के लिए यह भी जरूरी है कि दत्तक पर भी माता-पिता, दोनों का समान अधिकार हो, दोनों की स्वीकृति और सहमति हो। यह संशोधन इस बात को रेखांकित करता है कि पिता न रहे तो माता के अधिकार को प्राथमिकता दी जाए।

महोदय, आपके माध्यम से इस संदर्भ में मैं माननीय मंत्री जी से दो विशेष बातें कहना चाहूंगी, जो बहुत समय से मेरे मन में हैं। सर, एक ऐसा कानून बना दीजिए, कि दस कानून बनाने की आवश्यकता ही न रहे। कानून का क्या है, यहां पर रोज कानून बनाए जाते हैं, कितने ही कानून हैं, लेकिन उन कानूनों का लाभ इस देश में कितने लोगों को मिलता है? शायद एक प्रतिशत को भी नहीं मिलता होगा। कानून इतना महंगा है और कानून की लड़ाई इतनी लम्बी है, कितने लोगों के पास इतना सब्र, समय और धन मिलेगा? वकीलों को देने के लिए इतना पैसा कितने लोगों के पास होगा? कानून कितने ही हैं, लेकिन उन कानूनों का क्या अर्थ, अगर पूरे समाज को और जरूरतमंद लोगों को उनका लाभ नहीं मिलता है। कानून बहुत बने हैं और बहुत बनेंगे। यहां से कानून जन्म लेते हैं, लेकिन न्याय कितने लोगों को मिलता है? बहुत देर से न्याय मिलना भी तो अन्याय ही है, फिर हरेक को न्याय मिल भी नहीं पाता, क्योंकि सभी लोग उसे एफोर्ड भी नहीं कर पाते। वकीलों तक, अदालतों तक और कानूनों तक उनकी पहुंच ही नहीं होती है। ऐसे लोग न्याय लेने कहां जाएं? उनके लिए क्या व्यवस्था है?

महोदय, यहां मैं महिलाओं के सशक्तिकरण के लिए विशेष रूप से दो बातें कहना चाहूंगी। एक बार जब मैं गोवा गई थी, तो मुझे जानकारी मिली कि वहां पुर्तगाली कानून के तहत पत्नी को स्वाभाविक रूप से यह अधिकार है कि पति की हर चल-अचल और पैतृक संपत्ति में वह बराबर की भागीदार है।

वहां कोई जरूरी नहीं है कि अलग से एक पट्टा पत्नी के नाम हो, एक ही पट्टे में पति-पत्नी दोनों का नाम लिखा जाए या मकान के कागजात में दोनों का नाम लिखा जाए। यह डिवाइजन क्यों? एक साथ ही यह कानून क्यों नहीं बन जाता? क्या पत्नी पर विश्वास नहीं है? कई लोग कहते हैं कि नहीं, अगर ऐसा कानून बन गया तो कई तलाक हो जाएंगे, बीवी अपना आधा हिस्सा लेकर पति को छोड़ जाएगी। सर, इस देश में कितनी ऐसी पत्नियां होंगी जो अपना घर, परिवार और बच्चे सिर्फ पैसे के कारण छोड़ देंगी? एक तरफ तो लोग भारतीय नारी और भारतीय संस्कृति का गुणगान करते हैं और जब उसको अधिकार देने की बात आती है या जब उसको सशक्त करने की बात आती है, तो ऐसी संभावनाएं और ऐसी शंकाएं दिखाते हैं! आप गोवा का उदाहरण ले लें। वहां कोई सर्वे करा लें। वहां तो ये कानून हैं, तो इनके कारण वहां पर कितने तलाक हो गए हैं, कितनी पत्नियां धन या सम्पत्ति लेकर बच्चों और घर को छोड़कर चली गई हैं? यह कहना ठीक नहीं है, इसलिए उनको अलग-अलग टुकड़ों-टुकड़ों में हम मत दीजिए, बल्कि सम्पूर्ण हक दीजिए। हम जिसे अर्द्धांगिनी, दुख-सुख की साथी या जीवनसंगिनी कहते हैं, उनको पूरा हक दीजिए। समाज ऐसा क्यों चाहता है कि पत्नी को तो मुट्ठी में रखो? औरतें भी कितनी भोली हैं! वे सारे घर का

काम-काज करती हैं, बीस तरह के काम करती हैं, वे काम भी, जिन्हें कोई पुरुष कर ही नहीं सकता, वे बच्चों को जन्म देती हैं, उनका पालन करती हैं, ससुराल वालों का ध्यान रखती हैं, आए-गए का भी ध्यान रखती हैं और जरूरत पड़ने पर नौकरी भी करती हैं। वे बाहर से कमाकर भी लाती हैं। अगर कोई स्त्री नौकरी नहीं करती या कमाकर नहीं लाती और उनसे कोई पूछे कि बहन जी, आप क्या करती हैं, तो वे बड़े भोलेपन से कह देंगे कि जी, हम कुछ नहीं करतीं, घर में बैठी हैं। कौन बैठी हैं? कौन उनको बैठने देता है? वे सुबह से लेकर शाम तक काम करती हैं, वे काम भी, जिन्हें कोई पुरुष नहीं कर सकता। पुरुष जो काम कर सकता है, वह काम स्त्री भी कर सकती है। वह भी बाहर जाकर जॉब कर के कमाकर ला सकती है। उसके बावजूद उसके साथ यह अन्याय क्यों? क्यों नहीं सरकार की ओर से उसको एकबारगी ही यह अधिकार दे दिया जाता कि उसके पति के नाम की जो भी चल-अचल पैतृत्त सम्पत्ति होगी, उसमें उसकी पत्नी बराबर की भागीदार होनी चाहिए।

सर, दूसरी बात यह है कि जब हम महिलाओं के लिए रिजर्वेशन की बात करते हैं तो मैं यह कहना चाहूंगी कि यह बात यू.पी.ए. के एजेंडे में है। यह बात महामहिम राष्ट्रपति जी के अभिभाषण में भी थी। मैं याद दिलाना चाहती हूँ कि हर स्टेट में सरकारी नौकरियों में महिलाओं के लिए आरक्षण सुनिश्चित कर देना चाहिए। आज हर घर में लड़कियां पढ़ रही हैं। हर कोई आगे जाकर आत्मनिर्भर होना चाहती हैं। मां भी चाहती है, सास भी चाहती है कि उसकी बेटी या उसकी बहू नौकरी करे, कमाए, क्योंकि वह भी अपने पैरों पर खड़ा होना चाहती है, स्वाभिमान से जीना चाहती है। मैंने गोवा में देखा है कि वहां स्त्रियां कितनी स्वाभिमान से जीती हैं। उन पर domestic violence भी इसी कारण से कम है, क्योंकि वे आर्थिक रूप से सशक्त हैं। ऐसे में वहां पर घरेलु हिंसा की समस्या अपने आप समाप्त हो जाती है। सर, आप कुछ भी कहिए, आज का समाज पुरुष-प्रधान समाज है। यदि ऐसा न होता तो ऐसी नौबत क्यों आती? मैंने कई लोगों से बात की है। नौकरियां प्राप्त करने के समय और प्रमोशन मिलने के समय लड़कियों को कितनी तरह की परेशानियों से, अग्निपरीक्षाओं से गुजरना होता है। क्यों नहीं उनके लिए कोई ऐसा ट्रांसपैरेंट नियम बनता, जिसके तहत वे बॉस की मुट्ठी में न रहें, वे उसकी दया और कृपा पर निर्भर न रहें कि वह जिसका चाहे डिमोशन और जिसका चाहे प्रमोशन कर दे? महिलाएं कब तक इस तरह से जकड़ी रहेंगी और बोल भी नहीं पाएंगी? वे न्याय के लिए कहाँ जाएंगी? इसलिए, मैं आपके माध्यम से हमारे विद्वान और संदेवनशील माननीय मंत्री जी का ध्यान चाहती हूँ, इस सरकार का और सदन का ध्यान चाहती हूँ कि महिलाओं को न्याय दें, टुकड़ों-टुकड़ों में नहीं, पूरा न्याय दें और समान अधिकार दें, क्योंकि आपने इसमें समान अधिकार की बात कही है।

आप उनको आर्थिक रूप से सशक्त बनाएं। इससे वे अपने आप सामाजिक रूप से सशक्त बन जाएंगीं तथा वे अपने आप घरेलु हिंसा से भी बचेंगीं। ये स्थितियां अपने आप पैदा हो जाएंगीं। वरना, यह हो जाएगा कि जैसे महिलाओं का अपना कोई वजूद ही नहीं। अगर वे वोट भी डालेंगीं, तो अपने पति के इशारे पर। अगर पति ऑफिस से घर आ गया तो उसे पत्नी घर में मिलनी ही चाहिए। ये कई बातें हैं। हमारी जो भारतीय नारी है, वह खुद सेवा, कर्तव्य, त्याग और ममता की प्रतिमूर्ति है। उसने बहुत सेवा की है और त्याग किया है, इसलिए यह बहुत जरूरी है कि उसे कुछ अधिकार भी मिलें।

(उपसभापति महोदय पीठासीन हुए)

उसे ये अधिकार आधे-अधूरे न मिलें, बल्कि सम्पूर्ण मिलें, ताकि वह इतनी सशक्त बने कि पुरुष और स्त्री दोनों इस समाज के मजबूत पहिये बनकर एक साथ आगे बढ़ें और हमारा यह समाज चौगुनी गति से विकास की तरफ उन्नत हो सके, आगे बढ़ सके। आपने इतना समय दिया, इसके लिए बहुत-बहुत धन्यवाद।

श्री शान्तराम लक्ष्मण नायक (गोवा) : सर, मैं प्रभा जी को धन्यवाद देना चाहता हूँ कि इन्होंने गोवा की महिलाओं के बारे में बहुत अच्छी बातें कही हैं जो कि सही हैं।

DR. T.N. SEEMA (Kerala): Respected Deputy Chairman, before going to the Bill I have a simple request. Hon. Minister has stated in the beginning that the UPA Government is committed to gender equality. If it is a sincere statement please show your political will to bring the Women's Reservation Bill in the Lok Sabha as early as possible.

MR. DEPUTY CHAIRMAN: Our House has already passed it. You cannot ask here.

DR. T.N. SEEMA: Sir, it is for Lok Sabha. I would like to appreciate the hon. Minister for bringing these amendments. These are very important amendments to the Guardians and Wards Act, 1890 and Hindu Adoption and Maintenance Act, 1956. These three amendments which give inclusion for women in the legal system will definitely ensure the dignity and the right to be equal partners in parenthood. Sir, these were the demands raised by different movements, women movements, intellectuals and legal experts for the last several years in our country and hon. Supreme

Court had also intervened many times and made very important judgments which might have inspired the Government for bringing these amendments. So, I heartily welcome these amendments and support the Bill. But, Sir, I am not fully satisfied with what Government had done in this regard. I have two points. My first question is: Why only Hindu women? We know our Constitution provides for all women in the country equal rights and we know there are Personal Laws and we fully respect the feelings of the people in the minority communities who believe in Personal Laws. But, can we neglect the increasing demand from women and reformists from the minority communities for reforms in the Personal Law? I am working in an organization called All India Democratic Women's Association.

As an activist, I can say from my own experience that there are more and more women wanting reforms in the Personal Laws in the last few years. So, we request the Government to take steps to implement the spirit of the Constitutional provision for gender equality for women from all spheres of our society. Equal rights for all women should be the central focus. But, at the same time, we are totally against and condemn any attempt to communalize the demand for reforms in the Personal Laws and we are against the fundamentalists and their ideologies, as they unite against women's equality, regardless of their religion they claim to represent. So, my second point is, the major issue of gender discrimination regarding guardianship still remains. Sir, who is the natural guardian of a minor? There is another law which you may know, the Hindu Minority and Guardianship Act, 1956. In this Act, there is Section 6. It states that in the case of a boy or unmarried girl, the father and after him, the mother. Can the mother be a natural guardian?

Yes. This Act says, 'provided that custody of a minor who has not completed the age of five years shall ordinarily be with the mother.' That means, the major responsibility of raising a child up to five years – which are crucial years—is woman. In the case of an illegitimate boy or an illegitimate unmarried girl, it is mother, but only after the father. It is a cruel joke. What does it mean? If it is an illegitimate child, then mother needs more support, because father can easily wash off his hands and

abscond. But, the responsibility will fall on woman and we call it as right for that guardianship. If father has become a *sanyasi*, then mother will become a natural guardian. Either me or any woman in this country wants to be a natural guardian of my child or any other's child, we have to be the natural guardian. Otherwise, we have to declare that the child is illegitimate or husband has gone in for *Vanaprastha*. Actually, it is like a joke in our legal system. I am not a legal expert. But, I know that many eminent lawyers are sitting in this House. I have a simple question. The question is: Section 6 of the Hindu Minority and Guardianship Act, 1956, protect the rights of woman in our country. I also ask whether it protects the interest of our Constitutional spirit for gender equality. Section 6 of the Hindu Minority and Guardianship Act, 1956, is totally defected and also discriminatory. It is framed in the background of the century old patriarchal norms existing in our country. The Supreme Court judgment in Geeta Hariharan Vs. Reserve Bank of India, in 1999, gave clear judgment on Section 6. The judgment says, 'It is an axiomatic truth that both mother and father of a minor child are duty bound to take due care of the person and property of their child.' Sir, this historical judgment and observation of the hon. Supreme Court might have influenced the Government to bring this Amendment Bill. But, that case was on Section 6 of the Hindu Minority and Guardianship Act, 1956. Why this Bill is silent on Section 6 and the judgement of the Supreme Court. It is my simple question.

Sir, in the Statement of Objects and Reasons the hon. Minister says that the amendments are on the basis of recommendations of the Law Commission of India in its 83rd Report. I would like to draw the attention of the hon. Minister to the recommendations of the Law Commission of India in its 135th Report in 1989 on the Guardians and Wards Act, 1890. It clearly states that two legal provisions- Clause (b) of Section 19 of the Guardians and Wards Act, 1890, and Section 6 of the Hindu Minority and Guardianship Act, 1956-are unconstitutional. That is what has been recommended by the Law Commission of India. It said that Clause (b) of Section 19 of the Guardians and Wards Act and

Section 6 of the Hindu Minority and Guardianship Act unconstitutional. It recommended that both mother and father be declared as natural guardians with equal right over the child. It is surprising and unfortunate that the Bill missed these important recommendations of the Law Commission of India made in its 135th Report. Sir, we know these Acts deal with marriage, guardianship, succession, adoption, etc. Those are inter-linked. Actually, the Hindu Minority and Guardianship Act, 1956 was meant to enhance the Guardians and Wardship Act 1890. Now, we are amending one Section of the Guardians and Wards Act. So, why cannot you change the discriminatory clause of Section 6 of the Hindu Minority and Guardianship Act, 1956?

Sir, we all know that our society is changing. The women are asserting more and more rights and duties as equal partners and equal citizens in our society.

We know that more than one-third of our families, in India, are headed by women. That means women are the main bread earners in those families. The law and the Government policies must reflect this reality and make necessary changes accordingly. (Time-bell)

Sir, through you, I would like to request the hon. Minister, while bringing these kinds of new amendments, he should consider and change the existing discriminatory clauses in other related Acts; otherwise, these amendments will be contradictory to the existing laws.

SHRI TIRUCHI SIVA (Tamil Nadu): Sir, I rise to support this Bill, which seeks to remove the offending clause from the earlier Guardian and Wards act, 1890 and the Hindu Adoption and Maintenance Act. As per the Census, held in 2001, the population of the women constitutes 48.26 percent. And, to bring complete equality for them in all spheres of life, this Government has got an objective and policies, which had been emphasized by the President herself in her Address to both the House of Parliament. ...*(Interruptions)*... In this process, this Government realizes that it is imminent on its part to remove the discriminatory legislations. The laws, today, are not gender equal.

I would like to appreciate our Law Minister that during his regime he is bringing in so many radical and progressive amendments in the laws, which are most welcome from all quarters of the country. It has taken so many years for us to legislate a law that can appoint a minor kid's mother, besides father, as a guardian. A society, which ill-treats women has never been in the fore-front, history tells us. Deep study of anthropology or sociology or even a very fantastic book written by Rahulji 'Volga to Ganges', will clearly say that once mother used to be the head of the society. When evolution took place, instead of progress, there was retrogression. Women were taken to the backseat. The men became dominant. The rights of the women were curtailed and they were confined to home and hearth. They were deprived of education. They were deprived of any social importance. Days change. When the monarchy disappeared and democracy emerged, many progressive and radical leaders came forward. They created an awakening. Especially we, from Tamil Nadu, are very proud. I am personally very much privileged to support this Bill for we originate from a movement that had fought for the downtrodden people, especially the women folk. Our founder leader, our mentor and our Periyar, who is a recognized and reputed leader across the country used to say that you cannot differentiate between your right eye and your left eye. So, also you cannot afford discrimination between women and men. Both are equal. All along his course of life and his path of progress, he has fought for the rights of women. And, our party DMK, its founder leader Ana, and, now, the incumbent Chief Minister, Dr. Kalaingar, have done very remarkable things. And, one such thing is that first we legislated that women should have a right to their ancestral property. It was in 1990, which hailed to be one of the very progressive achievements of our Government. There are, now, women self-help groups. Other than that, we encourage widow marriages. If a woman got married before attaining puberty and if her husband happened to die before that stage she was made to lead a life of widow and she was made to suffer. But we changed all those things. Instead of just preaching socially, we made legislations. In fact, the DMK became a political party to contest elections only to legislate the progressive laws. Only if we have power to legislate, we can bring a

change in the society. So, that was not just in theory. To be in letter and spirit, we have enacted very, very progressive laws. And, women in Tamil Nadu are enjoying that privilege. I am saying all these things not just to support the Bill, but to emphasize that we not only preach, we also practice what we preach. So, from the initial day, till today, and even in the days to come, though our women have been given so much of privilege and rights, nowadays, we have to go many more miles. And, this is a milestone. The Standing Committee has passed a unanimous recommendation with regard to this Bill, which seeks to amend this Guardian and Wards Act and the Hindu Adoption and Maintenance Act. And, I am proud to say that I was one of the Members of that Committee. We all supported that in the Committee. And, I also find it my bounden duty to support this Bill again to re-emphasize, as a Member of party, which has always fought for the rights of women and to create gender equality. We place our appreciation, on record, of the UPA-II Government, the hon. Prime Minister, Dr. Manmohan Singh, the Chairperson, Shrimati Sonia Gandhi, and our Law Minister, who have done so many things. This is a day which has to be hailed in the progressive path and achievements of the women folk in this country. Thank you, Sir.

SHRI Y.P. TRIVEDI (Maharashtra): Sir, I fully support this Bill with all my heart. Our culture or tradition has not seen any distinction in the genders. And, as it has been stated, we have an old saying in Sanskrit यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवता, where there ladies are worshiped, God remains there. But when it comes to our legislation, it is very surprising that it always refers to the male gender. Maybe it is the Indian Penal Code, maybe it is the Evidence Act, maybe it is the Contract Act, or, maybe so many legislations, which are pending today, there is always a reference to 'he'. It does not talk of 'he or she'. And, to obviate that, the courts have said that an argument was advanced that this is only reference to the male; the courts have said that 'he' includes 'she'. That is what the courts have said. Otherwise, there is always a reference, like, 'he' doing this; the Comptroller and Auditor shall do this, if 'he' has not done so, then, this will happen. So, there is always a reference to male gender. I don't agree totally that the women have always been on the back side. If you look at the Hindu Succession Act, the women are, probably, better than men because a married women gets a share in the husband's ancestral property as well as from her father's ancestral property. But a man does not get a share in his father-in-laws ancestral property. ...*(Interruptions)*...

5.00 P.M.

SHRIMATI BRINDA KARAT (West Bengal): What is this, Sir? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: This is his opinion. ...*(Interruptions)*...

SHRI Y.P. TRIVEDI: This is not my demand, but it is a fact. It is a fact that, at some places, the law is biased in favour of women. ...*(Interruptions)*... Well, I have no resentment against it, I appreciate that and I welcome it. I am just stating the fact of law. ...*(Interruptions)*... The only one thing, which I am saying is that the Minister has stated that he might bring in more legislations by which the gender bias will be totally removed. I am suggesting that instead of bringing so many legislations, from time to time, you can bring in one legislation, saying that wherever there is a reference to male gender, it would automatically include the female gender, in the context in which it is appropriately fixed. I think, that will be sufficient. So, several legislations may not be necessary. That is my suggestion. Thank you.

MR. DEPUTY CHAIRMAN: Now, we shall take up Half-an-Hour Discussion. Then, we will proceed with the Bill. ...*(Interruptions)*... It is not concluded. Half-an-Hour Discussion is listed at 5 o'clock. It has to be taken up at 5 o'clock. Shri Syed Azeez Pasha.

HALF-AN-HOUR DISCUSSION

Multi-Sectoral Development Programme

SHRI SYED AZEEZ PASHA (Andhra Pradesh): Sir, how much time have you allotted, Sir?

MR. DEPUTY CHAIRMAN: There are three persons who have given the notice. Don't make speeches. Put your question and get the answers.

SHRI SYED AZEEZ PASHA: Sir, on 9th August, there were so many Supplementaries to this question, but due to time-limitation, Chairman could not permit all those who were desirous of putting their questions.