

The House reassembled after lunch at two minutes past two of the clock,

MR. DEPUTY CHAIRMAN *in the Chair.*

GOVERNMENT BILLS

The Surrogacy (Regulation) Bill, 2019 — Contd. *

MR. DEPUTY CHAIRMAN: Shri V. Vijayasai Reddy, please continue on the Surrogacy (Regulation) Bill, 2019.

SHRI P. WILSON (Tamil Nadu): Sir, yesterday, out of three minutes, I was given only two minutes to speak. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: You have already spoken for three minutes.

SHRI P. WILSON: Sir, I spoke only for two minutes.

MR. DEPUTY CHAIRMAN: We take time from this watch. It was already three minutes.

SHRI V. VIJAYASAI REDDY (Andhra Pradesh): Mr. Deputy Chairman, Sir, thank you for the opportunity that you have given me. I rise to support this important Bill because the objective of the Bill is to legalise the altruistic surrogacy and prohibits the commercial surrogacy which has become rampant in the country. It has taken the shape of business in this country and the commercial activity in commercial surrogacy has gone up by leaps and bounds with the introduction of medical tourism in the country. This Bill prohibits commercial surrogacy and the offences under the Bill include advertising for the surrogacy, exploiting the surrogate mother, abandoning, exploiting and disowning the surrogate child and importing human embryo. When it comes to the benefits of the Bill, the foreigners, who have been, in the absence of law, exploiting the Indian woman by paying some paltry amount to the Indian surrogate mother, would not be able to do so. I thank the hon. Minister for bringing this important Bill. In other words, to say precisely, this is a mild form of human trafficking, as I take it. I draw your attention to clause 2 (p) which defines the term 'infertility'. I sincerely feel that the definition of 'infertility' appears to be too narrow and vague. Sir, the definition of infertility has not taken into account other medical conditions such as women may conceive but may not be able to carry for the nine months during her pregnancy or

*Further discussion continued from the 19th November, 2019.

[Shri V. Vijayasai Reddy]

may have multiple miscarriages. There are conditions such as hypertension, diabetes that affects the pregnancy. These other conditions have not been taken into consideration while making the definition for infertility. In countries like South Africa, Netherlands, Greece, the other medical conditions are also permitted for surrogacy. Sir, I draw your attention to Clause 4 which deals with getting certificate of essentiality. That is one certificate. Another certificate is certificate of eligibility. For getting these two certificates, certain conditions are prescribed. But, if appropriate authority rejects the application for obtaining these certificates, there is no provision in the Bill for the aggrieved couple to go in for appeal. I, therefore, request the Minister to set up an appellate authority for dealing with such rejections. Sir, I further draw your kind attention to Clause 4(iii)(b)(II) which talks about close relative. I tried to find out the definition because the term 'close relative' has not been defined. I failed to find any definition in this regard. The definition of close relative is available in some other Acts as to who constitutes a close relative. In India, we have certain ethics and ethos to be followed. So, it is important that while defining the close relative, we are very, very careful in defining as to who constitute the close relative. The next point is that the Bill exempts NRIs from having a surrogate child. I sincerely believe that NRI Indians should be considered at par with other Indians. Sir, the last point is one straight question, which I would like to ask the concerned Minister, I sincerely feel that this Bill when enacted will come into effect prospectively but not retrospectively. For example, a surrogate mother, who is already conceiving and carrying, at present, before the Bill is enacted, what will be the status of those surrogate mothers in the absence of law as on today? With this, I conclude and support the Bill. I request the hon. Minister to kindly consider the suggestions that I have made in this regard. Thank you very much, Sir.

PROF. MANOJ KUMAR JHA (Bihar): Mr. Deputy Chairman, Sir, in principle, I am in agreement with hon. Minister sahib. But there are principal objections which I am raising as a matter of suggestion for the consideration of the Minister. Mr. Minister, I need little bit of your attention. The Bill proposes to ban all forms of commercial surrogacy. But, what about those friends who are not relatives but wish to surrogate? Sir, I would need the hon. Minister's attention.

श्री उपसभापति: माननीय मंत्री जी, माननीय सदस्य आपका ध्यान चाहते हैं।

PROF. MANOJ KUMAR JHA: This is unfair on parties like us. We may be regional

party but we can offer you some suggestions which will help you in making a robust Bill. Sir, the Bill allows only for family member as surrogate. There is a possibility of coercion in this. That is my second argument. It makes surrogacy an issue of morals and ethics. Unfortunately, surrogacy is not an issue of morals or ethics but it is a medical issue for the childless parents. I think that morals and ethics component should be jettisoned for some time and the medical issue should be brought out. Then, the Bill does not address intending parents where both of them are orphans and they have no genetic relative. How do you make their case a strong case for surrogacy? Sir, it also ignores the changing reality, whereby I underline the single parent families. It also smacks of gender discrimination, which could be taken care of. What is the position about same-sex couples - gays and lesbians? There is no mention about that. As per the Supreme Court ruling, live-in relationships have been treated at par with married couples, but in this Bill, it is heavily inclined in favour of married couples in conventional sense, not in the sense of what we say, 'live-in couples'. I appeal to the Government to look into the possibility of bringing in a component where there is a contractual relationship between the surrogate mother and the couple who are beneficiary out of it. These were some of my principal objections, which are in the shape of suggestions. I hope the hon. Minister will consider them. As I said in the beginning, in principle, I agree with the Bill. Thank you, Sir.

श्री सुशील कुमार गुप्ता (राष्ट्रीय राजधानी क्षेत्र, दिल्ली): उपसभापति महोदय, माँ-बाप बनना हर मनुष्य की जिंदगी का एक सपना होता है। इस रेगुलेशन की जो संरचना की गई है, उससे मुझे लगता है कि बहुत से लोगों की आंखों की चमक कम हो जाएगी, उनको ऐसा लगेगा कि मेरा मौका छिन रहा है। यह बिल सरोगेट मदर की exploitation न हो, इसलिए बनाया गया है, परंतु इस बिल के माध्यम से सबसे ज्यादा exploitation सरोगेट मदर का ही होगा। इसके चैप्टर वन में लिखा है, "Chapter 1, Clause 2, "It extends to the whole of India except the State of Jammu and Kashmir." मंत्री जी, अब तो यह यू.टी. हो गया है, अब वहां पर भी सारे कानून लागू होने चाहिए, तो मैं समझता हूँ कि इसको वहां से डिलीट कर देना चाहिए।

सर, सरोगेसी एडॉप्ट करने वाली महिला की उम्र 25 से 50 साल और पुरुष की उम्र 26 से 55 साल रखी गई है और शादी के पांच साल बाद ही इस प्रोसिजर को एडॉप्ट कर सकते हैं। आजकल 30 से लेकर 40-45 साल की उम्र तक शादियां होने लगी हैं। शादी के तुरंत बाद भी किसी महिला को पता चलता है कि उसके बच्चा नहीं हो सकता, तो उसको पांच साल इंतजार करना पड़ेगा, तब तक उसकी 50 साल की उम्र क्रॉस हो जाएगी। वह माँ बनने की चाहत अपने दिल के अंदर दफन कर लेगी। मैं समझता हूँ कि

[श्री सुशील कुमार गुप्ता]

यह जो पांच साल का पीरिएड है, यह कम होना चाहिए और 50 साल की उम्र को बढ़ाना चाहिए। इस बिल के माध्यम से जेनेटिक क्लोज़ रिलेशन के अंदर ही सरोगेट मदर बन सकती है। आज सम्पत्ति के बहुत झगड़े हैं, क्लोज़ रिलेशन में परिवार कई बार ऐसा चाहते हैं कि इसके बच्चा ही पैदा न हो, इसकी शादी ही न हो, इसकी सम्पत्ति हमें मिल जाए। क्लोज़ रिलेशन में सरोगेट मदर बनने के लिए विशेषकर देहात के क्षेत्र में लोग तैयार नहीं होते। मैं समझता हूँ कि आज के इस परिवेश के अंदर हम पांच साल पुराना पड़ोसी, पांच साल पुराना बिजनेस पार्टनर, पांच साल पुराना ऑफिस का कुलीग, पांच साल पुराना मित्र, ऐसे जो पांच साल पुराने रिलेशन हैं, जो एक-दूसरे की मदद के लिए हमेशा तैयार रहते हैं, उनको भी इसमें शामिल करें कि इनमें से भी कोई सरोगेट मदर बने, न कि जो सम्पत्ति का हिस्सेदार बनने वाला है, उसको ही कहें कि तुम इसको संतान पैदा करके दो, ताकि तुम्हारी सम्पत्ति को बंटवाये। सर, मैं ग्रामीण परिवेश की बात कर रहा हूँ, क्योंकि वहाँ पर इन बातों को बहुत सोचा जाता है। मैं इसके वास्ते ही आपसे यह निवेदन करना चाहता हूँ। इस बिल में प्रावधान है कि मैरिड कपल ही इस रास्ते से मां-बाप बन सकते हैं। हिन्दुस्तान में सेक्स रेश्यो बराबर नहीं है। हमारा पड़ोसी राज्य हरियाणा है, जहाँ पर 1,000 लड़कों के मुकाबले में 835 लड़कियाँ हैं। वहाँ पर वैसे ही पुरुषों की शादी नहीं हो पाती है। वे बाप बनना चाहते हैं, लेकिन नहीं बन पाते हैं। सुप्रीम कोर्ट ने समलैंगिता को वैधता दी है, उनको हम मना कर रहे हैं। लिव इन रिलेशनशिप में बहुत से लोग रहते हैं, उनको हम चान्स नहीं देना चाहते हैं। ट्रांसजेंडर्स हैं, इस बिल के बाद ट्रांसजेंडर्स का बिल आने वाला है - वह एम.पी. बन सकता है, वह मंत्री बन सकता है, परन्तु वह मां-बाप नहीं बन सकता है। मैं समझता हूँ कि यह उसके साथ भेदभाव होगा। आप उनके साथ हो रहे भेदभाव को खत्म करने के लिए बिल ला रहे हैं और साथ ही साथ हम इस बिल के अंदर उनके साथ भेदभाव बरत रहे हैं। महोदय, मेरा माननीय मंत्री जी से निवेदन है कि कृपया इसे जरूर देखें। इस बिल में यह प्रावधान भी है कि कपल को, दोनों में से किसी एक को इन्फर्टिलिटी सर्टिफिकेट लेना पड़ेगा। यदि कोई शादीशुदा व्यक्ति है और यदि उसमें से एक पार्टनर को आपरेट नहीं करता, दूसरा संतान चाहता है, एक कहता है कि मैं संतान नहीं चाहता हूँ, इसलिए वह उसे तलाक दे देता है और साधु बन जाता है या अपनी मर्जी से अलग रहने लग जाता है, लेकिन दूसरा चाहता है कि मुझे संतान हो, तो जब तक वह सर्टिफिकेट नहीं आएगा, तब तक संतान नहीं हो सकती। वह फर्टाइल है, but the partner is not cooperating. ऐसी स्थिति में मेरा निवेदन है कि कृपया ऐसे व्यक्तियों का इसमें ध्यान रखा जाना चाहिए।

महोदय, इस बिल के अंदर आप कहते हैं कि इन्फर्टिलिटी सर्टिफिकेट लेना पड़ेगा। लोग समझते हैं कि नामर्दी का क्या सर्टिफिकेट लेना है। हिन्दुस्तान में इसे बहुत शर्म की बात समझा जाता है। कृपया इस बात पर भी ध्यान दें।

महोदय, सबसे बड़ी विडंबना इस बिल के अंदर यह है कि सरोगेट मदर को, सरोगेसी प्रोसीज़र में जाने से पहले मेडिकल और मनोवैज्ञानिक सर्टिफिकेट लेना पड़ेगा कि मैं सरोगेट मदर बनने के लिए तैयार हूँ। उसके बाद उसे सिर्फ मेडिकल का खर्चा मिल सकता है, उसके अलावा उसे और कुछ नहीं मिलेगा। उसका इंश्योरेंस, बीमारी और बीमारी पर आने वाला खर्चा या प्रेग्नेंसी में लगने वाली दवाओं का खर्चा नहीं मिलेगा। हिन्दुस्तान सहित पूरी की पूरी दुनिया में जब एक लेडी मां बनती है, तो उसका विशेष ख्याल रखा जाता है। उसके लिए घर के अंदर विशेष खुराक बनाई जाती है, उसकी शारीरिक संरचना में बदलाव आता है और उसके लिए विशेष किस्म के कपड़ों की जरूरत होती है। इस बिल में इन सब प्रावधानों पर होने वाले खर्च को देने पर मना किया गया है। इस बिल के अनुसार न उसकी खुराक का प्रावधान होगा और न उसके विशेष किस्म के कपड़ों का प्रावधान होगा। इसलिए मंत्री जी, मैं विशेषकर आपसे निवेदन करना चाहता हूँ कि जब एक माता गर्भ धारण करती है, एक शिशु को जन्म देती है, तो उस माता का भी एक नया जन्म होता है। उन नौ महीनों के दौरान और उसके बाद एक साल तक, दुनिया के देशों के अंदर सरकारें छः महीने और नौ महीने की छुट्टियां देती है, क्योंकि after the delivery of the baby, उसे घर में रहकर रैस्ट करने की जरूरत होती है। मैं समझता हूँ कि उस दौरान उसके वेतन का जो नुकसान होता है- क्योंकि यदि उस दौरान वह अपने कार्य पर जाती, तो उसके अनुसार उसे वेतन मिलना था, लेकिन वह बेबी की डिलीवरी की वजह से अपने कार्य पर नहीं जा रही है। इस प्रकार उसका जो नुकसान होता है, उसके ऊपर भी इस बिल के अंदर ध्यान दिया जाना चाहिए।

महोदय, मेरा मानना है कि यदि सरोगेट मदर अमीर है और यदि वह close relation में है और जो दम्पति उस शिशु को चाहता है, यदि वह गरीब है, तो वह माता अपनी कोख से पैदा होने वाले बच्चे की देख-रेख के लिए लाखों रुपए दे सकती है। इसलिए कि यह बच्चा मेरी कोख से पैदा हुआ है और इसके लालन-पालन में कोई कमी न आए। इसी प्रकार यदि सरोगेट मदर गरीब है और वह दम्पति अमीर है, तो वह भी कह सकता है कि तुमने मेरी जिंदगी की आंखों की चमक दी है, तुमने मुझे एक ऐसा भविष्य दिया है- बहन, मैं आपका आभार व्यक्त करता हूँ, आपकी देख-रेख के अंदर कोई कमी न आए, आपका जीवन अच्छी तरह चले, आप अपने शरीर का ख्याल रखना और अपने परिवार का ख्याल रखना, इस हेतु मैं तुम्हें यह धन दे रहा हूँ। हिन्दुस्तान के अंदर तो बहनों को गिफ्ट देने की परम्परा है और वह बहन, जो हमारे लिए एक संतान पैदा करके दे रही है, उस बहन को मैं हर अधिकार से वंचित कर दूँ, मैं समझता हूँ कि इस बिल के अंदर माननीय मंत्री जी इन बातों का जरूर ख्याल रखें।

महोदय, मैं एक बात और कहना चाहता हूँ कि इस बिल में आपने प्रावधान किया है कि जो केन्द्र सरकार का अधिकारी हो और राज्य सरकार का अधिकारी हो, समय पर सर्टिफिकेट दे, लेकिन समय पर प्रेग्नेंसी टर्मिनेट होनी हो और वे समय पर सर्टिफिकेट न

[श्री सुशील कुमार गुप्ता]

दे, वे कोई गलती करें, तो उनके ऊपर न कोई मुकदमा चलेगा और न उनके विरुद्ध कोई कार्रवाई होगी, यह प्रावधान भी ठीक नहीं है। बच्चा पैदा करने वाली सरोगेट मदर, संतान चाहने वाले मां-बाप और डॉक्टर सभी को कैद हो सकती है और सभी के विरुद्ध मुकदमा चल सकता है और 10 साल तक की कैद हो सकती है, लेकिन सरकारी अधिकारियों के विरुद्ध ऐसा कोई प्रावधान नहीं किया गया है। इसलिए मेरा निवेदन है कि इसे नजरअंदाज करने की जरूरत नहीं है, इस पर भी ध्यान दिया जाना चाहिए, ताकि अधिकारी लापरवाही न बरतें।

महोदय, मैं अन्त में एक बात कहूंगा कि आपने इस बिल में प्रोविजन किया है कि 25 साल तक सभी प्रकार के फार्मस, कंसर्न्ड लैटर्स, एग्रीमेंट्स और चार्ट्स उस क्लीनिक को संभालकर रखने होंगे। मैं कहना चाहता हूं कि 25 साल का पीरियड बहुत लम्बा पीरियड होता है। इसलिए मेरा निवेदन है कि आप उन्हें इलेक्ट्रॉनिक माध्यम से स्टोर करने की परमीशन दें, ताकि रिकॉर्ड का एक बहुत बड़ा अम्बार उन क्लीनिकों के अंदर न लगे, अन्यथा इस समय-सीमा को कम किया जाए।

महोदय, मैं इन्हीं बातों के साथ आपका आभार व्यक्त करता हूं कि आपने मुझे इस महत्वपूर्ण बिल पर बोलने का मौका दिया। मैं अन्त में मानवता के नाते माननीय मंत्री जी से सिर्फ इतना निवेदन करना चाहता हूं कि कृपया आप इसे इतना प्रतिबन्धित न करें कि लोगों की आंखों की चमक चली जाए, धन्यवाद।

DR. VIKAS MAHATME (Maharashtra): Mr. Deputy Chairman, Sir, first of all, I would like to congratulate the Government and the hon. Health Minister for bringing forward this Bill. Actually, this Bill was first brought in 2016. Afterwards, it was referred to the Standing Committee but then the Lok Sabha dissolved. Then, it was re-introduced in Lok Sabha. It was again passed by Lok Sabha and now this Bill has come to Rajya Sabha.

Sir, I feel proud that I was a Member of the Standing Committee under the chairmanship of Prof. Ram Gopal Yadav where we discussed this issue at length, Most of the recommendations have been accepted In this Bill. Sir, previously, surrogacy was unregulated for so many years, for 15 years. लेकिन उस वक्त जो सरकार थी, उसने कोई कदम नहीं उठाया। लॉ कमीशन की जो 228th रिपोर्ट है, उसमें भी कहा गया था कि यह जो surrogacy हो रही है, illegal surrogacy की जो practices हो रही हैं और उसमें जो exploitation हो रहा है, उसके लिए कानून बनाया जाए। यह अगस्त 2009 की बात है, लेकिन उस वक्त उस पर कोई कानून नहीं लाया गया। यह मोदी सरकार है, जो pro-actively काम करती है। ऑनरेबल हेल्थ मिनिस्टर यह बिल लाए हैं, इसलिए मैं उनका

अभिनंदन करता हूँ, क्योंकि previous Government में काफी बार - ऐसा होता था कि सरकार में कई कर्मचारी लोग ऐसा बोलते थे कि कुछ काम मत करो, यहाँ कोई टोकता नहीं है, कोई बोलता नहीं है कि काम अच्छा नहीं हुआ, ऐसा करना था या वैसा करना था, लेकिन यह सरकार वक्त पर बिल लाई, उसका फॉलो-अप किया, discussion के लिए Standing Committee की तरफ भेजा और अभी फिर से राज्य सभा में आई है, मैं इसके लिए उन्हें फिर से congratulation देना चाहूंगा।

Sir, what was the necessity of this Bill? The most important reason was that illegal surrogacy was going on and there was exploitation of poor surrogate mothers. For want of money, they used to go in for two, three surrogacy pregnancies. They used to do this for want of money and they were exploited. They were not aware of the problems arising out of the surrogacy or the pregnancy. If you talk about diabetes or hypertension रहती थीं वे illiterate और poor class की रहती थी, क्योंकि जो surrogate mothers होती थीं वे illiterate और poor class की रहती थीं। Now, because of this Bill, these things will not be there and the surrogate mothers will not be exploited.

Secondly, there used to be risk of life during pregnancy and that risk will now be covered by this Bill. Somebody asked as to who will pay for the medicines and insurance. Actually, in this Bill, there is a provision whereby for sixteen months, insurance coverage will be given and medical expenses will be borne by the intending couple. So, there is protection given to the surrogate mothers, and, that is why, I welcome this Bill.

Sir, there used to be cases where the child born out of surrogacy if a physically challenged child or a child who has not developed well or the gender of the child was not as per the wishes of the intending couple, then, the child was abandoned, and, this happened many times. To take care of these situations, this Bill has been brought. Now, they will have to take that baby as biological child of the intending couple. Sir, we must understand that this Bill was very much necessary and has been brought in time.

इसके लिए जो पहला बिल आया था, उसमें यह कहा था कि the intending couple should have a certificate of infertility but it was difficult to obtain-infertility certificate. For gynaecologists or obstetricians, it was very difficult to define the infertility and tell the couple that they were infertile because many a times, it happens that even after five years or ten years of infertility, some couples are blessed with a child.

[Dr. Vikas Mahatme]

It was very difficult. Now it has been improved as per the Standing Committee's recommendations. Now the intending couple will need a certificate of essentiality and eligibility. This was a necessary change. I welcome this move. That has been incorporated in the Bill.

There is a provision for the National Surrogacy Board and the State Surrogacy Board. Those will be established. They will formulate regulations. The regulations will be made according to the State Regulations and according to the need of the State. So, there will be flexibility in the rules as per the requirement of the State.

Definition of close relative can also be regulated by the National Surrogacy Board. I think that will be taken care of. Assisted Reproductive Technology is required before the surrogacy procedure. I think the period of five years, which is required here, is very much necessary. The intending couple can apply for surrogacy only after a period of five years. They are expected to undergo Assisted Reproductive Technology first. If it fails, then only they should go for surrogacy procedure. That means the period of five years is okay and is necessary, after which they can avail themselves of the surrogacy procedure.

Sir, yesterday, Prof. Ram Gopal Yadav informed the House that an egg or oocyte is sold for six lakh rupees. This will not be possible once this Bill is passed in the Rajya Sabha. I welcome this move. The illegal ways of doing surrogacy procedure by selling ovum or egg were there. It was happening. Now it will stop. This is a great necessity and that will be fulfilled by this Bill.

इस बिल में यह भी प्रावधान है कि जो National Surrogacy Board बनेगा, उसमें experts रहेंगे, जिनमें gynaecologists, obstetricians, NGOs, Citizen Forum के लोग शामिल होंगे। इसमें सभी लोगों के inputs रहेंगे और उन inputs की वजह से जो भी rules and regulations बनेंगे, वे बहुत ही standard के बनेंगे और उनमें सभी के views आएंगे। इसलिए मुझे लगता है कि यह इसको regularize करने का अच्छा तरीका है, ताकि यदि इसमें कुछ changes करने हैं, तो वे जल्दी हो सकते हैं। आप सबको पता है कि हर बार पार्लियामेंट में बिल लाने में दो-तीन साल चले जाते हैं। इसलिए यह बहुत अच्छा है कि National Surrogacy Board बन रहा है, जिसमें सभी experts और Citizen Forum के सभी लोग भी रहेंगे।

Somebody said about transgenders or single parent wanting to go for surrogacy to get a child. But there is another option available to them.

We should also think about that. If a transgender person wants to become either a father or a mother, they can. The option of adoption is also there. They can avail that option. I don't think we are discriminating in that way. Adoption is also a good humanitarian option available to them.

In brief, I would like to say this. हमारे समाज में, चूंकि हम रूढ़िवादी हैं, जब भी शादी होती है, तो उसके बाद सब couples को ऐसा लगता है कि जल्दी ही बच्चा हो और इसके लिए घर के लोग भी उनके ऊपर दबाव डालते हैं। उस वक्त यदि बच्चा नहीं होता है, तो उनके लिए Surrogacy एक अच्छा alternative है। इस alternative surrogacy से वे माँ-बाप बन सकते हैं। यह उनके लिए भी और हमारे लिए भी बड़ी खुशी की बात है। इसमें जो surrogate mother बन रही है, उसके लिए भी बहुत अच्छी बात है। यह खुशी की बात है कि वह किसी के लिए अच्छा काम कर रही है, किसी को माँ-बाप बनाने में अपना योगदान दे रही है। वह यह काम कोई commercial interest रख कर नहीं, बल्कि परोपकार की भावना से कर रही है। इसलिए उसको भी बहुत अच्छा लगेगा और बहुत खुशी होगी। मुझे लगता है कि हम सब खुशी से यह बिल पास करें, ताकि ऐसे सभी लोग माता-पिता बनने की जो खुशी चाहते हैं, उनको हम वह खुशी दे सकें। धन्यवाद।

DR. AMEE YAJNIK (Gujarat): Sir, I thank you for this opportunity. This is a much needed Bill. I can say that it is almost overdue. But looking to the shape in which the present Bill is presented, hon. Minister, I would like to say that there are numerous lacunae which need to be filled in order to have a robust implementation of the surrogacy phenomenon. I think if we go back, it was in the late 1990s or 2000s that we came to know about the word 'surrogacy'. And India became a hub of commercial surrogacy because it was an unregulated market. We may not take pride in that because today also, India still is the hub but well other countries have now started this kind of surrogacy phenomenon. But, Sir, while I am going back to the Bill and pointing out lacunae, I would like to draw the attention of the hon. Minister to the Statement of Objects and Reasons. It is mentioned there that in the 228th Report of the Law Commission of India, it recommended for prohibition of commercial surrogacy by enacting a suitable legislation. Sir, the title of the report was this. Let me show the title. Only half title is mentioned in the Statement of Objects and Reasons. The report was titled as "Need for Legislation to Regulate Assisted Reproductive Technology Clinics as well as Rights and Obligations of Parties to a Surrogacy". Sir, this Bill is like any other Bill but I would like to say that this Bill is unlike all other Bills. Why? It encompasses medical aspects, legal aspects and social aspects. But the most important aspect here is that we are bringing a newborn baby in the picture by way of complex medical and scientific

[Dr. Amee Yajnik]

technologies and we have not addressed that in this Bill in the way it should have been. Practically, if it is not sounding too hard, I would say that the baby has become a kind of a product because we have concentrated on appropriate authority, national data board, state boards, data banks, and we are talking about offences and punishments, eligibility certificate, other certificates, surrogates, intending parents, but somewhere we have forgotten the child, who is at the centrality of this particular Bill. So, Sir, there are lacunae which I might enumerate one by one. But let us not forget that in India, it has become a USD 2 billion market. As per UN study, till 2012, almost 25,000 babies had been born by this kind of surrogacy techniques and there are 3,000 clinics. There is no mention as to how you are going to regulate the already existing clinics. Is this law going to have retrospective effect or prospective effect, and for how many days and months? The Bill is silent on these aspects. All the speakers have spoken about 'close relative' and whether 'close relative' should be defined. Yes. We are talking about India. India is totally incomparable with other countries because of its ancestral history and all kinds of customs and diversities. We cannot compare all our diversities with other countries, take the data and say that yes, we are here or we are there in comparison to other countries. When we are talking of surrogacy, there are several social aspects involved in this matter. We are talking of motherhood; we are talking of parenthood; we are talking of daily-changing techniques; we are talking of IVF; we are talking of bio-medics; we are talking of a stratum of society from where these women come as surrogates. We are talking of husband, who feels that 'yes, if my wife does not become a mother, it is a stigma. Society would not accept.' So, social acceptance in social spaces is also a factor. We are not talking about the child, which would be lifted from the womb of a surrogate, a person and a living entity, who is a woman. Lifting it from her body and giving it to intended parents, the couple who has not had the opportunity to feel that. The mother has not had the opportunity to feel that baby inside her. You are giving that baby to that couple and, here, we are all talking about surrogates. What would happen to them? What would happen to intending parents? But we are not looking at the child, the new born baby, the rehabilitation processes that need to take place after the birth. The most important part is the health care part of all the components here. We are talking of agreements in commercial surrogacy. Yes, it was governed by legal documents. That is why some solace was there. But when we are banning commercial surrogacy in this particular

Bill, we need more regulation. Practically, there was minimal regulation by the State where these clinics have flourished. Practically, there have been this kind of technologies used by people in our society. There are several studies which show that not only women from a particular strata of society go for being surrogates, but there are also women who go because there are financial compulsions. That is why the component of compensation has crept in the particular Bill. But, yes, when we have altruistic sonography, we would give the surrogate, the lady whose womb is hired, only the medical expenses and insurance. Insurance for what? That particular period. Sir, you are the Health Minister. You are a doctor yourself. Do you not think that there should be an insertion of a clause that the surrogate, who is hired, should have a health care insurance already existing? It should not be for a particular period because we do not know after she gives the new born baby to the intending parents or the couple, she has later on got into all kinds of complications. Would it be possible for her to claim some kind of an insurance cover or would she get any health security? Or in absence of any social security cover for this kind of women, what would happen? Sir, matters that went to the apex court were concerning the child, the new born baby. If the hon. Minister would look at the first judgment, the court had said that they were concerned with the rights of the baby, they were concerned with the rights of the child because the foreign couple had come and they wanted to take the child to Japan and they could not. Visa applications and health of the baby, till then the baby would be with whom, how would the baby be taken care of? There is absenteeism of law, absenteeism of regulations and that is why there is necessity for having a robust Bill that would take care of the sentiments of the society in a very, very healthy manner so that the law does not become a stony wall like it is in other cases. This Bill cannot be equated with other Bills and we cannot have kind of a methodology which we have in other Bills. We need to have a Bill that addresses the central focus, that is, the child, in this matter.

Sir, let us come straight to the lacune. You have mentioned the close relative. Who would be the close relative is not defined. We have a very, very strong ethos, a cultural aspect in our society. Whether it is across castes, communities, strata, classes, that needs to be respected. We are well-known as a country because of our diversity. If that is not taken care of, if we do not respect the sentiments of a particular community or caste, this would cause a lot of problems. So, close relative needs to be defined.

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Another aspect on a lighter side is this. When we are having nuclear families now and over a period of next decade or more than a decade, while the Act is still being implemented or may be strongly implemented -- because it takes time -- what would happen? In nuclear families, we would not have any close relatives left. People would have their own say in the matter. Each one wants to be very self-centred. So, Sir, this needs to be taken care of. This is a very, very strong lacuna which needs to be addressed very, very positively. Sir, the second aspect talks about the married couple. If infertility is discovered by the couple, why should they wait for five years? And, then, even after waiting for five years, you need two certificates. The certificates, one you have to go to the District Medical Board, you have to go to the Magistrate's Court to get an order and you also need to go to the Appropriate Authority. So, what are we doing by these multiple fronts, going to every authority and getting certificates where the simple wish is to become a parent? The simple wish is to become a mother. The simple wish is to have a child. So, in this kind of a set-up, if we want certificates and if we have to rush to these authorities, it has to be made simple. If it is not made simple, then, there has to be some way where you address these issues at a community level, at a level where the doctors and the community interact with each other. These kinds of authorities which are meant for regulation do not impinge on their freedom. Sir, as per Article 21, the Constitution of India has said that, yes, the women have the Right to Freedom and Expression; Women have the right to their reproductive capabilities and women can decide for herself. Yes, it is not disregarded in this Bill. That has been taken care of. But, these caveats are there that, yes, you have to get these certificates. You don't have to be a surrogate mother earlier. Have we got a data or a centralized data or a State-wise data where you know the number of pregnancies? How are you going to cross-check that, yes, she was not a surrogate mother earlier? How many pregnancies a woman had? So, these are issues which need to be taken care of. One of the speakers, Prof. Ram Gopalji, has been the Chairman of the Standing Committee. He was very clear in saying yesterday that, yes, the inputs have not all been taken. We have another Member of the same Committee saying that all have been taken care of. I mean, really, there is a disparity in the statements also. I would like to know whether the Standing Committee looked into these issues which are highly, highly sensitive-sensitive for both the woman as well as the child also to the patriarchy of the society. There is already an existing patriarchal mindset

in the society. This Bill will add to more patriarchy because the Bills also can be patriarchal in a sense. That is why, I was just wondering whether the Ministry of Women & Child Development or the Secretaries or whether any stakeholders who are required to be heard in the Standing Committee have been heard and have their inputs been taken? It is because we are talking to both the sides. There are women and there is a child involved. I would like to know whether any rehabilitation proceedings are recommended by them. Have they found way? I think, 'No'. They have not found way in the Bill. For example, when I am talking about a surrogate mother, who has come from a strata, she is asked, and, one wonders, how she is asked. How does she know that a particular couple wants her as a surrogate mother? There is a provision, here, written in the Bill that there should be no advertisement. You go on the Google and you have numerous places where anyone can go. If that is not advertisement then what is it? So, what kind of advertisement you are trying to curb when we already have a 2 billion dollar economy of rent a womb or a baby trade? We are calling them baby factories. My State is leading in that.

So, Sir, I just want to bring to the notice of the hon. Minister that, yes, it is a much-needed Bill, but it should not be brought in haste. It should not be that slip-shot that we would look that there is not complete application of mind by people who have drafted the Bill or people who have finalized it. We need to look at what the Law Commission has said and what the stakeholders have to say. In the end, Sir, the child, that is missing in this whole Bill. So, Sir, I would like to take back my point to the lacunas once again. It is infertility, after the close relative aspect, which I mentioned and the five year period which I am mentioning for the wife and the husband. Infertility, Sir, I do not find this medical terminology actually described in any law in the country. I did check up. Maybe, I am mistaken. I might be wrong. But you have to define it because a woman may conceive, but she cannot hold on to the pregnancy for a while and it results into miscarriages because of several reasons. These days the reasons are more elaborate than fibroids or non-communicable diseases like diabetes. This 'infertility' word needs to be elaborated. I would request you to kindly look at this definition because it is not doing justice to the world or to the people, who go before the authority for getting a certificate. I think this needs a proper medical definition because it is almost completely discarding or not respecting the medical definition. Sir, I have mentioned about multiple agencies. Why would these people, the woman who wants to be a mother, run from pillar to post for certificates? We

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know the red tapism in our country. We talk about that even in investment also that we need single-window clearance. We do not want people to run from one place to another, from pillar to post in order to make something simpler. Not everyone who is doing business, not everyone who wants to become a mother, not everyone who wants to indulge into some other good activities, has to go to the bureaucracy ail the time for certificates. Why not have a simpler procedure, especially, when we are talking of motherhood, parenthood, society and this kind of a different aspect, which we are trying to bring in law? The Bill has to address these inter-connections between medical terminology, techniques, society, partners in this particular surrogacy, where they are three, they can be partners because the baby is not yet born. All these inter-connections have to be addressed. These complexities have to be addressed by law and that is why this Bill needs to be different from any other Bill. Sir, there is one more aspect that we are talking about. Once the baby is given to the intending parents, what happens thereafter? Everything cannot be just one plus one plus one is equal to three. It cannot be that you are just disjuncting. We are talking of a life material and we know what happens to the emotional, physical and other aspects, which a woman faces. I do not know what to talk about a child. A Pediatrician can tell about a new-born child because we are just lifting it from a substratum and putting it in another place, where the child would be utterly confused. There is a word 'rehabilitation', which we can modify and address in this particular Bill. Apart from rehabilitation, what happens is, once the intending parents decide that now they don't want to have that baby—there are instances mentioned in a couple of studies where the surrogates did say that they were told to go for abortion—there is no mention of the Medical Termination of Pregnancy Act here. What kind of a conflict will occur or arise? Would the surrogate be ready to take that abortion risk and is it a risk not only to the baby, but to the mother also who is carrying somebody else's baby? But this kind of hiring of a womb or renting out of a womb has several, several facets and we just cannot say, "Yes, if the abortion and the child is abandoned, it may be so." No, it is not an abandoned child. The parents abandon it because of poverty and sell the children for whatever purposes. This is a different kind of abandoned child for no fault of the child, You are bringing a new life in this world and you are unable to provide for the betterment or the better life standard of the small baby who might be just an hour old, a day old or a week old. So there is no provision for that here. The

Surrogacy (Regulation) Bill is a welcome step, much overdue and, especially, when we have markets deciding the surrogacy phenomenon. Otherwise, it would not be called 'baby factories', it would not be called 'baby boom', or it would not be called 'rent a womb'. I would not say the word 'cheap', but it looks derogatory to use the words 'rent a womb' and that too for a woman. Well, it might have been commercial surrogacy which is being banned. But whatever surrogacy is mentioned in the Bill, it has to be regulated in a very different way where you take part by saying that the law will address the complexities of the baby, of the surrogate mother and of the intending parents. Are the State Governments or the Central Government ready to give social cover to the newborn babies? It is not mentioned anywhere. When the mention is of the fees, that the surrogate mother will be paid such and such fees, are we talking of compensation? Are we talking of some kind of fees that you are giving for hiring a womb? Well, Sir, that is not the case here. This needs to be looked into from a very different perspective, a gender perspective, a child perspective, a societal perspective in the era where science is moving further and further, by leaps and bounds.

Sir, on offences, the punishment is very harsh. Why should the wish of becoming a parent, becoming a mother be equated with a criminal offence? You fine them, but why should there be a harsh punishment of ten years? Yes, for doctors, there is already a medical code, there is already a medical council, and there is already a reference point where they can be charged with whatever malpractice is being done. But, why should there be such a harsh punishment? Why should there be such a blanket kind of a punishment for everyone? It is for the intending parents also. Their only fault would be that they want a baby! Sir, why should they be punished?

Sir, one more thing I would like to point out. The child is reduced to, I don't like to use the word 'product', but nowhere it is mentioned and nowhere is it referred to as some living entity which requires all the warmth and love by either the surrogate mother or others. I don't know what her plight would be. But, in the Indian society, I have come across some studies, that the husband or the family says, 'Yes, you go for hiring your womb!' I did ask for the reason, at a district-level meeting, to some of the women, "Why there is no opposition from your families that you should not become a surrogate mother? Why are they so free and willing to let you go and rent your womb for money?" They said, "Well, the physical part is not involved! It is just putting the egg there. So, the taboo is not there. Secondly, there is money." The financial transactions are too much in this particular phenomenon.

[Dr. Amee Yajnik]

My last point, Sir, is that the Artificial Reproductive Technology Bill came way back in 2008, governed by the Indian Council of Medical Research. It should have come first because surrogacy is part of that Bill. So, bringing surrogacy now and not talking of that Bill, is, as Ram Gopaiji said, putting the cart before the horse. That Bill should come first. I don't find inputs from the Women and Child Commissioner or the Women and Child Development Ministry pointed out by anybody here. I think, for this particular reason, I would like to know what their stand is because they take up all these subjects. This should be sent to a Select Committee so that it is scrutinized. I would reiterate the concluding part. It is a very sensitive subject. Don't treat it like other Bills. Let the law address all these complexities in the most robust and healthier way so that the product, the baby, does not have any problem in the future. Thank you so much, Sir.

श्री वीर सिंह (उत्तर प्रदेश): माननीय उपसभापति महोदय, पिछले कुछ वर्षों में भारत विभिन्न देशों के दम्पतियों के लिए सरोगेसी के केन्द्र के रूप में उभरकर सामने आया है। अनेतिक व्यवहार, सरोगेट माताओं के शोषण, सरोगेसी से उत्पन्न बालकों के परित्याग और मानव भ्रूणों एवं युग्मकों के आयात की घटनाएँ हुई हैं। पिछले कुछ वर्षों से विभिन्न प्रिंट और इलेक्ट्रॉनिक संचार-माध्यमों में भारत में वाणिज्यिक सरोगेसी की व्यापक भर्त्सना नियमित रूप से उपदर्शित हुई है। भारत के विधि आयोग ने अपनी 288वी रिपोर्ट में उपयुक्त विधायन के अधिनियमितीकरण के माध्यम से वाणिज्यिक सरोगेसी का प्रतिषेध करने की भी सिफारिश की है। सरोगेसी को विनियमित करने के लिए विधान की कमी के कारण सरोगेसी पद्धति का सरोगेसी क्लीनिकों ने दुरुपयोग किया है, जिससे वाणिज्यिक सरोगेसी और सरोगेसी के उक्त क्षेत्र में अनेतिक व्यवहार अत्यधिक बढ़े हैं।

महोदय, सरोगेसी तकनीक का एक स्याह पक्ष यह भी रहा है कि इससे कोख बेचने वाली महिलाओं को शारीरिक और मानसिक समस्याओं का सामना करना पड़ता है। महोदय, विडम्बना यह है अपनी कोख बेचकर दूसरों को संतान सुख देने वाली महिलाओं को इसके एवज़ में उचित पैसा भी नहीं दिया जाता है, क्योंकि ऐसी अधिकांश महिलाएं निम्न आय वर्ग से ही संबंधित होती हैं, इसलिए भी वे आर्थिक व शारीरिक शोषण की शिकार होती हैं। उदाहरण के तौर पर क्लिनिक से संबद्ध डॉक्टर और बिचौलिए सरोगेसी विधि अपनाने वाले दम्पतियों से अच्छी-खासी रकम तो वसूल लेते हैं, लेकिन तमाम कष्ट सह कर बच्चे को जन्म देने वाली औरतों को कम कीमत पर ही राज़ी कर लेते हैं। सरोगेट माताओं को नौ महीने क्लिनिक से संबद्ध किसी हॉस्टल में अपने परिजन से दूर रहना पड़ता है। कई बार सरोगेट महिलाएं पेट में पल रहे बच्चे से भावनात्मक रूप से जुड़ जाती हैं, जिससे बच्चे के जन्म के बाद के दिनों में वे अकेलापन महसूस करती हैं।

महोदय, विभिन्न शोध अध्ययनों से यह सिद्ध हुआ है कि सरोगेट माँ को बच्चे से जन्म के बाद जब दूर किया जाता है तो उसके अंदर विभिन्न मनोवैज्ञानिक विकार विकसित होते हैं। बच्चे को स्तनपान न कराने के कारण भी शारीरिक एवं मनोवैज्ञानिक समस्या उत्पन्न होती है। एक नागरिक के रूप में सरोगेट माँ के स्वास्थ्य से संबंधित अधिकारों की सुरक्षा के लिए कहीं कोई उपाय नहीं है। उदाहरण के लिए, गर्भ के दौरान विकसित स्वास्थ्य संबंधी समस्या, शिशु को जन्म देने के बाद उत्पन्न होने वाली स्वास्थ्य समस्याएं, जन्म के दौरान सरोगेट माँ की मृत्यु होने की स्थिति में उसके और उसके परिवार की सुरक्षा के लिए कोई व्यवस्था का होना आवश्यक है।

महोदय, मेरे कुछ सुझाव हैं। प्रजनन तकनीकी से संबंधित विधेयक भी ज़रूरी है। सरोगेसी विधेयक के विनियमन के लिए सरकार इसे कब तक संसद में लाएगी? विधेयक में निकट संबंधी की परिभाषा का अभाव है, इसे स्पष्ट करना चाहिए। महोदय, मैं माननीय मंत्री जी से जानना चाहूंगा कि अब तक सरोगेट महिलाओं के शोषण के कितने मामले सामने आए हैं और सरकार द्वारा उन पर क्या कार्रवाई हुई है? इसके अतिरिक्त सरोगेसी क्लिनक्स की संख्या कितनी है और क्या इन क्लिनक्स के खिलाफ कोई शिकायत सरकार को मिली है? यदि हां, तो इस पर क्या कार्रवाई हुई है?

महोदय, निष्कर्ष रूप में कहा जा सकता है कि निःसंदेह सरोगेसी निःसंतान लोगों के लिए एक वरदान है परंतु इसका व्यवसायीकरण किसी भी प्रकार से उचित नहीं है। साथ ही सरोगेट बच्चे के हित को सर्वोपरि रखे जाने की आवश्यकता है।

मैं इस बिल का समर्थन करते हुए अपनी बात समाप्त करता हूँ, धन्यवाद।

SHRI KANAKAMEDALA RAVINDRA KUMAR (Andhra Pradesh): Thank you, Sir, for giving me this opportunity. The Surrogacy (Regulation) Bill, 2019 is an important piece of legislation. The reason is that till now no regulation for surrogacy is in place in our country. Sir, after organ transplantation, India has become the hub for surrogacy. Particularly, the State of Andhra Pradesh is famous all over the world as a hub for surrogacy. Several women, in this region, belonging to under-privileged sections are being lured by agents to rent their wombs and these women are forced to do it due to financial hardship. In order to regulate, control and save innocent women across the country, the Government has brought this Bill. I extend my wholehearted support to this Bill. The Bill, *inter-alia*, stipulates many conditions to the intended couple and surrogate mother. The Bill states that the intending couple and surrogate women should be a close relative. It also prescribes age bracket for intending couple and surrogate women, but this Act doesn't define the definition of a close relative. There is clear ambiguity in this. It further stipulates stringent punishment for those involving

3.00 P.M.

[Shri Kanakamedala Ravindra Kumar]

in commercial surrogacy. Clause 37 stipulates that undertaking commercial surrogacy for a commercial fee or exploiting the surrogate mother in any way will be punishable. Clause 13 is about Appellate Authority. I would like to know whether the decision of Appellate Authority with regard to registration will be final, whereas there is no provision for review or revision. I want this to be clarified. It is vague on this. In Clause 14 (c) the tenure of the Board Members is for three years. Whereas under Clause 14 (f) it is mentioned that it is only for one year. It is better to put it for three years on par with Clause 14 (c). Then only the Board can effectively function. Sir, there are two boards, the National Surrogacy Board and the State Surrogacy Board.

Sir, there are two Boards — the National Surrogacy Board and the State Surrogacy Board. And, there is no clarity how coordination exists between these two boards. And, Sir, regulations have to be formulated. I feel that regulations are required. They cannot be kept in ambiguity, because they are required for effective implementation of the legislation.

With these few suggestions, I extend my support to this Bill on behalf of the Telugu Desam Party. Thank you.

श्री उपसभापति: माननीय सदस्यगण, ऑनरेबल चेयरमैन साहब पहले ही सदन को सूचना दे चुके हैं कि प्रो. एम.वी. राजीव गौड़ा जी हमारे Vice Chairman panel के नए सदस्य हैं। अब मैं प्रो. एम.वी. राजीव गौड़ा जी को राज्य सभा की कार्यवाही संचालित करने के लिए आमंत्रित करता हूँ।

[उपसभाध्यक्ष (प्रो. एम.वी. राजीव गौड़ा) पीठासीन हुए]

SHRI BINOY VISWAM (Kerala): Sir, this is a positive Bill. But, it has certain shortcomings also. I believe, shortcomings can be redressed by approaching the issues with more open mind.

Sir, there are villages in many parts of the country where poor women rent their womb! Sometimes I feel sorry, because their number is not on the decrease, but is increasing. There is utter poverty in the country. Economic reasons compel many women in rural areas to rent or even sell their womb! It is a real shame for the nation. This Bill tries to address that issue in all seriousness. Sir, the reality is, certain sections of people, for example, single women whose rights are now protected by courts, have

a right to lead a decent life. Why single woman is not allowed to have a child through surrogacy? The Bill is silent on that aspect. Sir, there are many other social issues and sections, for example, transgenders, on which the country is now discussing with all honesty. I wish to say that rights of such people should also be considered. Surrogacy is meant for people of all sects, all human beings and all social gatherings. But, eliminating certain sections from the purview of the Bill cannot be appreciated. I only say that such points have to be considered. By addressing these issues, we can make this Bill ethical and humane through mutual discussions and give-and-take approach. Thank you.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI PRALHAD JOSHI): Sir, I submit, let us take this Bill up to 4 o' clock. And, we will take up the Transgender Persons (Protection of Rights) Bill at 4 o' clock. And, this Bill may be continued tomorrow.

THE VICE-CHAIRMAN (PROF. M.V. RAJEEV GOWDA): If that is the Government's position, I am happy to go ahead with that.

Now, Shri D.P. Vats.

LT. GEN (DR.) D.P. VATS (RETD.) (Haryana): Mr. Vice-Chairman, Sir, I rise to support the Surrogacy (Regulation) Bill, 2019. This is a very good Bill. Currently, there are no regulations for surrogacy and there are several cases where women were exploited. I would like to quote some examples. A Japanese couple hired a womb, got divorced and discarded baby and pregnancy! Another Australian couple — in assisted reproduction as the twins are very frequent— intending couple claimed one of the babies and abandoned the second baby! This is a very good Bill, because more than mother, it looks after the rights of surrogate babies. A surrogate baby is as good, in law, as a biologically born child. But, I would also like to draw the attention of my friend, Shri Sushil Kumar Gupta, who mentioned that Haryana has a skewed sex ratio. For everybody's information, I would like to say here that our sex ratio has reached near normal. And, that is our achievement. Here, I would like to draw your attention to one more point that Haryana is the first State to grant maternity child care leave to surrogate mother as well as the biological mother. And, that is a great achievement. 'Health' is a State subject. Even if we are passing this Bill here in the Centre, still the States are at liberty, in this federal structure, to make or contrive the laws to the convenience of the conditions of that State.

The attempt to regulate surrogacy in India was by establishing National and State Surrogacy Boards. The proposed legislation ensures effective regulation. Prohibiting

[Lt. Gen. (Dr.) D.P. Vats (Retd.)]

commercial surrogacy is again a double-edged sword because the Standing Committee on Health had copied the Russian Surrogacy Bill, which is very liberal in surrogacy. But countries like the UK, the Netherlands, South Africa, etc., permit only altruistic surrogacy. I agree with some of the speakers, who spoke about the commercial condition of Indian women because एक विज्ञान एक वरदान एक burden in law हो गया। This way, it cannot be hundred per cent perfect. We need foreign exchange also. As it has been mentioned, it is a 2 to 3 billion dollar economy per year. But, at the same time, when we look at the thorns of that surrogacy, we have to nip the evil in the bud. That's why, I support the Bill. And, the commercial aspect can be looked after later on. But, first, our in-principle, सैद्धांतिक, aspect has to be taken care of.

So far as the issue of 'near relations' is concerned, I have my own observations, being from the State of Haryana. We, in our conventional Indian society, adopt a child from near relations. There is no need for surrogacy. Not only that, emotional problems take place because, in our society, we say that a mother who gives birth is as important as the mother who brings up the baby. Therefore, these problems will be there. And, especially, the property inheritance problems can also be there in near relations. Therefore, the definition of 'near relation' has to be widened. On the one hand, we speak of वसुधैव कुटुम्बकम्; and, on the other hand, we are restricting it to near relations. I would like to request the hon. Minister of Health and Family Welfare that a proper definition of 'near relations' should be added to the Bill.

Then, there has certainly to be a check on the surrogacy clinics or infertility clinics or the assisted-reproduction clinics. The things should certainly be standardized. The Medical Council of India had also brought out a regulation, which has further been regulated. And, it is no more an inspector raj now, rather it is a regulated regulation. That way, the infertility clinics should be encouraged because they were encouraging medical tourism. There was business to hoteliers also. But this gift of science cannot be treated as burden of law. Infertility has to be proved by intending couples as the inability to conceive after five years. Being a medical man, I will say that some couples can be infertile from the beginning itself because of many medical problems. And, why should a couple wait for five years? Though my friend, Dr. Mahatme who himself was a Member of the Standing Committee, had brought out that it is very difficult or stigmatic to get a certificate of infertility, still, some anatomical problems or some pathological problems in the infertile couple have to be addressed and the couple

should not wait for five years. Such lacuna should be plugged: I will request the Minister to plug such lacuna. As far as Surrogacy Boards are concerned, I will request that doctors should be made members of such boards because it will prevent the inspector raj. As far as our two billion dollar economy is concerned, certainly, the principles in society take precedence over two billion dollar economy. This is one aspect. Exploitation of women, especially, pregnancy in itself brings physical changes. Those physical changes have to be looked after in the form of insurance, expense on medicines, psychological problems and emotional problems. There has to be a concession for such sorts of problems, and the Bill caters to that, in the end, I support this Bill. This is a very comprehensive Bill. It will go a long way in preventing exploitation of rural women, women of economically weaker sections and at the same time, it caters to the needs of infertile couples of Indian origin and infertile couples in the society. Thank you very much.

THE VICE-CHAIRMAN (PROF. M. V. RAJEEV GOWDA): Now, Dr. Banda Prakash.

DR. BANDAPRAKASH (Telangana): Mr. Vice-Chairman, Sir, I thank you for having given me the opportunity to speak on this Bill. I, on behalf of my party, fully support the Surrogacy (Regulation) Bill, 2019. I wish to bring a few points to the kind notice of the hon. Minister. While making reply, he should answer whatever points have been raised by all the hon. Members. Most of the points are about clarifications, particularly on the provisions of the Act. All the Members raised the fact that infertility is restricted to failure to conceive. It is not the only problem, there are other problems also. Even though some women conceive, they are not able to continue that. So, miscarriages are also there. All these things need to be defined. Clarity should be there particularly in Clauses 2 and 4.

Another point that I want to bring to the notice is about Clause 4. Here, it is said, 'any other conditions'. What are those other conditions? This has not been specified. They have clarified by saying that if either mother or couple suffers from infertility, it should not be for commercial purposes, nor for sale or prostitution.

The Bill allows the NSB to prescribe through regulations 'any other condition or disease'. Sir, this should be clarified as to what is 'the other condition.' I want to know whether it is totally under the powers of the Board or it is under the powers of the legislature.

Sir, the third one is, 'Review and Appeal Petitions'. Sometimes, it will be rejected.

[Dr. Banda Prakash]

If it is, the appeal should also be there. In appeal, what procedure they have to follow and what conditions are to be laid down for the appeal? Kindly specify.

There is one more point that I want to bring to your kind notice. They have mentioned 'close relative'. In some cases, in the medical terminology also, instead of 'close relative', they have mentioned 'near relative'. In some cases, it is 'relative' or 'family member' that is mentioned. Sir, who is the 'close relative' or 'near relative' or 'relative'? Only one terminology should be used in all Bills. Another Bill says that it is 'close relative'. This Bill says 'near relative'. The Transplantation of Human Organ and Tissues Act, 1994 says, 'near relative'. Sir, only one terminology should be there in all the Bills.

Another point that I wish to mention is that the Bill does not specify the time period for authorization of abortion. Time period for authorization of abortion has to be given. What is the time-frame? In how many days, the decision should be taken? What is the time-frame for the abortions, that clarity should also be given.

Then, Sir, a penalty clause is there in case a pregnant woman has forcefully accepted to be a surrogate. That should not be there. A pregnant woman, by compulsion, or on somebody's request, may be accepted to be a surrogate. So, that should not be there in the particular law.

Another important thing that I want to bring to the notice of the House is that insurance is covered for sixteen months only. It is very inhuman. You are calculating test period, pregnancy period and all that. It is only sixteen months. I think they should be given 'life time' health coverage, it should not be sixteen months' coverage. After sixteen months, who will take care of that woman? That is a very important thing which I want to bring to the notice of the House.

Another thing is, as per the Bill, the expectation is that the woman should be surrogate without any compensation or reward but on the basis of noble intention and kindness. How is it possible? Who will pay their wages or wage loss? If they are doing anything, they will have to forgo their wages. They may give them some food because she is going to deliver a good child for another couple. But who will take care of her wages or salary? If a Government employee is taking this one, are you going to give her maternity leave or are you going to extend all facilities to that Government employee? That also should be clarified.

Sir, there are so many recommendations by the Standing Committee. The Supreme Court also recommended that it is not for infertile women only; and it should also be extended to divorced women and widows also.

Kindly consider these points and clarify it while replying to the debate on the Bill. Thank you.

श्रीमती छाया वर्मा (छत्तीसगढ़): उपसभाध्यक्ष महोदय, आपका बहुत-बहुत धन्यवाद। भारत भावनाओं का देश है, संस्कारों का देश है। यह बिल बहुत अच्छा बिल है, लगभग सभी लोगों ने इसका समर्थन किया है और मैं भी इस बिल का समर्थन करती हूँ। यद्यपि आज की परिस्थिति में इस बिल का आना बहुत जरूरी है, लेकिन इस बिल में बहुत सारी कमियाँ हैं, इसलिए इसमें संशोधन भी बहुत जरूरी है। इस बिल को पास करने में कतई तत्परता न बरतें, बल्कि इस बिल का पुनः निरीक्षण करें, परीक्षण करें, महिला एवं बाल विकास विभाग में भेजकर देखें और इस पर एक्सपर्ट लोगों की राय ली जाए।

महोदय, यह बिल कल से सदन में चल रहा है और मैंने लगभग सभी लोगों को सुना है, यहाँ तक कि पूर्व रेल मंत्री जी ने भी बिल का समर्थन किया है, लेकिन बहुत सारे संशोधन उन्होंने भी चाहे हैं। कर्कश जी ने तो हमारे स्वास्थ्य मंत्री जी की खूब तारीफ की है, उसके बाद प्रो. राम गोपाल यादव जी ने जो बात कही है, उनका भी समर्थन किया है। इस प्रकार से लगभग सभी सदस्यों ने इस बिल में बहुत सारे संशोधन चाहे हैं। सर, इसमें लगभग सभी बातें आ गई हैं, मैं बस इतना कहना चाहूंगी कि अगर यह बिल आता है, तो इससे जो बच्चा होगा, उसका बीमा हो, उसके स्वास्थ्य का बीमा हो और जो सरोगेट मदर है, उसका भी बीमा होना चाहिए। ऐसा लगता है कि यह जो बिल आ रहा है, यह कुछ चंद लोगों के लिए है, बहुत अमीर लोगों के लिए है, क्योंकि इसमें इतना ज्यादा पैसा लगेगा कि मध्यम श्रेणी के लोग सरोगेसी से बच्चा लेने का सोच ही नहीं सकते हैं। मेरा यह मानना है कि इस बिल में सरोगेट मदर बनने में, बच्चा लेने में जो पैसा देना पड़ेगा, वह बहुत कम चार्ज हो ताकि हर दंपति और गरीब व्यक्ति भी सरोगेसी से बच्चा ले सके।

सर, अनाथालय में जो बच्चे रहते हैं, इसमें हमें उनके लिए अनाथालय को ज्यादा प्रावधान देना चाहिए। सरोगेसी में जो बच्चा चाहते हैं, वे अनाथालय से बच्चा लें और उसकी प्रक्रिया का सरलीकरण हो, ताकि अनाथालय में जो खर्च होता है, वह भी बच जाए और जो अनाथालय में बच्चे रहते हैं, उनका भी सही तरीके से पालन-पोषण हो।

महोदय, मैं इसमें एक और संशोधन चाहती हूँ। अक्सर होता यह है कि जो बच्चे लेते हैं, अगर उसमें जुड़वा बच्चे हो गए, तो वे उनमें से एक बच्चे को छोड़ देते हैं, तब ऐसी स्थिति में उसके पालन-पोषण की जिम्मेदारी आ जाती है। दूसरी बात यह है कि कई दंपति ऐसे भी होते हैं कि जो बच्चा पैदा हो रहा है, अगर वह अपंग हो गया, अपाहिज हो गया, या मनोरोग से पीड़ित है, तो वे उस बच्चे को छोड़ देते हैं। जब इसमें आगे बढ़ते आएं, दंपति बच्चा लेंगे, तो इसमें बहुत सारी बातें आएंगी।

[श्रीमती छाया वर्मा]

सर, कई बार ऐसा होता है कि माँ-बाप आपस में लड़ जाते हैं। ऐसी स्थिति में ये बच्चे कहाँ जाएंगे? यदि वे उसे छोड़ देंगे, तो उस बच्चे का क्या होगा? इस पद्धति से बहुत सारे प्रश्न खड़े होंगे, लेकिन समय के साथ इस पद्धति पर कठोर नियम बनना बहुत जरूरी है, ताकि उसका सही तरीके से पालन हो सके।

आज हमारे देश में लिव इन पद्धति शुरू हो गई है। हमें ऐसा लगता है कि क्या कल वह बिल भी सदन में आएगा? कोई भी बिल आए, समय के साथ परिवर्तन जरूरी है, लेकिन उसका अच्छी तरह से पालन हो और उसका अच्छी तरह से परीक्षण किया जाए, जल्दबाजी में कोई बिल पास न हो। मैं चाहती हूँ कि यह सदन इस बिल पर फिर से पुनर्विचार करे और उसके बाद ही इस बिल को समर्थन दे। आपने मुझे इस बिल पर बोलने का अवसर दिया है, इसके लिए आपका बहुत-बहुत धन्यवाद।

डा. सी.पी. ठाकुर (बिहार): उपसभाध्यक्ष जी, आपका बहुत-बहुत धन्यवाद। यह जो बिल है, यह बहुत ही इम्पोर्टेंट बिल है और बहुत लोगों ने इस पर कहा है, अच्छे-अच्छे सुझाव दिए हैं। हम लोग इस बिल से बहुत घबराते हैं, लेकिन हरेक आदमी चाहता है कि उसकी संतान हो और वह संतान को प्यार करे। हमारी जो सोसायटी है, हमारा जो इतिहास है, उसमें इस तरह की कहानी है कि जो पांडव थे, वे वैसे ही थे, अपने पिताजी के बच्चे नहीं थे, उनको ससुराल कहा जा सकता है। वे सभी लोग बहुत खुश होकर रहे, अच्छा राज किया, सब कुछ हुआ। इसलिए आदमी का एक instinct है कि उसके बच्चा हो और वह बच्चे को प्यार करे। हमने अपनी practice में देखा है, हमारे यहाँ पर बहुत लोग आए कि हम बच्चा ले ले? हमने कहा कि आप जरूर ले लीजिए और जैसे आपका अपना बच्चा होता और उसके लिए आप जो करते, वही इसके लिए भी कीजिए। हमने कभी किसी को उसका दुरुपयोग करते हुए नहीं देखा है। उन्होंने उसको बहुत माना, उसके साथ बहुत अच्छा किया, उसे पढ़ाया-लिखाया भी। उसे खूब पढ़ाया-लिखाया। वह साधारण परिवार का लड़का था, वह एक बहुत धनी घर में चला गया। उसी लाड़-प्यार से उसको पाला गया। इसलिए हम नहीं समझते हैं कि इस तरह से गोद लेने का दुरुपयोग होता है। इसलिए यह होना चाहिए।

इसके बारे में जो कानून बन रहा है, उस कानून में भी बहुत सारी बातें दी गई हैं। इसमें दो-दो बोर्ड्स बनाने की बात है। उस बोर्ड के बारे में थोड़ा-बहुत define कर देना चाहिए कि स्टेट वाले बोर्ड का क्या function होगा और सेंटर वाले बोर्ड का क्या function होगा। ऐसा नहीं कि यह इतना कड़ा हो जाए कि गोद लेना मुश्किल हो जाए। यह भी नहीं होना चाहिए। इसमें कुछ ऐसे norms होने चाहिए, ऐसा नहीं कि कोई बच्चे को गोद लेकर छोड़ दे। उस पर भी प्रतिबंध होना चाहिए। कोई बच्चे को छोड़ता नहीं है। मैंने एक भी ऐसा आदमी नहीं देखा, जिसने बच्चे को गोद ले लिया और फिर उसको छोड़ दिया। इसलिए यह बिल बहुत ही अच्छा है और समय पर लाया गया है। इसे पहले भी आना

चाहिए था। जब कोई बिल आता है और अगर उसमें कोई कमी रहती है, जिसका अनुभव बाद में होता है, तो उस अनुभव से उसमें सुधार आता है। इसलिए समय के साथ-साथ इसमें सुधार भी आएगा। उस बच्चे को पढ़ाना-लिखाना चाहिए। ऐसे बच्चों के समुचित अधिकार को define कर दिया जाए। ऐसा न हो कि वह बच्चा है, तो कोई बाद में neglect करे। ऐसा नहीं होना चाहिए। जिस व्यक्ति के पास वह बच्चा है, अगर उसको लड़का होता या लड़की होती, उसी तरह से उस बच्चे का परिवार में पालन-पोषण होना चाहिए और हक मिलना चाहिए, सब चीजें मिलनी चाहिए। यह होना चाहिए।

हम समझते हैं कि यह बिल बहुत अच्छा है और इस बिल को पास हो जाना चाहिए। मैं एक चीज के बारे में कहना चाहता हूँ कि इस बिल में ऐसा प्रावधान लगा दिया गया है, जिससे कि विदेशी लोगों पर प्रतिबंध लगा दिया गया है। हमारे बहुत से विदेशी दोस्त हैं। पहले वे बराबर फोन करते थे कि हमें इस तरह से बच्चा गोद लेना है, कैसे होगा। इसमें इस पर भी थोड़ा प्रतिबंध लग रहा है। इसमें विदेशी लोगों को रोक दिया गया है। वह भी ठीक है। कोई दूसरी जगह से इस देश में आकर बच्चे को ले जाएगा, वह भी ठीक नहीं है। इसलिए इस तरह का जो नियंत्रण लगाया गया है, वह बहुत अच्छा है। मैं इस बिल को support करता हूँ। धन्यवाद।

SHRI HARSHVARDHAN SINGH DUNGARPUR (Rajasthan): Mr. Vice-Chairman, Sir, a lot of speakers before me have mostly covered all the points in respect of the Surrogacy (Regulation) Bill, 2019. So I will just stress on a few clauses. One is, "abandoned child" which means a child born out of surrogacy procedure who has been deserted by his intending parents or guardians and declared as abandoned by the appropriate authority after due inquiry. Basically this Bill is covering altruistic surrogacy and commercial surrogacy which is banned. "Altruistic surrogacy" means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses incurred on surrogate mother and the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative. "Embryo" means — which is very important in this Bill a developing or developed organism after fertilisation till the end of fifty-six days. Another important part of this Bill is that it gives the authorities a 90-day limit for granting or rejecting application which is a very important part of this Bill. There are various differences between the 2016 Bill and the present Bill of 2019. In the Bill of 2016, for violation, the minimum jail term was five years and fine up to ₹ 10 lakhs, but in this Bill, the minimum term of five years is replaced with maximum term of five years. For initiating commercial surrogacy, the minimum jail term was five years and fine up to ₹ 10 lakh, but in this Bill, the minimum term of five years is

[Shri Harshvardhan Singh]

again replaced with maximum term of five years. For contravening any provision for which no specific punishment is provided, the minimum jail term was three years and fine up to Rs.5 lakh, but in this Bill, the minimum jail term of three years is replaced with maximum term of three years. For certain offences including exploitation and importing of embryo, the minimum jail term was ten years and fine up to ₹ 10 lakh, but in this Bill, the minimum jail term of ten years is replaced with maximum jail term of ten years. Sir, another important factor, I would like to stress upon is whether there is any age limit for surrogating a child. There is a case as Dr. Vats has mentioned about Haryana. There is a need to define the legality and ethicality of the practice. There is a case in Haryana of Ramjit Raghav of Haryana and his 54-year old wife Shakuntala who had a child at the ripe old age. Ramit Raghav was 96 years old and his wife Shakuntala was 54 years. So, is this ethical or are they lucky? I don't know. That is another point. Sir, there is a need to protect the rights of surrogating mothers. There is also the demand for elimination of middle-men. According to a study published by the Centre for Social Research, an NGO dealing with women's issues, in 2014, 88 per cent of surrogate mothers in Delhi and 76 per cent in Mumbai did not know the terms of the contracts. There have been several reports about exploitation of surrogate mothers who are confined to hostels during pregnancy and not allowed to meet their families and of women who do it repeatedly for a paltry amount putting their own bodies at risk. Sir, this Bill seeks to put an end to that. India has emerged as a surrogacy hub for couples from different countries for past few years. There have been reported incidents of unethical practices, exploitation of surrogate mothers, abandonment of children born out of surrogacy and Import of human embryos and gametes. Sir, gamete is a new term. Even I have not heard this term. For the first time, I heard this term. So, what is 'gamete'? A gamete, under the Bill, is what the intending couples can commission for. Gamete is a sperm and egg donor. Under the Bill, intending couples can commission a surrogacy only after proving infertility. Thus, gametes from couple may not be a possibility due to the infertility. In such cases, the gametes will be required to be donated by others. The Committee noted that there is no mention of an egg or sperm donor in the Bill. It is recommended that the provision of gamete donation must be incorporated in the Bill, which I am sure it is. Sir, why is India becoming such a popular destination! It is because we have skilled doctors, low costs of equipment and easy access to surrogates and undemanding legal frameworks which have made the country

an attractive destination for surrogacy procedures. Sir, clinics have sprung over all over India. But, I must mention that Gujarat is the surrogacy capital in India. Maximum numbers of clinics are there. The surrogacy market in India is about 2.9 billion. And, of course, medical tourism is absolutely huge in India. Sir, as Dr. Vats also mentioned, there was the case of Japanese couple who got divorced and Japan had outlawed surrogacy. So, these are all the peculiar situations because a lot of people who ask for surrogacy are also coming from abroad. In Baby Gammy case of Thailand in August, 2014, an Australian couple abandoned a baby with Down syndrome but accepted its healthier twin. So, that is very unfortunate. One has to look into all these sort of shortfalls. Out of a lot of countries that allow commercial surrogacy, Russia and Ukraine are there. But, surprisingly, California in the United States also allows commercial surrogacy. The fees for surrogates ranged between 2,500 to 7,000 dollars, while the cost for procedure ranged between 10,000 to 35,000 dollars. The costs were estimated to be almost five times higher in other countries than in India. Around 15 countries had banned commercial surrogacy. In Thailand, Cambodia had become a major destination. Cambodia still provides healthy ground for surrogacy. Another report by Melissa Davy, in the same paper in 2014, revealed that there was a demand for revoking the ban on commercial surrogacy in Australia following the cases of multiple pregnancies and premature births in commercial overseas arrangements. Three quarters of the parents this is a point to note — in these cases had entered into surrogacy arrangements in India. So, there are a lot of people coming from abroad and having arrangements here. In Australia, you are allowed to advertise surrogacy, but not paid advertising. So, Sir, these are the few points I wanted to mention. Thank you very much, Sir, for allowing me to speak.

SHRIMATI VIJILA SATHYANANTH (Tamil Nadu): Sir, I appreciate our hon. Minister for bringing this Bill. I have one or two observations on this Bill. First, why has the intending couple to wait for five years before they go for surrogacy? The Bill states that a married couple has to wait for five years before they go for this option. If a woman has no uterus, why has she to wait for five years? If a girl gets married at the age of 25 years, then she will have to wait till the age of 30 years, and only after that, she can go for this option. In some cases, where there are such medical problems, the waiting period has to be reduced.

Then, there is the issue of the term 'close relative'. This also has to be defined. Who is a close relative? For example, if the elder brother's wife becomes a surrogate

[Shrimati Vijila Sathyanath]

mother for the younger brother and the family resides in one house, what will happen if the child lives in the same house? What sort of emotional problems will arise? If the younger brother's wife slaps the child, then what will the elder brother's wife do? So, that emotional bondage is there. So, this term 'close relative' is unacceptable in these conditions. We have to see this aspect also. It will be much better if the term 'close relative' is defined properly.

Then, I come to the issue of compensation. The Bill provides for insurance cover for a period of sixteen months for the surrogate mother. In case of death of the surrogate mother, the insurance will be provided to her family. But, I think, when a woman decides to become a surrogate mother, she has to be given compensation. I am not talking in the sense of making it commercial, but some compensation should be provided to her. She bears the baby for nine months and during all this period, she has to maintain her health. She cannot go for work during these nine months. She cannot work properly. How can she earn during these nine months? She must be kept under proper medical supervision and must be provided proper rest. Rest is needed for the mother. So, I think, compensation should be given for taking care of her health as well as the baby's health, for taking the nourishing food supplements and for everything she needs. For nourishing food supplements and everything she needs compensation. Sir, the word should not be 'commercial', but 'compensation'. So, I think, Rs. 20,000 per month should be given to the surrogate mothers as compensation. My submission to this august House is that these two things should be better defined by our hon. Minister. Surrogate mothers are completely surrendering their life because anything can happen during their pregnancy. In some cases, the surrogate mothers even die in some circumstances because sometimes there is over bleeding immediately after the delivery. Sir, their life is at stake. So, we have to keep in mind all these things. This is a very comprehensive Bill. I support this Bill, but these issues have to be brought out under the rules in the Bill. With these words, I support the Bill. Thank you.

श्री लाल सिंह वड़ोदिया (गुजरात): माननीय उपसभाध्यक्ष महोदय, चूंकि आप प्रथम बार हमारे वाइस चेयरमैन के रूप में विराजमान हुए हैं, इसलिए हम सबकी ओर से आपको धन्यवाद देते हैं।

महोदय, मैं आपके माध्यम से माननीय मंत्री जी को सरोगेसी (विनियमन) विधेयक, 2019 के संबंध में दो-तीन सुझाव देना चाहता हूँ। कई लोगों ने कहा कि कई विदेशी पेरेंट्स यहां बच्चा पैदा करने के लिए आते हैं, लेकिन जुलाई, 2015 के बाद, जो एमएचए का निर्देशन

हुआ है, उसके बाद कोई विदेशी अपना बच्चा पैदा करने के लिए यहां नहीं आया है। मेरा यह कहना है कि इस बात को ध्यान में रखना चाहिए।

आज की तारीख में जो भारतीय हैं, उसी परिवार को सरोगेट विमेन के द्वारा बच्चा पैदा करने की इजाजत दी जाती है। अगर हमारे देश में चार हजार बच्चियाँ पैदा होती हैं, तो उनमें से एक बच्ची को गर्भाशय यानी uterus नहीं होता है। इसके हिसाब से 1 लाख 75 हजार ऐसी बच्चियाँ हैं, जो स्त्री बनने के बाद, शादी के बाद मां नहीं बन सकती हैं, इसलिए इनके लिए यह सरोगेसी एक उपाय है, जिसके माध्यम से वे अपना बच्चा दूसरी महिला की कोख लेकर भी पैदा कर सकती हैं। इसमें सरोगेट विमेन के लिए 25 से 35 साल का जो नियम है, इस संबंध में मैं यह बताना चाहता हूँ कि हमारे आनन्द जिला में एक हॉस्पिटल है, वहां पर मैंने विजिट किया था, वहां पर मैंने ऐसी महिलाओं को भी देखा है, जिन्होंने दूसरों के लिए दो बार, तीन बार भी सरोगेट मदर के रूप में बच्चा पैदा किया है। इसमें जो एक बार का नियम सरकार लगाना चाहती है, इस संबंध में मेरी यह विनती है कि इसमें दो बार का प्रावधान रखना चाहिए ताकि कोई दो बार सरोगेट विमेन के रूप में अपनी सेवा दे सके।

हमारे देश में कुछ समय से 21 साल का लड़का और 18 साल की लड़की की शादी होती ही है, ऐसा नहीं है। अभी तो 35 साल के बाद भी कुछ लोग, शादी करनी चाहिए, ऐसा मन बनाने को तैयार होते हैं। जो बड़ी उम्र में शादी करते हैं, इनके लिए इसमें जो 5 साल इंतजार करने की बात है, वह मेरे ख्याल से थोड़ी ज्यादा है। मेरी यह राय है कि इनको एक साल में ही यह छूट देनी चाहिए कि एक साल के बाद they can take decision for that. सर, यह जो बात है कि अबॉर्शन कराने के लिए सिर्फ सरोगेट मदर को ही ध्यान में रखकर निर्णय लेना चाहिए, मैं कहना चाहता हूँ कि अगर इसमें डॉक्टर को भी consult किया जाए और सरोगेसी से जो माँ-बाप बच्चा पैदा करना चाहते हैं, उनकी भी राय लेकर निर्णय लिया जाए, तो अच्छा होगा, ऐसा मेरा मानना है। जहाँ तक परिवार के संबंध में ही किसी विमेन को सरोगेट मदर बनाकर सरोगेसी से बच्चा पैदा करने की बात है, मेरे ख्याल से यह हर एक परिवार में possible नहीं है। इसमें ऐसा प्रयोजन रखना चाहिए कि हमारे भारत की कोई भी महिला सरोगेट मदर बनकर इच्छित परिवार को बच्चा प्राप्त करा सके। जो महिला सरोगेट मदर के रूप में नौ महीने तक हॉस्पिटल की निगरानी में रहती है, तब कभी-कभी उसके बच्चे भी साथ में होते हैं, तो उस समय उसके बच्चों की पढ़ाई के लिए और साथ ही उनके रख-रखाव के लिए भी व्यवस्था होनी चाहिए, क्योंकि सरोगेट विमेन के अपने बच्चे, अपने परिवार के लिए व्यवस्था होगी, तो उसे चिंता नहीं रहेगी। जो सरोगेट मदर नौ महीने के लिए अपनी गोद देती है, मेरे ख्याल से उनको मुआवजे के रूप में -- कई सदस्यों ने बताया कि कई बार उनके साथ धोखाधड़ी होती है, पैसा भी कम दिया जाता है, इसलिए जैसे सब्सिडी लाभार्थी के खाते में जमा हो जाती है, उसी तरह से गवर्नमेंट को मध्यस्थी बनना चाहिए, ताकि उस सरोगेट मदर के खाते में रुपया जमा हो

[श्री लाल सिंह वड़ोदिया]

जाए, ऐसा प्रावधान करना चाहिए। नॉर्मली जो हर माँ-बाप के बच्चे को जो अधिकार मिलते हैं, वही अधिकार सरोगेसी से प्राप्त बच्चे को भी मिलने चाहिए। जो माँ-बाप सरोगेसी सिस्टम से बच्चा प्राप्त करते हैं, अगर इनमें कोई झगड़ा हो जाए, तो उसके लिए केस में जो सजा का प्रावधान है, उसकी बजाय दंड की व्यवस्था करें, क्योंकि सरोगेसी सिस्टम से वही लोग बच्चा प्राप्त करना चाहते हैं, जो अपने माध्यम से संतोषकारक नहीं कर सकते हैं। ऐसे केसेज को सजा की बजाय दंडात्मक प्रावधान से सॉल्व किया जाए, तो अच्छा होगा।

(श्री उपसभापति पीठासीन हुए)

सर, जो सरोगेट विमेन यह सेवा देती है, उसके लिए इसमें सौलह महीने के बीमा की बात है, इसके लिए कई सदस्यों ने कहा है, मैं भी कहता हूँ कि इन्हें पूरी लाइफ की सेफ्टी के लिए बीमा दिया जाए। अगर ऐसी व्यवस्था होगी, तो अच्छा होगा। मैं इस बिल का समर्थन करता हूँ, लेकिन साथ ही जो हमारी विनती है और हमारे बाकी सदस्यों ने जो विनतियाँ की हैं, उन पर भी गौर किया जाए, तो अच्छा रहेगा।

SHRI JAIRAM RAMESH (Karnataka): Sir, in the last 15 years that I have had an occasion of looking at Bills, I have never come across a Bill that is more complex and that presents ethical, philosophical and economic considerations like the Surrogacy Bill. It is a very complicated Bill. It is not an easy Bill to understand. The Standing Committee took over a year to deliberate over it. It met infertile couples. It met surrogate mothers. It met doctors. It met civil society activists. It met a wide cross section of people to arrive at some compromise on what regulation for surrogacy should be. We all agree that surrogacy should be regulated. But what should be the form of regulation is under debate.

Sir., when I was in the Standing Committee, I was actually pleasantly surprised to see the demographic figures for infertility in the country. Contrary to what most of us believe, infertility is a serious problem in India. It is easy to be mesmerized by the fact that we are 1.3 billion and our population is increasing by 12 million every year. But the fact is that the incidence of infertility in India is not insubstantial. What came as a revelation to me was that infertility is actually on the rise. This is the demographic background to understanding why there is need for surrogacy. I am not getting into the social compulsions of surrogacy because infertile couples are still seen in this country to be a blot. They are still subject to snide remarks, criticism and sometimes even segregation in society. I am leaving aside the social factors. But purely from a demographic factor, we must understand that infertility is not insignificant in India

and the incidence of infertility is actually increasing.

Sir, we have already put a ban on commercial surrogacy as far as foreign couples are concerned. So the debate really is what should be the form of regulations as far as infertile Indian couples are concerned. I wish to highlight only three or four issues for hon. Minister's attention. He himself is a very distinguished medical professional. I am sure he understands these issues better than most of us.

Sir, there are two Bills that have to be seen simultaneously. One is the Surrogacy (Regulation) Bill and the other is what is called the Assisted Reproductive Technology Bill. There are technological aspects. Surrogacy is not just something that we can imagine. There is a technological base for surrogacy as well. One of the important recommendations of the Standing Committee which has been ignored, I am sorry to say this, is that the Surrogacy Bill should come after the ART Bill. It doesn't make sense to have the Surrogacy Bill in the absence of legislation governing the technology of surrogacy. You are controlling surrogacy and not addressing the problem of technology of surrogacy.

My first request to hon. Minister is this. Please reverse the sequence. Have the ART Bill passed by the Parliament first and then bring the Surrogacy Bill later. Secondly, the heart of the Bill or the crux of the Bill is close relative. This is mind-boggling that we are going to be passing a Bill which is going to make only a close relative a surrogate mother. This flies in the face of our understanding of Indian families and of Indian society. I am absolutely surprised that a Bill can come in this fashion that only surrogacy will be restricted to a close relative. We can even define who the close relative is. We know who the close relative is. What this will do is that this will drive surrogacy out of the market. There will not be any surrogacy left.

Sir, from the olympian heights of unreality, it is easy to say about altruistic surrogacy. There is nothing altruistic about it. There is a commercial aspect which has been utilized in the past few years. It has been misutilised in the past few years and we have rightly put a ban on foreign couples coming to India and having surrogate mothers. Now, the question is: Do we want surrogacy or not? If we don't want surrogacy, or to use the language of a very senior political leader, who is no longer with us unfortunately and who once said, यह कोख का व्यापार हमें बंद करना चाहिए। अगर आप चाहते हैं कि कोख का व्यापार बंद हो, then let us pass the Bill. But, if we recognize that infertility is a problem, if we recognize that infertility is on the rise and if we recognize that

[Shri Jairam Ramesh]

people want surrogacy because there are couples who want surrogacy, then this Bill is a wrong Bill. This Bill will put an end to any form of surrogacy because we can't expect that only the sisters or sisters-in-law or some close relative is going to come forward, This is going to create more emotional and psychological problems than we can ever imagine. So, this 'close relative' thing is a very dangerous element in this Bill and I request the hon. Minister to please have a look at it.

Sir, the third point is this. The important recommendation of the Standing Committee was that there should be a prior informed consent. Prof. Rajeev Gowda yesterday talked about informed consent. I would go one step further. We talk of prior informed consent and that prior informed consent should not be oral but it should be a written contract. It should be an enforceable contract. That contract should make transparent the terms and conditions of the surrogacy including expenditure on health, expenditure on maintenance and expenditure on insurance which has been raised by Member after Member today. This is a very important element of the recommendations of the Standing Committee which unfortunately have not seen the light of the day as far as this Bill is concerned.

Sir, yesterday, the Chairman of the Standing Committee, Prof. Ram Gopal Yadav, talked about the Bill at length and the recommendations of the Standing Committee which are not reflected in the Bill. I don't want to continue on that vein because this is already part of the record. But I do wish to save that when we met in the Standing Committee. I was Quite surprised that the Ministry of Women and Child Development had not even been consulted on the Bill. The Bill came forward from the Ministry of Health and the Ministry, which is in charge of surrogate mothers and children who are going to be born, was not consulted. Maybe, consultations took place later. But the point which I want to make is that perspectives are different and those different perspectives are not reflected in this Bill.

Sir, my final point is, I appeal to the hon. Minister not to stand on prestige, take 24 hours and consider all the suggestions which have been made in the House. Every Member has said, मैं इस बिल का समर्थन करता हूँ, किंतु - मैं इस बिल का समर्थन करती हूँ, परंतु, Everybody has given किंतु-परंतु in their speeches. So, I would request the hon. Minister to look at all किंतु-परंतु, take 24 hours, come back tomorrow

4.00 P.M.

and get a modified Bill passed, not this Bill but an amended Bill. We will pass the Bill. We need regulation but this is not the Bill that should be passed by Parliament in its full knowledge. Thank you.

श्री उपसभापति: धन्यवाद, जयराम रमेश जी। माननीय सदस्यगण यह बहस हमें लगभग 4 बजे तक खत्म करनी थी। चूंकि विषय के महत्व को देखते हुए माननीय चेयरमैन ने कहा था कि जो लोग बोलना चाहें, उनको समय मिले। जो बाकी वक्ता हैं, मेरा उनसे आग्रह है कि वे अपनी बात बहुत संक्षेप में रखें, क्योंकि हमें दूसरा बिल भी टेक अप करना है। श्री गोपाल नारायण सिंह जी।

श्री गोपाल नारायण सिंह (बिहार): उपसभापति महोदय, मैं धन्यवाद दूंगा कि काफी डिस्कशन के बाद मंत्रालय इस बिल को लाया। देश में इसकी आवश्यकता थी। इसकी आवश्यकता इसलिए नहीं थी कि इस पर कंट्रोल किया जाए और इस पर रोक लगाई जाए। इसके माध्यम से जो व्यभिचार फैल रहे थे, जो अराजक स्थिति हो गई थी और बाहर के लोग आकर जो व्यापार बना रहे थे, प्रचार के माध्यम से बड़ी-बड़ी संस्थाएं खुल गई थी और जो अव्यवस्था फैल रही थी, उसको कंट्रोल करने के लिए विचार करके इस बिल को लाया गया, इसलिए हम इसका समर्थन करते हैं।

सरोगेसी का सिर्फ इतना ही मतलब था कि जो लोग बच्चे को जन्म देने में ineffective हैं, उनको इसमें सहयोग दिया जाए और आगे परिवार बढ़ाने के लिए औरत या पुरुष में जो कमी है, उस कमी को इसके माध्यम से दूर करके आगे परिवार बढ़ाया जाए।

लेकिन हमारे यहां हो यह गया कि इसको धंधा बना लिया गया है। बड़े-बड़े डॉक्टर्स की एजेंसियां खुल गई, प्रचार होने लगे, उस पर सरकार का कोई कंट्रोल नहीं हुआ। उनको कैसे रोकें, उन पर कोई प्रभाव डाल सकें, कोई नियम-कानून के अनुसार रोक सकें - सरकार के पास कोई शस्त्र ही नहीं था। उसके लिए इस बिल को लाना बहुत जरूरी था। इस धंधे में गरीब औरतें पैसा कमाने के लिए तीन-तीन, चार-चार बार अपने को ऑफर करती थीं। उनके स्वास्थ्य के ऊपर कोई भी ध्यान नहीं देता था। उनको कितना पैसा मिलता था, इसके ऊपर किसी का कोई कंट्रोल नहीं था। कोई आया और दो हजार, दस हजार, पन्द्रह हजार रुपये दिए, उसका बच्चा लिया और चला गया। उसके बाद उस औरत के स्वास्थ्य पर कोई ध्यान नहीं देता था। जो बच्चा हुआ, यदि वह बच्चा उनके मन मुताबिक नहीं हुआ, अगर फीमेल बच्चा हो गया, तो लोग उसको छोड़कर चले जाते थे। उसको रोकने का कोई प्रावधान नहीं था। अगर कोई लड़का हुआ और वह यदि गौरा हुआ या काला हुआ, तो विदेशी लोग उसको छोड़कर चले जाते थे। इसके लिए सरकार असहाय थी, कोई कंट्रोल नहीं कर सकता था, इसलिए इस बिल को लाना एक मजबूरी थी कि उस पर पहली बार अंकुश लगाया जाए, ताकि इसको कंट्रोल किया जा सके। थोड़ी बहुत कमियां हरेक बिल में हैं। हमारा

[श्री गोपाल नारायण सिंह]

संविधान सर्वोपरि है, लेकिन उसमें भी संशोधन होते आए हैं। यह बिल लागू हो, उसके बाद अगर कोई कमी सामने आती है, तो उस पर भी संशोधन हो सकते हैं, उसमें बदलाव हो सकते हैं, लेकिन इसको delay करना और इसको लागू न करना और इस पर और चर्चा कराना, मैं समझता हूँ कि आज के परिप्रेक्ष्य में उचित नहीं है। मैं सदन से आग्रह करूँगा कि इस बिल को लागू होने देना ज्यादा जरूरी है। ...**(समय की घंटी)**... और जैसा रमेश जी ने कमेटी के बारे में बोला और हम लोग उस कमेटी में थे। उसमें हरेक aspect पर विचार किया गया, एक-एक बिंदु पर स्टैंडिंग कमेटी ने विचार किया, लेकिन मिनिस्ट्री का भी कुछ प्रैक्टिकल अनुभव होता है। अगर उसको ध्यान में रखकर यदि मिनिस्ट्री कोई बिल लाती है, तो हम लोगों को उसका समर्थन करना चाहिए, क्योंकि 100 परसेंट हमारी बात रखी जाए, ऐसा जरूरी नहीं है। कुछ मिनिस्ट्री के प्रैक्टिकल अनुभव होते हैं, उनके चलते भी होता है, क्योंकि Ministry of Women & Child Development में भी कुछ कमियाँ होती हैं। वह देखने के बाद बिल लाया गया। अगर कोई कमी-बेशी होगी, तो आगे भी उस पर सुझाव आ सकते हैं। मैं हाउस से आग्रह करूँगा कि इस बिल का समर्थन करे और इस बिल को लागू करे। आगे इसमें कुछ कमी होगी, तो उसको भी देखा जाएगा और उसे जेंज किया जाएगा।

श्री उपसभापति: धन्यवाद, गोपाल नारायण सिंह जी।

श्री जुगलसिंह माथुरजी लोखंडवाला (गुजरात): उपसभापति महोदय, मुझे सरोगेसी विधेयक पर बोलने का मौका मिला है, उसके लिए मैं आपका आभार व्यक्त करता हूँ। मैं ज्यादा न कहते हुए सिर्फ इतना बताना चाहूँगा कि आज की तारीख में जो मां-बाप होते हैं, वे सोचते हैं कि उनके बच्चे हों और जब घर में मालूम पड़ता है कि चाहे लड़का हो या लड़की, उनके यहां बच्चा नहीं हो सकता है, तो उसके बारे में वे लोग मनोमंथन करते हैं। सरोगेट मदर्स के लिए डा. हर्ष वर्धन जी जो विधेयक लाए हैं, उसके लिए मैं उनको धन्यवाद देता हूँ। सर, हम लोग परिवार किसको कहते हैं? उस परिवार में हम हों, हमारी बीवी हो और हमारे बच्चे हों, तो उसको पूरा परिवार कहते हैं। सदन का ज्यादा टाइम न लेते हुए, मैं इस विधेयक को सपोर्ट करता हूँ, धन्यवाद।

MR. DEPUTY CHAIRMAN: Shrimati Vandana Chavan, not present. We are making an exception to Shri P. Wilson. You have already spoken for three minutes. I think, you requested for one minute. So, this would be an exception.

SHRI P. WILSON: Thank you very much Mr. Deputy Chairman, Sir, for the gesture. Right to reproductive freedom is a fundamental right guaranteed under Article 21. Let us have that in our mind. Now, I would like to point out certain Clauses to the hon. Minister which require consideration.

Under Clause 3(vi), you have said that permission is required for abortion from the appropriate authority and the time that is available under Clause 33 (h) is 90 days. What would happen if an application is filed and no permission is granted within 90 days? So, I would request the hon. Minister, instead of saying authorization you can have a post approval. Do not stand on that authorization from the appropriate authority. In case of medical emergency, it requires immediate medical abortion. Therefore, hon. Minister may kindly consider amending Clause 3(vi). With regard to Clause 4, there are un-reasonable conditions like it doesn't permit single parents. It permits only couples. Then, only one surrogate mother can have that procedures being done. Then, it also says that five years cap is there. Within five years, you cannot go for a surrogate procedure. The intended parents should not have children. These are all unreasonable conditions which will not serve the purpose of the Bill. So, the hon. Minister may kindly consider the unreasonable conditions".

In fact, if you see Clause 4 (iii) (c), there is a reference to the age of the female as between 23 to 50 years. What is the rationality for having a cut-off age between 23 to 50 years whereas it is 26 to 55 years in case of male? What is the reason behind having this between 26 to 55 years? I can understand because you have a cap of five years for the female is correct for 23 years. But, so far as the male is concerned, why do you have that 26 years? It is very un-reasonable. And, so far as Clause 7 is concerned, this is highly discriminatory, ...(*Time Bell*)... One minute, please. Sir, It is highly discriminatory because the rights of the child born out of the surrogate procedure are given under Clause 7. What will happen to the children who are already born through the surrogate procedure? You have left them in lurch. Kindly consider them because they are also children. So, the hon. Minister should guarantee that these children who have already born out of surrogate procedures....

MR. DEPUTY CHAIRMAN: Conclude, Wilsonji. Please conclude now.

SHRI P. WILSON: Yes, Sir. And, lastly, I will conclude with only one provision. So far as the criminality is concerned, you have made ten years as non-bailable, cognizable and non-compoundable. Kindly consider it as this is not a heinous crime. This sort of punishment will certainly affect the families. Thank you very much, Sir.

श्री उपसभापति: माननीय सदस्यगण, माननीय संसदीय मंत्री जी इस बिल के संदर्भ में और आपके आए हुए सुझावों के संदर्भ में इस सदन को बता चुके हैं। वे कल इसका जवाब देंगे। आपने जो सुझाव दिए हैं, उन पर जो चीज़ें वे कर सकते हैं, उन्हें वे कल बताएंगे। इसे House की

[श्री उपसभापति]

सहमति मिल चुकी है। Now, we move to the next Bill, The Transgender Persons (Protection of Rights) Bill, 2019. Shri Thaawar Gehlot to move a motion for consideration of the Transgender Persons (Protection of Rights) Bill, 2019.

The Transgender Persons (Protection of Rights) Bill, 2019

सामाजिक न्याय और अधिकारिता मंत्री (श्री थावर चन्द गहलोत): महोदय, मैं प्रस्ताव करता हूँ

"कि उभयलिंगी व्यक्तियों के अधिकारों का संरक्षण और उनके कल्याण का उपबंध करने तथा उससे संबद्ध या उसके आनुषंगिक विषयों का उपबंध करने के लिए विधेयक पर, लोक सभा द्वारा पारित रूप में, विचार किया जाए।"

उपसभापति महोदय, मैं इस अवसर पर कुछ कहना चाहूंगा। मैं संक्षेप में अपने विचार व्यक्त करूंगा। मैं बाकी के वक्ताओं के, माननीय सांसदों के विचार आने के बाद विस्तृत चर्चा का जवाब कल दूंगा। 2012 में मुंबई हाई कोर्ट में एक पीआईएल लगी थी और वह transgenders की सुख-सुविधा और उनको न्याय दिलाने की दृष्टि से थी। जनवरी, 2012 में एक सिविल रिट याचिका माननीय सर्वोच्च न्यायालय में दायर हुई। मंत्रालय को निर्देश मिला और फिर मंत्रालय में एक विशेषज्ञ समिति का गठन किया गया। विशेषज्ञ समिति ने अपनी राय दी, उसके आधार पर समिति ने अपनी रिपोर्ट प्रस्तुत की और सुप्रीम कोर्ट ने अपना फैसला सुनाया। एक निजी सदस्य विधेयक राज्य सभा में माननीय श्री तिरुची शिवा द्वारा पेश किया गया था, उसे भी यहां प्राइवेट मेम्बर बिल के रूप में पारित किया गया था। लोक सभा में सरकारी विधेयक पुरःस्थापित किया गया है। जब शिवा जी ने यहां प्राइवेट मेम्बर बिल पेश किया था और उसको पारित किया, उस समय हमने उनको आश्चर्य किया था कि सुप्रीम कोर्ट ने एक निर्णय दिया है और उस निर्णय के आधार पर सामाजिक न्याय और अधिकारिता मंत्रालय या भारत सरकार से अपेक्षा की गई है कि transgenders की सुख-सुविधा की दृष्टि से उनके साथ जो उत्पीड़न की घटनाएं होती हैं, उससे उनको मुक्ति दिलाने के लिए और उनको समाज की मुख्यधारा में लाने के लिए एक कानून बनाया जाए। उसके आधार पर 2016 में लोक सभा में एक सरकारी विधेयक पुरःस्थापित किया गया था। फिर विधेयक को विभाग संबंधी संसदीय स्थायी समिति को भेजा गया था। समिति ने अपनी रिपोर्ट 2017 में दी थी। समिति के सुझाव के आधार पर लोक सभा में संशोधन भी पेश किया गया था। चूंकि लोक सभा भंग हो गई थी, लोक सभा का चुनाव आ गया था, इस कारण से वह lapse हो गया था। फिर से इस विधेयक को लोक सभा में प्रस्तुत किया गया और विधेयक लोक सभा द्वारा पारित किया गया था। बिल के lapse होने के बाद फिर से वही प्रक्रिया आरंभ करनी पड़ी और 19.07.2019 को लोक सभा में विधेयक पुनः पुरःस्थापित हुआ, जो कि 5 अगस्त, 2019 को पारित किया गया।