

THE CONSTITUTION (AMENDMENT) BILL, 2004 (TO AMEND ARTICLES 58, 66, 84 AND 173)

श्री कृपाल परमार(हिमाचल प्रदेश) : उपसभापति महोदय, मैं प्रस्ताव करता हूँ कि भारत के संविधान का संशोधन करने वाले विधेयक को **पुरःस्थापित** करने की अनुमति दी जाए ।

The question was put and the motion was adopted.

श्री कृपाल परमार : उपसभापति महोदय, मैं विधेयक को **पुरःस्थापित** करता हूँ।

MR. DEPUTY CHAIRMAN: Now we will take up further discussion on the Property Rights of Women and Girls Bill, 2002. Dr. T. Subbarami Reddy.

THE PROPERTY RIGHTS OF WOMEN AND GIRLS BILL, 2002 -contd.

DR. T. SUBBARAMI REDDY (Andhra Pradesh): Sir, I congratulate and admire Shrimati Kum Kum Rai for having brought this laudable Bill which is very important for the people of India.

Actually, if we look at our Vedas and Indian philosophy, right from the ancient times, we have always respected Goddess and have worshipped Goddess in the name of Shakti. It is believed that even the Gods are under the control of the Goddesses. That is what the philosophy says. But, surprisingly,- in our country, since ancient times, that is, for centuries now, men have always been dominating the women, and women have virtually been made to suffer miserably and irreparably. In fact, being a girl, she depends on her parents. Now, even though some State Governments have passed an Act to the effect that daughters have an equal right in their parents' property, they are quite innocent, and they have no capacity to even claim their share of the property. Practically, it is the men folk who take away the property, and the girls are left with nothing. And, once the girl is married, her husband dominates her. This happens mostly in middle-class and poor families. Of course, in highly educated families, females have started fighting for their rights. But in majority of cases, we feel sad to see how females are made to suffer in society. Another important point is, if a woman becomes a widow, her life becomes very problematic." She suffers if she lives with her children and she also suffers if she lives at her in-laws' place. In-laws make her life hell, but even her own children do not take proper care of her, if she doesn't have any property in her name. So,

without property, a woman is thrown out like grass, as we say, in our Indian society. We are a great civilisation. This is the era of modernisation and globalisation. So, time has now come for us to have a full-fledged Central Act covering the entire nation, giving equal property rights to women uniformly, whether it is their father's self-earned property, whether it is the joint family property or it is the inherited property or whatever it may be. The daughter must have the right. Similarly, particularly in rural areas, especially the tribal areas, husbands at times are very cruel towards innocent women and they do not give her any; they create all sorts of problems for women. Therefore, property rights for women are very important.

Also, I am happy that our Common Minimum Programme has already taken a stand that the women will be given equal property rights. So, this has to be given a top priority. It is nothing political, Sir, but the truth is that the Congress Party, from the beginning, has always been pleading for women's rights. In fact, when Rajivji was the Prime Minister of India, it was he who had actually proposed that women should be given reservation in Panchayats. Even on the issue of giving 33 per cent reservation to women in the Lok Sabha and State Assemblies, the Congress has always been advocating that we must do it. We strongly support that reservation should be given to women in the coming elections.

Even during the British period, there were attempts at giving equal rights to women. But, at that time, our own people had objected to it. Subsequently, the great leaders of our freedom struggle, with their revolutionary and progressive thinking, had been advocating women's rights. But with all this background, till today, that is, 2004, this proposition has not yet taken a legal shape. Even though there are a few States where they have introduced such legislations, it has still not taken any legal shape there also.

Now, here, there are two points. One is that you must have the determination to bring this as a law for which the Constitution should be amended as well as you should see to it that it is introduced. The second point is that the implementation of the Act also is a very important issue. The Government may amend the Constitution and enact a law that in the entire country, uniformly, women, including widowed women will have equal property rights, implementation may still remain a big problem. Normally, 75 per cent of the women in our country are uneducated. A majority of them are in the rural areas. They have no knowledge of the

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law. They are not able to fight their cases also. And more important is that even if they are given these rights, the brothers dominate them; they do not allow their sisters to avail of their rights. Therefore, when the Government amends the law and gives equal rights to women, it must also ensure that legal assistance is given to women, particularly to those women who are in the rural areas, who are uneducated and who do not have any knowledge of the law. Therefore, you must have a full-fledged law to be implemented uniformly in the entire country.

Now, we have a very learned and dynamic Law Minister. He is also of the same view. Sir, our party and our Government are very much determined to have this law. I am sure, under his guidance, we are going to have a very effective law. Besides the law, there is going to be a very effective mechanism for implementation throughout the country, especially in the rural and remote areas where women are living in very unfortunate circumstances and suffering. I am also sure the Government will act without any red-tapism. Here, I would like to tell as to why there is red-tapism. Even though there is a law; even though the Government wants to help the common man, a poor lady, still things do not happen. Even a Government advocate would not come forward to help them, unless he is given his legal fee. Therefore, when a woman is given the right to property, the Government must ensure that free legal assistance should be given to her and should also see to it that the Act is implemented very effectively.

Sir, I would like to say one more thing in this regard. Harassment of women is going on in a big way. If you see the stories which are coming in newspapers and magazines, you will find that they are real facts. We also see television serials which are also based on real life. In these serials it is portrayed how a girl or a lady is really harassed by her family members, co-sister-in-law, husband or whoever they may be. On seeing this, tears come on my eyes. So, my suggestion to the Government is, a full-fledged system should be developed to give full protection to a woman. On the one side, we give so much respect to a lady. When you go to a temple, you see that the Goddess is so powerful. As I have told you in the beginning, for centuries together, we always say that the *srishti* has come only from a *stri* or a female. Therefore, in conclusion, I request the hon. Minister to take steps to amend the law, as early as possible, and ensure that a uniform law is applicable all over the country. The Government should see to it that equal right to property should be given to a woman in movable and

immovable properties. If movable property right is given and immovable property right is not given, then, it is of no use. Secondly, when such a law comes into force, the Government must ensure that it is effectively implemented. This right to property to a woman should be given in rural areas, in tribal areas, in backward areas and everywhere. Also, where uneducated people are there, they should be told how the law is going to give protection to them. The police, legal luminaries and advocates should be given an opportunity to protect women's rights.

Lastly, I will be very happy if the hon. Law Minister while replying to the debate gives a comprehensive reply and tells the House as to when he is going to come forward with a uniform law for the entire nation, and also tells us what mechanism he is going to introduce to have very effective results. Thank you, very much.

PROF. SAIF-UD-DIN SOZ (Jammu and Kashmir): Mr. Deputy Chairman, Sir, it is so tragic, in fact, I was not prepared to speak, but on a important subject like this, I decided at the spur of the moment that I should speak on this Bill.

MR. DEPUTY CHAIRMAN: Please be brief because only 26 minutes are left for this Bill.

PROF. SAIF-UD-DIN SOZ: It is so tragic that a Bill that should have come from the Government, our United Progressive Alliance Government -we are proud of the Government - it has come as a Private Member's Bill. I am not raising the question of quorum. I did it once in the Eighth Lok Sabha with a heavy heart because I found that many of us do not take interest in legislations and on a Private Member's day, on Friday, the House is having very thin attendance. I am very happy that Mr. Nariman has, in fact, introduced a Bill to ensure that we pay attention to important areas, particularly legislations. Now, it is very tragic that this subject has come after so many years since Independence. I must congratulate Miss. Kum Kum Rai...

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ) : She is Mrs. Kum Kum Rai.

PROF. SAIF-UD-DIN SOZ: All right. Mrs. Kum Kum Rai. 'Miss.' does not convey anything wrong. I must congratulate Mrs. Kum Kum Rai to have got a Bill here on the Table which discusses the women's right to share property. It is not understandable why it has not happened. Women

are in difficulty. We talk of poverty line; we talk of poverty; we talk of backwardness in rural areas, but we don't pause and think within that backward bracket who suffers more. It is always the woman. The tragic aspect of what is happening to women comes to the fore all the time every week. Reports are made to the police and they go and organise a raid.

Many of those girls are innocent. They have been pushed by the society to that situation. Yes, you are correct-it is a male-dominated society. There has never been a concerted effort to do justice to the women of India, who are 50% of the society. When there is voting, it is the women who vote a particular Government to power, because they go in very big numbers and vote.

As far as women are concerned, it is a sort of excursion to come out of the four corners of the house and go to the booth and vote. So, we have been very cruel. I feel very sad inside my heart and mind. We are taking this issue non-seriously. It is a Private Member's Bill and, yes or no, it will get finished by this evening and we would forget about it. But I am saying something seriously. I will be one of those who will urge the Government to propose a measure before this House and the other House and get a law that enacted for justice to the womenfolk of India.

I belong to the minority community and it is a double anguish in my mind and heart that so many Muslim organisations, all the time, talk on emotive issues and they want to do this and that for the community. But they are not interested. I don't know even one organisation, including the Muslim Personal Law Board-we respected that Board because of Maulana Ali Mian and people like Qazi Mujahidial Islam of Patna. But we can't respect an organisation because of some personality who is no more with us. They don't go into the question.

Mrs. Kum Kum Rai has rightly mentioned in the preamble that, particularly, minorities, tribals and others are in difficulty. They are in difficulty. Let me speak for my community. The Islamic laws provide for proper share going to women. It is not being implemented. Then, they will talk of so many issues and they will not care for Islamic injunctions. Therefore, it reflects on the working of such organisations who don't even propagate or even raise a voice for justice to women. But, now, when I am on my feet, I am speaking for all the women of India. I must refer to my community because you mentioned that minorities are in difficulty. Yes, Muslim community is in difficulty. Muslim women are in difficulty. Islam gives

full share to women in movable and immovable properties. In fact, when the injunction is so clear, I don't know why these Muslim organisations, who are mushrooming in India do not bring in questions related to the Muslim women. But they don't stir up and see what are the Quranic injunctions on inheritance of property. So, I salute Mrs. Rai for bringing in minorities and tribals in this question.

In the majority community also, women are not safe and women are not respected. Women are not given full share in properties. Therefore, Mr. Deputy Chairman, Sir, with this anguish in my heart and mind, I urge you also, because you hold a very important position. We must all urge the Government to get a Bill before us proposing equal share to women. In Islam, the share has to be given but it may not be equal to the male. But that can be looked into and *Ijtihad* can be invoked. But, as far as the secular law in a secular country is concerned, we must fight for equal rights for women, irrespective of caste, colour, creed and religion. Before that Bill is brought before us, before an enactment is made, I would urge the Government-and the Prime Minister, particularly, who is the leader of the nation--to raise a voice for women because the Government leads the, whole nation. There must be an awareness programme sponsored by the Government that women deserve justice, they deserve a share in the property, they deserve equal share with men.

Thank you, Sir.

SHRI FALI S. NARIMAN (Nominated): Mr. Deputy Chairman, Sir, I thank you for permitting me to intervene in this debate. I fully support the sentiments expressed in the Statement of Objects and Reasons of this Bill. There are many aspects of the clauses in the Bill, which perhaps require a great deal of more consideration. But, I think, the most important aspect of this Bill is its Objects and Reasons. I can find no exception to anything that is said in the Statement of Objects and Reasons, which goes against either the current sentiments or the Constitution. We profess equality from the housetops. We always speak of the equality of the sexes. But in practice, I am afraid, we are found wanting. It is now more than 50 years and it is high time that the Government was alerted, particularly this Government is alerted to the importance of having a comprehensive measure which would subserve both article 14 and article 15 which says that special provisions may be made for women and children and also article 44 about which there is a lot of controversy about a Uniform Code. I think, the least offensive manner in which the Uniform Code could be introduced is through a

measure of this sort, namely, the property rights of women and girls which should be equal to that of men because we are still a male dominated society, which is absolutely correct, a male chauvinistic society, in which we profess to pay a great deal of homage to the women and to the female sex. But as a matter of fact, in actual practice, we do not. It is time that we changed this attitude. That is why I support this Bill. I would urge upon the hon. Minister to have a comprehensive legislation in the nature of the provisions stated in this Bill. Thank you.

SHRI JAIRAM RAMESH (Andhra Pradesh): Sir, I thank you for giving me this opportunity to speak on this Bill. I rise to support this Bill that has been introduced by Shrimati Kum Kum Rai. I would like to bring three or four issues to the attention of the hon. Law Minister who is present there. I am also pleased that we have former Law Minister sitting amongst us, and a person who might have been the Law Minister, who spoke before me. So, we have legal luminaries here who would perhaps have greater knowledge than I.

I would like to make very specific recommendations and suggestions for the consideration of the Law Minister. Sir, some years ago, I think, three or four years before, the previous Government did a comprehensive review of 22 laws and tried to remove the gender discrimination in these laws. Actually, they had made specific recommendations. There was comprehensive exercise done by the National Women Commission and by Inter-ministerial Task Force, Property, of course, was one of the elements to deal with in this exercise. But this was a very comprehensive exercise. That was done, I think, between 2000 and 2002, to look at major laws in this country and to address the problems of gender discrimination. I think much of the homework has been done. In fact, in the National Common Minimum Programme there is a commitment to bring these changes in the laws as has been examined by the expert groups. I would request the hon. Law Minister to take action on this very soon. An example of this, this morning, if you recall, there was a question on declining child sex ratio in Himachal Pradesh. This is not only true of Himachal Pradesh. It is true of Punjab, it is true of Haryana, it is true of Chandigarh and it is true of Delhi where alarmingly it has been happening in the last 20 or 25 years. This is the most prosperous part of India. But yet this is also that part of India where the number of girls against the boys has been steadily and alarmingly declining. One of the reasons for this, as you know, as we discussed this morning during Question Hour, is female

foeticide. The previous Governments have passed laws to deal with sex selection, to prohibit the widespread proliferation of sex selection clinics. But if you look at the laws, as has been done by the previous Government, the onus of proof is on the woman who actually is the mother. It is really not on the doctor. The punishment really falls upon the family, which in effect really means falling on the mother because she is the person being penalised for actually indulging in this act of foeticide. I am sure that was not the intent of the law-makers but the way this legislation has come out, it allows the doctors to go scot-free and penalises the women who unfortunately is not the master of her own choice as far as child bearing is concerned in this country still. This is an example of a very important progressive social legislation where there is still inherent and ingrained gender discrimination. Therefore, I would urge the Law Minister to bring this exercise forward and come to the House with bringing forward these laws and removing the inherent basis of gender discrimination. Secondly, Sir, again if you look at the Common Minimum Programme, there is a commitment that the Government will come forward with legislation, if legislation is so required to ensure that assets that are transferred as part of Government programmes whether it is house sites, whether it is *free pattas* would be in the joint names of both the wife and the husband of the house owners, as the case maybe. Some States, you may recall, Sir, your own State of Karnataka, passed this law two years ago and in Karnataka rural housing *pattas* are in fact given in the name of both the husband and the wife. Such a comprehensive exercise again I think is called for. We spend huge amounts of money in asset distribution programmes through the Ministry of Rural Development, as I said, there are *free pattas* involved, there are house sites involved, there is ownership over community water well sources and now increasingly there is also ownership on sanitation facilities as part of the rural sanitation programme. So I think wherever Government assets are involved, wherever ownership of Government transferred assets is involved, ownership should be in the joint name of the husband and the wife and this I think again is something that the Law Minister could come forward with. Sir, finally I think if you look at the Statute Books, India is full of progressive social legislation. It is not that we have not come up with social legislation. If you look at things like dowry, combating atrocities on women, if you look at, for example, enforcing the minimum age for marriage, the problem does not really lie in the absence of social legislation but perhaps increasingly the problem really lies in the enforcement of the social legislation, in the awareness of that social legislation and making a public

movement on the existence of social legislation and bringing this on the political agenda. I think, all political parties really have failed in regard. We have not had the enforcement of social legislation. To give you a very simple example, no political party really makes an issue of transgression of the law relating to minimum age of marriage of girls into a major political issue. This is sought to be explained away by the prevalence of poverty and backwardness in many parts of India. I think, this is simply unacceptable where we have progressive legislation; the onus of proof really lies on political parties and the Government to ensure that these laws are actually enforced. So, I would plead with the Law Minister that in addition to bringing forward social legislation he also initiates major programme in which the Government is a partner with civil society to increase public awareness of social legislation and also create a public environment, a general environment in which enforcement of social legislation is seen to be a very important political task. Thank you.

SHRI R. SARATH KUMAR (Tamil Nadu): Sir, I rise to support the Bill brought forward by Shrimati Kum Kum Rai. I am really happy to participate in the debate of the Bill which is of great importance to our nation. Sir, as you know, the Hindu mythology or philosophies respect women and women are held in high esteem in our society. But as days have gone by, we have come to a stage in our society where women are not given the equal rights that they should be given. Man gets married to the woman. Woman bears children and she has got all the responsibilities. The man goes hunting for livelihood, brings back money and that is all. The woman of the House takes care of the children, educates them, gives them the base to develop themselves in society and then she takes up all the responsibilities in bringing up the children for the future society, the benefit of the children, the future of their family. They do all this. But when it comes to property rights the woman is totally left behind. We should be ashamed to say that we give women equal rights in every other way, but not in property. Here, I would like to place on record that in 1990, our leader, Dr. Kalam Karunanidhi, when he was the Chief Minister of Tamil Nadu, for the first time, brought forward Bill on equal rights in property for women. It was about fourteen years ago. A Central legislation should be made to make it applicable all over the country. Now, at least, that we have woken up to the fact that women should be given equal rights in property, this legislation should be adopted immediately.

Sir, clause 6 of the Bill clearly mentioned - I really appreciate Smt. Kum Kum Rai - about the property rights for women. It is also mentioned in the Bill that the women should have the right to stay in her husband's house after the death of her husband. If the husband is died, his wife is thrown out. She will be considered as a second citizen as far as that house is concerned. She should be given all the respect that she deserves because she has borne the children of the man there. But the family looks at her as a widow. I think, we start disrespecting a woman when she becomes a widow. This attitude should be changed. This can only be changed when we have effective laws in the country. I am really happy that it has come at a time when all the political parties, as has been effectively pointed out by Shri Jairam Rameshji, spoken about the implementation of this law and this should be taken very seriously by all the political parties. The forerunner, I would say, in this, is the DMK Party, which was implemented this in 1990. So, this should be taken up very seriously and the women should be given the property rights. I think, the man in the society should think about it very seriously and we should reform the entire system. The society should be educated. We should spend more money in educating the society. We should take it up in a big way to educate the society in giving equal property rights to women.

Sir, looking at the time constraint, in conclusion, I welcome the Bill on my behalf and on behalf of my party. It is a wonderful Bill that has been brought before this House by Smt. Kum Kum Rai. Let us all unite in this cause to bring this as legislation and as has been rightly said by Dr. Subbarami Reddy, the implementation of legislation is very important. All the laws are enacted by Parliament but the failure comes at the time of implementation. The implementation should be strictly monitored. I am happy that both the former Law Minister and the present Law Minister are here. I am sure, they take cognisance of the fact that we are for the Bill and we should support the Bill. I think, it should be done at the earliest possible time. Thank you.

डा. प्रभा ठाकुर (राजस्थान) : उपभाषति जी, मैं डा. कुमकुम राय जी द्वारा प्रस्तावित महिलाओं और बालिकाओं के संपत्ति अधिकार संबंधी विधेयक के समर्थन में कुछ कहने के लिए अपने विचार यहां प्रस्तुत कर रही हूँ।

(उपसभाध्यक्ष (श्री दिनेश त्रिवेदी) पीठासीन हुए)

महोदय, इस देश की संस्कृति में जहां यह कहा गया है- "यत्र नार्यस्तु पूज्यते, रमंते तत्र देवता", जहां नारी का सम्मान होता है, वहां देवता रमण करते हैं और हमारी संस्कृति में

यह भी कहा गया है कि स्त्री शक्ति-स्वरूपा है, स्त्री देवी-स्वरूपा है और स्त्री की मां के रूप में बड़ी महिमा कही गई है, लेकिन वस्तुतः अगर देखा जाए, तो स्थिति हकीकत में कुछ और ही है। आज इक्कीसवीं सदी में, इतने सारे कानून होने के बावजूद, चाहे सरकार कितने ही संविधान में संशोधन करके अधिकार दे या उनकी सुरक्षा के लिए या अधिकारों के लिए नियम या कानून बनाए, बालिकाओं को शिक्षा दे, लेकिन फिर भी समाज में महिलाओं की स्थिति बड़ी शोचनीय है। कई जगहों पर, अच्छे-खासे शिक्षित परिवारों में भी, महिलाओं का शोषण है, उत्पीड़न है, उपेक्षा है और महिलाएं अपमानजनक स्थिति झेलने के लिए विवश हैं। इसके दो प्रमुख कारण हैं, जिनमें एक प्रमुख कारण तो है शिक्षा का अभाव, पूर्ण शिक्षित न हो पाने के कारण और आर्थिक दृष्टि से पूर्णतया आत्मनिर्भर न हो पाने के कारण महिला की स्थिति ऐसी हो जाती है कि उसे लगता है कि उसके सामने इस शोषण को स्वीकार करने के अलावा और कई चारा नहीं है। यह एक बहुत ही शोचनीय स्थिति है और अच्छे-खासे, पढ़े-लिखे परिवारों में भी यही स्थिति है।

महोदय, जैसा कि अभी मेरे से पूर्व वक्ता मेरे साथी डा. जय राम रमेश जी ने कहा, यह बहुत जरूरी है, यह केवल सरकार का ही उत्तरदायित्व नहीं है, यह केवल कानून बनाने से ही नहीं होगा, इसके लिए सामाजिक जागृति और चेतना की भी बहुत जरूरत है। इस जागृति के अभाव में आज भी सबसे अधिक कन्या-भ्रूण हत्याएं हो रही हैं। क्यों हो रही हैं? क्योंकि आज भी पुरुष से कन्या का दर्जा बहुत कम करके आंका जा रहा है। महिला अपने आप में ही इस समाज में, इस देश में एक पिछड़ा वर्ग है। मैं यह कहना चाहूंगी, महिला वर्ग अपने आप में ही पिछड़ा वर्ग है। शायद इसी बात को राजीव गांधी जी ने उस वक्त पहचाना था और महिलाओं के सशक्तिकरण के लिए उन्होंने सोचा था कि इनका राजनैतिक सशक्तिकरण भी होना चाहिए और उसी का नतीजा है कि आज पंचायतों में, नगर निकायों में, नगर निगमों में महिलाओं को आरक्षण मिला है, लेकिन यह प्रक्रिया तब तक अधूरी है, जब तक लोकसभा और विधान सभाओं में महिलाओं के लिए लंबित आरक्षण का विधेयक पारित नहीं हो जाता। इसके बिना राजीव गांधी की वह परिकल्पना अधूरी कही जाएगी। मुझे खुशी हुई कि मेरे और साथियों ने भी महिलाओं के सशक्तिकरण की बात कही। यदि यह विधेयक पारित होता है तो महिलाओं का सशक्तिकरण होगा और महिलाएं सशक्त होंगी, जिसके लिए समाज में यह जो कन्या-भ्रूण हत्या है, यह जो भेद-भाव है, जो आज भी शिक्षित समाज में कन्याओं की हत्या हो रही है, जिससे कि समाज में स्त्री-पुरुष के अनुपात में एक भारी असंतुलन का खतरा भी आगे पैदा होने वाला है तो यह स्थिति क्यों है और ऐसा क्यों हो रहा है? जबकि महिलाएं हर क्षेत्र में अपनी योग्यता प्रमाणित कर रही हैं? लेकिन फिर भी आज लड़की और लड़के को, पुत्र और पुत्री को समाज में समान अवसर नहीं दिया जा रहा है। फिर भी लड़की के साथ दूसरे दर्जे के नागरिक के रूप में व्यवहार किया जा रहा है। आज भी समाज में यह concept है, यह विचार है कि लड़कियां पराया धन हैं, जबकि लड़की पराई हो करके भी पराई नहीं होती। वह पराए घर जाकर भी अपने माता-पिता के प्रति, आम तौर पर अगर आज भी माता-पिताओं से पूछा जाए तो लड़के से ज्यादा, पुत्र से अधिक माता-पिता के सुख-दुख की चिंता पुत्री को होती है। फिर भी यह विचार क्यों है कि कन्या का जन्म ही नहीं होना चाहिए, कन्या-भ्रूण हत्या का सिलसिला फिर भी क्यों जारी है? यह एक गंभीर समस्या है। इस स्थिति को समाप्त करने के लिए और यह जो प्रकृति है, अगर इस देश में सामाजिक विकास करना है, आर्थिक विकास करना है तो जो विकास के दो पहिए हैं, एक पुरुष और एक स्त्री है। एक पहिया जब तक कमजोर रहेगा, मान्यवर, यहां कानून मंत्री जी भी बैठे हुए हैं, तब तक विकास की गाड़ी उस तेज रफ्तार से नहीं चल सकती जिस तेज रफ्तार से हम

आज इक्कीसवीं सदी में इसके विकास की सोच रखते हैं। इसके लिए ऐसा कानून बनना बहुत जरूरी है, जैसा मेरी बहन का विचार है। एक बात मैं यह भी कहना चाहूंगी कि सरकारी नौकरियों में कई जगह महिलाओं को तीस प्रतिशत आरक्षण दे दिया जाता है, लेकिन इसको सुनिश्चित नहीं किया जाता। मान्यवर, ऐसा कानून होना चाहिए कि केवल कागजी कार्यवाही ही काफी नहीं हो कि नौकरियों में महिलाओं को आरक्षण दे दिया गया है। उसको सुनिश्चित किया जाना चाहिए कि वास्तव में भी तीस प्रतिशत आरक्षण मिला है या नहीं, क्योंकि लड़कियां या स्त्रियां नौकरियों के लिए दर-ब-दर भटकती रहती है, लेकिन पूरे आरक्षण के अनुपात में उन्हें नौकरियां नहीं मिल पाती है। दूसरा, मैं यह भी कहना चाहूंगी कि पति की चल या अचल सम्पत्ति में उसको बराबरी का अधिकार आप दें देंगे, उस दिन स्त्री का घर में न शोषण होगा, न उत्पीड़न होगा। उसे शोषण से मुक्ति मिल जाएगी, क्योंकि वे देखेंगे कि यह भी आर्थिक दृष्टि से कहीं मजबूत है। ऐसी स्थिति में अधिकांश मौकों पर शोषण और उत्पीड़न से स्त्री बच सकेगी। इसलिए केवल इतना ही पर्याप्त नहीं है कि सरकार के द्वारा जो पट्टे और जमीनें दी जाएं, उस में ही पति के साथ पत्नी का नाम हो बल्कि पति के नाम की जो भी चल या अचल सम्पत्ति हो, उसमें भी पत्नी की बराबर की भागीदारी होनी चाहिए ताकि स्त्री अपने परिवार में एक शक्ति बने और उसका एक मजबूत स्थान बने।

अंत में मैं बस इतना ही कहना चाहूंगी कि लड़कियों के प्रति निःशुल्क शिक्षा की भी बात की जाती है। लड़कियों को हर प्रकार की शिक्षा अधिक से अधिक निःशुल्क हो और साथ ही यह प्रचार भी प्रभावशाली तरीके से समाज में हो कि लड़कियों की भ्रूण हत्या का सिलसिला समाज में बंद हो। लड़कियां किसी भी प्रकार लड़कों से कम नहीं हैं। इस बात को मानते हुए कि किस प्रकार पितृगृह में और पति घर में भी वे कानूनी दृष्टि से और आर्थिक रूप से और अधिक सशक्त हो, उनका राजनैतिक और आर्थिक, हर दृष्टि से सशक्तिकरण हो, इस पर विचार करते हुए मैं यह प्रस्ताव करती हूँ कि इस विधेयक को पारित किया जाए। धन्यवाद।

SHRI ARUN. JAITLEY (Gujarat): Sir, let me first of all congratulate Shrimati Kum Kum Rai for having introduced, as a Private Members' Bill, a very progressive piece of legislation. As Shri Jairam Ramesh was mentioning, over the last few years, ever since this campaign for equality in terms of property rights, equality in terms of various other rights, as far as women in our society are concerned, has been built up, there has been a periodic review in the society itself. There are broadly two challenges before us. The first challenge is, have we kept pace with the changing times and updated our laws to bring about and actually confer the right of equality? And the second challenge really is, even through legislation when we are able to implement the principle of equality, is the social environment of the society still accepting those legislations and implementing those legislations? Let me start with the second point first. It was in the late 1950s that the amendments to the Hindu laws were made. In those amendments, several rights of equality in terms of parental property were

conferred upon the Hindu women. Even today, 45 years later, we still find that the social environment of the society has not readily implemented what has been the mandate of the laws made by this Parliament. I, therefore, feel that there has to be two-pronged attempt. One attempt, of course, is to keep the changes in the law with the pace that is required and the second is to create an adequate social opinion in the society where social pressures to implement those laws are also increased and implemented.

Sir, I have always believed and that also is the mandate of our Constitution in Article 13, sub-clause (2), that all laws should conform to rights conferred by Part III of the Constitution, that is, the Constitutional Guarantees. Now, when the mandate of the Constitution is that all laws must conform to the constitutional guarantees, somehow we have kept, because of the constraints of our system, personal laws outside the ambit of those laws which are required to conform to the constitutional guarantees. Even judicial opinion which had a great opportunity to accept this principle that when all laws must conform to Fundamental Rights, the right to equality, the right of women to live with dignity, why is it that personal laws we were able to keep out of the system and even judicial mandate did not so require? I think one of the greatest challenges for India in the years to come is going to be whether both the Parliamentary System and our Judicial System will bring even those laws within the conferment of article 13 itself and enforce the principle of equality even as far as those laws are concerned. Once we are able to achieve this, one of the necessary consequences that will follow, that we will be putting on the road map, the right to equality, the right to dignity as far as our women are concerned. You require education, an educational standard to improve for women if we are to confer a sense of dignity to them, you require to confer a certain element of income upon them so that they are in a position to earn. You also require to confer the right to property, as far as women are concerned. Now, one of the arguments which has been raised traditionally as far as the right of property is concerned -and this is one of the reasons why we have been lacking in our efforts to confer this right- is that if this right is conferred upon women and they get married, this will lead to bifurcation and trifurcation of land holdings; and, therefore, we will face resistance as far as large number of sections of the society are concerned. Now, we have five States* in India, four Southern States and the State of Maharashtra, which in relation to the Undivided Hindu Family have already implemented certain radical reforms. In fact, Kerala has gone a step ahead of the other three Southern States in implementing those reforms. Once

those have been legislated in those five States, the kind of resistance, at times, which we anticipate which may be faced, certainly, was not faced in those States. But the second challenge which still remains is that even after having brought the legislation to that effect in those five States, that is, Maharashtra and four Southern States, the implementation process of that legislation has been somewhat slow. And, therefore, Sir, when Dr. Kum Kum Rai has introduced this piece of legislation I have just two suggestions to offer, for the hon. Law Minister who is present here to consider. The first is, one of the big problems that we had been facing in our courts of law, particularly, in relation to women who are not being maintained, is the absence of adequate standards of maintenance and the expeditious grant of them. Now, over the last few years, laws were changed to improve the quantum as also to provide for certain advisory guidelines in terms of timeframe so that it could be implemented quickly. I think, it requires to be studied whether the implementation of what this Parliament has mandated is actually taking place or not, or, is the process still very slow.

The second factor -- and, I think, when I see the text of this legislation which is inbuilt in the spirit of this legislation — is how do you give a relief or a right, I don't even want to use the word 'relief, give a right, as far as property is concerned. Now, the right to property has been evolved world-over, in different ways. There are countries which jurisprudentially expounded the concept of the husband's house as being the matrimonial home. So, it really belongs to both the wife and the husband together. Alternatively, in the parental property, or, in the in-laws' property, or, the husband's property, or, in both, some legislative changes have to be there to ensure a mandatory right for women. That is, tomorrow, if she becomes a widow, tomorrow if she gets separated, or even if she is having a happy married life, and I hope, most women do have that, if she is living in a husband's house, at least, she lives there with a sense of dignity that 'I can't be thrown out at somebody's will'. Now, once this is mandated by law itself, slowly, but surely -- it will take time; that has been our experience since 1957 - the social acceptability of this in the years is going to come. With regard to the question which I had raised about the reforms which have been made in the four Southern States and Maharashtra, which have still not been made in the rest of the country, I would urge the hon. Law Minister to seriously consider referring this issue for some debate and making a recommendation to the Law Commission itself. And, the reason I state is that the whole concept of family structure in India is undergoing a change. Fifty years ago, the concept of larger families, joint families was

very prevalent. With each day which is passing by, this concept is getting gradually eroded. Now, therefore, allowing this concept to remain for the purposes of excluding the right of a woman in the property rights, I think, is a question, which on account of the changing socio-economic environment today would also require a reconsideration. Secondly, Sir, there are also still some legislations which have been discussed in the past in the Government, in this Parliament, where changes are required in property laws, in succession laws, where some aberrations to the principle of equality still remain. For instance, even when the property is not an ancestral or an undivided Hindu family property but just a joint property in which a Hindu lady has a share, she may have a right but she is still prevented from enforcing a partition of that property and enforcing a share in it. It is only when the male members decide to partition it that she will get her share. Now, in the year 2004, does it or does it not require a reconsideration whether such a law should remain on the statute? And, I, therefore, go back to where I had started from; if we now start testing each one of these issues on the principle of equality, on the principle of dignity, that these are the rights which we have to confer on a woman, then-I don't know whether -- what. Mr. Nariman suggested that we should have a larger comprehensive law which deals with all this - that is so easily possible or not. If that were possible, all of us would be too happy about it. But even if that is not possible, if we can really review each one of these laws which still remain an aberration to the rule of equality and think in terms of making a forward movement in some of them, I think, we would be leaving a considerable amount of impact as far as the right to equality and dignity for Indian women is concerned.

Sir, thank you very much for giving me an opportunity. Let me again congratulate Dr. Rai for bringing this Bill.

PROF. SAIF-UD-DIN SOZ: Sir, I would like to seek a brief clarification..

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): I don't know whether you can give your name to speak at this moment.

PROF. SAIF-UD-DIN SOZ: No; Sir, it is not that. I have already spoken on it. But since he was our Law Minister, I want to seek a small clarification.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Okay.

PROF. SAIF-UD-DIN SOZ: Sir, if you go for a comprehensive law and start thinking of giving these rights to inherit property from the father's property and then the property of in-laws', it will take a very long time. Here, I think that is the spirit of the Bill; we want the woman to inherit her father's property alongside her brothers. So, when you bring out a comprehensive legislation, it can become part of that. But the spirit of this Bill is that we are asking for the rights of women to inherit the property of their parents. So, limit it to that and then, you can have a law immediately after that. Otherwise, if you want a comprehensive reform for the whole country, bringing in all sections, it will cause delay. You have already said that there has been a lot of delay. So, this is my submission to you. Would you like to react to this very briefly?

SHRI ARUN JAITLEY : No, Sir. Let the hon. Minister react to this.

श्री धर्मपाल सब्बरवाल (पंजाब) : मान्यवर, आपका बहुत-बहुत धन्यवाद कि आपने इस विषय पर, जो चर्चा हो रही है, उसमें मुझे भाग लेने का अवसर दिया। मान्यवर, हमारा जो समाज है, वह पुरुष प्रधान समाज है। अगर हम इतिहास को देखें तो हम मिसाल देते हैं, राम राज्य की। राम राज्य में पुरुषोत्तम राजा रामचन्द्र, जिनकी धर्म पत्नी सीता माता थी, वनवास के समय उन्हें वनवास नहीं हुआ था, वनवास रामचन्द्र जी को मिला था, लेकिन उनकी सेवा के लिए वह जंगलों में भटकती और तरह-तरह के दुख उठाए। उसके बाद जब वे वापस वनवास से अपने साम्राज्य आए तो उसकी परीक्षा ली गयी, अग्नि परीक्षा ली गयी और अग्नि परीक्षा के बाद भी सीता माता को, एक अबला नारी जो गर्भवती थी, उसको उस राम राज्य में भी जंगल में छोड़ दिया गया। यही नहीं, अगर आप महाभारत की तरफ देखते हैं तो द्रौपदी के साथ जो अत्याचार भरी सभा में हुआ, उसे हम सभी जानते हैं। यह पुरुष प्रमुख जो हमारा समाज है, उसमें आज भी नारी की दुर्दशा हो रही है। मान्यवर, हमारे इस समाज में नारी को और दलित को पाप की संज्ञा दी जाती थी। जब देश आजाद हुआ और इस देश को चलाने के लिए भारत का संविधान बना तो उस कमेटी का चेयरमैन डाक्टर अम्बेडकर को बनाया गया। उसमें सबसे पहले दलित और नारी को वोट देने का अधिकार दिया गया। राजीव गांधी जी ने भी जब देखा कि राजनैतिक तौर पर भी नारी को अभी कोई अधिकार नहीं मिला तो उन्होंने भी कॉन्स्टीट्यूशन के थ्रू नारी को राजनैतिक अधिकार देने के लिए पहला कदम उठाया और आज भी जो शंका की बात की जाती है कि नारी को जो रिजर्वेशन है, वह विधानसभा और लोकसभा में नहीं मिलना चाहिए। ऐसी जो बातें हैं, वे समाज में आज से नहीं, बहुत पुराने समय से होती हैं।

मान्यवर, डाक्टर कुमकुम राय जी ने जिस भावना से इस विधेयक को पेश किया है, मैं उनका हार्दिक धन्यवाद करता हूँ और सराहना करता हूँ कि अगर नारी को उसकी पैतृक सम्पत्ति से, लड़की को उसकी पैतृक सम्पत्ति से तथा उसकी ससुराल की सम्पत्ति से पूरा अधिकार मिलता है तो आज दहेज की समस्या है, वह भी कम हो सकती है। आज जो दहेज की प्रथा चल रही है, उसके बारे में आप जो जानते हैं, हम सब जानते हैं कि किस तरह से औरतों को जला दिया जाता है और कन्या-भ्रूण पैदा होने से पहले ही गर्भ में उसको खत्म करने की कोशिश की जाती है। हमारे कानून मंत्री जी बैठे हैं। जब कभी भी कांग्रेस सत्ता में आई है, उसने नारी के हित के

लिए आगे कदम बढ़ाए हैं, इसलिए आज आप उस पुरानी प्रथा को खत्म करते हुए कानून के अधिकार द्वारा नारी को या कन्या को यह अधिकार दें ताकि उसको अपने भाई के समान उसकी पैतृक सम्पत्ति में बराबर का अधिकार मिले।

इन्हीं शब्दों के साथ, मैं इस विधेयक का समर्थन करता हूँ। अभी जितने भी वक्ता बोले हैं, जितने माननीय सदस्य बोले हैं, उन्होंने इसके पक्ष में बड़े जोर-शोर से कहा है। इसलिए मैं कानून मंत्री जी से आशा करता हूँ कि वे इसको जल्दी से पास करा कर कानून बनाए ताकि नारी का जो अधिकार छीना जा रहा है, वह अधिकार उसको मिल सके, धन्यवाद।

SHRI SHARAD ANANTRAO JOSHI (Maharashtra): Mr. Deputy Chairman, Sir, I must express my sense of gratification, to begin with, at the fact that this afternoon on this particular subject so many Members have taken part in the debate. Certainly, women attract more attention than the situation of farmers does. Last time when we had a debate on the farmers' situation, there were hardly ten Members present here. So, women are certainly not the most neglected section as it is. I must say that the overall consensus of the debate has been that everybody had only praised for the noble intentions of Shrimati Kum Kum Rai. As stated in the objectives, she really intends to remove the disparities about property rights, but the debate has started from female foeticide to the differential treatment that the girl child receives, to the differential treatment in respect of education, etc. I think, we should confine ourselves to the basic purpose of the Bill, that is, removing the differences in the property rights. I have some reservations, Mr. Deputy Chairman, on this subject for the reasons that have already been expressed by Shri Jairam Ramesh. We have far too many legislations for social reforms. Right since the days of Raja Rammohan Roy, everybody thinks that the best thing to do in order to bring about the any improvement in the society is to come to the legislature, prepare a document, call it a Bill, and have the law passed. What has happened, as Shri Jairam said, to the Age of Consent Act? Even in my region in Maharashtra, a relatively progressive State, 70 per cent of the marriages taking place in the rural countryside happen below the age of consent. What has happened to the Anti-Dowry Act? Dowry continues to be a prevalent practice all over the country.. The question that arises is: Is legislation the best way of bringing about the desired results? We find that when social reforms are thrust over the society before it is ready, often it results in corruption. A good example would be prohibition in the State of Maharashtra. The prohibition in Maharashtra resulted in corruption and inefficiency of the Police Department, and the Department, which was once compared with the Scotland Yard in London, is now voted as one of the worst Police Departments the world

over. Similarly, laws about the dowry and consent have resulted not only in overburdening the implementation machinery, but also -- and let me warn those who work with women associations -- corruption and malpractices have crept in the women organisations. Coming to the present Bill, I would say that, with the best of the intentions, legislation is one thing and the intention is quite another. In this particular legislation, which is a Private Member's Bill, it could not be as comprehensive, as complete and as waterproof as a Bill prepared by the Law Ministry. But there are certain obvious and glaring mistakes or lacunae here which I would like to point out. For example, in India, in many of the tribes, the rights enjoyed by women are much more than that in contemporary legislation in the Hindu Code Bill or even in this Bill. At the time of Hindu Code Bill, we had a problem and the case went right up to the Supreme Court to decide whether the tribals are to be considered as Hindus. Now, in this particular Bill, we have not taken into account, as Mr. Soz pointed out, the practices and the laws prevailing in different communities. We have not taken into account the differences that arise in the patriarchal systems and in the matriarchal systems. In the property rights, it is the patri-locality and the math-locality which is most important. The situations, in which women go to the husbands' place, and the situations in which husbands go to the wives' place, the property relations are entirely different. I would say that this kind of a Bill ought to have been more carefully prepared and, as Mr. Arun Jaitley pointed out, the question still arises if the time is ripe to" bring in such a piece of legislation without causing further harm to the implementation machinery. Thank you, Sir.

THE VICE-CHAIRMAN (SHRI DINESH TRIVEDI): Now, before I request the hon. Minister to speak, may I have the permission of the House that Shri V. Narayanasamy may preside over the House?

[THE VICE CHAIRMAN (SHRI V. NARAYANASAMY) in the Chair]

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Now, hon. Minister may reply.

SHRI H.R. BHARDWAJ : Sir, I am very grateful to Shrimati Kum Kum Rai, who has introduced and got this important. Bill debated in this House. There are no two opinions that this is the most laudable objective which we have discussed. Slowly but steadily, a consensus is emerging world over about the equal rights of ownership of assets in favour of women at large and India is no exception. There are no two opinions also about

the Indian civilisation recognising the highest status in favour of women. One of the hon. Members has quoted from the scriptures that where women are worshipped, the gods reside there. This is indeed our tradition in Indian civilisation and we have been following it. But, Sir, society is never static; it has been changing for several reasons - local and sometimes, outside influence. So, changes do come in the society and the society is influenced by those changes. But, the fact remains that no Indian can say that women are respected and that they have been given their due share in the family. As a matter of fact, it has been happening so, but there is also a fact that in India, particularly in Hindus, the society was dominated by male members. In the very concept of HUF (Hindu Undivided Family) the *karta*, the head of family, dominated everything - big or small. But, that is no longer the practice. Immediately after independence and after the advent of the Constitution, we saw a glorious change in the Hindu mindset. We were governed by old and ancient *Mitakshara* and *Dayabhaga* of Hindu law. The first Prime Minister of India, Pandit Jawaharlal Nehru, was a revolutionary leader. He brought revolutionary changes despite very strong opposition within the Hindu community and brought the Hindu Code Bill.

Those of us who remember those days know that it was seriously opposed within the Hindu community, and, Panditji was attacked by saying that here was a man who was going to destroy the Hindu religion. But, he had a scientific temper, and, he passed a package of law like the Hindu Marriage Act, the Hindu Maintenance Act, the Hindu Succession Act, and, that has shown what kind of changes can be brought in a society which is willing to reform, and, it has gone very much in favour of women because they have certain rights accruing to them under those statutes.

We have a pluralistic society --Mr. Nariman has left- and everybody who knows that we have different laws for different religions. We have Hindu laws for Hindus, and, Hindus are defined under the definition of the Hindu laws. We have Muslims who are governed by Personal Laws, and, which are mostly not codified. We have Christians. Christians are governed by the Indian Succession Act, and, so are Parsis. Though, *prima-facie*, these are different religions now, historically, Muslims, Christians, and, Parsis had common founding fathers. You go to Abraham, go to Moses and so on. Yet, they have different laws, personal laws.

4.00 p.m.

And, those of us, who know a little bit of history of codification of laws in India are aware, if we go back to the Charter Act, 1833, when India was governed as Princely States, it was Lord Macaulay and his team of jurists from Britain, who came to India and gave a uniform system of laws in India, and, a uniform system of codes in India. When this Act was debated, I remember, and, I vividly remember the words of Lord Macaulay when he said, "this is a country which requires uniform laws because it is a country where there are different kinds of law in different parts of India". There were States, and, each State had its own kind of laws, and, in India, the ancient law was the *Dharamashastra*. Where there was a Hindu State, it was governed according to the *Dharamashastra*, with whatever *Dharamashastra* was prevalent. *Dharamashastra* was a system of administration of justice according to scriptures. In some Muslim States, you had the Muslim Personal Law as well as Muslim laws in those States. But, when the British felt that this country needs uniform system of laws, then a Charter Act, 1833 was passed. Lord Macaulay said, "We would like to have uniform laws for this country, but uniform only to the extent that it is possible. This is a country of diversity, and, a pluralistic society. We will not go into the personal law of Hindus and Muslims". This is recorded in the debates of Charter Act, 1833. So, from that time onwards, our country has been governed by personal laws of all religious denominations.

Pandit Nehru was a great visionary when he brought the concept of the Hindu Marriage Act. Most of the members of community of Brahmins, revolted against this. But he did it because he thought that it was necessary. When I was the Minister of Law-earlier, the Christians also came forward, Parsis too came forward; they wanted amendments in their personal laws, and, we readily did it. On two or three occasions, the Muslim Personal Law was codified. I clearly remember that in 1937, all Muslims were brought under one umbrella, the Shariat Act, 1937. Thereafter, there was another campaign in favour of the Muslim women. Maulana Ashraf Ali Thanvi, a great revolutionary, launched a campaign in favour of the rights of Muslim women, and, he said that they should be given the right to divorce.

So, the 1939 Act, passed in British days, was the second measure of codification of Muslim Personal Law. It was the third time that I brought a law in this Parliament, a law relating to the rights of Muslim divorced women. People could not understand it properly. There was a lot of

controversy that this was a retrograde law. But, recently, five judges of the Supreme Court have upheld it as a laudable law which was passed, because something was given concretely to the women and we had absolutely no defined law under any statute. The difficulty arises for the courts to define a law and interpret it when it is not in a statute book. You simply assume that whatever you say, they have to interpret that. So, codification is necessary. That is why, each time when we talk of equality, I am second to none in giving better deal to the women because they are most suppressed. 'Suppressed', I told you, for historic reasons. Girls were not given education earlier; nobody disputes it. What was the reason, I cannot tell you. But, today, the mindset has changed. The women are definitely coming forward, giving better account of themselves. Their performance is also better. So, why should not we review the situation? Each generation has a right to review its situation. So, what I am submitting is, I have absolutely no hesitation in saying that I accept straightway what Kum Kumji has said. As a matter of fact, this morning, when I was told that I had to reply to this debate, I called my Secretary and asked, "Why was this delayed"? Giving property rights to women is in our Common Minimum Programme also. I am very happy that the Law Commission of India, in its 174th Report on Property Rights to Women has proposed reforms under the Hindu Law and has recommended amendment of section 6, Hindu Succession Act, 1956 and confer equal rights to daughters in Hindu *mitakshara* coparcenary property. So, Sir, we are ready with this. We have assumed office only for six months and we are ready with this measure. I am assuring Kum Kumji that I am going to introduce the Bill as soon as possible. We have another law ready with us. If the House proceeds quietly and calmly, and if new people work as we expect, normalcy will prevail. *(Interruptions)*...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): The Minister also knows the timeframe. He knows when to bring it.

SHRI H.R. BHARDWAJ: Sir, in this parliamentary life, it is very difficult to set a timeframe because we are uncertain about what happens tomorrow. But, I am giving a commitment that I am going to take it to the Cabinet next week.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Thank you very much.

SHRI H.R. BHARDWAJ: A draft is ready with me, and I think you will be ...*(Interruptions)*...

DR. T. SUBBARAMI REDDY: Sir, I have a point. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): The Minister is very positive. Why do you want to put a question?

DR. T. SUBBARAMI REDDY: My optimal point is about the mechanism of implementation of what *Mr...**(Interruptions)*...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): No, no. When the Bill comes, we can discuss that. Subbarami Reddyji, you will get an opportunity.

SHRI H.R. BHARDWAJ: Sir, Subbarami Reddyji is more ritualistic than practical. That is what I know about him very well. He wears so many kinds of ornaments and all that. He is a *sadhu*. Sir, I am giving this reply with all seriousness because I am a great votary of rights of women. In my own house, I have done reforms, I will not tell you. My daughters are more educated than my son. They are given more property than my son could get. The woman cares for everybody. If she is living in her father's house, she cares for her father. When she leaves the house of her father and goes to the in-laws, even then, she cares for the house. So, women is not only the *janini* but she is the sustainer of the world also, because right up to her old days she serves, and if she is destitute, she is allowed to starve and she is not cared for, it is a tragedy for the society and that society will never progress. Therefore, this campaign in favour of rights of women is really a slow and steady revolution which we are seeing. But, I would caution our friends, like Shri Fali Nariman have said, let there be a uniform law for all women. It can't be, simply because, I tell you, we are a different religion. Whatever is happening in Karnataka, or in Kerala or in Maharashtra ... *(Interruptions)*...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): *Marumakkal thayam* law in Kerala.

SHRI H.R. BHARDWAJ: No. There is the Hindu Succession (Amendment) Act, 1986 in Andhra; there is the Hindu Succession (Amendment) Act, 1994 as well in Tamil Nadu. All the State Governments, including the State of Kerala, have amended this Hindu Succession Act. The Hindus form a majority in the country and they have done their job in some States. We are going to do it at all-India level.

Then, Muslims, in their Personal Law, have a better deal in property for daughters. I know about the Muslim Personal Law. If a boy is allowed to have one half, the daughter is given one-fourth. This is the present status of the Muslim Personal Law. But it needs to be codified. I have been pressing the Muslim Personal Law Board since Shah Bano's case that it is in the community's own interest that they also codify their law like the Parsis. The Parsi community is a very small community, but they have got their law codified, and they go accordingly under the Indian Succession Act. Only two or three years ago, Mr. Arun Jaitley brought an amendment in the Christian law and this House passed that amendment. So, each religion has to update its laws. I cannot speak for all communities unless they are ready. This is the accepted policy of all Governments. Earlier Government also had the same policy that the initiative must come from the community. Otherwise, if Hindus say, well, Muslims should go and lead their lives like this. But Muslims would not do it. Now, everybody is recognising that women have to be given a better deal. There are *no* two opinions about it. When there is pressure what one can do. What is happening in Indonesia? What is happening in Malaysia? What is happening in Egypt? You go to these societies; they are all Islamic societies. Malaysia has brought tremendous reforms in their laws. If a man wants to marry the second time, he has to seek the permission of the court, and give grounds for divorce, or I mean, remarriage. So, this is a society which is developing a consensus in favour of the rights of women and children also. As a matter of fact, the UN Charter itself says, "All are equal; all men and women are born equal." Our Constitution also accepts the doctrine of equality under Article 14. So, this is a very welcome step, but with one exception and that that it is not possible to bring a uniform law on personal laws. We are ready with a Hindu Succession (Amendment) Act. Then we will examine other Acts also, the Christian Act, Indian Succession Act; then we will examine the Parsi law; then we will talk to the Muslim community. Then there will be different kind of laws that will have to be dealt with, but right now this is there.

Another issue was raised about the child marriage. I am very happy to say that I have also prepared a note for the Cabinet on this. We cannot afford to do this. You are very much aware that this is the biggest tragedy that the girl is treated so shabbily that she does not know what is happening and she is told that she is already married. So, a restraint is needed on the child marriage.

SHRI JAIRAM RAMESH: What about time-frame?

SHRI H.R. BHARDWAJ: Time-frame? I know it very well that you were in the drafting committee and that all these suggestions had been drafted by you. And the pressure of the leader is already there.

- THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): He comes from the 'Pressure Group'.

SHRI H.R. BHARDWAJ: Sir, what I am submitting is that this is a part of this Government's Common Minimum Programme, and we are duty-bound to implement it. The Prime Minister told me yesterday only that these two Bills had to bring in the next Cabinet meeting. So, I drafted it overnight yesterday and, that is why, I have brought them here. These two are in the pipeline, and, I hope, if the time permits, we will pass it soon. They will go to the Committee. The third thing which I am saying is with regard to test whether the child is male or female. This law is already there. These laws are there, but our mentality must change. This is the human mentality which must change. If the son is born, then there are some sort of celebrations, उसमें थाली बजाते हैं और लड़की होते ही मुंह लटका लेते हैं। यह हमारे हिन्दुओं का कुछ गड़बड़ है। यह दूर होना चाहिए।

रसायन और उर्वरक मंत्री तथा इस्पात मंत्री (श्री राम विलास पासवान) : जबकि मां-बाप को बेटे से ज्यादा बेटी प्यार करती है।

श्री हंसराज भारद्वाज : जयशंकर प्रसाद की पंक्ति मैं आपको कह दूँ, मैंने जिन्दगी में यही सोचा – नारी तुम केवल श्रद्धा हो। नारी श्रद्धा की पात्र है, वह प्रताडना की पात्र नहीं है। जो नारी को प्रताडित करते हैं, उनकी जिंदगी समतल और समरस नहीं हो सकती, यह मेरा विश्वास है। इसलिए मैं डा. कुमकुम राय जी के इस बिल का स्वागत करता हूँ और उनसे अनुरोध करता हूँ कि वह इस बिल को वापिस ले लें और मुझे समय दें कि मैं इस हाउस में पूरा विधेयक लाऊँ।

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Madam, now your reply. Reply by the hon. Member because the hon. Minister has considered all your demands.

डा. कुमकुम राय (बिहार) : धन्यवाद, महोदय। मुझे विश्वास है कि संसदीय इतिहास इस बात की गवाही देगा कि 21वीं शताब्दी में देश की आधी आबादी को अधिकार दिलाने, संपत्ति में बराबरी का अधिकार दिलाने हेतु एक प्राइवेट मेंबर बिल पर हमारे सभी पक्ष के लोगों ने अपनी सहमति और पुरजोर समर्थन दिया। वह तो सिर्फ शब्दों से नहीं बल्कि बड़े ही मजबूत तर्कों और बहुत मजबूत आधार पर उन्होंने इस बात का समर्थन किया कि जब तक महिलाओं को संपत्ति में बराबरी का अधिकार नहीं मिलेगा तब तक उनमें वास्तविक मजबूती नहीं आ सकती है। जब तक महिलाएं मजबूत नहीं होंगी तब तक हमारा समाज मजबूत नहीं होगा।

[3 December, 2004]

RAJYA SABHA

महोदय, मैं इस अवसर पर हमारे कुछ माननीय सांसदों का खास तौर पर नाम लेना चाहूंगी। श्री मती प्रेमा करियप्पा जी, श्री एन.जोतीजी. श्री षण्मुगसुन्दरम जी, श्रीमती वंगा गीता जी, श्री मूल चन्द मीणा जी, डा.टी. सुब्बारामी रेड्डी जी. प्रो. सैफुद्दीन सोज जी, हमारे विद्वान साथी श्री फाली एस.नारीमन जी, श्री जय राम रमेश जी. श्री शरत् कुमार जी, डा. प्रभा ठाकुर जी, पूर्व कानून मंत्री श्री अरुण जेटली जी, श्री धर्मपाल सब्बरवाल जी और श्री अनंत राव जोशी जी को खास तौर पर हार्दिक धन्यवाद देती हूँ जिन्होंने मेरे इस विधेयक का समर्थन किया। इस अवसर पर मैं कांग्रेस की राष्ट्रीय अध्यक्षा श्रीमती सोनिया गांधी जी का भी हार्दिक धन्यवाद करूंगी जिन्होंने हमारे common minimum programme में इस बिंदु का बहुत मजबूती से उल्लेख कराया और यू.पी.ए. की सरकार भी इस महत्वपूर्ण पहलू को देख रही है। उनसे प्रेरित होकर मैं भी इतने लोगों का समर्थन प्राप्त कर सकी हूँ। महोदय, हमारे वर्तमान कानून मंत्री जी ने ठीक ही कहा है कि यदि हमारे न्यायिक आयोग की 174वीं रिपोर्ट को हूबहू लागू कर दिया जाए और महिलाओं को अविभाजित हिंदू परिवार में कोपार्सनर्स के रूप में और एच.यू.एफ. में समान हिस्सेदारी मिल जाए तभी हमारे समाज में पूर्ण रूप से लैंगिक समानता आ सकेगी। इस से संपत्ति की विरासत, संपत्ति को अर्जित करने, संपत्ति को रखने और उसके मालिकाना हक रखने में स्त्री-पुरुष में कोई विभेद नहीं होगा।

महोदय, अभी जैसा हमारे कानून मंत्री जी ने आश्वासन दिया है कि वह शीघ्र ही ऐसा विधेयक लाएंगे और हमारी भारतीय महिलाओं को यह अधिकार मिलेगा। अतः आप सभी लोगों को बहुत-बहुत धन्यवाद देते हुए मैं अपना यह विधेयक वापिस लेती हूँ।

The Bill was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Yes, the hon. Member Shrimati Kum Kum Rai has withdrawn the Bill on the basis of the assurance given by the hon. Minister. The hon. Minister was very positive that he would bring forward the Bill in this House. We are very happy about it and now we will take up other Bills for consideration. Now, the Bill is withdrawn. Now, the next Bill is by Shri R.S. Gavai. Not here. Then, Shri K.B. Krishna Murthy. Not here. Shri Abu Asim Azmi. He is also not there.

Then, there are two more Bills listed, namely, the Entertainment Industries Protection and Development, 2003 and the Promotion of Tourism in Hilly Areas Bill, 2003. But I have been informed that the President's recommendation under Article 117, sub-clause 3, of the Constitution has not been received so far. Therefore, these Bills cannot be considered by the House today. We hope the recommendations of the hon. President will be communicated soon so that the discussion on these two Bills may take place on the 17th of December, 2004. Now, since we have no other business for discussion, the House is adjourned till 11 a.m. on 6th December, 2004.

The House then adjourned at sixteen minutes past four of the clock till eleven of the clock on Monday, the 6th December, 2004.