

[Shri Rama Chandra Khuntia]

I, therefore, urge upon the Government to develop and expand the infrastructure, ensure better service and stop all deputation allowances in the MTNL and the BSNL. Making Code of Conduct more stringent will make the MTNL and the BSNL perform for its survival and also compete with the other private mobile and telephone companies.

**Demand to extend the facility of minimal invasive robotic surgery to CGHS and ECHS beneficiaries in the country**

SHRI KANWAR DEEP SINGH (Jharkhand): Sir, a revolutionary advanced treatment in minimal invasive surgery through robotic surgical system has been introduced in India. It is performed through 1-2 cm incisions by a surgeon using a robotic surgical system called DA VINCI, which enables surgeons performing these surgeries to be more precise. This has advantages of faster recovery and resumption of normal routine within 10 days or sooner, lesser pain and trauma. It also improves dexterity of the surgeon. The robotic surgery thus can be performed for cardiac thoracic, urology, gynaecology, general, head, neck and orthopaedic procedures. It is a blessing in disguise as major heart surgeries are performed through three to four incisions. Unlike the traditional methods of surgery, the chest is not opened to access the heart. There is less pain, shorter hospitalization, faster recovery, lesser blood loss and risk of infection, and minimal scarring. In India, the first-ever robotic surgery was performed in 2002 at New Delhi. Since then, the robotic systems in India have increased from 1 to 22. This robotic surgery has been practised in many countries for the past 22 years. The idea is to make India self-sufficient and make this advanced form of surgery easily available in India.

I request the Health Minister to promote this latest technique of minimal invasive robotic surgery and extend the benefit of this advanced treatment to the beneficiaries of CGHS and the Defence Minister to extend this benefit to ECHS beneficiaries and also introducing this surgical technique in the medical facilities of the Armed Forces as it will be a boon to the injured due to the faster recovery period.

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**STATUTORY MOTION**

**For resolution that the Information Technology (Intermediaries Guidelines) Rules, 2011, laid on the Table of the House on 12th August 2011, be Annulled**

SHRI P. RAJEEVE (KERALA): Sir, I move:

“That this House resolves that the Information Technology (Intermediaries Guidelines) Rules, 2011 issued under clause (zg) of sub-section (2) of Section

87 read with sub-section (2) of Section 79 of the Information Technology Act, 2000 published in the Gazette of India dated the 13th April, 2011 vide Notification No. G.S.R 314(E) and laid on the Table of the House on the 12th August, 2011, be annulled; and

That this House recommends to Lok Sabha that Lok Sabha do concur in this Motion.”

Sir, after a long time, our Parliament is discussing a Statutory Motion. This is one of the rarest occasions in Parliamentary proceedings. Normally, Parliament would not get an opportunity to discuss rules. Statutory Motion is the only opportunity for Parliament to discuss rules. Parliament has the power to make laws. But the power to make rules is delegated to the Executive. The legal requirement is that the rule should be in accordance with the parent Act. But, nowadays, we find that most of the rules are *ultra-vires* the parent Act. The Information Technology (Intermediaries Guidelines) Rules, 2011, is a clear-cut illustration of this trend, which needs to be curbed by the supreme law-making body of the country, that is, Parliament. The World Summit on the Information Society is going to be held in Geneva tomorrow, where different aspects, including Government-control on internet by our country, are going to be discussed. We are discussing this Motion today, and this would reflect on the Conference which is to be held in Geneva.

Coming to the grounds for this Statutory Motion, I would like to state one important thing. I am not against any regulation on internet, but I am against the control on internet. What is the difference between regulation and control? Recently, Justice Markandey Katju correctly made a distinction between control and regulation. In control, there is no freedom. In regulation, there is freedom within the reasonable restrictions given under our Constitution. The Information Technology (Intermediaries Guidelines) Rule is an attempt to control the cyber space. It is an attempt to curtail freedom of speech and expression which has been ensured under article 19(1)(a) of the Constitution. Sir, we have enough legal provisions to regulate the internet. The I.T. Act, 2000, has a very strong provision to regulate internet. I would like to invite the attention of this august House to Section 69 of the Act. Section 69(1) gives powers to issue direction for blocking, for public access, any information through any computer resource. This Section has correctly specified what the offendable things are. Now, I quote Section 69(1): “If satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence, relating to above, it may subject to the provisions of sub-section (2).” These are correct

[Shri P. Rajeeve]

formulations. This is in accordance with article 19(2) of the Constitution. But, in addition to that, Section 69(3) talks about intermediaries. What are intermediaries? Now, when we use the I-pad in Parliament, we get the internet access through the MTNL. So, that is an intermediary. Likewise, Google and Yahoo are intermediaries. Facebook and Twitter are intermediaries. Web hosters are intermediaries. These are intermediaries. In the Act itself there are strong provisions to control these intermediaries. 69A(3), “The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years”. Section 69A(3) is a very strong provision in the Act itself. Sir, the Government has made rules on the basis of Section 69, *i.e.* the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009. Sir, if the formulation of procedure is very correctly framed, then, how can the content be blocked by an intermediary? The designated officers are there. Specific Committees are there. Reviewing Committees are there and as per this Rule, there is a strong provision to control the intermediaries also. A provision to not only regulate, but even to control the intermediaries’ is there in the Act itself. Then, Sir, there are too many criminal provisions in the IT Act. While coming to Section 66A of the IT Act, “causing annoyance or inconvenience electronically has a penalty of three years and does not require a warrant to arrest.” That is the provision of the Act itself. That shows the IT Act itself and the rule in accordance with several sections of the Act give power to the Government, and also to the intermediaries, to deal with all these things. Then, what is the urgency for the new rule? Sir, in 2004, Avnish Bajaj, the CEO of Baazee.com, an auction portal, was arrested for an obscene MMS clip that was put up for sale on the site by a user. The Baazee.com case, a well-known case, resulted in an appeal by the industry to amend the Information Technology Act by providing protection to intermediaries from liabilities arising out of user-generated content. Sir, the intermediaries have no editorial control on the content. That is true. Then, certain protection should be there. For this, the IT (Amendment) Act, 2008 amended Section 79 of the IT Act, 2000 to provide for safe harbour protection to intermediaries. The safe harbour protection available to intermediaries is conditional upon their observing “due diligence” while discharging their duties under the Act and observing guidelines issued by the Government in this regard. Sir, these guidelines prescribing “due diligence” to be observed by intermediaries were notified in April 2001 in the form of IT (Intermediaries Guidelines) Rules 2011. Sir, why should these rules be annulled? That is the content of the Statutory Motion.

Firstly, Sir, these rules are *ultra vires* to the parent Act. Section 79 intended to give harbour protection to the intermediaries. The purpose of Section 79, amended Section, is to give harbour protection to the intermediaries from other liabilities, but this rule has gone against the intent of Parliament by introducing a private censorship mechanism. Sir, this is private censorship. Delhi High Court in 2002 has specifically stated that pre-censorship cannot be countenanced in the scheme of our Constitutional framework. That is the verdict of Delhi High Court in 2002. These Rules, the new Rules, which we are discussing now, cast an obligation on the intermediaries to remove access to any content within 36 hours on receiving a complaint from an affected person, that falls under the category of a wide vague undefined list of “unlawful” content specified in the Rules. That is true. The rule should act, but *de-facto* they are compelled to remove the content.

That is the reality. It has been experienced by several organisations and other people by giving some complaints and the content was removed within 36 hours. The unlawful content has been mentioned under Rule 3(2) of Intermediaries Guidelines. Rules 3(2) says, “Such rules and regulations, terms and conditions or user agreement shall inform the users of computer resource not to host, display, upload, modify, publish, transmit, update or share any information.” Then, Sir, 3(2)(b) specifically states what are the offendable contents, but without defining what are these. Sir, I would not like to take more time to read all these things. But, I would only say any information that is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, pedophilic, libellous and there are several things has to be informed to the computer users. It is neither defined in the Rules nor is defined in the Act.

But, Sir, Section 69 of the Act specifically defined unlawful content. The correct formulation of Section 69 specifically defined unlawful content which came under the purview of Article 19(2) of the Constitution. But, Rule 3(2) of the Intermediaries Guidelines goes beyond the Act which is a clear violation of the Act.

Sir, my second point on the *ultra vires* of the parent Act is Section 69. Sir, Section 69 of the Act gives power to the Government to issue direction for interception or monitoring or decryption of any information through any computer resource. Sir, Section 69(2) provides for procedures and safeguards subject to which such interception or monitoring may be carried out. The executive has made a rule on the basis of Section 69. It clearly specifies what are the provisions and procedures followed by the executive to take information with regard to the user. But, Sir, Sub-Rule 7 of Rule 3 of the Intermediaries Guidelines mandates the intermediary to provide information of any such assistance to Government agencies

[Shri P. Rajeeve]

without any safeguards. This is a clear violation of the Act. This is clearly against the guidelines specifically framed by the Supreme Court in Telephone Tapping Case. This is a clear violation of Section 69 of the IT Act and this could have serious implications on the right to privacy of citizens.

I come to Section 88 of the Act. There is a provision for Cyber Regulations Advisory Committee. Soon after commencement of the Act, Cyber Regulations Advisory Committee consisting of who? the interests of principally affected or having special knowledge on the subject matter to advise the Government on framing the rules. In the Act itself, there is a provision to constitute an Advisory Committee. Sir, Information Technology, cyber space, etc., are new sectors and hence expertise is required. So, the Government has correctly framed Section 88 in the IT Act to constitute Cyber Regulations Advisory Committee to advise the Government for framing the rules. These rules, without seeking any advice from the Committee, have been framed. It is because even after one decade this body has not yet been formed. The advisory mechanism or body to guide the Government on framing the rules has not yet been constituted even after one decade of the Act! This is a very serious thing.

Sir, the apex court of the country has quoted several rules which are *ultra vires* of the parent Act. I am sure, as an eminent lawyer, our hon. Minister, Mr. Kapil Sibal, is well aware of the fundamental principles of the Subordinate Legislation that essential legislative function cannot be undertaken by the executive since it is the sole prerogative function of the Parliament. It is the sole prerogative function of the Parliament. It should not be delegated to the executive. If the Government wants any change, it has to come to Parliament. That is my first ground on this Motion.

Secondly, this rule is violation of the Constitution.

Article 19(1) of the Constitution ensures the right to freedom of speech and expression. Article 19(2) of the Constitution specifically defines the 'reasonable restrictions'. But, Rule 2 goes beyond article 19(2) of the Constitution. The Supreme Court held in the Express Newspaper Private Limited versus the Union of India case that if any limitation on the exercise of the Fundamental Right under article 19(1) does not fall within the purview of article 19(2) of the Constitution, it cannot be upheld. This was the verdict given by the apex Court in that case. In several cases, such as that of Mohini Jain versus the State of Karnataka, the Supreme Court of India quashed the rule saying that it was *ultra vires* of the Constitution, stating that the rule violates the principle of natural justice.

The rule does not provide an opportunity to the user who has posted to reply to the complaint and justify his or her case. This whole mandates the intermediary to disable the content without providing an opportunity to hear the user who posted the content. In some countries like America and the European Union countries, there is a provision to hold the content, remove the content for some days and after hearing the user who posted the comment, there is a provision to repost it. Such safeguards are not here. This is a clear violation of the principle of natural justice and it is highly arbitrary.

Fourthly, this rule prohibits the posting of certain content on the Internet while it may be lawful in the other media. For example, an article may be permitted in the print media, it may be permitted on television, the visual media, but the same article might be prohibited from being reproduced in a web edition.

Sir, the Ministry issued a clarification in 2011. In that clarification, the Ministry had claimed, and stated:—

“These due diligence practices are the best practices followed internationally by well-known mega-corporations operating on the Internet”.

Sir, it might be true. But self-regulation should not be equated with Government control. The Ministry, in the same clarification, also stated, and I quote:—

“The terms specified in the Rules are in accordance with the terms used by most of the Intermediaries as part of their existing practices, policies and terms of service which they have published on their website. In case any issue arises concerning the interpretation of the terms used by the Intermediary, which is not agreed to by the user or affected person, the same can only be adjudicated by a court of law”.

What is the logic, Sir? Their attitude is, ‘run away from defining these terms’. The Ministry has stated that the Intermediaries have defined these terms; if you have any objection to the definition, then, you can approach the court of law. What a logic, Sir! We are creating an avenue for judicial interpretation. We are running away from our own responsibilities. This is totally against the basic principles that we follow in law-making and in rule-making.

Finally, Sir, I would like to submit what the international approach is. The U.N. Human Rights Council says, and I quote:—

“Censorship measures should never be delegated to a private entity. No one

[Shri P. Rajeeve]

should be held liable for content on the Internet of which they are not the author. Indeed, no state should use or force Intermediaries to undertake censorship on its behalf”.

This is what the declaration of the U.N. Human Rights Council states. That is the duty of the Government. As per the Act itself, there are certain provisions by which the Government can intervene and regulate the Internet. Several rules are there as per section 69 of the Act. But these rules in accordance with section 79 of the I.T. Act go beyond the Fundamental Rights enshrined in the Constitution, they also go beyond the principles which are being followed internationally and they also go against the declaration of the U.N. Human Rights Council.

Finally, Sir, we should recognize multi-stakeholder nature of internet. Tomorrow, in Geneva, there is a very serious debate on this multi-stakeholder. India has proposed some code and some Government control measures. I support some part of it. But, we should protect multi-stakeholder nature of the internet. This is a very serious attack on the freedom of speech and expression. This is a very clear violation of the parent Act, which is ultra vires to the parent Act, and ultra vires to the Constitution. This is against the principles of natural justice.

So, I request the House to annul this rule itself to protect the rights of Parliament. Do not delegate these powers to the Executive. If the Minister wants any change, let him come to the House with an amendment Bill and make the rules accordingly. With these words, I conclude. Thank you, Sir.

*The question was proposed*

THE LEADER OF THE OPPOSITION (SHRI ARUN JAITLEY): Mr. Vice-Chairman, Sir, let me, first of all, compliment the hon. Member, Shri Rajeeve, for familiarizing all of us that we have a role in overseeing even subordinate legislations. Otherwise, most of us were under the impression that the law is framed by Parliament, and rules and regulations are framed by the Government and placed on the Table of the House. I think, he deserves a compliment for educating us on this rule that Parliament has a supervisory control as far as subordinate legislations are concerned, and, if need be, we can express our vote of disapproval to the subordinate legislations.

Sir, we are dealing with a very difficult issue. We can allow ourselves to be carried away by either a popular sentiment which is always against any form of

restraint or censorship; we can also allow ourselves to be carried away by a certain amount of anguish and irritation as to the kind of material we see on the internet or on various sites. The fundamental principle is that it is extremely difficult, if not impossible, to control technology. It would not even be desirable to do so. It is impossible to defy technology. So, the days of censorship, the days of withholding back information is all over. I always believe that if the internet had been in existence, the internal Emergency of 1975 would have been a big fiasco. You could restrain and create awe by censorship of the print media and control the electronic media, but you could never control the internet. Therefore, there would be a free flow of information; information would come from all over the world. There would be angry exchange of articles and the circulation would have been so wide that the whole fear psychosis which was built up would itself have been demolished. Therefore, these institutions which have come up by virtue of technology have a great role to play.

But, then, there is the other danger. The other danger is, there is a situation of incitement of certain offences in the society. There is hate speech. There is religious hatred being created. There is caste hatred being created. There is an incitement to violence being created. You can have a flow of information which can then end up creating frenzy as far as the society is concerned. If that kind of frenzy is created, you will see the negative impact of allowing this kind of information. Therefore, we have to take a balanced approach as to how to go about in the matter, the rules which have been prepared by the Government and placed on the Table of the House. In fact, rules themselves are attempting to devise a mechanism. The mechanism is that, on account of technology, there is inflow of information. Suppose, there is inflow of information into the YouTube. Those who own or administer YouTube do not censor every article or any piece of information, a video or an audio that goes on to the YouTube. Anybody can enter the information at any point. Their only authority or domain would be to remove it once it enters.

Now, the information is going to be so large; the content is going to be so large, that they would not even be aware of what is actually contained therein. Therefore, most sites invent the procedure by which they have internal alerts. So, if there is anything which is pornographic, the alert goes up and it is immediately taken off. This can go off, not in minutes, it can go off in seconds itself. If there is something which relates to incitement of an offence, there will be several indications of alerts within the internal system. Then, there is a system of 'outside alerts'. You don't catch that objectionable material, but somebody else brings it to your notice. Therefore, you have to then take it off. In that sense, the rule really says that every



[Shri Arun Jaitley]

intermediary will be given the following information, which he cannot carry. If his internal and external alerts bring it to his notice, it is incumbent on him to take it off within 36 hours. This is the architecture which this rule appears to have devised. Don't put anything on these knowingly, which is objectionable. But if, unknowingly, something appears on your site, and if the alert brings it to your notice, then it will have to be taken off. The difficulty will arise this procedure, *prima facie*, appears to be reasonable if the kind of information which is sought to be objected to and removed becomes too wide, and then becomes a threat to free speech. My limited point is and I urge the hon. Minister that I have no serious personal objection against the architecture that he has devised it is an architecture where there is no prior censorship; it is an architecture where anything can go on these sites. If something is objectionable, and if it is by an alert system brought to your notice, then, within a reasonable period of time, you take it off. Now, you see the kind of information which is being restrained. I draw the hon. Minister's attention to Regulation No. 3; it is contained in sub-clause (2) of Regulation No. 3. Now, take category (b) out of that. Here, Mr. Rajeev's point is that link it to what are the restrictions in article 19(2) of the Constitution. There is a clause which incorporates some of them; then, it adds something more. There are certain laws which prohibit carrying of certain kind of information. That may be in addition to article 19(2). For instance, an obscene display of women; somebody else's copyrights; somebody else's patents; somebody else's trade information, you can't carry that. Now, this broadly deals with these categories. But, then, the expressions used in some of the cases are so wide that my fear is that at some stage, they could even be used to curtail some amount of free speech. In clause (b) you said, "If that information is grossly harmful". Now, the word 'harmful' is absolutely subjective. Now, there is information which some my friends in the Government may consider very harmful to them. I may think it is my right to express that information. It is 'harassing'. Now, 'harassing' is not a word which is capable of a strict legal definition. It can be stretched to such an extent: are we going to empower the Executive? I can understand that anything which harasses an individual lady, if it was specific, I may have had no objection. But if you say, 'it is harmful', 'it is harassing', it is not proper. The third word is 'blasphemous'. I would urge the hon. Minister to kindly replace this word with what is contained in Indian law. Now, we have a very secular penal law that anybody who creates incitement against any religion or who expresses disrespect is liable. Now, 'blasphemous', internationally, at least, in some countries, is very narrowly defined. In England, for instance, 'blasphemy' is only against one religion.

So, blasphemy is only against one religion. If blasphemy is an offence, it is against Christianity. It is not an offence against Islam, Hinduism, or Zoroastrianism. You have the judicial pronouncements in the British Courts when a restraint was sought on the Satanic Verses, they said, no, you are saying that this is blasphemous of Islam, but this is an offence available only against Christianity. So, the word really comes from the English Dictionary, and, therefore, rather than using the word 'blasphemous', I have no difficulty if the words were, 'anything which incites religious hatred or disrespect to any religion' are used. You can have that power. Now this 'defamatory' in this, I have a positive objection to it. I am entitled to defame somebody as long as can plead truth as a defence. Therefore, every time I get up and on the net an allegation is made that somebody is corrupt, it is obviously defamatory. But then the person making that allegation has a right to plead that what I have said is true. Now you seek to restrain anything which is defamatory. So, both in common law and also in our penal law, defamation is permissible as long as you can justify the defamation. You can either justify or you can have a qualified privilege in a response to defamation, and then to say that anything defamatory will not be allowed, if I get up and say that I have a serious objection that so and so is *prima facie* guilty in such corruption scandals, it is obviously defamatory. But I am entitled to say so as long as I can plead truth as a defence. So, anything which is defamatory, I think, if it goes off the net completely, then we will probably have a very boring internet as far as this country is concerned because a lot of material which comes up enlightens people and informs us of what kind of things which are taking place. Similarly, there are words 'libellous', 'disparaging'. Now somebody can get up and criticise my party or criticise me, it is disparaging as far as my party or my criticism is concerned. Do I have a right to say that it be taken off the net? I think, the words which have been used are being capable of stretched in a manner that there is a huge possibility of a future misuse. Sub-clause (f) says, 'deceives or misleads the addressee about the origin of such messages or communicates any information, which is grossly offensive or menacing in nature'. Now 'offensive' or 'menacing' are not being capable of put in a definitional narrow jacket. Now something maybe offensive for some and may not be offensive for some. Similarly, (g) is, 'impersonates another person'. Sir, my grievance is that both in Parliament, in our media and public discourse, we are losing a sense of humour. There are cases of impersonation that I see, particularly, on the Twitter. I have had somebody impersonating a site as my site. I made a grievance and I found a lot of humours and funny things, including ridiculous to me coming from that particular impersonator. You have somebody imitating people in high places. As long as it is a part of permissible humour, it is all right, but if it is a case where somebody

[Shri Arun Jaitley]

is committing an offence through impersonation, I think, there is a need for law to step in. But if it is a case where somebody has a satirical site or a satirical space on the Twitter, this is not intended to really stop that. In (i), there are two cases. I have no difficulty with the first part of (i), that is actually reproduction of article 19 (2) where reasonable restrictions are possible, and it says, 'threaten the unity, integrity, defence, security, sovereignty of India, friendly relations with foreign states or public order or causes incitement of a commission of a cognizable offence'. These are the words literally picked up from the Constitution. We have accepted them. They have stood the test of time, I have no difficulty. Then it says, 'or prevents the investigation of an offence.' Now do I not have a right to criticise an investigative agency? We have seen misuse of investigating agency.

I can criticise it in the print media; I can't do it on the Net. The last one, again, I think, is very broad. I would urge the Minister to retain only the first language, "friendly relations with foreign States". That is the language of the Constitution, article 19(2). Now, you are bringing a new category saying, "or is insulting any other nation". Now, in a huge discourse on Foreign Policy on national relationships, we are entitled to criticise other States. The Government of India may use restrained language; we, in Parliament, may use restrained language, but on the Net, you will find a number of comments about a country where Osama Bin Laden was eventually found. We also in politics say, 'Terror as an instrument of State Policy, the Government is encouraging it.' We criticise the institutions. My fear is that they will come within the meaning of the words, 'insulting any other nation'. Therefore, a legitimate criticism, which is Constitutionally permissible, which, doesn't really offend foreign relations with friendly States, is something which is permissible. So, if I may just, in a nutshell, say, I am with the architecture that the hon. Minister is creating, because, if, as I said, there is some kind of a communal or caste problem, the Net can go viral and you can have a frenzy in the society, certain kind of information which creates disorder in the society may have to be restrained. But, then, to say, 'take that power and then extend it by the use of such words where legitimate expression may become difficult', there would be apprehension. Powers are, normally, assumed under these rules on the assumption that they won't be misused. We feel the pinch only when they are misused. Therefore, I would urge the Minister to kindly reconsider the language of the kind of restraints that he wants to bring as a result of this notification. Thank you, Sir.

DR. E.M. SUDARSANA NATCHIAPPAN (Tamil Nadu): Sir, I am very happy

that the hon. Members are taking up these issues for a wide discussion. But, at the same time, in our House Committees, there is a Committee on Subordinate Legislation. When these types of issues come, we can request the Committee on Subordinate Legislation to go in depth and take the evidence from the Government to know whether there is a necessity for such a rule or not. Since the so-called Plenary Session of the Parliament is having sufficient work in hand, we have created House Committees where this type of issues can be raised. But even then, our hon. Member has attracted the attention of the media, and also of the House, to take cognizance of this issue. But, Sir, after reading the rule which has now been framed, I find it to be a very carefully drafted one. I fully respect the Leader of the Opposition for making certain observations. Those are all to be considered by the Government. But, at the same time, when this particular rule is drafted, I feel, every word is having its own meaning, because the wider aspect of the extreme cases are there. We can take the extreme case of using the Twitter or Face Book, any Government can be collapsed. Egypt and Lebanon have already faced the situation; it created a situation where people opposed the Government. In the same way, I can take small example of today's newspaper. Today's 'Hindustan Times' says, "Innocent lost Facebook photo at the root of the killer rage"—this is the heading which is given in the 'Hindustan Times', simply because some group of people have created a message in the Facebook and on seeing the photograph, that person was killed. This is what is happening now. Many of the countries including the USA are now considering in which way we can regulate this freedom, which is given to the people of their own country. When that is the situation, our country is very much correct in having a regulatory system which was on the basis of the enactment made by this Parliament as the Information Technology Act, 2000.

Under that Act, there is a particular Rule. For the convenience of the hon. Members, I will read that Rule. It is Rule 3. The title itself is very, very carefully put up. Its title is: 'Due diligence to be observed by the intermediary.' Sir, one can see how sophisticated language has been used here. We can appreciate it. "The intermediary shall observe the following due diligence while discharging his duties, namely, (1) The intermediary shall publish the rules and regulations, privacy policy and user agreement for access or usage of the intermediary computer resources of any person." It goes on like that. Then, Sir, I would like to quote Rule 2, which is challenged by the hon. Member, Mr. Rajeev. It says, "(b) is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy this is very, very important hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever; (c) harm minors in any

[Dr. E. M. Sudarsana Natchiappan]

way; (d) infringes any patent, trademark, copyright or other proprietary rights; (e) violates any law for the time being in force; (f) deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature; and (g) impersonate another person.”

Sir, these things are already available in the Indian Penal Code and all other legislations which are covering the privacy of a particular individual. Sir, the reputation of a person can be very easily damaged by way of messaging something on Twitter, Facebook, etc. What is the remedy? The remedy is now provided under the Regulatory Authority under this enactment, which is the Regulator. That Regulator can prescribe certain rules and guidance which are to be followed. Now, Section 89 of the Act talks about the power of the Controller to make regulations. It says: “(1) the Controller may, after consultation with the Cyber Regulation Advisory Committee and with the previous approval of the Central Government by notification in the Official Gazette make regulations consistent with the Act and the Rules made thereunder to carry out the purposes of this Act.”

This is purely a regulatory mechanism which was provided through the enactment, which was made by way of a Parliamentary legislation and which is also very necessary. Sir, we have to look into the print media. If some damaging information is published in the print media about somebody, any individual or a group of people or an organization or any Government official has got a right to challenge it by way of filing a defamation suit, and also by way of criminal prosecution against that individual. This right has been given to us. Under the Constitution, we have got every right to see that our reputation is not damaged. Every individual has got it. He may be a billionaire or a millionaire or an ordinary person; everybody has got the right and the capability to use the legal provisions. If something is televised in the television, then also, we have got the Regulatory Authority under the Television Cable Networking Act by which that can also be controlled. But there is no regulation at all for the Internet. Even America is now thinking as to how much liberty it can give to it or how it can restrict it. All the European countries are worried about it because a lot of false information is put therein every minute and it is going throughout the world. To whom it goes? Who is taking it? Who is taking up arms? Who is indulging in the Unlawful Activities? Nobody knows? Nobody can control it. None of the State has got the capacity to control this information as to where it goes and how they are going to use it, how they are going to plan it. This is the greatest challenge before the civil society.

We are facing cyber crime. It happens every day. Lives of so many people are destroyed, and even Governments have been pulled down. Even riots have taken place in some areas because of it. How do we control it? This is something which

even the United Nations is pondering over. They are trying to work out ways to control such things. Now, when such is the case, I feel sorry that the words used in this particular rule are very soft. The words used are “due diligence”. This would not be able to control it.

Sir, I feel that all of us must support this law and this particular rule.  
(*Interruptions*)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Hon. Members, we have a lot of business listed for today. We have to finish the present discussion, and then, we have The Copyright (Amendment) Bill and other Bills as well. So, let us do away with the lunch-hour. Nobody has any objection to that. (*Interruptions*)

DR. E.M. SUDARSANA NATCHIAPPAN: I would request everybody present here that let us support this law. (*Interruptions*) It is the right time for us to express our views. Even the media is being affected in some cases. Even the print and television media are being affected by these internet messages and messages on Twitter, Facebook, and other such things. Huge funds are allocated for managing the intermediaries. These intermediaries ought to be regulated. It is the thought of the international community now, and even the United Nations and other organizations have come forward with new regulations. (*Interruptions*)

DR. NAJMA A. HEPTULLA (Madhya Pradesh): Sir, let us adjourn for lunch.  
(*Interruptions*)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That is what I had talked about a little while ago; let us do away with the lunch hour. Everybody accepted it.

DR. NAJMA A. HEPTULLA: No, Sir. The sense of the House must be taken.  
(*Interruptions*)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I had said, let us do away with the lunch hour, and nobody objected to it. (*Interruptions*)

SHRI RAVI SHANKAR PRASAD (Bihar): Sir, it is necessary to take the sense of the House. (*Interruptions*)

SHRI N.K. SINGH (Bihar): Sir, the sense of the House must be taken.  
(*Interruptions*)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Okay; I agree. (*Interruptions*)

DR. NAJMA A. HEPTULLA: Sir, it cannot come from the Chair. It should have originated from the House. (*Interruptions*)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I do agree. (*Interruptions*) आप बैठिए, आप बैठिए।... (व्यवधान).. I do agree. I had announced it then and since nobody objected to it, I thought it was a consent. (*Interruptions*) Okay. What does the Government have to say? (*Interruptions*)

श्री राम कृपाल यादव (बिहार): उपसभाध्यक्ष महोदय, जब आपने घोषणा की तो हमने सुना ही नहीं।... (व्यवधान)..

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): All right. The House is supreme. The House could decide. The only point is, since we have a lot of business to be taken up, especially the present one and the Bill too, if the House so agrees, we could do away with the Lunch Hour.

SOME HON. MEMBERS: No, Sir.

SHRI N.K. SINGH: Sir, the Government has burdened this House today with excessive business. (*Interruptions*)

SHRI M. VENKAIAH NAIDU (Karnataka): Sir, we shall have lunch and come back. (*Interruptions*)

श्री विनय कटियार (उत्तर प्रदेश): सर, पाकिस्तान में अल्पसंख्यकों के साथ जो व्यवहार हो रहा है, पहले इस विषय को ले लिया जाए।... (व्यवधान)..

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I did not ask you to do away with the lunch; I have only said, let us do away with the lunch hour. (*Interruptions*)

श्री विनय कटियार: उपसभाध्यक्ष महोदय, हम सब लोग सहमत हैं कि पाकिस्तान में अल्पसंख्याकों के साथ जो व्यवहार हो रहा है, यह विषय पहले ले लिया जाए, मेरा इतना ही निवेदन है। ... (व्यवधान)... इस सेशन को पूरा करने के बाद, इसको ले लिया जाए।... (व्यवधान)..

श्री बलवीर पुंज (ओडिशा): उपसभाध्यक्ष जी, पाकिस्तान में अल्पसंख्यकों पर अत्याचार होते रहते हैं और इस मुद्दे को हम संसद में उठाने की कोशिश करते रहे हैं।... (व्यवधान)..

श्री मुख्तार अब्बास नकवी (उत्तर प्रदेश): आपको पाकिस्तान के नाम पर क्यों परेशानी हो रही है?... (व्यवधान)... यह राष्ट्रीय महत्व का मुद्दा है।... (व्यवधान)..

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I would not be able to understand it if all of you speak at once. (*Interruptions*)

श्री मुख्तार अब्बास नकवी: इसके बाद इसी पर चर्चा होनी है।... (व्यवधान)...

श्री बलवीर पुंज: पाकिस्तान में अल्पसंख्यकों के साथ अन्याय हो रहा है।... (व्यवधान)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): The House is adjourned for lunch up to 2.00 p.m.

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

The House re-assembled after lunch at two minutes past two of the clock,  
THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Mr. Natchiappan, did you finish your speech ?

DR. E.M. SUDARSANA NATCHIAPPAN: No, Sir.

श्री विनय कटियार: उपसभाध्यक्ष जी, हम आपको disturb नहीं करना चाहते हैं। मेरा यह महना है कि पाकिस्तान के अंदर यह जो अल्पसंख्यकों का मामला है, जिसकी आपने इसमें चर्चा भी रखी है, मेरा ऐसा कहना है इस समय जो बिल चल रहा है..(व्यवधान)..

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): आप बैठ जाइए, इस पर 5 बजे चर्चा हो जाएगी। ..(व्यवधान)..

श्री विनय कटियार: सर, आप मेरी बात तो पूरी होने दीजिए। मेरा एक निवेदन है, मेरा यह कहना है कि बिल पर जो बहस चल रही है, आप इसको पूरी कर लें, इसके बाद इसको ले लें।..(व्यवधान)..

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): वह 5 बजे लिया जाएगा।

श्री विनय कटियार: उपसभाध्यक्ष जी, यह जान-बूझकर हो रहा है..(व्यवधान).. देखिए, यह बहुत ही गंभीर और आपातकालीन स्थिति है।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): देखिए, रूल के अनुसार 5 बजे होना है, This is the rule. ...(Interruptions)...

श्री विनय कटियार: ऐसा कोई रूल नहीं है।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): क्या यह Short Duration Discussion है?

श्री रवि शंकर प्रसाद: यह बहुत गंभीर विषय है।..(व्यवधान)..

श्री विनय कटियार: ऐसा कोई रूल नहीं है और यह विषय भी बहुत गंभीर है..(व्यवधान).. पाकिस्तान में हिंदुओं का जो मामला है, उनके साथ जो अन्याय हो रहा है।..(व्यवधान)..

श्री रवि शंकर प्रसाद: पाकिस्तान में उनके साथ क्या हो रहा है..(व्यवधान).. उनके साथ अन्याय हो रहा है, आप इसके बाद उसको लीजिए।..(व्यवधान)..

श्री विनय कटियार: सर, हम किसी के कार्य का विरोध नहीं कर रहे हैं। मेरी आपसे केवल इतनी प्रार्थना है कि आप इस चर्चा को समाप्त करने के बाद सीधा इस विषय को ले लीजिए। पाकिस्तान में अल्पसंख्यकों के साथ जो हो रहा है, वहां पर जो मानवाधिकार का उल्लंघन हो रहा है, उनके साथ जो अत्याचार हो रहा है, आप इस विषय को ले लीजिए, और इसके बाद बाकी विषय लीजिए, नहीं तो हमें यह विषय टलता हुआ नजर आता है।



THE VICE-CHAIRMAN (PROF. P.J. KURIEN): You made your point. ...*(Interruptions)*...

श्री प्रकाश जावडेकर (महाराष्ट्र): 5 बजे का कोई रूल नहीं है, यह Short Duration Discussion है, this is not Special Mention. ...*(Interruption)*... This is Short Duration. ...*(Interruption)*...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): आप बैठिए।..*(व्यवधान)*..

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI RAJEEV SHUKLA): How can we take it for discussion now? ...*(Interruptions)*...It can be taken up after four of the clock. ...*(Interruptions)*...

श्री विनय कटियार: यह नहीं हो सकता है, क्योंकि अन्य विषय भी 5 बजे के बाद हो सकते हैं। क्या आप चाहते हैं कि पाकिस्तान में हिन्दू लोग मारे जाएं ..*(व्यवधान)*.. इसकी चर्चा पहले होनी चाहिए। ..*(व्यवधान)*..

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): You made your point. ...*(Interruptions)*... Let me ask the Government. ...*(Interruptions)*...

श्री विनय कटियार: यह पाकिस्तान का रोज का आंकड़ा है..*(व्यवधान)*.. हर महीने 25 से 30 हिंदू अल्पसंख्यकों का धर्म परिवर्तन किया जा रहा है..*(व्यवधान)*.. उनके परिवारों को लूटा जा रहा है..*(व्यवधान)*..उनको बर्बाद किया जा रहा है, इसलिए इस चर्चा को पूरा करने के बाद इस विषय को ले लीजिए..*(व्यवधान)*..

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): विनय जी, मैंने सुन लिया है, आप बैठिए ..*(व्यवधान)*.. Let me take the view from them. ...*(Interruptions)*...I have heard you. ...*(Interruptions)*... I took cognizance of it. ...*(Interruptions)*... ..*(Interruptions)*...मैंने सुन लिया है, मैंने बात समझ ली है, आप मुझे consult तो करने दीजिए..*(व्यवधान)*..allow me to consider. ...*(Interruption)*...आप बैठिए..*(व्यवधान)*..Let me ask from the Government. ...*(Interruptions)*...According to the order in the List of Business, after this Resolution, there is a Bill. That is the order. It is up to the House to change it. I would like to know from the Government. ...*(Interruptions)*...Would you like to say anything? ...*(Interruptions)*...

RAJEEV SHUKLA: Sir, we have already slotted time for this discussion after the Government Bills and the discussion on the working of the Ministry of Civil Aviation. So, we will take it up in the later part of the day.

श्री विनय कटियार: फिर सदन में कोई चर्चा नहीं होगी।..*(व्यवधान)*..

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It will be taken up ...*(Interruptions)*. It cannot be changed like that.

श्री विनय कटियार: उपसभाध्यक्ष जी, यह विषय जान-बूझ कर बाद में रखा गया। आप इस पर चर्चा करा लीजिए।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): इस पर चर्चा होगी।...(व्यवधान)...

श्री विनय कटियार: यह विषय सदन के अन्दर न आने पाए....(व्यवधान)...अगर यह कहें कि बाद में चर्चा होगी....(व्यवधान)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, Dr. Natchiappan please, ...(Interruptions).

श्री विनय कटियार: सर, यह मामला बहुत गम्भीर है। ऐसा बिल्कुल नहीं होगा। ...(व्यवधान)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): You have made your point. That is enough. ...(Interruptions).

श्री विनय कटियार: सर, यह मामला बहुत गम्भीर है। ऐसा बिल्कुल नहीं होगा। ....(व्यवधान)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Katiyarji, you made your point. That is enough. Now, Dr. Natchiappan.

DR. E.M. SUDARSANA NATCHIAPPAN: Thank you, Mr. Vice-Chairman, Sir. I would like to...(Interruptions).

श्री विनय कटियार: ऐसा बिल्कुल नहीं होगा।...(व्यवधान)...

श्री रवि शंकर प्रसाद: सर, आप हम लोगों के सेंटिमेंट को समझिए, इस पर आप आधे घंटे की चर्चा तो करा दें।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): इस पर चर्चा होगी।

श्री विनय कटियार: बस इतना बता दीजिए कि चर्चा कब होगी?

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): बिल के बाद चर्चा होगी, लेकिन बिल के बाद एक रिजोलुशन है। The Members can decide. See, the house is Supreme. I have no problem. I can go by the decision of the House. Even to change the order of the List of Business, if the House wants, I have no objection. That is my position. Now, we have started this Resolution. Let us finish it and then, we will decide.

श्री विनय कटियार: आप इसे इस रिजोलुशन के बाद लेंगे?

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): No, after we finish it, I will take the sennse of the House on your suggestion.

श्री राजीव शुक्ल: इसके बाद एक बिल और बिल के बाद आपका विषय लिया जाएगा। या दो बजे हो या पांच बजे, इससे क्या फर्क पड़ेगा।

श्री विनय कटियार: इस रिजोलुशन के बाद लिया जाएगा न?

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): मंत्री जी ने कहा कि बिल के बाद इसे लिया जाएगा।

श्री नरेश अग्रवाल (उत्तर प्रदेश): माननीय उपसभाध्यक्ष जी, सवेरे 10.30 बजे जो बैठक हुई, उसमें सारे दल के लोग थे, उसमें आज का पूरा कार्यक्रम तय हो गया। आपकी तरफ से भी लोग मौजूद थे। इसके बाद जबर्दस्ती अपने सदस्यों की संख्या के बल पर वे कार्यक्रम को कैसे चेंज करा लेंगे और आप भी पीठ से कैसे निर्देश देंगे?

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That is the point

श्री नरेश अग्रवाल: बिना सबकी सहमति के न तो इसे संसदीय कार्य मंत्री चेंज करा सकते हैं, न कोई दल चेंज करा सकता है।...(व्यवधान)...यह तो सारे दलों के नेताओं की सहमति से होगा कि क्या काम होगा। आप अपने आप कैसे कर देंगे?...(व्यवधान)...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): विनय कटियार जी, आप जरा बैठिए। अग्रवाल जी, आप भी बैठिए।...(व्यवधान)...Mr. Vinay Katiyar, take your seat. I am on my legs. See, the point Mr. Naresh Agrawal made is correct. In the morning, leaders of the parties, informally agree about the List of Business. Of course, it is informal, but it is a gentleman's agreement. They have agreed on the List of Business. After that, coming here and asking to change the same is not fair. But, however, if the House is in total agreement with this, I also have no objection. The hon. Minister has said that after the Bill, it can be taken up. If there is a consensus in the House on this, I have no objection.

SHRI RAVI SHANKAR PRASAD: Sir, then it will not be taken up.  
...(Interruptions).

श्री विनय कटियार: अभी जो चर्चा हो रही है, वह हो जाए, उसके बाद ले लीजिए।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): मैंने बता दिया। Yes, Dr Natchiappan...  
...(Interruptions). I gave my ruling...(Interruptions)

श्री विनय कटियार: हम आपकी रूलिंग को चैलेंज नहीं कर रहे हैं। हम इसे मानेंगे, लेकिन सवाल यह उठता है ... (व्यवधान)...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): मैंने रूलिंग दे दी।...(व्यवधान)...

SHRI TIRUCHI SIVA (Tamil Nadu): Sir, before the Bill, we have decided to take up the other Motion....(Interruptions). In the morning meeting, we decided that after the Bill, the other Motion will be taken up.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Yes, that is also there. What can I do?... (interruptions). Now, sit down.

श्री विनय कटियार: उपसभाध्यक्ष जी, कई बात जो तय होता है, सदन के अन्दर उससे पहले बड़े महत्वपूर्ण विषय लिए जाते हैं। यह हमेशा प्रैक्टिस में भी रहा है।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I can change the order only if there is complete consensus. Otherwise, I cannot do it. That is the problem. Here, other Members have objection.

श्री विनय कटियार: \*

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): No, you are not permitted. It won't go on record....(*Interruptions*). It won't go on record. You know the rules. There is no consensus.

श्री विनय कटियार: \*

SHRI RAVI SHANKAR PRASAD: Minorities in Pakistan are being denied human rights. It is a question of sentiment. It is a larger issue also....(*Interruptions*).

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That is very important subject. But, the House has to agree.

श्री विनय कटियार: सर पाकिस्तान के अन्दर हिन्दू समाज के साथ जो हो रहा है ...(*व्यवधान*)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, you please sit down. (*Interruptions*) Please. You made your point. (*Interruptions*)

श्री विनय कटियार: एक-दो माननीय सदस्य कह रहे हैं कि नहीं हो रहा है...(*व्यवधान*)... इनकी पार्टी कह रही है कि हो रहा है...(*व्यवधान*)... नरेश अग्रवाल जी हमारे पुराने मित्र हैं ...(*व्यवधान*)... (*Interruptions*)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): The Leaders can sit and decide it. (*Interruptions*) I can suggest the leaders to separately decide and come to me. (*Interruption*)

श्री विनय कटियार: इस पर हम adamant ह...(*व्यवधान*)...इस पर हम adamant हैं कि पहले आप इस पर बहस करवाइए, इसके बाद दूसरे सब्जेक्ट को लीजिए....(*व्यवधान*)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): No, please. (*Interruptions*) Mr. Natchiappan, please speak. (*Interruptions*)

DR. E.M. SUDARSANA NATCHIAPPAN: Mr. Vice-Chairman, Sir, I would like to...(*Interruptions*)...

श्री विनय कटियार: \*

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It will not go on record. (*Interruption*) मैं सहमत हूँ, लेकिन मैं क्या करूँ?...(*व्यवधान*)...

श्री नरेश अग्रवाल: \*

श्री विनय कटियार: \*

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It is not going on record. (Interruptions) Mr. Vinay Katiyar, it is indiscipline. (Interruptions) Please. This is indiscipline. (Interruptions)

श्री मुख्तार अब्बास नकवी: सर, यह मुद्दा बहुत महत्वपूर्ण है, हम लोग आश्वासन चाहते हैं...(व्यवधान)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Yes, महत्वपूर्ण है। Naqvi ji, it is very important. It is listed. It will be taken up. You take your seat. (Interruption)

श्री मुख्तार अब्बास नकवी: इसके अलावा कोई चर्चा नहीं होगी...(व्यवधान)... सबसे पहले इसी पर चर्चा होगी...(व्यवधान)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): No please. आप ऐसा नहीं बोल सकते...(व्यवधान)

श्री विनय कटियार: इस पर चर्चा होगी और चर्चा हो कर रहेगी...(व्यवधान)

श्री मुख्तार अब्बास नकवी: यह राष्ट्रीय महत्व का मुद्दा है...(व्यवधान) जानबूझ कर इसे हटाने की कोशिश की जा रही है...(व्यवधान)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Please. (Interruption)

श्री थावर चन्द गहलोत (मध्य प्रदेश): सर, ये जानबूझ कर इसे नहीं आने देना चाह रहे हैं ...(व्यवधान) 21-22 तारीख को दूसरा बिज़नेस आ जाएगा...(व्यवधान)

श्री मुख्तार अब्बास नकवी: सर, यह सदन की भावना है...(व्यवधान)

श्री विनय कटियार: आप हाउस को एडजर्न कर दीजिए...(व्यवधान)

श्री रवि शंकर प्रसाद: सर, इस पर चर्चा...(व्यवधान)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Mr. Ravi Shankar Prasad, you are a senior leader. (Interruptions) Please advise them. (Interruptions) What can I do? I can go by Rules. (Interruptions)

श्री रवि शंकर प्रसाद: सर, मेरा आपसे निवेदन है कि...(व्यवधान)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Hon. Members, what Mr. Vinay Katiyar is saying, is an important subject. I agree. (Interruptions) आप चुप रहिए...(व्यवधान) पहले आप सुनिए...(व्यवधान) But to change the order of the List of Business, I have to take the consent of the House, and, you found that there is no consensus. There is objection. (Interruptions) What can I do?

श्री मुख्तार अब्बास नकवी: कुछ ऐसे मुद्दे होते हैं, जिनमें ऑर्डर चेंज हो सकता है ...*(व्यवधान)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It is for the House only It is not for me...*(Interruptions)*...

श्री मुख्तार अब्बास नकवी: यह बहुत महत्वपूर्ण मुद्दा है और इस पर चर्चा...*(व्यवधान)*

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It is up to the House ...*(Interruptions)*...

श्री थावर चन्द गहलोत: सर, मेरा एक प्वाइंट ऑफ ऑर्डर है...*(व्यवधान)* मेरा एक प्वाइंट ऑफ ऑर्डर है...*(व्यवधान)*

SHRI D. RAJA: Sir, after this item is over, let us ...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Yes. They are not agreeing. Let them agree. *(Interruptions)* If all of you speak, then, how will I listen? *(Interruptions)* What is the Point of Order? *(Interruptions)* One of you should speak. Others may take their seats. ...*(Interruptions)*...

श्री थावर चन्द गहलोत: सर, मेरा एक प्वाइंट आफ ऑर्डर है।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It is under which Rule?

श्री थावर चन्द गहलोत: कार्यविन्यास का जो नियम 23 है, उसके अनुसार जो बिज़नेस लिस्ट बनती है, अगर हाउस चाहे तो उसमें संशोधन होता है...*(व्यवधान)* मैं आपसे निवेदन करना चाह रहा हूँ...*(व्यवधान)*

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): हाउस नहीं चाहता है...*(व्यवधान)*

श्री थावर चन्द गहलोत: सर, आप मेरा निवेदन तो सुनिए...*(व्यवधान)* आप मेरा निवेदन तो सुनिए ...*(व्यवधान)* नियम 23 में कार्यविन्यास से संबंधित प्रावधान है कि अगर बिज़नेस लिस्ट बन गई, अतिमहत्वपूर्ण मामला है और हम आपसे निवेदन कर रहे हैं...*(व्यवधान)* आप पहले हाउस की राय जान लें और फिर इस पर चर्चा करवा लें...*(व्यवधान)* पहले भी ऐसा हो चुका है...*(व्यवधान)* ऐसा पहले भी हुआ है, आज भी किया जाना चाहिए, यह अजि महत्वपूर्ण मामला है...*(व्यवधान)* यह बहुत ज्यादा जरूरी मामला है...*(व्यवधान)*

सरकार इस पर चर्चा कराना नहीं चाहती है।...*(व्यवधान)*...सरकार इस पर चर्चा कराना नहीं चाहती है, इसका अर्थ यह निकलेगा।...*(व्यवधान)*...और यह अर्थ निकलना...*(व्यवधान)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I will give the ruling. ...*(Interruptions)*...

श्री विनय कटियार: इसी बात पर अभी चर्चा होनी चाहिए।...*(व्यवधान)*...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): बैठिए, बैठिए।...*(व्यवधान)*... You see...*(Interruptions)*... Please ...*(Interruptions)*... This is, nothing about obstinacy. The point is, there is a List of Business and there is an order. I agree that if the House wants, it can change it. ...*(Interruptions)*... I put the question here...*(Interruptions)*... No, please. ...*(Interruptions)*... I took the view...*(Interruptions)*...

श्री विनय कटियार: सर,...*(व्यवधान)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I am on my legs. I will allow you. No problem...*(Interruptions)*... Katiyar ji, please...*(Interruptions)*... Katiyar ji, I am on my legs. At least, respect the basic rules. Please respect the basic rules of the House. When the Chair is on his legs, please don't stand up and talk. आपको रुल्स भी पढ़ने चाहिए। आप सुनिए।...*(व्यवधान)*... There is a proposal. I asked the House. This side is not agreeing. That side is not agreeing...*(Interruptions)*...

SHRI THAAVAR CHAND GEHLOT: Everybody is agreeing...*(Interruptions)*...

श्री मुख्तार अब्बास नकवी: सर, यह नहीं होगा।...*(व्यवधान)*... इस पर चर्चा को खत्म करने के बाद...*(व्यवधान)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Do you want ...*(Interruptions)*... Yes, Mr. Maitreya, what do you want to say?...*(Interruptions)*... Please ...*(Interruptions)*... I allowed Mr. Maitreya...*(Interruptions)*... I allowed Mr. Maitreya. ...*(Interruptions)*... Mr. Naqvi, you are a senior Member.

DR. V. MAITREYA (Tamil Nadu): Sir, we are already in the middle of a discussion. Let that discussion be over. After that, you take the sense of the House, if necessary, with the division, and then take a decision...*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Okay. I accept that Your proposal is accepted. Yes, Mr. Natchiappan, please proceed...*(Interruptions)*..

श्री मुख्तार अब्बास नकवी: सर,...*(व्यवधान)*... पाकिस्तान में हो रहे अत्याचार और हिंसा ...*(व्यवधान)*... पाकिस्तान में हो रहे अत्याचार...*(व्यवधान)*...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): No, no. Let this be over. ...*(Interruptions)*... You cannot do like this...*(Interruptions)*.. You cannot do like this. ...*(Interruptions)*...

श्री थावर चन्द गहलोत: सर,...*(व्यवधान)*... यह एक महत्वपूर्ण विषय है।...*(व्यवधान)*... इसमें परिवर्तन करके आज इस पर चर्चा करायी जाए।...*(व्यवधान)*...

SHRI TIRUCHI SIVA: Sir, in the morning, when the President of that Party was also there, none of them raised this issue at that time...*(Interruptions)*...

श्री थावर चन्द गहलोत: महोदय, आपसे यह आग्रह है कि यह एक महत्वपूर्ण मामला है।

...(व्यवधान)...सरकार की तरफ से यह मैसेज़ नहीं जाना चाहिए कि आप इस पर चर्चा नहीं कराना चाहते।...(व्यवधान)...

श्री नरेश अग्रवाल: माननीय उपसभाध्यक्ष जी, मेरा एक point of order है।...(व्यवधान)...

श्री प्रकाश जावडेकर: सर,...(व्यवधान)...इस पर चर्चा लम्बित है।...(व्यवधान)...

श्री राजीव शुक्ल: नरेश जी, एक मिनट शांत रहिए।...(व्यवधान)...प्रकाश जी, एक मिनट।...(व्यवधान)...आप मेरी पूरी बात तो सुन लीजिए, फिर आप बोल लीजिएगा।

अगर हम इस पर चर्चा कराना नहीं चाहते, तो इसे हम आज के बिजिनेस में क्यों डालते? हम इस पर पूरी चर्चा कराना चाहते हैं, लेकिन उससे पहले जो बिल है, उसे तो पास हो जाने दीजिए। उसके बाद हम इस पर चर्चा करायेंगे।...(व्यवधान)...

श्री मुख्तार अब्बास नकवी: नहीं, आप यह ensure करिए कि इस पर जो चर्चा है, उसके बाद...(व्यवधान)...

श्री राजीव शुक्ल: इस पर आज ही चर्चा होगी।...(व्यवधान)...आज चर्चा होगी।...(व्यवधान)...

श्री मुख्तार अब्बास नकवी: पाकिस्तान में हो रहे अत्याचार पर भी चर्चा होगी।...(व्यवधान)...

SHRI D. RAJA (Tamil Nadu): Sir, listen to me...(Interruptions)...Listen to me, Sir. ...(Interruptions)...

SHRI MUKHTAR ABBAS NAQVI: We want an assurance that after this...(Interruptions)..

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I have already said...(Interruptions)...I have already said that after finishing this business, I will take the sense of the House. I have given the ruling. After finishing this business, I will take the sense of the House. That is the ruling...(Interruptions)...Sit down. ...(Interruptions)...No, no, I have given the ruling....(Interruptions)...This is unfair. ...(Interruptions)...

श्री मुख्तार अब्बास नकवी: सर,...(व्यवधान)...आप क्या सेंस लेना चाहते हैं?... (व्यवधान)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): In the List of Business...(Interruptions)...We are discussing it...(Interruptions)...This is unfair. ...(Interruptions)...I don't agree with this...(Interruptions)...This is indiscipline. ...(Interruptions)...This is nothing but indiscipline.

SHRI SITARAM YECHURY (West Bengal): Sir, may I suggest?...(Interruptions)...Let the continuing discussion be over and then we will take the sense of the House...(Interruptions)...



श्री नरेश अग्रवाल: सर, मेरा एक point of order है।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): आपका क्या point of order है?

श्री नरेश अग्रवाल: सर, आपने अभी नियमावली के नियम 23 का रेफरेंस लिया और उसके आधार पर आपने एक रूलिंग दी। हम उस रूलिंग को चैलेंज नहीं कर रहे हैं। हम उसे शिरोधार्य करते हैं, क्योंकि उस चेयर से जो भी निर्णय होगा, हमें स्वीकार है। लेकिन, कहीं-न-कहीं जब नियमावली का variation होता है, तब अपनी बात कहने का हमें अधिकार है।...(व्यवधान)...हम आपके निर्णय को चैलेंज नहीं कर रहे हैं।...(व्यवधान)...

लेकिन जिस निर्णय से नियमावली पर अंतर पड़ रहा है, मैं उन चीजों के बारे में कहना चाहता हूँ।...(व्यवधान)...अगर सुबह सभापति जी के साथ सभी दलों के नेताओं की बैठक न की होती और बैठक के बाद अगर business नहीं तय हुआ होता, तब तो आप नियम 23 को अप्लाई कर सकते थे और इस सदन की राय ले सकते थे।...(व्यवधान)...जब सुबह सभी दलों के नेताओं की राय हो गई, उसके बाद नियम 23 के अंतर्गत दोबारा हाउस में यह नहीं हो सकता है, जब तक कि इसमें सभापति खुद न चाहें। इस पर उपसभाध्यक्ष निर्णय नहीं ले सकते हैं।...(व्यवधान)...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): बैठिए, बैठिए।...(व्यवधान)...I am on my legs. ...*(Interruptions)*... It is not allowed....*(Interruptions)*...

श्री विनय कटियार: सर...(व्यवधान)...

THE VICE-CHAIRMAN (PROF. PJ. KURIEN): Katiyarji, I am on my legs. ...*(Interruptions)*...I am on my legs....*(Interruptions)*...Please sit down. ...*(Interruptions)*...Hon. Members, I am telling you that we cannot proceed like this. Shri Naresh Agrawal said something. There is a point in that....*(Interruptions)*...

SHRI PRAKASH JAVADEKAR: Sir, your ruling....*(Interruptions)*...

THE VICE-CHAIRMAN (PROF. PJ. KURIEN): Please sit down. ...*(Interruptions)*...Please take your seat....*(Interruptions)*...Mr. Javadekar, please sit down....*(Interruptions)*...After this, I will give you time. This is not fair. Please try to understand. Shri Naresh Agrawal raised a point....*(Interruptions)*...Please sit down. ...*(Interruptions)*...I am on my legs. Try to understand it. As Shri Naresh Agrawal said, there's an informal decision. It's a gentleman's agreement....*(Interruptions)*...All the leaders agreed to it....*(Interruptions)*...Let me complete.....*(Interruptions)*...I am telling you, I will name you if you proceed like this....*(Interruptions)*...Please listen to the Chair. Have patience....*(Interruptions)*...Please listen to the Chair.

श्री विनय कटियार: सर, हम देश के लिए तैयार हैं।...(व्यवधान)...हम हिन्दुओं को बचाने के लिए तैयार हैं।...(व्यवधान)...

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): आप बैठिए। ...(व्यवधान)...Mr. Ravi Shankar Prasad,

please ask him to behave....(*Interruptions*)...Please ask him to behave.  
...(*Interruptions*)...The House is adjourned for ten minutes.

The House then adjourned at twenty three minutes past two of the clock.

The House re-assembled at thirty-three minutes past two of the clock,

THE VICE-CHAIRMAN (DR. E.M. SUDARSANA NATCHIAPPAN) in the Chair.

THE VICE-CHAIRMAN (DR. E.M. SUDARSANA NATCHIAPPAN): The House is adjourned for ten minutes.

The House then adjourned at thirty-three minutes past two of the clock.

The House reassembled at forty-three minutes past two of the clock,

THE VICE-CHAIRMAN (DR. E.M. SUDARSANA NATCHIAPPAN) in the Chair.

THE VICE-CHAIRMAN (DR. E.M. SUDARSANA NATCHIAPPAN): The House is adjourned for 15 minutes.

The House then adjourned at forty-four minutes past two of the clock.

The House re-assembled at three of the clock,

THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Hon. Members, we will continue with the discussion and finish it as early as possible. The remaining Members will speak for only five minutes and we will finish this discussion  
...(*Interruptions*)

श्री नरेश अग्रवाल: सर, पहले कौन सा लिया जाएगा?

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): This will continue After this, we will take up the Pakistan issue for one hour..

श्री नरेश अग्रवाल: सर, हमारी थोड़ी सी आपत्ति है।

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): बोलिए।

श्री नरेश अग्रवाल: हम इसके विरोधी नहीं हैं। पूरे विश्व में कहीं की भी माइनॉरिटी हो, हम तो माइनॉरिटी के पक्षधर हैं, लेकिन नियम 37 की जो बात कही गई है, जो नियम 37 का सवाल उठा, आप नियम 37 देख लीजिए।...(*व्यवधान*) नहीं, नियम 37 की बात है।  
...(*व्यवधान*)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I will handle him. You leave it to me.

**श्री नरेश अग्रवाल:** सर, हम तो चर्चा के पक्ष में हैं। मुझे खुद तकलीफ है कि देश के प्रधानमंत्री माइनॉरिटी से हैं, लेकिन माइनॉरिटी के हितों की बात ही नहीं कर रहे हैं। पाकिस्तान के प्राइम मिनिस्टर से उन्होंने इतनी बात बार नहीं की। आप यह नियम 37 देखिए, लिखा है, and I read : “No variation in the Allocation of Time Order shall be made except by the Chairman, who may make such variation if he is satisfied after taking the sense of the Council that there is a general agreement for such variation.”

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I am coming to that.

**श्री नरेश अग्रवाल:** सर, हम प्रस्ताव करते हैं, एज ए मेम्बर हम यह प्रस्ताव कर रहे हैं, ...(व्यवधान)...This is my right, इस सभा में हम समाजवादी पार्टी की तरफ से एज ए मेम्बर प्रस्ताव कर रहे हैं कि विश्व में कहीं भी अगर माइनॉरिटी के खिलाफ अत्याचार हो, तो यह सदन चर्चा करे। हम तो इतना भी कहते हैं कि आप इस कॉपी राइट को पहले रोक दिया जाये, पहले इस पर चर्चा करा लीजिए, यह ज्यादा जरूरी है। श्रीमान्, आज माइनॉरिटी कहीं भी हो, किसी भी रूप में हो, मैं तो यह कहता हूँ कि कॉपी राइट जरूरी नहीं है, जितना यह जरूरी है कि विश्व में कहां-कहां माइनॉरिटी पर अत्याचार हो रहे हैं, उस बारे में पहले सदन में चर्चा की जाये, मगर यह चर्चा खाली ऐसे ही न की जाए, प्रधान मंत्री जी यहां मौजूद हों। बिना प्रधान मंत्री जी की मौजूदगी के चर्चा का कोई औचित्य नहीं है। श्रीमान् राज्य मंत्री, संसदीय कार्य मंत्रालय जवाब दे दें, इससे हम सहमत नहीं हैं, हमारी समाजवादी पार्टी इससे सहमत नहीं है। आप चर्चा तब कराये, जब प्रधान मंत्री जी यहां मौजूद हो, उनकी मौजूदगी में हम चर्चा करें, अपनी बात कहें और प्रधान मंत्री जी उनका उत्तर दें, तब मैं समझूंगा कि यह सदन इस विषय को गंभीरता से ले रहा है, सरकार गंभीरता से ले रही है, अन्यथा हम इससे सहमत नहीं हैं।

SHRI K.N. BALAGOPAL (West Bengal): Sir, I want a clarification from you. In the List of Business, there are two Statutory Motions. The first one relates to the I.T. Rules, which we are discussing now. The other one relates to the Authority of India (Major Airports) Development Fee Rules, 2011. I gave a notice for my Motion in the month of August, 2011, when it was listed for the first time. For the last eight months, it has been continuing in the list. And, in December, the Chair said that the period was over. Then, I petitioned, after which, there was a consultation with the Law Ministry, and it was admitted again. Sir, this is the last Session for considering that Motion. And it is mandatory on the part of the Chairman and on the part of the House that when a Member gives a Motion, then, within thirty days, it should be considered. The rule is also that if this House concurs with this Motion, then, it will have to go to the Lok Sabha, and the Lok Sabha also has to concur with it. This is a constitutional requirement. Sir, I fear that there is a very serious conspiracy on the part of some people because the Airports User Fee, which they were collecting earlier...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That is over. You have made your point.

SHRI K.N. BALAGOPAL: It was Rs. 1,200. Now it has been increased by Rs. 365 per person. The Airports Authority of India Act, which we passed, says that...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That is over now.

SHRI K.N. BALAGOPAL: It says that only on embarking passengers, they will levy this fee. Now they say that even from disembarking passengers, they will charge this fee...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): This is no discussion. You have made your point.

SHRI K.N. BALAGOPAL: Sir, I want your ruling.

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Baiagopalji, you raised a pertinent point, out your Resolution will be taken up, if not today, there are three more days. It will be included in the List of Business. With regard to what Nareshji has said, I am happy that Nareshji also fully endorses and agrees that there should be a discussion on the subject raised by them. In fact, you only wanted that the reply should be elevated to a higher level. That means आप उनकी बात से पूरी तरह सहमत हुए, आपको बस इतना चाहिए कि Prime Minister यहां आए। On that the Chair cannot direct the Government that which Minister should come and answer. That is the position. You know that. इसका मतलब है कि आप भी सहमत हैं। You are also in agreement with this discussion. That means I understand there is consensus. Therefore, I am giving a ruling. We now continue with the discussion of this Resolution. After that, for one hour or a maximum of one hour and fifteen minutes we will take up the Short Duration Discussion and after that we will take up The Copyright (Amendment) Bill. Further, I would assure that the point raised by Shri Balagopal, for which I have already given a ruling, thus stands. This has the consent of all parties, including the hon. Leader of the Opposition. Therefore, I request that the remaining Members should take only five minutes to speak.

DR. E. M. SUDARSANA NATCHIAPPAN : Sir, I will just quote Rule 3(2)(i) Objectionable content includes anything that “threatens the unity, integrity, defence, security or sovereignty of India and/or friendly relations with foreign States or public order or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any other nation.” These are all issues which have to be looked into. Therefore, I feel that the Resolution need not be passed. It can be withdrawn. Thank you.

उपसभाध्यक्ष (प्रो. पी.जे. कुरियन): करीमपुरी जी, आप सिर्फ 5 मिनट में बोलिए। अगर इससे कम समय लेंगे, तो ज्यादा अच्छा है।

श्री अवतार सिंह करीमपुरी (उत्तर प्रदेश): जी, मैं आपसे **cooperate** करूंगा। सर, **Information Technology** के इस मोशन पर यहां डिस्कशन हो रहा है। सैक्शन 79 के अन्तर्गत इन **Intermediaries** को लीगल प्रोटेक्शन दिया गया है। मैं महसूस करता हूं कि यह जो नया प्रपोजल है, इसके तहत जो **E-mail** है, **Google** है, **Facebook** है, **Twitter** है, **Yahoo** है, उनको प्रोटेक्शन नहीं मिलेगा, क्योंकि अगर कोई भी यह कहता है कि यह जो मैटर फीड किया गया है, हमें इसके ऊपर ये ऐतराज हैं, तो उन्हें 36 घंटे के भीतर उसे **revoke** करना पड़ेगा। उनके खिलाफ जो कंप्लेंट है और जिसने **intermediaries** को **create** किया है, उसे भी **clarification** का वक्त नहीं दिया गया। मेरा यह कहना है कि जो नए रूल्स हैं, उनके मुताबिक हम यह तो कहते हैं कि अगर कोई नफरत भरी स्पीच देता है, कोई **racial attack** करता है या **pornography** है, ऐसी जो चीजें हैं, उनके ऊपर तो यह प्रावधान हो सकता है, लेकिन अगर हम हर फील्ड में ऐसा कर दें, तो मैं समझता हूं कि हम यह सही नहीं करने जा रहे हैं। आदरणीय मंत्री जी रूल्स में अमेंडमेंट की बात सोचकर आए हैं नए रूल्स के बारे में सोचकर आए हैं, लेकिन बहुजन समाज पार्टी की यह राय है कि **intermediaries** की जो आर्गनाइजेशन है, एक बार उनके साथ भी वार्तालाप कर ली जाए कि वे क्या चाहते हैं, क्योंकि हमें इसे सेंसर नहीं करना चाहिए, बल्कि **issue** की **sensitivity** को देखना चाहिए। कि जिससे हमारे नेशन पर, हमारी **generation** पर कोई बुरा असर पड़ता है, हम उसके बारे में सोचकर आगे बढ़ें, न कि हम ऐसा **sensor** कर दें कि यह सारा जो नेटवर्क है, यह **meaningless** हो जाए। इसलिए हम आपके माध्यम से मंत्री जी से अपील करेंगे कि वे जो रूल्स के अमेंडमेंट्स के लिए **proposal** लेकर आए हैं, इसकी कृपया **consider** करें और जो उनकी **intermediary** की **organizations** हैं, उनके साथ बैठकर बातचीत करें। साथ ही यहां भी जो **political parties** के लीडर हैं, उनके साथ भी बातचीत करके अगर आगे बढ़ा जाए, तो ज्यादा अच्छा होगा।

SHRI N.K. SINGH: Thank you very much, Sir.

Considering the limitation of time, I have only a couple of points' to make. The first and foremost, let me say, in principle, is, I am not opposed to the formulation of these rules to put restrictions which, I believe, are reasonable.

My first point really, Sir, to the hon. Minister is, these rules are not in consonance with the best international practices. If you look at the Report called Detailed Country-by-Country information on Internet censorship is provided by the OpenNet Initiative or Reporters Without Borders or Freedom House, all these Reports suggest that most of these restrictions in other countries are somewhat milder and somewhat narrower as has been defined under the Digital Millennium Copyright Act of the US. So, the hon. Minister may like to review the entire framework of these rules to put these rules at par with the best international practices.

My second point really is, many of the words and terms which have been used, particularly in Article 3 of these rules, are ambiguous in nature, because these have not been defined either in the rules or necessarily in the parent Act.

My third point really is, in the application of these rules, they are not at par with the restrictions which are available on the other forms of media. So, it would be somewhat restrictive if only these rules are applicable to one particular form in which communication is being done and really not applicable to other forms.

My fourth point really Sir, is, some of these restrictions could, the hon. Minister may like to consider, be in consonance with the provisions of Article 19(1) constituting an infringement of the Right of the Freedom of Speech.

The fifth point is, there is lack of transparency in relation to the application of these rules.

And, my last point really on this is, there is a presumption that all complaints which are filed for removal of offensive matter are necessarily correct. This is particularly sad when the person who has initially put it on the net is not being heard and action is taken unilaterally.

I would, therefore, end by saying that the hon. Minister may like to review all these things. And pending a review of this, send it to the Council which is mandatory and which can review the best international practice and bring it on the best footing for that.

SHRI DEREK O'BRIEN (West Bengal): Sir, I will begin by a self-depreciatory comment, because I am a little bit Internet addict. I spend about 2-3 hours everyday on Internet. And then, I will quickly go-to a self-congratulatory comment where recently I had the privilege of being listed in a list which talked about influencing commentary in India.

That apart, I think, there are some key issues here. The first one is, I myself come from a State where I lived 3½ decades of my life. So, we, now, know what the value of freedom of expression is and what freedom of speech is.

And, that has been a major change in the last one year. So, we know that. But, the key thing today is to understand that the content which is uploaded on the Internet, unlike any other medium today, cannot be pre-empted. Any attempt to pre-empt this would be foolhardy.

Now, Sir, that having been said, steps need to be taken to limit the damage after that, because there is no doubt in anyone's mind that the most egalitarian, the most emancipatory, the most open of all spaces, is the Internet. I think, once we allow the first thing to happen—because you cannot stop the first—the second is important. For example, Sir, if you say 'freedom of expression', I am entitled to my freedom of expression. But what happens if someone impersonates me, uses another

[Shri N. K. Singh]

mail account—I think, the LoP mentioned this? What happens to one's freedom of expression then? This is where the freedom of expression, in fact, goes beyond the *lakshman rekha*.

Sir, in so many ways we are celebrating this freedom of expression, but I think, in this freedom on the internet, it cannot be a highway only with green lights; there need to be some amber lights. Someone was suggesting that those amber lights can be self-regulatory which happens sometimes on the Internet. But that doesn't always happen because people hack into accounts. I will give you, as an example, a very non-political, a very poignant story of an 18-year old boy who got admission into an international college; then, he got a regret letter from that college because someone had hacked into the college account and, then, sent him the regret letter. The boy lost a chance to study in the U.S.

The Left Front in Bengal in the 1960s and 70s was famously mixing up the terms 'computer' and 'compounder' and it is an irony that today they are talking about the freedom on the Internet because, for true freedom, Sir, it needs not only responsibility, but there also needs to be drawn a line. My only suggestion is, you cannot preempt the uploading, but steps need to be taken to pre-empt the damage. Sir, like every human framework, as much as we celebrate the joys and the freedom of the social media, I think, as is being suggested, there needs to be some—I wouldn't use the word 'curbs' but kind of way of keeping an eye on it. And the Internet Service Providers also have a responsibility.

I would like to end, Sir, with quoting somebody who died long years ago but his words are so relevant even when we are discussing a subject as new as the Internet. I am talking of Rabindra Nath Tagore who said, "I would let the winds of the world blow through the doors and windows of my house, but I will not be blown away" . Thank you, Sir.

**प्रो. राम गोपाल यादव** (उत्तर प्रदेश): धन्यवाद उपसभाध्यक्ष महोदय, यह जो **Statutory Resolution** है, इसमें कुछ बिन्दुओं पर मुझे आपत्ति है। एक बात तो यह है कि यह आम चलन हो गया है कि सबॉर्डिनेट लेजीस्लेशन के तहत जब भी नियम बनाए जाते हैं, बायलॉज बनाए जाते हैं, तो आम तौर पर जो मुख्य कानून होता है, उसका अतिक्रमण कर देते हैं और ऐसा समझते हैं कि संसद में या कहीं भी अगर यह मुद्दा आएगा तो लोग उसको ओवरलुक कर देंगे और जैसा चाहे, वैसा कानून बना देंगे। जब भी कोई बायलॉज सबॉर्डिनेट लेजीस्लेशन के जरिए बनता है, तो कभी भी वह मदर ऐक्ट को वॉयलेट नहीं कर सकता। इसमें ऐसा लग रहा है कि जो मूल कानून है, कुछ उपबंध उसका अतिक्रमण कर रहे हैं, जो नहीं होना चाहिए।

दूसरा, हमें संविधान ने आर्टिकल 19 के तहत अभिव्यक्ति की स्वतंत्रता दी है, जिसके अंतर्गत प्रेस और पब्लिकेशन, ये सारी फ्रीडम्स प्राप्त हैं। यह सही है कि उन पर रीजनेबल रेस्ट्रिक्शंस हैं, लेकिन रीजनेबल रेस्ट्रिक्शंस के नाम पर हमने इस देश में देखा है कि किस तरह से पूरी तरह से स्वतंत्रता का हनन किया गया, स्वतंत्रता को छीना गया और लोगों के मुह से निकले हुए किए भी शब्द के आधार पर उनको जेलों में डाल दिया गया।

ऐसा हुआ है। इसलिए मेम्बर्स की यह आशंका निराधार नहीं हो सकती कि जो नियम और परनियम बनाए गए हैं, इनके जरिए भी अंततोगत्वा सेंसरशिप जैसी बात आ सकती है। हमारे देश में लोगों को कई तरह की स्वतंत्रताएं प्राप्त हैं, उन पर अंकुश लग सकता है।

उपसभाध्यक्ष महोदय, समय की कमी है, इसलिए मुझे ज्यादा कुछ नहीं कहना है। सिर्फ इतना ही कहना चाहूंगा कि जब मंत्री जी बोलने के लिए खड़े हों तो यह आश्वासन जरूर दें कि कोई भी ऐसा नियम, उपनियम, जो मूल कानून का उल्लंघन करता है, वह आपरेटिव नहीं होगा। इनके माध्यम से किसी भी तरह की फ्रीडम का हनन नहीं किया जाएगा। हां, जहां **ambiguity** है, जहां **ambiguity** है, किसी की कोई परिभाषा नहीं है, उस पर मनचाहे तरीके से कहा जा सकता है कि यह इसके अंतर्गत आता है, इसको सेंसर कर दिया जाए, इसको रोक दिया जाए। इंटरनेट पर तमाम तरह की सर्विसेज होती हैं, उन पर पाबंदी लग सकती है। इस तरह की अवांछनीय पाबंदियां नहीं लगाई जायेंगी, ये आश्वासन माननीय मंत्री जी की तरफ से इस सदन को देना चाहिए, यह मेरा उनसे अनुरोध है।

SHRI TIRUCHI SIVA: Mr. Vice-Chairman, Sir, at the outset, before going into the merits of the Motion, I would say that the Motion moved is a very good precedent of establishing supremacy of Parliament. Sir, the rules drafted and notified by the Government could be perused by Parliament is a fact that has been established today by the Motion moved by Mr. Rajeeve.

Realising the constraint of time, I would like to say only one point. Gaining access to private communication on internet is more or less amounting to tapping of phones. Anyhow, Parliament recognized that fact and directed the Government to propose some safeguards. These safeguards were prescribed by the Information Technology Procedure and Safeguards for interception, monitoring and decryption of Information Rules, notified by the Government. Now, the mover has got a reservation with regard to sub-rule 7 of rule 3 of the new rules because he says that the Government agencies can have access to any internet connection, private communication, without safeguards.

Another thing is, as the Leader of the Opposition has pointed out, with regard to clause 2(b). There are some terms which may be stretched and could be used to the convenience of any person. Sir, on any account, every one is very clear that the freedom of expression, which is a fundamental right, cannot be compromised for anything. At the same time, the technological developments which have been



[Shri Trucni Siva]

increased to a larger extent bring along with them some implications. So, I would suggest to the Minister—that after taking into consideration all the views which have been expressed by the hon. Members here, the basic intention of the mover of the Motion and the views of the Leader of the Opposition—to defer these rules to the Cyber Regulation Advisory Committee. Also, I would urge the Subordinate Legislations Committee of this House to take cognizance of these rules and examine these.

I think, only after a perusal, the apprehensions which the Members have, could be eluded. So, I think, the Minister would accept the suggestion. Though the rules are already operational, I think, the Minister could defer it to the Cyber Regulation Advisory Committee. Thank you, Sir.

SHRI D. RAJA: Mr. Vice-Chairman, Sir, at the outset, I would like to compliment my hon. colleague, comrade Rajeeve, for raising this very important issue through a Motion. Sir, the Notification on the Intermediary Guidelines of Rules, 2011 to the Information Technology Act was issued on 11th April, 2011. After almost a year, the Rajya Sabha is scrutinizing the validity of these rules. I think the rules must be in accordance with the Constitutional provision on the question of fundamental rights, liberties as well as, in accordance with the primary objective of the very Act itself. The rules appear contrary to the Act or contrary to the Constitutional provisions or contradictory to these provisions. Then, we need to re-look at these rules and scrutinize it. I am one who stands for freedom of expression, freedom of writing, freedom of thought, and everything. Having said that, Sir, whatever the Government does, it should not snatch away institutionally guaranteed liberties of individuals as well as organisations. Now, it appears, although the Government has been taking steps to control the media and the citizens in their private communications or in the formal communications, I think, the Government should be cautious in addressing this issue. I do believe that there must be some regulatory mechanism for it. I find that even the Leader of the Opposition has read out the entire portion, i.e., due diligence to be observed by intermediary. Here, 'I' talks about unity, integrity, defence and all these things. I think the common good of the society, the common good of the humanity and the supreme interest of the nation cannot be compromised at any cost. There, the Government has a responsibility. As citizens, we do have a responsibility.

Sir, India has been emerging as a knowledge power, as a power for information technology. Sir, Indian citizens are now defined as 'netizens'. Netizens

are those who have access to Internet and other things. So, Internet, Facebook, Twitter and all these things are new instruments of communications. Once upon a time, they were not known. It is not that the Left does not understand the difference between computer and compounder, as my friend says. We do move, again, with the change of time and change of science and technology. What we need is, there must be a balance between freedom and necessity. The hon. Minister will have to look at some of the apprehensions expressed as far as the rules are concerned. Once the hon. Minister responds positively, I think, the House will be able to solve this Motion. With these words, Sir, I conclude.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT AND THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI KAPIL SIBAL): Mr. Vice-Chairman, Sir, first of all, I want to congratulate the Mover of the Motion, Rajeeveji, for having brought these rules to the attention of the House. We have had a very informed debate. The Leader of the Opposition has, in his inimitable style, agreed with the broad contours and architecture of the rules, but has cautioned the Government, and rightly so, that the restrictive words in the rules might lead to an interpretation, which, in turn, might lead to harassment and impact on the fundamental right of free speech. I think there can be no doubt about that. I, on behalf of the Government, can assure this House that this Government does not stand for censorship; this Government does not stand for infringement of free speech. Indeed, this Government does not stand for regulation of free speech.

Now, why are we discussing this issue today in the context of rules that have been framed? Sir, we are dealing with a new medium. If you have the print medium and you have the electronic medium, all the companies who provide information through the print medium and electronic medium are registered in India, they are subject to Indian laws. But in the context of new medium, which is the internet, there is no registration of any of these mediums in India, and, therefore, they are not subject to Indian laws. If there is a terrorist attack that takes place and source of it is in some other part of the world and we wish to seek information about the source of that terrorist attack, it is not provided to us on the ground that they are not subject to Indian law. If people are trading in drugs, these are the cases that have happened in courts; actually people have gone to courts. If somebody is trading in a certain kind of psychotropic substance, the information is on the net. You say, please remove that site from the net and please inform us as to who are the persons behind it, the response is that they are not subject to Indian law. Now, I am not saying that we should subject them to Indian law per se but I am saying that these are very serious issues that arise in the course of the functioning of the State. I am sure that all the distinguished Members of this House will realize that many of these

[Shri Kapil Sibal]

have impact on the security of the State, many of these things impact public order, if you have certain sites on the internet, which are incendiary, which are hate speeches, what is the mechanism to deal with it? Now if you look at the Acts and rules you will realize that we have not infringed on the rights of the media at all. There is no government intervention in any of this. Let me, Sir, just point out and I will finish very quickly because you want to go on to the other matter, kindly look at section 66(a) of the Act, punishment for sending offensive messages through communication, this is now a substantive provision of the Act. I am not talking of section 69 but of section 66(a)—punishment for sending, offensive messages through communication, any information that is grossly offensive as a menacing character shall be punishable. This is provided in the substantive Act. We are not talking of the rules here. This is the substantive provision of the Act which has been passed by the Parliament. Section 66(b), punishment for dishonestly receiving stolen computer resource, let us leave that; punishment for identity theft, you impersonate somebody, that is identity theft. That is the substantive provision of the Act. And the rules we are talking about are in the context of these substantive provisions. There is excessive delegation of legislation here. The mover of the Motion read only section 69, but I am reading some of the other substantive provisions which indicate that all these rules are consistent with the provisions of the Act. Punishment for cheating any impersonation by using computer resource—the Leader of the Opposition talked about how impersonation can be, but it is a substantive offence. It is not something that is in the rules. The rules are in aid of the substance which is part of the statute. Punishment for violation of privacy which again is substantive provision; punishment for cyber terrorism, section 66(f), again is a substantive offence; punishment for publishing or transmitting of obscene material in an electronic form is-a substantive offence. Then you go on to section 69. So, the point I was trying to make is that there is a host of substantive provisions in the Act which declare substantive offences and the rules that have been framed are consistent with the Act.

So, the argument that the mover of the Motion has made is that this excessive delegation, with great respect, has no substance.

The second argument is that you are, actually, infringing; that the Government is trying to control the media. Now, Sir, let me indicate what the Act says; we will go to the rules a little later. Section 79 says, “Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any

third party information, data or communication link made available or hosted by him, the provisions of sub-section (1) shall apply, (c) this is important—if the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.” So, the intermediary will not be liable subject to two things—due diligence and following such guidelines as the Central Government may make in that behalf. That is part of the Act; it has nothing to do with the rules. Now what is ‘due diligence’? That is what is prescribed in the rules. Therefore, if you look at sub-section 2, rule 3 of the rules framed under section 79, rule 3 is about ‘due diligence’—due diligence to be observed by intermediary. It is not Government’s interference. Government is not taking any action. But what is the ‘due diligence’ that the intermediary should observe? What is that? Such rules and regulations, terms and conditions or User Agreement shall inform the users. That means the intermediary must inform the users. The Government is not going to interfere in any of this. It is the ‘due diligence’ of the intermediary that is now being defined in the Act, which is the substantive provision of the Act, under section 79. So, he will inform the user of the computer resource not to host, display, upload, modify, publish, transmit, update or share any information that belongs to another person; that is impersonation; that is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another’s privacy; that harms minors, infringes patent, trademark, copyright or other proprietary rights, violates any law for the time being in force, and impersonates another person. The Leader of the Opposition talked about ‘prevents investigation of any offence or is insulting any other nation.’ Why did this ‘prevents investigation of any offence’ come about? It came about because of sub-rule 4. Sub-rule 4 says: “The intermediary on whose computer system the information is stored.” Supposing it deals with drugs. I am just giving an example. “..or hosted or published upon obtaining knowledge by itself or been brought to actual knowledge by an affected person—it is not necessarily the Government; it could be anybody—in writing or through e-mail, signed with electronic signature about any such information, as mentioned in sub-rule 2 above, shall act within 36 hours and where applicable, work with user...” Who will act? Not the Government! If I provide an intermediary with information about a drug which is a psychotropic substance, which is being traded, on the Net and which is being brought to India, then, in that situation, that information is given to the intermediary, and he must act within 36 hours, and, where applicable, work with user or owner of such information to disable such information. I pause here. This is the intermediary’s decision; it is not the Government’s decision. The intermediary can say ‘no’. There is no prescription that he has to remove. There is no direction that he has to do

[Shri Kapil Sibal]

what the Government says. The prescription is, we inform him that that is what is going on; please do some thing about it in 36 hours. He may write to us saying, or he may inform us, that there is nothing wrong with him. There is nothing that the Government can do. So, this impression 'that it is the Government which is interfering in the freedom of expression' is completely erroneous. The Government is informing the intermediary, consistent with his obligations of due diligence, under section 79 of the Act, that you are required to exercise due diligence when it comes to some of these things.

But it is your choice. Where you want to work with the person who supplied the information, work with him where applicable and do what you want to do. Where does the Government come? Where have we interfered with that infringement? Where have we infringed the Right to Freedom of Expression? Nowhere; because the Government is not in the picture. The Government is only saying that this is the kind of due diligence that is expected out of it. So, this impression 'that the Government is wanting to do something and wanting to restrict the right is unfair.'

Then, I was coming to what the Leader of the Opposition mentioned. And, Sir, it further says, '...information to disable such information that is in contravention of sub-rule (2). Further, the intermediary shall preserve such information and associated records for, at least, 90 days for investigation purposes.' Now, why did the question of investigation come that prevents investigation of any offence? That's because if the information is relating to a drug or terrorist act, he must preserve that information. Otherwise, how do we prosecute? If he immediately remove that information and doesn't pass it onto Government, how will the Government investigate? That is why in sub-rule (4), 'prevents investigation of an offence came in.' So, there, again, I would like clarify it to the learned Leader of the Opposition that it is in this context that where there are offences of this nature, the source and the material must be preserved for a period of, at least, 90 days so that if the investigation agency in India wants that information to investigate and prosecute, it can access to it. If we don't have this provision, we will never be able to prosecute. These are essential things. You know, I don't want a full debate on it. But I am just indicating to you that there is no attempt by Government to interfere in 'Freedom of Expression.'

Now, I come to the other point that my good friend raised, and I just want to point this out. Incidentally, I might mention that every jurisdiction in the world has these provisions, and I can point out law after law. Every jurisdiction in the world

has it, including the US, including Europe, and I have these provisions with me. Of course, we are more liberal-and we are proud of it-than Europe and we are more liberal than the United States of America, and I am proud of that. But the fact is, let's not cut our arms in order to ensure that they do justice.

Now, Sir, the other point that I want to make is, I have the guidelines; and whatever has been set out is consistent with the guidelines of the Net Providers themselves. Take, for example, the guidelines of Yahoo. What do the guidelines of Yahoo say? It is the same thing that 'please, you agree not to use.' What are we saying? 'You agree not to use'—Yahoo services to what? It is, 'Upload, post, email, transmit or otherwise make available any content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libellous, invasive of another's privacy, hateful or racially, ethnically or otherwise objectionable.' This is much wider than our prescription, much wider. This is their own advice to their own users that please don't do this. So, if we, in Government, advise the intermediary, it's a violation of 'freedom of expression.' If the Net Provider advises its own user, it is nothing. Yet, I understand the sentiments of the House, and I request you to look at Article 19(2) of the Constitution of India. What are the words used in the 19(2)? It says, "Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interest of the sovereignty and integrity of India,—there is no problem in that—the security of the State, friendly relations with foreign States ..." Instead of saying 'abusive of a foreign State', you can use 'friendly', we will change that; there is no issue. Then, it further says, '... public order, decency ...' Sir, does the Constitution define 'decency'? Nobody defines 'decency.' The Constitution has not defined 'decency.' Ultimately, what happens? If there is an issue of decency, it is decided by the courts? So, there will be expressions like 'morality'. The word 'morality' is also used—'decency or morality'

What is 'moral'? The Constitution does not describe it, but who decides it? It is the courts of law. Sir, incidentally, these rules were cleared by the Committee on Subordinate Legislation. These are not executive rules framed by us. There were four meetings of the Committee on Subordinate Legislation and the rules were cleared by the Committee on Subordinate Legislation. So, it is not as if Parliament has not overseen these rules, and, not only that; we called for industry participation. I have the recommendations from the CII. The rules were put to the CII. The rules were put to the Data Security Council of India and other organizations. I have their comments. It is only after all this discussion happened, and they cleared it, that we brought the rules. So, it is not as if some officials in the Government of India and our

[Shri Kapil Sibal]

Department decided to have these rules. No; it was done with full participation of everybody.

In any case, I request distinguished Members of this House to please, write to me on any issues that they are concerned about, and I assure the House, I would take those issues into account. I will also call the Industry. I will have a full discussion on the subject; I will call distinguished Members of the House so that, after a full discussion, whatever emerges, I can implement it. I am sure that that would satisfy distinguished Members of this House and the mover of the Motion and we can all agree on a course of action because, under this new media, there would be several challenges that this nation would face, and we should be ready for those challenges. That can only be done through consensus and collaboration. Thank you very much.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That is very good. That is an assurance. Now, Mr. P. Rajeeve, you may briefly reply.

SHRI P. RAJEEVE: Sir, I am grateful to the hon. Minister, the hon. Leader of the Opposition and hon. Members who have participated in the discussion. Actually, I had tried to utilize the mechanism existing in the parliamentary system for getting more benefits for the community and the country. I am very much grateful to Derek for mentioning about the freedom of speech, which was reflected in the arrest of a Professor just for posting a cartoon on the Internet. Thank you for mentioning that!

SHRI DEREK O'BRIEN: Sir, this is not that. We are talking about impersonation, Sir. The Leader of the Opposition and the hon. Minister spent so much time talking about impersonation. (*Interruptions*)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Please don't worry. Everything is on record. (*Interruptions*) Everything is on record, Mr. Derek. Please take your seat.

SHRI P. RAJEEVE: Sir, actually, he was mentioning about the last several years of rule there. (*Interruptions*) I am just reminding about the recent developments in that State. I think he is more aware of that as a quiz master.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): No, no; don't get distracted. Come to your point.

SHRI P. RAJEEVE: Sir, the hon. Minister has mentioned several things.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): He has conceded. Then why are you raising it? You could send whatever points you have to him in writing.

SHRI P. RAJEEVE: That is true, Sir, but I have to mention a few things here. That is my right.

In the beginning, I have mentioned about clause 66A. I think the hon. Minister didn't have the time to listen to that.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): There is no need for this, Mr. Rajeeve. (*Interruptions*) All right then. Please take five minutes.

SHRI P. RAJEEVE: Sir, as the mover of the Motion, I think I have the right to put certain things to the Minister.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Yes, you do have the right. I am not questioning your right.

SHRI P. RAJEEVE: Sir, in the beginning, I have mentioned that in the Act itself there are some provisions. My question is: what is the litmus test to examine whether a rule is in accordance with the parent Act. That is the question we are discussing while considering a statutory Motion. I am totally in agreement with the remarks of the Minister about the Act. It was passed by the Parliament. But, Sir, what is an objectionable content? It has been mentioned in clause 69A. Now, clause 69A is in accordance with article 19(2) of the Constitution. The Minister must not look at this clause in isolation. It is specifically mentioned in clause 69A what objectionable content is, and it is in accordance with article 19(2)(a). My submission is, while the Minister explained that, the question is about clause 3(2). This clause, from (a) to (j), explains what an objectionable content is. It goes beyond the provisions of clause 69 of the Act. That is the basic question. The reply given by the Minister is not satisfactory on that point.

With regard to privacy thing, that is, 3(7), it is actually against the Act, which specifically mentions what are the provisions for getting information from a user. It specifically states that. The Government framed the Rules. I invite the attention of the hon. Minister to the other Rule. There are certain provisions in the Rule for the intervention of the Government for blocking contents. For getting information from a user, there are certain other rules. The Minister says that this is not a mandatory thing; there is no Government intervention. But, Sir, this is actually private censorship. But we are going to the words used in this Rule. 'Due diligence to be observed by intermediary', you look at it. There is 'shall' everywhere. While in the legislative process, we can find out several 'may'. But here, all are 'shall'. Recently, one organization posted contents to seven websites like Google, Twitter, Facebook, etc. Thereafter, the same organization sent a complaint saying that this is against the Rule. Within 36 hours, these all seven intermediaries removed the contents without



[Shri P. Rajeeve]

any enquiry. That is the reality. Finally, Sir, actually it is Government intervention and private censorship. That is private censorship. What is the reality in other countries? I would not like to take more time on that. Digital Millennium Copyright Act is actually related to copyright. But, in that Act itself, there is a provision. It is 'put back' provision, by which contents can be restored. If a counter-notice is sent by the author of the contents unless the copyright holder files a suit within ten days. That is Digital Millennium Copyright Act. There is a 'put back' provision. That type of provision is not existing in the Rule. While coming to the European Union, I would not like to take more time explaining the provisions ...(*Interruptions*)...

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Please conclude. ...(*Interruptions*)...

SHRI P. RAJEEVE: There is a specific provision....(*Interruptions*)...That is a reality....(*Interruptions*)...My question is: As per the Section 88, there is a provision for consultation with an Advisory Committee. It has been constituted. It may be right. But there were only two meetings in 2000. What is the rule of this Advisory Committee? As per the Act, "The Central Government.....either generally as regards any rules or for any other purpose connected with this Act." Now, the Minister claims that the Government has taken several steps in consultation with the industry and other stakeholders. But this is the mandatory provision in this Act. It may be true that the Government has taken several steps and discussed it with stakeholders. But this is mandatory as per the Rule. Why is the Government not taking the advice of the Advisory Committee for framing these Rules? Sir, 3(2) and 3(7) are totally against the Act. They are ultra vires of the Act. Considering the sense of the House and the issues that we have raised, the hon. Minister should consider all these things and come with an amended Rule within a time frame. Till that time, it should be kept in abeyance.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, I shall put the motion for amendment to vote...(*Interruptions*)...

SHRI ARUN JAITLEY: Can the hon. Minister give an assurance to this House that the Rules, after this broad-based discussion, will be relooked at, and if there are any words therein, which require to be replaced or removed, the Minister would replace or remove them? Are you agreeable for that?

SHRI KAPIL SIBAL: My assurance to this House is that I will request distinguished hon. Members to write letters to me objecting to any specific words. I will then call a meeting of the Members as well as the industry and all the stakeholders. We will have a discussion and whatever consensus emerges, we will implement it.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): That's an assurance. So, I will put the question again. The question is:

“That this House resolves that the Information Technology (Intermediaries Guidelines) Rules, 2011 issued under clause (zg) of sub-section (2) of Section 87 read with sub-section (2) of Section 79 of the Information Technology Act, 2000 published in the Gazette of India dated the 13th April, 2011 vide Notification No. G.S.R 314(E) and laid on the Table of the House on the 12th August, 2011, be annulled; and

That this House recommends to Lok Sabha that Lok Sabha do concur in this Motion.”

*The motion was negatived.*

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#### MESSAGE FROM LOK SABHA

##### **The Central Educational Institutions (Reservation in Admission) Amendment Bill, 2012.**

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from Lok Sabha, signed by the Secretary-General of Lok Sabha:-

“In accordance with the provisions of rule 120 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to inform you that Lok Sabha, at its sitting held on the 16th May, 2012, agreed without any amendment to the Central Educational Institutions (Reservation in Admission) Amendment Bill, 2012, which was passed by Rajya Sabha at its sitting held on the 27 April, 2012.”

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#### SHORT DURATION DISCUSSION

##### **On Normalisation of Relations with Pakistan and Issues Relating to Human Rights Violations of Minorities in Pakistan**

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, as per consensus, we shall take up the Short Duration Discussion on the normalisation of relations with Pakistan and issues relating to human rights violations of minorities in Pakistan. The time allotted is one hour and the hon. Minister's time will be extra fifteen or twenty minutes. So, we should finish it within one hour and everybody should stick to the time limit. Shri Balbir Punj, your party has 12 minutes, but you can take seven minutes.