

Conditions of Service and Term of Office) Bill, 2023, which was passed by Rajya Sabha at its sitting held on 12th December, 2023.

GOVERNMENT BILLS

**The Bharatiya Nyaya Sanhita, 2023,
The Bharatiya Nagarik Suraksha Sanhita, 2023
&
The Bharatiya Sakshya Bill, 2023 - Contd.**

MR. CHAIRMAN: Now, Shri Sujeet Kumar.

श्री सुजीत कुमार (ओडिशा) : सभापति महोदय, मैं अपनी पार्टी, बीजू जनता दल की तरफ से इन तीन ऐतिहासिक कानूनों के समर्थन में खड़ा हूँ। कोई भी कानून जनहित में हो या देशहित में हो, मेरी पार्टी, बीजू जनता दल हमेशा सरकार के साथ खड़ी रही है - चाहे वह धारा 370 को हटाने की बात हो या ट्रिपल तलाक की बात हो या ये तीन कानून हों।

महोदय, व्यक्तिगत तौर से, I applaud these three Bills because these are in the interest of Mother India. They uphold the integrity, unity and sovereignty of our country. Hence, I personally support these three Bills. महोदय, मैं अपने आपको खुशानसीब मानता हूँ, क्योंकि इन बिल्स पर मुझे बोलने का मौका मिला है। मैं एक अधिवक्ता भी हूँ और मैं स्थायी समिति का एक सदस्य भी हूँ, जिसको ये बिल्स रेफर किये गये थे और जिसके चेयरमैन श्री बृज लाल जी हैं, जिन्होंने अभी अपने भाषण में इनके बारे में विस्तृत रूप से बताया। साथ ही मैं गृह मंत्री जी को धन्यवाद दूँगा कि बहुत सारे प्रोविजंस, बहुत सारे सजेशंस, जो समिति ने दिये थे, उनको इन बिल्स में incorporate किया गया है।

Sir, Shri Brij Lal has already spoken and gone into details about the technical provisions of the Bill. I will articulate why I support these Bills by giving five reasons. First and foremost, the essence of these three Bills is justice, equality and neutrality. These are the three foundational pillars of our Constitution. Because of the constitutional norms and because we all believe in the Constitution of the country, which the hon. Prime Minister mentioned as the Bible of the nation, the Geeta of our nation, I support these three Bills. This is a tribute to the founding fathers of our Constitution -- Dr. Ambedkar, Sardar Patelji, etc. The second reason why I support these Bills is that this is a great step in moving away from the colonial hangover. In the three Acts -- IPC, CrPC and Evidence Act -- there were 475 mentions of colonial references like Her Majesty, Privy Council, Jury and Barrister, London Gazette, etc. So, at one stroke, these three Bills are completely doing away with all the vestiges

and signs of colonial hangover. Secondly, though the Indian Penal Code, 1861, CrPC, 1882 and the Indian Evidence Act, 1872 had 'Indian' in their names, but there was nothing Indian about them. Their soul was certainly not Indian. The names might have 'Indian' in them but the soul was of Great Britain. So, because the soul was not Indian, there was no trace of Indian culture, Indian tradition and Indian values. Through these Bills, सर, हम लोगों ने इनमें भारत की खुशबू लाने की कोशिश की है। The three Acts relating to criminal law which we have -- IPC, CrPC and the Indian Evidence Act -- were meant to perpetuate the colonial rule. They were meant to subjugate the Indian subjects into slavery and brutality. They were never meant to give justice to Indians; they were never meant for the good of Indians. So, these three Bills which will replace those colonial legislations will provide justice to our countrymen and will be for the betterment of our fellow citizens.

Sir, in IPC, you had offences, against the State and offences against public servants, preceding heinous crimes like rape and murder. That was the need of the colonial masters because they gave precedence to offences against them over offences against an Indian. But in भारतीय न्याय संहिता, crimes against women and children have been given precedence, particularly crimes against women and children. Section 124A on sedition has been done away with. सर, 'राजद्रोह' को हटाकर 'देशद्रोह' को लाया गया है, यह बहुत बड़ा परिवर्तन है। The Governments will come and go, but the nation will remain for an eternity. Nation first—that has been the philosophy of removing sedition and in place of sedition, we have incorporated a clause which upholds the unity and integrity of our country. By removing sedition from our statute book, in 124A, today we pay a tribute to hundreds and thousands of our freedom fighters who went to jail, who were sent to gallows because of the misuse of 124A by the colonial rulers.

The third reason why I support this Bill is that this is a great example of modernisation of our legal system. Our criminal justice system was obsolete, archaic; we all know. It was crying to be reformed. There was a desperate need to overhaul our laws, to modernise our legal framework, because the society has evolved from 1860, 1872. They are 160 and 170 years old laws. The society has evolved, social values have evolved, technology has become so prevalent. Today we have technology in pretty much, in every walk of life— be it education, health or agriculture, but not in the legal fraternity. So, there was a need to bring in technology to modernise our legal framework and these three Bills have done that.

Sir, Brijlalji has already spoken about many of the provisions where technology will be incorporated. Regarding digitization of the criminal justice process, the definition of 'document' has been expanded to include electronic digital records.

Digital electronic records have been made primary evidence under the भारतीय साक्ष्य बिल. Now inquiry trial can be conducted digitally. Electronic recording of a statement by the police is also permissible during investigation. The provision of e-FIR and Zero FIR have also been incorporated. The women will be the biggest beneficiary of this. We all know that women find it very uncomfortable to go to a police station to register an FIR. That is the reality. But, now, they can go for an e-FIR. They don't have to go to the police station. They can file Zero FIR. They can file FIR anywhere else wherever they are comfortable in filing an FIR and not necessarily in the police station under the jurisdiction of which the crime has been committed, and the FIR can be filed. This will eliminate the need to travel to the police station, particularly, greatly aiding our women. The new laws also prioritize the usage of forensic science in crime investigation. For any crime, for any offence, where the punishment is over seven years, it has now become mandatory for a forensic expert to be present at the scene of crime for investigation. This integration of technology and digital forensic science will allow the police to get critical information and help in increasing our conviction rate. Today, our conviction rate is one of the lowest in the world. The Government has often spoken about increasing this conviction rate to about 90 per cent. So, I strongly feel that this Bill will certainly help in increasing the conviction rate. Videography is now made compulsory at the time of search and seizure of any property. Again, this will help in protecting the fundamental rights of the citizen. Sir, organised crime, Clause 111 and petty organised crime, Clause 112 are great additions to the BNS.

Then on terrorism, I am shocked to state that previously there was no mention of terrorism. We talk of zero tolerance towards terrorism. We talk of zero tolerance towards terrorism, but we do not have a section in IPC where terrorism could be punished! How are we going to tackle terrorism, particularly cross-border terrorism, when we are surrounded by a very, very hostile neighbour? Crimes against women and children have been given stringent punishment under this new Bill. For gang rape, twenty years of imprisonment has been prescribed and for gang rape of a minor, death penalty has been prescribed. This will certainly deter heinous crimes against women and children.

Sir, the fourth reason why I support this Bill is because it will help in the timely dispensation of justice. We all know today that our courts are pretty much choked up. We have close to 70,000 court cases pending in the Supreme Court, close to 60 lakh cases pending in the High Courts. Over 4.23 crores cases are pending in our trial courts and district courts. It is often said, justice delayed is justice denied. There are numerous movies, numerous movie dialogues on this aspect. I am not going into the

details. You have been one of the finest lawyers of the country. You understand! Now, this legal provision will have strict timelines for the State, for the investigating agencies and also for the Judiciary. Sir, this is why I believe that this results in timely dispensation of justice. Trial in absentia is another great addition. This will help in bringing the fugitives, particularly the economic offenders who commit crimes in our country and then they abscond. They will be certainly deterred. And the final reason, Sir, why I support this Bill is because of the reformatory aspect, instead of the punitive aspect. See the name itself, it was called Indian Penal Code; but now it is Bharatiya Nyaya Sanhita, from punitive to justice. Sir, I would like to refer to Swami Vivekananda, who is one of the greatest gifts to mankind from our land, one of the greatest philosophers that the world has ever seen. And, he often spoke of the fact that each soul is potentially divine. That was Swami Vivekananda's philosophy. This underscores the intrinsic value of every person. This underscores the reformatory, the rehabilitative potential of every person. And this is what these three Bills speak about. Sir, regarding community service, instead of sending a person to jail for minor offenses, community service also has been prescribed as a form of punishment. This will not only decongest our prisons but also bring in some kind of social reformation, some kind of social aspect to our criminal justice system. This is a great addition. For the first time, community service has been prescribed as a form of punishment for petty offenses. And, I greatly welcome this. Sir, I would like to talk of Section 309 of IPC, punishment for attempt to commit suicide. A person takes the extreme step of committing suicide only when she or he is so mentally depressed that she or he finds no hope in living, in surviving. And, when that person fails in committing that, meaning fails in committing suicide, we then go on to punish that person! So, what kind of justice was this? I am surprised that even after 75 years, this Section was there in our IPC, in our statute book. Thankfully, I must really, really compliment the Government, Sir, that they have now done away with Section 309, attempt to commit suicide. This was already diluted through the Mental Health Care Act of 2017, but now it is also not there in our Criminal Statute Book. Highly commendable!

Sir, I have a couple of suggestions. One is that the Law Commission has, time and again, recommended that the ratio between judges and population in our country should be 50 per million. But today, the judges to population ratio in our country is only 19, which is one of the lowest in the world.

[THE VICE-CHAIRPERSON (SHRIMATI KANTA KARDAM) *in the Chair.*]

So, Madam, through you, I request the Government that they should seriously look into it and increase the number of judges, particularly in the trial courts, and also increase the number of policemen. Today, the global standard is about 220 to 225 policemen per lakh population. But, in our country, it is close to 150. We really need to increase the strength of our police force. Madam, today, 77 per cent of our prisoners are Under Trial Prisoners (UTPs). 77 per cent is a huge number. So, three out of every four prisoners is not convicted and as per law, he is innocent but still finds a place in the prison thereby congesting our prisons. So, not long ago, hon. President of India, Madam Droupadi Murmu also made an emotional appeal in this aspect while addressing the National Law Day Celebration.

3.00 P.M.

She lamented that "Many in India end up being in jail for years, for the slightest of crimes, or even when wrongly framed. They have little recourse; this needs to be fixed." This is from Madam President. So, I strongly urge the Government to look into the issue of UTPs (Under Trial Prisoners), crowding our prisons. Not only are they crowding our prisons, it is a violation of our basic fundamental rights. Every person has a right to be free unless proven guilty. So, this is something which I would appreciate the Government to look into. The third suggestion I have, Madam, is regarding the multiple FIRs. Madam, recently we have seen many cases. We had a recent case of Ms. Nupur Sharma. I am not getting into the merit of what she has said and whether there should be multiple FIRs in her name or not. But the fact that she had to face multiple FIRs in different parts of the country, that itself is problematic. That is why I suggest that there should be a provision in the Statute Book that there should not be any provision of multiple FIRs, because not only she faced unnecessary harassment of the accused, but also it delayed the criminal justice system.

My last suggestion is regarding the gender neutrality. There have been lot of positive aspects in the three Bills in respect of making them gender neutral as compared to the old ones. But, now that Section 377 is no longer there in the Statute Book and Section 375 of IPC which is the offence of rape, is not gender neutral. So, there is no way a person could be punished for raping a man and we know, Madam, that it happens, it happens in our prisons, it happens in hostels, it happens in other places also, men are routinely raped. But, there is no provision in our Statute Book to punish for rape of a man. Thankfully, there are provisions relating to the kidnapping of children, trafficking; these have been made gender neutral in the BNS, but, not the offence of rape. The Law Commission in 2000 and the Justice Verma Commission in

2013 had also recommended that offence of rape should be gender neutral. But, I am sad that this has not been done in BNS. I hope that this will be taken care of. Madam, finally, while, I am on the subject of criminal justice system, I would like to briefly talk about the judicial overreach or the judicial encroachment on the turf of the Parliament which is very dangerous for our Parliamentary Democracy. Madam, separation of power is an essential feature of our Constitution; Article 50 talks about 'Separation of Power'. The three organs of the Government have to work in their own respective domain. But, Madam, this fine balance between the Judiciary, the Legislature and the Executive is being routinely, I must say, routinely, being eroded and trampled by the Judiciary in the name of Fundamental Rights, in the name of Independence of Judiciary. There is unnecessary interference time and again by the courts in administrative matters. This is destroying the spirit of our Constitution and it is very, very dangerous for our democracy. Madam, the Judiciary wants to reform every aspect of the Government but itself. It wants to reform every aspect of the Government, but it does not want to reform itself. This is why we have such a large pendency of cases which the Judiciary has not taken note of. Madam, the Parliament and the State Assemblies, they reflect the will of the people of India, the sovereign will of the people of India. It is the duty, the mandate and the responsibility of the Parliament and the State Assemblies to make laws. The Judiciary at best can interpret those laws. But, the Judiciary has taken on to itself the task of making laws. Madam, the classic example was the National Judicial Appointments Commission Act of 2014. It was unanimously passed by both the Houses of Parliament. Two-thirds of the States ratified it. Madam, sixteen States ratified this Act, but, it was struck down by Supreme Court of India because the Supreme Court deemed that it was interference into the judicial appointments thereby violating the basic structure of the Constitution which is independence of Judiciary.

Madam, here I would like to quote former Finance Minister, late Shri Arun Jaitley, who called this the tyranny of the unelected. He had said in his words, 'If the elected are undermined, democracy itself would be in danger.' So, I will end by supporting these three Bills. I think they are extremely timely; they are in the interest of the nation. I have already stated my concern about judicial overreach, judicial encroachment into the working of the Executive and the Legislature. I hope that the good sense will prevail and the separation of power which is there in Article 50 of the Constitution will be respected by all the three organs of the Government, particularly by the Judiciary. Thank you.

SHRI S. NIRANJAN REDDY (Andhra Pradesh): Madam, I feel privileged that on this momentous occasion when we are revising the entire criminal law administration, I get to speak on behalf of my party and I am rising to support the Bill for a few reasons, which I will spell out one after the other. Madam, my first reason for our party supporting the Bill is the clear intent that the Government wants to show for the purpose of changing and improving the criminal law administrative system. When I say 'improve', there has been some criticism that the laws are mostly singular to the outgoing legislations in many areas. There has also been criticism that there has been a cut and paste job. I think this criticism is misplaced. I feel that when these old laws are being replaced, some of the provisions have been interpreted over a period of time. The courts have given now specific meaning to certain expressions. They culled out specific procedures that need to be followed and also built in certain safety. So, if those provisions are reincorporated when a new law is made, it will settle a lot of these provisions because some new provisions dealing with new offences are being introduced separately under the penal code. There are some new procedures being brought under the BNSS and there are some new Evidence Act provisions which are brought in under the new Act. But, then a lot of the provisions which are otherwise working well, if they are retained in the new provisions that are made, I don't agree with the criticism that this should have been repeated and there should have been a whole-scale change. The other criticism is that the old Acts could have been amended if only the Government wanted to introduce a few new provisions or a few new offences or new procedures. Now, this also, Madam, I don't agree with completely because what would happen is that if someone is making large-scale changes to existing laws, by the very numbering of the provisions, the amendments will make the Act unwieldy like the Income Tax Act when amendments were made, amendments were made where the amendments would start with a particular Section; it will start with 15(a), it will go up to 15 (z)(a); it will go to 15(z)(e). So, if we are making certain large-scale changes to the law, I commend the approach of the Government in bringing in a new law while retaining the essence of the old law wherever there is no difficulty. Having said this, I think, the revamp of the criminal justice administration is a journey. It is going to be arduous, but it needs to be earnest. I would want to compliment the Government on starting this journey well. It has not stood on a principle or ego because when these laws were introduced, in the first instance, Madam, what is redeeming for me personally is that the Government agreed to refer the matter to the Parliamentary Standing Committee which means the Government was willing to look at suggestions. The Parliamentary Standing Committee made certain recommendations. The Government, in my view, accepted

the correct recommendations. One of the recommendations of the Parliamentary Committee was contrary to the Supreme Court judgment. The Government was cautious; it did not accept that recommendation because it understood that the law has been interpreted in a particular manner. So, one of the recommendations was not accepted. Not only that, when the Bill was passed in the other House yesterday, the Government made two further changes because the Government received a proposal from the medical practitioners that some of these provisions may affect the medical practitioners without any intention. So, the Government is exhibiting keenness where it wants to keep improving.

Now, that is a great position to start the revamp of a law because, as I said, the journey will have to be humble, it will have to be earnest, it will have to be by the people who are not standing on ego and I am very glad that this Government has shown an openness and willingness for the purpose of making further changes. I believe that the old method of making laws has now fundamentally undergone a shift. Earlier, society would move at a very slow pace. So, if a law was to be made, the law would hold good for twenty years, thirty years, but in the current situation where developments happen so fast, the approach may need to be one where the Government may have to come up with many iterations of the law. So, if this is the first step in bringing in the law, so long as the Government is alive to any evolving developments and is making changes accordingly, then, we would be having a first rate law which the Government is proposing to start and it has started on a good note. Just to give an example, from the time this Act was originally proposed to that Bill being discussed before the hon. Parliament, the Government was not looking at a situation of a deepfake. Now deepfake even under the current amended law would have to come possibly within the meaning of forgery only. There is no separate offence for deepfake. Luckily we had a provision under the IT Act and rules which make adequate provision for punishing people who are resorting to deepfakes. While this, in my view, would also be a penal offence, the penal offence is being addressed by virtue of the IT Act being capable of roping in such a mischief. So, some of these new developments that may happen would need to be incorporated into our laws from time to time. For instance, I also find that while we have taken care to bring in snatching of mobile phones or movables as an offence, we would still have to go back to the IT Act for the purpose of a data theft. Someone may not steal the mobile, but someone may actually be stealing the entire data from the mobile. Now, this may possibly come within the meaning of theft which is very broadly defined under the old IPC and also under the new enactment, but there is no separate offence which deals with data theft. Now, as we go forward, there may be further developments that may

happen where the law may have to be amended for the purpose of incorporating this. So, I have a suggestion for the Government. In the insolvency regime, we have a permanent committee which is called the Insolvency Law Committee. The Law Committee constantly looks at the developments in the field; it looks at development in the courts and it constantly keeps making recommendations to the Government that if a particular provision is introduced or if a particular explanation is added, it may clarify the position and the Government has been making these changes in the Insolvency and Bankruptcy Code from time to time. Now that deals with a simple law in the relative context of the criminal, administrative laws that we are looking at, and in that narrow space, that law has been very throbbing and has been alert to the needs of the society because of the Insolvency Law Committee being a permanent body that continues to make recommendations. So, the recommendation that I have for the hon. Home Ministry is, the Government may consider having a permanent committee which could be headed by the people who are experts in these areas, who would also get a feedback from the stakeholders, from the lawyers, from the judges, from the litigants and then see how some courts are interpreting some of these provisions because some of the interpretations may go contrary to the spirit with which the law has been made. A small addition, a small alteration, a small explanation may make huge difference. This is one of my suggestions for the Government because this would make the law nimble, agile and it will be very quick to react to whatever is needed of the society. The next point that I wish to make is, a lot of new provisions that have been made were previously not covered. So, the Government is moving in the direction of identifying some of their 'mischiefs' which have been left out where the Government wants to arrest them. The Government has incorporated a lot of things like organized crime, petty organized crime, terror has been defined and there is an offence relating to endangering unity, integrity and sovereignty of the country after repealing the sedition law. What I find, Madam, is: While we are making provision for dealing with offences like this, the Acts, possibly, at this point, fall a little short of defining these terms and confining the meaning of these terms.

What has happened is: When criminal laws use expressions that are very wide, the courts all over the world, including the Supreme Court, have consistently taken a view that if an expression is not clearly defined, it may start affecting persons and citizens who are not originally intended to be captured within the provision of 'mischief.' This makes law excessively broad. It may then become vague. And, it may, therefore, be struck down. Madam, we have had one provision of the IT Act which has been struck down on this theory. I fear that some of these provisions are going to be challenged in court. And, therefore, it may require, as I say, a further

iteration. It may require, at some point of time, Parliament to step back and give a clear definition, so that these expressions are confined to the areas that they are intended for. This is, again, a suggestion, so that we don't wait for many years to pass and for a court to eventually define how a particular term must be understood. It is because the entire area of defining what the term will mean is, essentially, within the domain of the Parliament. And, I think, it is the right thing we need to exercise, rather than leave it to court to interpret because of gap in legislation. I am not, at this point, suggesting that there are gaps that cannot be filled. I am only saying that law can be improved with further iterations after hearing the stakeholders.

I move on to the next point. Another reason why we support these Bills is the idea to quicken the criminal justice process system. We have, in these Bills, about courts, the manner in which an FIR will be lodged, a final report will be filed and the additional time that will be granted. All of this is good. The idea is noble. But, it comes with a set of challenges. Madam, I wanted to apprise the Government that it is wanting to have a very fast train, but the rails, the infrastructure, are creaking. Madam, I appear in courts regularly when I am not here and I have heard Judges complaining, including in the NCLATs, Commercial Courts and other regular courts, they are working in most subhuman conditions, because they have no assistance. They do not have a stenographer. Judges are writing 80-120 pages by hand, because judgment will have to be delivered under the CPC within 30 days after the matter is reserved. Now, we have made a provision that a judgment will need to be delivered within 45 days. But, I have serious doubts whether infrastructure would enable the coming into effect of this clear noble intention of the Government. Madam, I also have a suggestion here. The suggestion is this. The Central Government will face difficulty because the courts are in the domain of States; it is the States that will have to make provision for having adequate infrastructure. The Centre will not be able to sit on States' head. And, we, sitting in the Council of States, would not wish that the Centre should impose more than necessary. If that is so, one of the ways the Central Government could consider is to ensure that its intent is to have a first-rate criminal justice administration in the country. It wants to give effect to it without States falling behind on providing infrastructure. It can possibly be done by providing certain incentives like the Finance Commission does when States meet certain targets, be it in the power sector, be it in the education sector or solid waste management. Madam, whichever State ensures that they are doing it, the Finance Commission is granting a higher share to the States. So, if the legal reforms are also going to be included, specifically with reference to criminal law justice infrastructure, then this Act and the intent that it seeks to achieve can easily be accomplished. Otherwise, this

might remain on paper. Madam, we all know that the Representation of People Act says that any election appeal in the High Court must be decided within six months. The law makes that provision. But, we see that it rarely ever happens. Lucky are those legislators whose cases are decided before the person who won completes his term. The election petitions are now stretching for four to four-and-a-half years. So, while we may make a provision that a judgement must be delivered within 45 days, I am foreseeing some difficulties on the operational side because of the infrastructural deficiencies. So, that may need to be attended to in order to give complete effect to this law.

Madam Vice-Chairman, then, I have a suggestion to make with regard to the provision of forensics that has been included. Clause 176(3) of BNSS is a very important provision. The Government has also taken a very practical view. The Government notes that it may not be possible to operationalize this forensic study being conducted unless an adequate infrastructure is built up. So, the provision says that it will come into effect from a date to be notified by the State Government within five years. Now, in these five years, the forensic infrastructure may need to come in. But, I find one lacuna here. And, this may have to be addressed separately, not through the criminal justice system. The forensic science and forensic study in India does not have any regulator, like for the medical institutions and other institutions. So, a regulatory standard may need to be set up and accreditation, which will recognize, may have to be provided. So, my suggestion would be that the Government make an appropriate provision for ensuring that the forensic framework is put into place.

[THE VICE-CHAIRMAN (DR. C.M. RAMESH) *in the Chair.*]

Sir, there is one other area that the Government may have to consider and the IT Ministry of the Central Government has been doing a fantastic job in this regard. For the purpose of criminal investigation, we now enable the collection of biometric data by the investigating agency and by the court. The Supreme Court says that this is permissible. So, there is no problem about the legality of the collection of some of this data. But, the issue would be where this data would be stored. How safe would this data be with the police and with the courts? How would the issues of privacy be covered? So, these are some aspects that may need to be considered. Once these provisions kick in and they start operating from whatever date is notified by the State Government.

Sir, then, I move on to certain aspects because we are dealing with a set of three different laws. I am just going in a seamless manner from one Bill to another in relation to the criminal justice machinery. I now come to the concept of fair trial and the right of an accused. When I say 'accused', I am not speaking about a person who is convicted or guilty; I am speaking of a person who is accused of a crime. And, our law proceeds on the presumption that every accused will be deemed to be innocent until he is proven guilty. So, an accused person, who is facing a charge, starts off with this presumption in his favour. We have had a very famous saying by one Russian writer, Fyodor Dostoevsky, who said, "The mark of the development of a civilization is not from the way it deals with the people who have achieved well in the society. In a way, it deals with the criminals of the society." Sir, with these philosophies in mind, I have three quick suggestions. On the aspect of bail, I find that a majority of the old provisions have been carried out. It is salutary because the Supreme Court has interpreted these provisions to say that 'Bail is the rule, while jail is the exception'. But, because our justice system was not very good we have noticed a tendency over a period of time that courts are hesitant to grant bails in any matter where it thinks that the accusation is grave because several of these matters were resulting in acquittals because of witnesses turning hostile or the evidence not being properly placed before the court.

Sir, once the changes are made; once we bring in forensics; once we have a better administrative system, we should slowly now start moving towards the developed countries where the criminal justice system clearly adheres to the belief that a person will be released on bail once he provides adequate security and he will not interfere with criminal trial. And, his punishment will start after he is convicted by the court and not by putting him in jail or not granting him bail even before he is found to be guilty. In many cases, Sir, we see if a person is in jail for six months or one year, and eventually, it is found that he is actually acquitted; then the civil liberty can never be brought back.

THE VICE-CHAIRMAN (DR. C.M. RAMESH): Please conclude, Shri Niranjan Reddy.

SHRI S. NIRANJAN REDDY: How much time is left?

THE VICE-CHAIRMAN (DR. C.M. RAMESH): You had been allocated nine minutes. You have spoken more.

SHRI S. NIRANJAN REDDY: Sir, I will try to finish as quickly as I can.

Sir, while the bail has been liberalized, there is one area that the Government may have to consider. Clause 479 in sub-clause (ii) says that the benefit that the Government wants to give of half the term being already spent in jail and one-third, if it is not punishable with life or death, the person is entitled to be granted bail. The sub-clause (iii) of Clause 479 says that the above provision will not be applicable if the person is guilty of more than one offence or is involved in more than one case. Even if a person is accused of only one offence, many times we see that in the FIR they list out four or five offences. So, even a first time offender, in the first FIR registered against him, will have more than one offence mentioned against his name which will deny him the benefit of the bail that is provided under Clause 479 of the BNSS.

The third of the issues relating to the rights of accused is in relation to handcuffs. While Clause 43(3) specifies that it will be done only in some serious cases, the Supreme Court has clarified that this is ordinarily treated to be inhuman. It must not be resorted to except in exceptional cases. Sir, I want the Government to lay down clear guidelines. It is not that whoever is accused of that variety of offences need to be brought to the court in handcuffs. Sir, I have been in criminal courts. Sometimes, when there is a grave offence and an offender is brought before the court, it is quite scary. Sometimes, it gives us confidence when we see if that person is handcuffed, but this would be extremely rare case where that kind of protection may need to be granted. So, the Government may have to come up with some guidelines in the cases where handcuffing will be permitted.

On the provisions now introduced, the salutary feature of community service, I will make just two quick points. What will qualify as a community service? The types of community services are not specified. This would leave it to the discretion of the Magistrate. The Magistrate will decide what will be community service. Is it sweeping the road, is it manning a public duty at a traffic light or is it something else? So, the Legislature may have to step in; the Parliament may have to come in for the purpose of indicating what are the types of community service that can be imposed by the court. The discretion will be with the court, to impose which of the appropriate punishment. Also, Sir, if the punishment is to be the community service, the Bill does not make a provision as to the length for which community service needs to be imposed. So, if someone is guilty of theft of less than Rs. 5,000/-, it cannot be that he will be asked to undergo community service for three years. That will be worse than him facing punishment for that offence, which may be very small.

Sir, then, I have two-three other suggestions for making this even more workable. We find that the Supreme Court of India is inundated with bail petitions,

anticipatory bail petitions and quash petitions - either for grant or someone challenging the non-grant of a quash order. Sir, this is happening because the old Cr.P.C. provided that all this — bails, anticipatory bails and quash petitions — will be heard by a single judge of the High Court. There is no intra court appeal provided under Cr.P.C. So, in the writ jurisdiction or on the civil side, there are a few appellate provisions which say that the appeal would lie before a single judge of the High Court to a Division Bench. In the new law, if we are able to bring a provision which will say that there will be an intra court appeal in relation to bails and quash petitions, almost 80 to 90 per cent of the people will get their justice in the Division Bench. Either they win or they lose. A very few cases will come up to the Supreme Court. It will not clog the Supreme Court. Otherwise, the Supreme Court is now left with dealing a lot of these matters and it is not able to focus on the more serious and important issues.

Sir, my friend, hon. Member, Shri Sujeet Kumar, had spoken about multiple FIRs. Sir, I find that we will still be having the same problem that for one particular incident, multiple FIRs can be filed in multiple jurisdictions. Sir, I will take only two more minutes. We have not made a provision which says that if an FIR relating to that particular offence, if an FIR relating to the same offence is already registered and if that is brought to the notice of the second registering police station, the police station must cease any further action. This provision is missing. As I mentioned in the earlier part of my address, if there are going to be repeated iterations, and that will be the way we will keep improving, some of these things can be addressed. Sir, I also noticed in Clause 173, when an FIR is to be registered, the Government wanted to ensure that the non-guilty people are not harassed. So, Clause 173(3) says that a particular police officer may take 14 days for the purpose of conducting a preliminary enquiry. But, strangely, Sir, that is only fixed for offences above three years and below seven years. So, if it is an offence below three years, there is no provision today for conducting a preliminary enquiry. Sir, we also need to consider whether this Clause 173(3) providing for a preliminary enquiry should be for all such offences because it may mean that FIR is not registered for 14 days at a go.

Sir, the last of my suggestions.

THE VICE-CHAIRMAN (DR. C.M. RAMESH): Please conclude.

SHRI S. NIRANJAN REDDY: Yes, Sir, this is the last of my submissions.

Clause 1 of each of the Bills nomenclatures the Act as 'BNS, BNSS and BSA.' Sir, I am using these abbreviations because I am not comfortable with the language. Coming from Hyderabad, I can speak a bit of Hindi. But even I am not comfortable

with this language. The Constitution provides that the Acts and the text of the Act which includes the name of the Act in Clause 1 ought to be in English. I respect that, possibly, we are trying to move away from a colonial hangover and a past. We want to signal a clear sign that this is our own home-bred, our own cultured law. This can be easily achieved without affecting the sanctity of the constitutional provision by saying that this will be called so-and-so, so-and-so in English and also called so-and-so and so-and-so. So, the two names, if they are mentioned, what may happen is, in any event, the language of the court will be the language that the courts are using. The Act becomes much easier. After spending so much time, Sir, I have had this request from a lot of my lawyer friends who keep requesting that when I get to speak on this Bill, I must make a request to the Government to please include both the English and Hindi titles for this Act so that the Act will be easily operational.

THE VICE-CHAIRMAN (DR. C.M. RAMESH): Okay.

SHRI S. NIRANJAN REDDY: Sir, I thank you for the opportunity. I conclude by saying that my Party entirely endorses the approach. We want to go along with the Government and keep improving the Bill. My suggestions are constructive. Sir, I would request the hon. Home Minister to consider these suggestions. We support the Bill fully.

THE VICE-CHAIRMAN (DR.C.M. RAMESH): Thank you. Shri Kartikeya Sharma.

SHRI KARTIKEYA SHARMA (Haryana): Thank you, Mr. Vice-Chairman, Sir, for allowing me to speak on this historic piece of legislation. I stand to speak in support of the Bill.

Sir, in the year 1834, the first Indian Law Commission was constituted under the Chairmanship of Lord Macaulay which gave birth to the Indian Penal Code in 1860. The Indian Evidence Act was enacted in the year 1872 with a view to consolidate the law relating to evidence. The Code of Criminal Procedure, 1973 regulates the procedure for arrest, investigation, inquiry and trial of offences under the Indian Penal Code and under any other law governing criminal offences.

Sir, these key provisions which form the basis of the justice delivery system in India have been antiquated and are age-old. When the British came to India, the original and the only purpose was colonization of the mind since they believed that if the mind was colonised, they will not need long-standing armies to colonise the natives.

According to the British historian, Elizabeth Kolsky, the main idea was that the British felt that the natives and the colonials needed different set of laws under which they were governed as they felt the native was incapable of appreciating the rule of law and hence needed stringent laws to be governed. That explains the idea behind the Criminal Tribes Act and the Thuggee Act, which were based on the concept of hereditary criminality, which the British believed was inherent in the natives. Present laws, as they stand, reek of a colonial hangover. It still reminds us of the times when the British were ruling us, and they continue to rule us through these Acts, written by them for them. These Acts were formulated at a time when the population of the country was about 20 crores. The population today is seven times as compared to that. The previous Acts were designed to serve the Crown and its officers at the cost of the Indian society and resources. The Acts were not only exploratory in nature, but far, far away from any kind of justice. It was a result of these inefficiencies that the criminal justice system ended up creating an atmosphere of distrust in the minds of the citizens who remain largely apprehensive of finding any justice after suffering.

Sir, due to the changing nature of the society, its attributes, its elements, the laws have become obsolete and fall short in encompassing the overall picture of the society and the needs of the prevailing systems of justice at large. A need was thus felt, for a long time, to overhaul this mechanism and make it more contemporary and inclusive of the existing constructs. The new proposed laws reflect the Government's intention to align the legal system with the 21st Century, emphasizing citizen-centric legal structures, digital transformation and a focus on justice rather than punishment.

Sir, the context in which these Acts have been introduced is very, very important and while discussing these, we should not miss the wood for the trees. The intent is to create an ecosystem of justice delivery, which is not procedure-oriented but justice-centric. I would like to quote a couplet by Shri Dushyant Kumar, which sums up this entire scenario in a very good way.

*"कैसे मंजर सामने आने लगे हैं, गाते-गाते लोग चिल्लाने लगे हैं,
अब तो इस तालाब का पानी बदल दो, ये कमल के फूल कुम्हलाने लगे हैं।"*

Sir, many voices have been raised, questioning the need and significance of these Bills. I want to substantiate my arguments as well as the need for a total reform of the justice delivery mechanism with a few data points. Almost 4.5 crore cases are pending in various district courts in India. About 1.2 crore cases are pending for more than five years. About five lakh cases are pending for more than 25 years. About 40 per cent of these pendencies are due to the fact that either the records are awaited or

due to the non-availability of counsel. If one finds this data worrisome, the pendency report of the High Courts is even more worrisome. Almost 70 lakh cases are pending of which 60 per cent are pending for more than five years. The average time in which a decision is likely to be made in a subordinate court is nearly six years. Sir, Chandrayaan-3 reached the Moon in 40 days. And if your case moves to any of the higher courts, ten years is the average time to get justice. The average number of hearings, the turnaround time between two hearings and the case load is extremely high. So is the cost of litigation as well as the man-hours lost while attending these hearings. The two combined leads to a loss of, at least, one lakh crore rupees. Moreover, the High Court Judges are severely under pressure. They just get, on an average, five-six minutes to hear a case. Sir, justice delayed is justice denied.

Sir, I would also briefly talk about the undertrials. Almost 78 per cent of our 5.5 lakh prisoners are persons whose cases are being decided by the courts. This was about 55 per cent in 1975. Today, this is 78 per cent. About 30 per cent of these have been in prisons for more than a year. For every ten prisoners in India, only two have been convicted for a crime. With a yearly average conviction rate of about 40 per cent, our justice system would have kept imprisoned over three lakh innocent people. We often read about reports where an undertrial has been kept imprisoned for periods longer than the punishment itself. People have been acquitted of their cases after spending decades in prisons. And not just this, Sir; the fight for justice is almost often a fight with the justice delivery system. For the victims, it is even more agonising - the high cost of litigation, frequent adjournments, complexity of laws, procedural overburden, de-humanising ecosystem, multiple agencies, corruption, judicial fatigue and what not! These remedies had become more painful than the disease itself. The path to justice is like the proverbial आग का दरिया and it is the vision and leadership of our Pradhan Mantri, Shri Narendra Modi ji which has resolved to transform this आग का दरिया into न्याय की पवित्र धारा। And for that, I cannot thank him and the hon. Home Minister enough. In this backdrop, the introduction of the Bhartiya Nyaya Sanhita, Naagrik Suraksha Sanhita and Sakshya Sanhita to replace the existing archaic laws, the IPC, Cr.P.C. and the Evidence Act, is a welcome move and an idea whose time has come. I would like to quote John F. Kennedy who says, "Change is the law of life and those who look only to the past and present are certain to miss the future." I would like to throw some light on the key provisions of these Bills and how they are an improvement over the existing provisions.

The Bhartiya Sakshya Sanhita is to replace the Indian Evidence Act. The antiquated Indian Evidence Act, 1872 is an obsolete solution to problems of a bygone era. Evidently, the Act has not adapted to evolving criminal activities and lacks

modern criminology practices. Attempts to address this through amendments proved insufficient, indicating the need for a comprehensive overhaul. The Bharatiya Sakshya Bill, 2023 aims to streamline evidence rules for a fair trial. It omits outdated colonial references and procedures from the 1872 Act. The proposed legislation aims to tackle issues in the current legal system, such as its complexity, high case backlog, low conviction rates, insufficient fines for crimes, over-crowded prisons, limited use of modern technology, delayed investigations, intricate hearing processes, inadequate forensic evidence utilisation, and delayed justice delivery for the underprivileged. Amongst the many changes introduced in the Bill, I would like to highlight two key changes. The first is, removal of British references from the Bill to align the Bill with the ethos of Bharat. The words like 'Parliament of the United Kingdom', 'London Gazette', 'Lahore', 'United Kingdom or Great Britain and Ireland', 'Her Majesty or by the Privy Council', 'Her Majesty's Dominions', etc., have been deleted. Section 166 relating to the power of Jury to put questions, etc., has been deleted as jury system has already been abolished in India. The terms like lunatic, unsound mind, etc., have also been done away with. The second point that I would like to highlight is the use of technology and digital means in processing evidence.

THE VICE-CHAIRMAN (DR. C.M. RAMESH): Please conclude. Your allotted time is over.

SHRI KARTIKEYA SHARMA: I seek your guidance. I am the only Member representing the Independents in the House. So, I seek time to complete my speech.

THE VICE-CHAIRMAN (DR. C.M. RAMESH): Please conclude.

SHRI KARTIKEYA SHARMA: The Bharatiya Nyaya Sanhita is to replace the Indian Penal Code. The age-old IPC, which is almost 150 years old, is plagued with a lot of shortcomings such as complex nature of the legal system, huge pendency of cases in the Courts, low conviction rate, the amount of fine prescribed in the laws being very less, overcrowding of under-trial prisoners in prisons, very little use of modern technology in the legal system, delay in investigation, complicated investigations, pending hearing process and delayed justice due to inadequate use of forensic evidence, etc. All these led to demands for a total reform of the justice delivery system. Reports from various bodies like the Law Commission of India, Vishwanathan Committee and Malimath Committee proposed specific amendments to criminal laws and broader reforms in the criminal justice system. The Bharatiya Nyaya Sanhita has

been introduced as a reform, and not as an incremental change. I want to come to a few crucial provisions of the Bill. The offences against women and children, murder and offences against the State have been given precedence in the Sanhita, which was very much required. Transgender has been defined in accordance with the Transgender Persons (Protection of Rights) Act, 2019. Community service has been introduced as one of punishments. Much needed mob lynching shall meet with life imprisonment. As the instances of hit and run cases -- again a very needed law -- are on the rise, a new provisions under Clause 104(2) has been made. Section 124A of the IPC relating to sedition has been deleted. The Bharatiya Nyaya Sanhita, 2023, introduces provisions for contemporary offences like economic crimes, organised crimes and cyber crimes, ensuring adequate safeguards for public order, safety and India's integrity, mandated by Parliament with democratic approval. Compared to the IPC, the BNS is more organized. Now, coming to the Bharatiya Nagarik Suraksha Sanhita, the proposed legislation seeks to repeal the CrPC, 1973, introducing technology and forensic science in crime investigations. It sets timelines for investigations, trials and judgments. Citizen-centric measures ensure prompt access to the First Information Report and digital updates on investigations. Summary trials are mandatory for minor offences and electronic means, like video conferencing, may be used for examining the accused persons. The BNSS stipulates that information about the arrest of a woman must be provided to her relatives, friends or designated individuals. It sets the timeframes for the completion of investigations, with provisions for extensions under certain circumstances. The Sanhita provides acceptance of trials in electronic mode, as provided in Clause 532, wherein all trials, inquiries and proceedings may be held in electronic mode.

Sir, I will be concluding very shortly. As one enters the magnificent building of the Supreme Court of India, one is greeted by the following Sanskrit phrase inscribed on its logo: "यतो धर्मस्ततो जयः", which is literally translated as, "Where there is Dharm, there will be victory." This phrase occurs eleven times in the *Mahabharata*. The underlying idea conveyed is, obviously, that the ultimate victory is that of Dharm. Dharm should be preserved and those who preserve and protect Dharm, shall be protected in return - "धर्मो रक्षति रक्षितः".

India, as a society, and its various political, social, economic and constitutional bodies, have always pivoted on being enablers of Dharm. The three 'Sanhitas' have been drafted with the intent of being "धर्मसंगत" as well as being "न्यायसंगत". With the passing and implementation of these three truly Bharatiya codes, our criminal justice system shall truly transform to being victim-centric and justice-centric.

It shall move ahead from the one presently restricted to implementation of laws and will become qualified with attributes of Bharatiyata, nagarik suraksha, nyaya and will lead a way for real *swa-raj*. For the first time in the last 75 years, the leadership of our hon. Prime Minister has ensured that we move from India to Bharat and from 'penal' to 'Nyaya'.

भारतीय होने का गौरव, संस्कृति पहचानने का गौरव, सामाजिक व्यवस्था का गौरव, न्यायप्रद नीतियों का गौरव, विकसित भारत का गौरव और विश्वगुरु बनने का गौरव - ये सब हमें पिछले नौ सालों में सरकार में मिला है।

Towards the end, I just want to thank the hon. Prime Minister and the hon. Home Minister for endowing the responsibility and opportunity upon us Members, to discuss and pass these historic Bills. It is rather sad that few of our colleagues, who could have participated positively in this debate, chose not to. To them, I wish to tell a quote by Bashir Badr:

"नए दौर के नए ख्वाब हैं, नए मौसमों के गुलाब हैं,
ये मोहब्बतों के चराग हैं, इन्हें नफ़रतों की हवा न दें।"

Thank you, Sir.

श्री विजय पाल सिंह तोमर (उत्तर प्रदेश): उपसभाध्यक्ष महोदय, आपने मुझे भारतीय न्याय संहिता, 2023, भारतीय नागरिक सुरक्षा संहिता, 2023 एवं भारतीय साक्ष्य विधेयक, 2023 पर बोलने का अवसर दिया है। इसके लिए आपका धन्यवाद।

[उपसभाध्यक्ष (श्रीमती एस. फान्गानॉन कोन्याक) पीठासीन हुईं।]

महोदया, मैं इन तीनों बिलों के पक्ष में बोलने के लिए खड़ा हुआ हूँ। हमारे देश के यशस्वी प्रधान मंत्री श्री नरेन्द्र मोदी जी ने 2019 में लाल किले की प्राचीर से पांच संकल्प किए थे, जिसमें एक संकल्प यह भी था कि गुलामी के प्रतीकों को हटाने का काम करेंगे। माननीय मोदी जी जो संकल्प करते हैं, उसको सिद्धि तक पहुंचाने का काम करते हैं। उन्होंने चाहे रेस कोर्स रोड का नाम लोककल्याण मार्ग रखा हो, चाहे राजपथ का नाम कर्तव्य पथ रखा हो, चाहे धारा 370 को समाप्त करने का मामला हो, चाहे महिला आरक्षण का मामला हो, चाहे ट्रिपल तलाक को समाप्त करने का मामला हो और चाहे इंडिया गेट पर सुभाष चंद्र बोस की प्रतिमा लगाने का मामला हो, उन्होंने जो कहा, वह किया। मैं इतना बताना चाहता हूँ कि प्रधान मंत्री जी के नेतृत्व में माननीय अमित शाह जी, जो हमारे गृह मंत्री हैं, उन्होंने तीन पुराने कानूनों को, जो करीब 150 वर्ष पहले ब्रिटिश की संसद ने पास किए थे, बनाए थे, उनको समाप्त करने के लिए यह बिल लाने का काम किया है।

महोदया, 1857 का जिक्र आया, मुझे गर्व है कि जहां से 1857 की क्रांति की शुरुआत हुई, आजादी के प्रथम स्वतंत्रता संग्राम की शुरुआत हुई, वह मेरी जन्मभूमि, वह मेरठ की भूमि, जहां से इसकी शुरुआत हुई थी, वहां पर फौज बैरक से बाहर निकल गई थी, उसने जेल के फाटक तोड़

दिए थे, वहां पर धन सिंह कोतवाल थे और सारे अंग्रेज़ अधिकारियों की या तो हत्या कर दी गई थी या वे कहीं जाकर छिप गए थे। हालांकि देश के अन्य प्रदेशों में भी कई हिस्सों में वह आंदोलन चला था। मंगल पांडे जी ने बैरकपुर से यह आंदोलन चलाया था और तात्या टोपे, झांसी की रानी लक्ष्मीबाई ने स्वतंत्रता आंदोलन में भाग लिया था। अभी बताया गया कि मातादीन वाल्मीकि ने आंदोलन में भाग लिया। हजारों, लाखों लोग उस आंदोलन में शहीद हुए थे। मेरठ में जिस पांचली गांव के धन सिंह कोतवाल थे, उस गांव को अंग्रेजों ने बागी घोषित कर दिया था। बहुत लोगों को घेरकर उन्हें फांसी पर चढ़ाया गया, उनकी गोली मारकर हत्या कर दी गई। एक भामोरी गांव, मेरठ में है, वह मेरे क्षेत्र में पड़ता है, जहां से मैं एमएलए था, वहां पर पंचायत करते हुए 7 लोगों को अंग्रेजों ने गोली मारी थी। उस समय उनके पास उनको सजा देने के लिए कानून ही नहीं था।

महोदया, मैं पिछले चुनाव में फतेहपुर जिले में गया था, तो वहां पर मुझसे कहा गया कि मुझे एक शहीदी स्मारक पर जाना है। वहां पर बिन्दकी विधान सभा के अंतर्गत 51 इमली के नाम से शहीदी स्मारक है। वह अच्छा स्मारक बना हुआ है। मैंने उसके बारे में पूछा कि क्या हुआ था, तो मुझे बताया गया कि 51 लोगों को एक साथ फांसी देने के लिए इस पेड़ पर लटकाया गया था। इसीलिए यहां पर 51 इमली के नाम से शहीदी स्मारक बनाया गया है। उस समय भारतीयों को इस तरह की सजा दी जाती थी। अंग्रेजों ने अपनी सुरक्षा के लिए, रक्षा के लिए और भारतीयों को दंड देने के लिए, जो तीन कानून बनाए थे, उनको समाप्त करने का काम हमारे मोदी जी की सरकार ने किया है। मैं उन तीन कानूनों के बारे में आज बताना चाहता हूं। पहला कानून इंडियन पीनल कोड था। इंडियन पीनल कोड, 1860 में अस्तित्व में आया था और दूसरा क्रिमिनल पीनल कोड, जो 1898 में अस्तित्व में आया था तथा तीसरा एविडेंस ऐक्ट था, जो 1872 में अस्तित्व में आया था। ये तीनों कानून अंग्रेजों की रक्षा के लिए थे। उनका उद्देश्य दंड देना था, लोगों को न्याय देना उनका उद्देश्य नहीं था। इसीलिए नए तीनों कानूनों को लाने से पहले हमारे माननीय गृह मंत्री जी ने 18 राज्यों और केंद्र शासित प्रदेशों, सुप्रीम कोर्ट के जजों, हाई कोर्ट्स के चीफ जस्टिस, न्यायिक अकेडेमी, 22 यूनिवर्सिटीज, 142 सांसदों, 272 विधायकों सहित तमाम लोगों से सुझाव लिए और 4 वर्ष तक इन पर गहन विचार-विमर्श हुआ। इसके संबंध में करीब 158 बैठकें हुईं, उनमें माननीय गृह मंत्री जी स्वयं उपस्थित रहे थे।

महोदया, मैं बताना चाहता हूं कि इन कानूनों को लाने से पहले पूरी तैयारी की गई थी, करीब 4 साल का समय इनमें लगाया गया था। इनको होम मिनिस्ट्री की स्टैंडिंग कमेटी में भेजा गया था, जैसा कि अभी बताया गया था, उनके भी सुझावों को इसमें शामिल करने का काम किया गया, तब यह इंडियन पीनल कोड की जगह भारतीय न्याय संहिता, 2023 के रूप में आया। सीआरपीसी की जगह भारतीय नागरिक सुरक्षा संहिता, 2023 आया और जो एविडेंस ऐक्ट था, उसकी जगह पर भारतीय साक्ष्य विधेयक, 2023 आया।

महोदया, जो इंडियन पीनल कोड है, उसमें पहले 511 धाराएं थीं, लेकिन अब उसकी जगह पर नये कानून में 358 धाराएं होंगी, इसकी 175 धाराओं में बदलाव किया गया है, 22 नई धाराएं जोड़ी गई हैं और 19 धाराओं को निरस्त करने का काम किया है। मैं बताना चाहता हूं कि सीआरपीसी, 1898 के स्थान पर भारतीय नागरिक सुरक्षा संहिता, 2023 लाई गई है। इस बिल में अब 533 धाराएं हैं, 160 पुरानी धाराओं में बदलाव किया गया है, 9 पुरानी धाराओं को निरस्त किया गया है। तीसरा, एविडेंस ऐक्ट, 1872 है, इसके स्थान पर भारतीय साक्ष्य विधेयक, 2023

लाया गया है। अब इसमें 167 धाराओं के स्थान पर 170 धाराएं होंगी, इसकी 23 धाराओं में बदलाव किया गया है और इसमें एक नई धारा जोड़ी गई है तथा 5 धाराओं को निरस्त किया गया है। ये तीनों कानून जो ब्रिटिश की संसद द्वारा पारित किए गए थे, वे गुलामी के प्रतीक थे, उन्हें समाप्त करने का काम हमारे गृह मंत्री जी ने और वर्तमान सरकार ने किया है।

महोदय, जो दस्तावेज़ थे, उनकी परिभाषा को विस्तार से electronic या digital, refined e-mails, server logs, computer, smart phone, laptop, SMS, website, locational evidence device, उपलब्ध मेल पर मैसेज आदि सभी को कानूनी वैधता देने का काम किया गया है, जो कि आज के इलेक्ट्रॉनिक युग में बहुत जरूरी था। एफआईआर से केस डायरी तक, केस डायरी से चार्जशीट तक और चार्जशीट से जजमेंट तक की सारी प्रक्रिया को digitize करने का काम इस कानून में किया गया है। महोदय, सर्च और ज़ब्ती के बारे में अभी बताया गया था। जो false and forged recovery दिखा दी जाती थी - मैं हर केस में देखता था कि एक कट्टा मिला, दो कारतूस। पुलिस की इस तरह की एक आम धारणा बन गई थी, क्योंकि वे अपने पास से रखते थे, लेकिन अब यह false and forged recovery नहीं होगी। जो भी रिकवरी होगी, उसकी वीडियोग्राफी होगी - इस बात को अनिवार्य कर दिया गया है। अब वह केस का हिस्सा होगी और यदि पुलिस द्वारा ऐसी रिकॉर्डिंग के बिना चार्जशीट दाखिल जाएगी, तो वह वैध नहीं मानी जाएगी। इसमें यह एक बहुत बड़ा काम किया गया है। अभी मेरे पूर्व वक्ताओं ने भी कहा कि एक लंबे टाइम तक केस खिंचता था, लेकिन अब इसकी एक समय सीमा तय कर दी गई है। अब कोई केस 3 साल से ज्यादा नहीं चलेगा और वकील, जो लगातार तारीख पर तारीख लेते थे, वे अब दो से ज्यादा adjournments नहीं ले सकेंगे।

महोदय, माननीय प्रधान मंत्री मोदी जी के नेतृत्व में हमारी सरकार ने National Forensic Science University बनाने का निर्णय लिया है। यह एक ऐतिहासिक निर्णय है और मैं इसके लिए उन्हें बधाई देना चाहता हूँ। अभी तक, जहाँ भी कोई घटना होती थी, उसकी फोरेंसिक की जाँच बहुत दूर भेजी जाती थी, क्योंकि बहुत कम लैब्स उपलब्ध थीं और जब तक उसकी रिपोर्ट आती थी, तब तक आधे एविडेंस खत्म हो जाते थे। लेकिन अब तीन वर्ष बाद, हर साल 33 हजार फोरेंसिक साइंस एक्सपर्ट्स और साइंटिस्ट्स देश को मिलेंगे। इससे दोष सिद्धि के प्रमाण, अभी तक कंविक्शन का जो बहुत कम रेश्यो था, वह बढ़कर 90 परसेंट तक हो जाएगा - ऐसा लक्ष्य रखा गया है।

महोदय, सात वर्ष या इससे अधिक की सजा वाले अपराधों के लिए क्राइम सीन पर फोरेंसिक टीम का पहुंचना अनिवार्य किया जा रहा है। इसके माध्यम से पुलिस के पास एक वैधानिक साक्ष्य होगा, एविडेंस होगा, जिसके बाद कोर्ट में दोषियों के बरी होने की संभावना बहुत कम होगी और कंविक्शन की संभावना बढ़ जाएगी।

महोदय, अभी जीरो एफआईआर के बारे में बताया गया है। हम आम तौर पर देखते हैं कि दो थानों की सीमा के बीच या दो जिलों के बीच में यदि कोई हीनियस क्राइम होता है, तो पुलिस वाले एफआईआर नहीं लिखते हैं। वे इस बात पर लड़ते रहते हैं कि यह अपराध मेरी सीमा में नहीं आता है, इसकी सीमा में है। वे लड़ते रहते हैं और तब तक वहाँ से सबूत खत्म हो जाता है, मुलजिम फरार हो जाता है। इसलिए अब जीरो एफआईआर शुरू करने का निश्चय किया है। अब कहीं पर भी अपराध हो, जिस थाने में भी अपराध को रजिस्टर करना चाहेंगे, वह वहीं पर रजिस्टर

हो जाएगा। पहले सीमा के विवाद को लेकर हीनियस क्राइम की एफआईआर कई घंटे डिले होती थी, लेकिन अब डिले नहीं होगी।

महोदया, इसमें पहली बार ई एफआईआर का प्रावधान भी जोड़ा गया है। हर जिले में ऐसा पुलिस अधिकारी नामित किया जाएगा, जो गिरफ्तार किए गए व्यक्ति के परिवार को गिरफ्तारी की सूचना ऑनलाइन और व्यक्तिगत रूप से देगा। यौन उत्पीड़न में पीड़िता का बयान अनिवार्य कर दिया गया है। ऐसे उत्पीड़न के मामले में बयान की वीडियोग्राफी की जाएगी। अब इस बात को कंप्लेसरी कर दिया गया है कि पीड़िता के बयान की वीडियो रिकॉर्डिंग होगी। पुलिस को 90 दिनों के अंदर शिकायत का स्टेटस और 15 दिनों में वादी को स्टेटस देना अनिवार्य होगा और पीड़ित को सुने बिना कोई भी सरकार सात वर्ष या इससे अधिक के मुकदमे वापिस नहीं ले सकेगी।

महोदया, तीन साल तक की सजा पाने वाले केस का समरी ट्रायल होगा। पहले यह सीमा दो साल थी। उन्होंने समरी ट्रायल और वारंट ट्रायल पर कहा है। समरी ट्रायल का मतलब है कि सत्र न्यायालयों में जो केसेज हैं, उनकी संख्या घट जाएगी। यह संख्या लगभग 40 परसेंट तक घट जाएगी। इससे कोर्ट पर बोझ कम होगा और सत्र न्यायालय को हीनियस क्राइम तय करने में समय मिल जाएगा, छूट मिल जाएगी। चार्जशीट दाखिल करने की समय सीमा भी नब्बे दिन होगी। अदालत चाहे तो परिस्थिति देखकर नब्बे दिन की परमिशन और दे सकती है। हर हालत में 180 दिनों में इन्वेस्टिगेशन समाप्त करनी होगी। हम अभी तक देखते थे कि केस की इन्वेस्टिगेशन पेंडिंग हुए भी दो-तीन साल लग जाते थे। अब कोर्ट आरोपित व्यक्ति को आरोप तय करने का नोटिस 60 दिनों के अंदर देने के लिए बाध्य होगा। बहस पूरी होने के 30 दिनों के अंदर न्यायालयों को जजमेंट देना होगा। महोदया, अभी तक क्या होता था? अभी तक यह होता था कि तीन महीने निकल गए, जजमेंट नहीं हुआ, तीन महीने बाद दोबारा सुनवाई करते थे, दोबारा आर्ग्यूमेंट्स होती थीं। यदि इस बीच न्यायिक अधिकारी का ट्रांसफर हो गया, तो जो नया जज आएगा, वह नई सुनवाई करेगा। इस तरह से सालों केस साल घिसटते थे। अब यह नहीं चलेगा।

4.00 P.M.

अब इसे तय कर दिया गया है कि हर हालत में यह बाध्य होगा। पुलिस अधिकारी या सिविल कोर्ट के स्टेटस - यह दूसरा मामला है। 180 दिनों में इन्वेस्टिगेशन समाप्त करनी ही होगी। कोर्ट अब आरोपित व्यक्ति को आरोप तय करने का नोटिस 60 दिनों के अंदर देने के लिए बाध्य होगा। बहस पूरी होने के बाद 30 दिनों के अंदर जजमेंट देना भी बाध्य होगा। सात दिनों में ऑनलाइन जजमेंट उपलब्ध कराया जाएगा। अब तक यह होता था कि सवाल डालेंगे, 15-20 दिन में जजमेंट की कॉपी मिलेगी, जबकि अब सात दिनों में घर पर ऑनलाइन ही जजमेंट पहुंच जाएगा। पुलिस अधिकारी, जो आईपीएस ऑफिसर हैं, जो आईएएस ऑफिसर हैं, उनके विरुद्ध ट्रायल के लिए परमिशन नहीं मिलती थी। अब सरकार के लिए 120 दिनों में अनुमति देने पर फैसला करना अनिवार्य होगा, अन्यथा इसे डीम्ड परमिशन मानकर ट्रायल शुरू कर दिया जाएगा। इसके साथ ही, रोजगार, पदोन्नति के झूठे वादे करके, गलत पहचान के आधार पर यौन संबंध बनाने के अपराध को भी इस श्रेणी में लाया गया है। गेंगरेप के सभी मामलों में 20 साल की सजा या आजीवन कारावास का प्रावधान कर दिया गया है। महोदया, 18 वर्ष से कम आयु की बच्चियों के साथ अपराध के मामले में मृत्युदंड का प्रावधान किया गया है। मॉब लिंग की बहुत बात की जाती थी। हमारे देश में एक बाटला कांड हुआ था। उसमें एक उग्रवादी, आतंकवादी मारा गया था। वह आजमगढ़ का रहने

वाला था। तमाम विपक्षी पार्टियों के नेता उसके घर गए थे, जैसे कि वह कोई तीर्थ स्थल हो। उसी समय इंस्पेक्टर, मोहन चंद शर्मा भी शहीद हुए थे। एक मुख्य मंत्री, जो अभी भी पश्चिमी बंगाल की मुख्य मंत्री हैं, उन्होंने यह बयान दिया था कि यदि यह आरोप सही साबित हुआ कि यह आतंकवादी है, तो मैं इस्तीफा दे दूंगी, लेकिन इनके पास नैतिकता नाम की कोई चीज नहीं है। इसी तरह से, Bisada का केस हुआ था। उनके पास सारे नेता पहुंच गए थे, लेकिन उन्होंने कोई कानून नहीं बनाया था। हमारी इस सरकार ने आज सात वर्ष, आजीवन कारावास और मृत्युदंड तक का प्रावधान किया है। पहली सरकार ने इसमें कुछ नहीं किया था।

महोदया, मोबाइल एवं चेन स्नैचिंग के संबंध में कोई कानून नहीं था। अभी बताया गया कि यह चोरी, थ्रेट के अंतर्गत ही आता था। इसके लिए भी प्रावधान करने का काम किया गया है। बच्चों के साथ अपराध करने वाले व्यक्ति के लिए सजा को सात वर्ष से बढ़ाकर दस वर्ष और जुर्माना करने का काम भी किया है। चाहे कोई कितना भी बड़ा क्रिमिनल हो, लेकिन राजनीतिक लोगों में अपने लोगों की सजा माफ करने का एक चलन था। मैं गृह मंत्री, माननीय अमित शाह जी को बधाई देना चाहता हूँ। उन्होंने कहा है कि चाहे कोई भी सरकार हो, लेकिन सजा को ऐसे माफ नहीं कर सकेंगे। महोदया, राजनीतिक फायदे के लिए उपयोग करने के कई मामले देखे गए हैं। यदि किसी को मृत्युदंड दिया गया है, तो उसे आजीवन कारावास में बदल सकते हैं, आजीवन कारावास को सात वर्ष और सात वर्ष की सजा को तीन वर्ष में बदल सकते हैं। वर्तमान सरकार ने ऐसा प्रावधान किया है कि तीन वर्ष की सजा तो काटनी ही होगी, किसी को भी छोड़ा नहीं जाएगा। इसके साथ ही, आतंकवाद की व्याख्या की गई है। अब सशस्त्र विद्रोह, विध्वंसक, चुनौती देने वाले जैसे अपराधों को पहली बार इस कानून के अंतर्गत लाया गया है। अब राजद्रोह को देशद्रोह में शामिल करने का काम किया गया है। ...**(समय की घंटी)**... सत्र कोर्ट में भगोड़े अपराधी का ट्रायल उसकी अनुपस्थिति में होगा और उसे सजा भी होगी। उसे सजा के विरुद्ध अपील करने का मौका मिलेगा। कानून में 313 बदलाव किए गए हैं, जो हमारे क्रिमिनल जस्टिस में एक आमूलचूल परिवर्तन लाएंगे और किसी को भी न्याय मिलने में तीन वर्ष से अधिक नहीं लगेंगे। ऐसे आमूलचूल परिवर्तन किए गए हैं। महोदय, ये कानून करीब 150 वर्ष पुराने थे। उनके स्थान पर नए कानूनों के आने का इंतजार था। माननीय मोदी जी के नेतृत्व में सरकार आई, तो उन पुराने कानूनों को समाप्त कर नए कानून लाने का काम शुरू हुआ। अगर कोई चार साल से जेल में पड़ा है, उसका एक्विटल हो गया है तो उसके चार साल का कौन जवाब देगा? इसलिए विदइन टाइम चार्जशीट हो, विदइन टाइम ट्रायल हो, विदइन टाइम जजमेंट हो और जजमेंट की सूचना सात दिन के अंदर मिल जाए। इससे कंविक्शन रेश्यो भी बढ़ेगा और न्याय भी मिलेगा। इसके साथ ही, यदि कोई निर्दोष है, तो उसे अपील का मौका मिलेगा। इसमें ये सारे प्रावधान किए गए हैं, बहुत-बहुत धन्यवाद। जय हिन्द, जय भारत!

THE VICE-CHAIRPERSON (SHRIMATI S. PHANGNON KONYAK): Now, Shrimati Sulata Deo; you have 16 minutes.

श्रीमती सुलता देव (ओडिशा): माननीय वाइस चेयरमैन मैडम, आपने इस गंभीर विषय पर मुझे बोलने के लिए मौका दिया, इसके लिए मैं आपका धन्यवाद करती हूँ। जिन तीन बिलों पर यहां चर्चा हो रही है, ये कल लोक सभा में पारित हो चुके हैं। आईपीसी, इंडियन पीनल कोड, 1860, जो

160 साल पुराना लॉ है, उसकी जगह भारतीय न्याय संहिता, 2023 होगा। सीआरपीसी, यह 1898 का एक्ट है, जो लगभग 130 साल पुराना क्रिमिनल लॉ है, इसकी जगह भारतीय नागरिक सुरक्षा संहिता, 2023 होगा। इसके अलावा इंडियन एविडेंस एक्ट, 1872 की जगह भारतीय साक्ष्य अधिनियम, 2023 लाया जा रहा है। इसमें 51 साल से अमेंडमेंट नहीं हुआ था। हम लोग 21वीं सदी में आ गए हैं। मैं यह बोलना चाहती हूँ कि इतने साल पुराने जो क्रिमिनल लॉ थे - आईपीसी, सीआरपीसी और इंडियन एविडेंस एक्ट - कहीं न कहीं हमें गुलामी की मानसिकता में बांध कर रखने के लिए इन लॉज का अंग्रेजों के समय में प्रोविज़न था। अब हम लोग गुलामी की मानसिकता से ऊपर उठ रहे हैं। यह एक अच्छा कदम है। मैं अपनी पार्टी बीजू जनता दल की ओर से इस बिल का समर्थन करती हूँ।

(उपसभापति महोदय पीठासीन हुए।)

डिप्टी चेयरमैन सर, इन एक्ट्स में बहुत बदलाव आए हैं। मैं एक महिला हूँ और मैं महिला होने के नाते यह भी बताना चाहती हूँ कि मैं इस बात की साक्षी रही हूँ कि इस नए सदन में मातृशक्ति वंदन अधिनियम को भी पारित किया गया है। इस सदन में आज जो यह बिल आया है, इसमें महिलाओं को भी गुरुत्व दिया गया है। मैं इसके लिए भी तहेदिल से शुक्रगुजार हूँ।

सर, मैं एक और बात कहना चाहती हूँ कि हम लोग गतिशीलता का स्वागत जरूर करते हैं, मगर सभी चीज़ों में ट्रांसपेरेंसी भी होनी चाहिए। अगर ट्रांसपेरेंसी न हो, तो लॉ का कहीं न कहीं दुरुपयोग होता है। आईन तो बहुत कुछ पहले भी बनाए गए थे, पहले भी चल रहे थे, आज भी हैं और आगे भी रहेंगे। मगर जो लॉज हैं, जो आईन हैं, उनका कार्यान्वयन कैसे हो, इसके ऊपर ज्यादा प्रभाव रहता है। मैं एक महिला हूँ और मैं फिर से बोलूंगी कि 2005 को अगर देखा जाए, उस समय Domestic Violence Act आया था। Domestic Violence Act आने के बाद भी आज अगर हम 2023 में देखें, तो उस डीवी एक्ट के चलते हम कितने घरों में डॉमेस्टिक वायलेंस को बंद कर पाए हैं, उस एक्ट के तहत कितने केसेज़ हो पाए हैं और हम कितनी महिलाओं को न्याय दे पाए हैं! हम कितनी भी कोशिश करें, कितने भी कार्य करें, कितने भी आईन आएँ, लेकिन अगर आईन के कार्यान्वयन में कोई प्रॉब्लम हो, वह ठीक से न किया जाए, तो जहां से शुरुआत हुई थी, फिर से यह वहीं पर पहुंच जाएगा। मैं हमेशा एक बात बोलती हूँ कि जो आईन है, उसमें जो नियम बदल रहे हैं, उनका कार्यान्वयन होना बहुत जरूरी है।

सर, इसमें और भी बहुत कुछ है, जैसे इसमें कम्युनिटी सर्विस के बारे में दिया गया है। कम्युनिटी सर्विस एक वेलकम स्टेप है। हम सभी इसका स्वागत करेंगे। इसमें एक चीज छूट रही है कि कम्युनिटी सर्विस के चलते क्या-क्या नियम होंगे, क्या-क्या दंड होंगे, क्या-क्या सुधारने के लिए होंगे, इसमें इसकी स्पष्टता नहीं है, जो एक लैकुना है। अगर कम्युनिटी सर्विस देखा जाए, तो हमारे ओडिशा में जस्टिस सी.आर. दास ने एक केस में कम्युनिटी सर्विस के लिए दंड दिया था। वहां हम लोगों का एक मंदिर है - चंडी मंदिर। उस लड़के को यह दंड दिया गया था कि वह वहाँ के परिसर को डेली क्लीन करे। वैसे ही देखा जाए, तो अमेरिका में भी एक क्राइम में कम्युनिटी सर्विस के रूप में यह दंड दिया गया था कि वह गांधी जी की फिल्म को कम से कम चार बार देखे,

ताकि उसमें परिवर्तन हो। अगर इसमें यह प्रावधान है, तो यह परिवर्तन कैसा हो, इसको भी मद्देनज़र रखना चाहिए कि इसमें किस तरह से स्लैब दिया जाए, इसमें क्या-क्या होना चाहिए।

महोदय, इस बिल में जो भी प्रावधान हैं, मैं तो फिर बोलूँगी कि टाइम-बाउंड इन्वेस्टिगेशन हो, टाइम-बाउंड ट्रायल हो, जो मेडिकल एग्जामिनेशन हो रहा है, वह इन टाइम हो। हम लोग एक्ट बना लेते हैं, हम लोग लॉ को चेंज कर लेते हैं, मगर जो एक्ट बनता है, जो लॉ बनता है, उसके लिए जो फंड का प्रावधान होना चाहिए, जो इन्फ्रास्ट्रक्चर होना चाहिए, वह कहीं न कहीं शॉर्ट रहता है। जैसे पुलिस में जितने लोग होने चाहिए, उतने नहीं हो पाते हैं; जैसे जस्टिस और जज जितने होने चाहिए, वे उतने नहीं हो पाते हैं, जिसके कारण ढेर सारे केसेज़ पेंडिंग हैं, फास्ट ट्रैक कोर्ट में भी केसेज़ पेंडिंग हैं। हम लोग जो कानून बना रहे हैं, जो नया आईन आ रहा है, उसके लिए मैं दरखास्त करूँगी कि इसका एक लीगल ऑडिट होना चाहिए। इसका लीगल ऑडिट होने के कारण यह मालूम होगा कि इसमें कितना पैसा खर्च होगा, कितना काम होगा, इसके लिए कितना इन्फ्रास्ट्रक्चर चाहिए। लीगल ऑडिट होने के बाद यह जो एक्ट होगा, यह सभी लोगों के पास जा जाएगा, जिससे सबको सुविधा मिलेगी।

महोदय, मैं एक और बात बोलूँगी, क्योंकि मैं एक महिला हूँ। मैं आज सुबह भी जीरो ऑवर के समय निर्भया फंड के बारे में बोल रही थी। निर्भया इंसिडेंट के बाद निर्भया फंड की शुरुआत हुई। मैं यह इसलिए बोल रही हूँ, क्योंकि जब फंड नहीं होता है, जब इन्फ्रास्ट्रक्चर नहीं होता है, तो प्रॉब्लम शुरू होती है। वह फंड नहीं होने के कारण जो प्रोग्राम चलता है, वह बंद हो जाता है। निर्भया प्रोग्राम में निर्भया फंड बस केवल सात ही स्टेप्स को दिया गया है। अगर देखा जाए, तो उसमें फंड फ्लो भी नहीं है। जो लोग वहाँ पर काम कर रहे हैं, उन स्टाफ की सेलरी भी टाइम से नहीं पहुँच पाती है। अगर देखा जाए, तो इन्फ्रास्ट्रक्चर डेवलपमेंट नहीं होता है, विक्टिम को कंपेंसेशन नहीं मिलता है। सबसे पहले तो सारे स्टेप्स में इसको यूनिफॉर्मली लगाना चाहिए। मैं इसमें एक बात ऐड करना चाहूँगी कि इसमें महिलाओं के लिए बहुत सुंदर सी व्यवस्था की गई है, फिर भी महिलाओं के विषय में मैं यह कहूँगी कि जो विक्टिम महिला है, उसके लिए इसमें कंपेंसेशन का प्रावधान रहना चाहिए। ऐसा नहीं है कि मैं आईन को गलत कह रही हूँ, लेकिन सबको सम्मान देना चाहिए। जो विक्टिम होती है, पहले तो केस में चार्जशीट दाखिल होती है, फिर उसका चार्ज फ्रेम होता है, फिर अगर जज समझे और सोचे कि यह केस सही है, इसका प्राइमा फेसी एविडेंस सही है, कहीं न कहीं पीड़िता जो बोल रही है, वह सही है, उसके ऊपर रेप हुआ है, कुछ प्रॉब्लम है, तो उस रेप विक्टिम के लिए सरकार के पास एक ऐसा फंड होना चाहिए, जिससे उसे कंपेंसेशन दिया जा सके। इसमें ऐसा प्रावधान भी होना चाहिए कि अगर ट्रायल में कहीं पर यह नजर आया कि यह केस गलत है, तो फिर उससे वह फंड वापस भी लिया जा सकता है और वह भी नेशनलाइज्ड बैंक के इंटररेस्ट के साथ। ऐसा प्रावधान होना चाहिए और उसके लिए ऐसा कोई दंड भी रखना चाहिए। जो महिलाएँ गलत तरह से इस आईन का दुरुपयोग करेंगी, अगर उसके लिए किसी दंड का प्रावधान रहेगा, तो आगे चल कर महिलाएँ झूठा केस भी नहीं देंगी। इसलिए इसके लिए प्रावधान होना चाहिए।

महोदय, मैं एक और बात बोलूँगी। मैं दो मिनट में खत्म करूँगी।

श्री उपसभापति: आप कंकलूड करिए, आपकी पार्टी से दूसरे स्पीकर भी हैं।

श्रीमती सुलता देव: सर, मेरे पास कितना टाइम है?

श्री उपसभापति: आपका टाइम तो 8 मिनट था, वह खत्म हो गया है। आप एक मिनट और ले लीजिए।

श्रीमती सुलता देव: सर, मैं एक मिनट में कंकलूड कर रही हूँ।

सर, मैं एक और बात बोलूँगी कि यह जो पृथ्वी है, इस पर सबको रहने का अधिकार है, इंसान को भी है और पशुओं को भी है। हम लोग इंसान के लिए भी एक्ट बनाते हैं और पशुओं के लिए भी एक्ट बनाते हैं, मगर कहीं न कहीं मुझे लगता है कि हमें एनिमल क्यूएल्टी के एक्ट पर ज्यादा ध्यान देना चाहिए, क्योंकि देखा जाए, तो एनिमल के ऊपर भी ऑफेंस होता है, रेप होता है। हम लोगों ने देखा कि लास्ट ईयर ऐसे 400 केसेज़ रजिस्टर हुए हैं। हमने देखा कि वे डेड बॉडी को भी नहीं छोड़ते। इसके लिए ऐसा प्रावधान होना चाहिए और एनिमल क्यूएल्टी के एक्ट को ज्यादा से ज्यादा किस तरह से मजबूत किया जाए, ताकि एनिमल्स के ऊपर जो क्यूएल्टी हो रही है, अगर उसके लिए नियम कड़ा किया जाए, तो उनको भी राहत मिलेगी।

महोदय, मैं सोचती हूँ कि सरकार की तरफ से जो बिल्स आए हैं, बहुत सुंदर बिल्स आए हैं। मैं इनका समर्थन करती हूँ। जय जगन्नाथ, वंदे उत्कल जननी!

MR. DEPUTY CHAIRMAN: Hon. Dr. M. Thambidurai, you have nine minutes to speak.

DR. M. THAMBIDURAI (Tamil Nadu): Thank you, Mr. Deputy Chairman, Sir. I always feel happy that former Deputy Speaker of Lok Sabha is speaking before the Deputy Chairman of Rajya Sabha. Whenever you are on the Chair, I feel lucky that you will give me sufficient time to express my views.

MR. DEPUTY CHAIRMAN: I equally feel happy to listen to your inputs, but this Bill is different from the previous ones.

DR. M. THAMBIDURAI: Sir, we are the representatives of the people. You have to give some time to express our views; that is all. Mr. Deputy Chairman, Sir, I rise to speak on three Bills that the hon. Union Minister placed before this House to replace the age old provisions of IPC, Cr.PC. and Indian Evidence Act. I want to accept the views expressed by the hon. Member, Shri S Niranjana Reddy. When he concluded, he spoke certain things, especially, about the name. When we are saying Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, Bharatiya Sakshya Sanhita, you are putting this language, you put these in English also. That is what you have requested. In the same way, I also request about what we were doing from the

colonial period; the language that we are using is also a part of that. In courts also, the proceedings are taking place in the English language. In some States, they are taking place in Hindi also. In the same way, through you, Sir, I am also requesting that let the Government come forward to see that Tamil language be used in the Madras High Court, in the district courts wherever proceedings are taking in Tamil Nadu. The long demand of the Tamil Nadu people is to see that Tamil language is used to argue in courts. Therefore, when they are changing the names like this in Hindi, please try to do them in Tamil also. Our hon. Prime Minister is always praising Tamil, Tamil culture and Tamil language. He says that this is one of the ancient languages in the world. Therefore, to honour the Tamil language, let the Government come forward to see that Tamil is used in all the courts in Tamil Nadu. Also, the former Chief Minister of Tamil Nadu, Puratchi Thalaivi Amma Jayalalitha, during her period in the Legislature of Tamil Nadu, passed a resolution to rename Madras High Court as Tamil Nadu High Court. That is a long-pending demand. The Madras Province has gone. The Kolkata province has gone. The Bombay Province has gone. Therefore, when there is Karnataka High Court, and Kerala High Court is there, Andhra High Court is there, Gujarat High Court is there, why is the Tamil Nadu High Court named like that? It is not meant for Madras. Madras is no more; Chennai is the name now. Therefore, what is the need for keeping the name as Madras? That is my request, Sir.

Now, I am coming to the point. These three important Bills concern the everyday lives of the citizens of this country. The Government is trying to bring these laws on par with the prevailing situation in other countries of the world. Taking the first Bill, Bhartiya Nyaya Sanhita, which replaces IPC, I would say that IPC, 1860 is the principal law on the criminal offences in India. Over the years, IPC had been amended a number of times, to add new offences in its fold. In the past, several reports of the Law Commission have recommended amendments to the IPC on subjects like offences against women, food adulteration, death penalty, etc. As a former Law Minister in the Vajpayee Government, I presided over many meetings; the Law Commissions have given so many amendments.

Sir, in the new Bill, the age-old criminal responsibility is retained at seven years and it extends to twelve years depending on the maturity of the accused. This provision is not changed in the new Bill. This age is lower than the age of 'criminal responsibility' in other countries. This Clause contravenes the recommendations of International Conventions. Secondly, it appears that the recommendations of Justice Verma Committee regarding gender neutrality of the offences are not taken cognizance of. I request the hon. Home Minister to consider this and include this.

Sir, coming to the Bill seeking to replace the CrPC, as all of us know, this is a procedural law which was established to administer IPC. It governs the procedure for investigation, arrest, prosecution and bail for offences. This code was also amended on multiple occasions. The hon. Home Minister is trying to expand it and give more powers to the Police force in the country, through the present Bill.

Sir, the law and order situation in Tamil Nadu is the worst. The Police are not handling anything properly. That is why, here, I would like to mention that the reputation of the Central Government staff in Tamil Nadu is at stake. They cannot carry out any investigation. If they are going for an investigation, Tamil Nadu Police is not protecting the Central officials especially officials of Income Tax and Enforcement Directorate. There is no safety and security, as I said, for these officials. Sir, the recent example is the assault and attack on a lady officer of Enforcement Directorate, when she was on duty to search the premises of a Minister of Tamil Nadu. At that time, she was manhandled, attacked, assaulted; she also gave a sexual harassment complaint against the accused person which happened in Karur, my previous Constituency. I represented that parliamentary constituency earlier. Sir, so far no action seems to have been taken against the accused. These officials need to be protected; they should be allowed to carry out their official duties without any hindrance.

Sir, coming to the next provision, the Bill provides for the use of handcuffs during arrest. It further states that the handcuffs must only be used to arrest a habitual or repeat offender who escaped custody or a person who has committed heinous crimes against the State. In this connection, -- please allow me; I want to say something important -- I feel that this provision goes against the judgement of the Supreme Court and the guidelines of the National Human Rights Commission.

Here, I would like to bring to the notice of the House a shameful incident that happened recently in Tamil Nadu under the DMK Government. A minor girl went to the police station to give a rape complaint. Instead of arresting the accused and taking him to the Magistrate with handcuffs, the inefficient DMK Government handcuffed the minor girl and took her to the Magistrate. Hon. Union Home Minister may take note of this as to how the State Government is functioning in Tamil Nadu.

Coming to the 'congestion in the prisons', which is another provision in the Bill, there was a report recently in the newspapers which stated about the pathetic situation in the jails. It said that the prisons which could hardly accommodate 200 prisoners, about 2000 prisoners are being kept there. Sir, that is the condition in the jails of Tamil Nadu. The Government of Tamil Nadu is not giving sufficient funds to construct new building whereas our, Madam, Shrimati J. Jayalalitha had

constructed a new building. But the DMK Government is not doing that. They are seeking financial assistance from the Centre, but, they are not using that in the State. I do not know where they are using that money. It has to be probed. Sir, there is no space in the jails. A number of under-trials are being kept in the jails. The Government should consider it seriously and try to dispose of the cases sooner. The judicial system needs a review, as far as the pendency of cases is concerned. ...*(Time Bell rings.)*... I am going to finish, Sir. The Government should constitute special courts, category-wise, to dispose of the cases. You know very well, Sir, especially, most of the former Ministers of Tamil Nadu are suffering because of the DMK Government. The DMK Government ..*(Interruptions)*..

MR. DEPUTY CHAIRMAN: Please conclude now.

DR. M. THAMBIDURAI: The DMK Government is now telling about so many cases of corruption. ..*(Interruptions)*..

MR. DEPUTY CHAIRMAN: Please conclude. ..*(Interruptions)*...

DR. M. THAMBIDURAI: Today a DMK Minister has been convicted for three years. That is the case of the DMK people. ..*(Interruptions)*..

MR. DEPUTY CHAIRMAN: Please conclude now. ..*(Interruptions)*.. Your time is over. ..*(Interruptions)*..

DR. M. THAMBIDURAI: This is what is going on, Sir. ..*(Interruptions)*.. I am requesting that the Central Government should come forward and assess the law and order situation that is prevailing in Tamil Nadu. ..*(Interruptions)*.. There is no safety for anyone. ..*(Interruptions)*.. Even our former Chief Minister, Edappadi is suffering a lot. ..*(Interruptions)*.. Whenever he is going to any flood affected area, they are not giving him police protection. ..*(Interruptions)*..

MR. DEPUTY CHAIRMAN: Shri Rakesh Sinha. ..*(Interruptions)*.. Please speak. Dr. Thambidurai, your time is over. ..*(Interruptions)*.. Your time is already over. You have taken more than your time. ..*(Interruptions)*.. Now, Shri Rakesh Sinha. ..*(Interruptions)*.. I have already given you more time. ..*(Interruptions)*.. Please.

श्री राकेश सिन्हा (नामनिर्देशित): माननीय उपसभापति महोदय, आज इतिहास की जिस दहलीज़ पर हम खड़े हैं, वह कोई सामान्य दहलीज़ नहीं है। जिन तीन कानूनों को साम्राज्यवादियों ने साम्राज्यवाद के हित में लिखा था, IPC, CrPC और Indian Evidence Act - जिन्हें House of Commons और House of Lords ने पारित किया था, जिन्हें भारतीयों को दासता के बंधन में दमन के साथ बांधकर रखने के लिए बनाया गया था, आज उन तीन कानूनों को परिवर्तित ही नहीं किया जा रहा, बल्कि तीन कानूनों को पूरी तरह से खारिज करके तीन नए कानून बनाए जा रहे हैं। प्रधान मंत्री नरेन्द्र मोदी जी इस देश में de-colonization का एक नया इतिहास लिख रहे हैं।

उपसभापति महोदय, इन कानूनों को बनाने में जो परिश्रम हुए, उनकी मैं एक छोटी सी झांकी बताना चाहता हूँ, जिसे कल माननीय गृह मंत्री अमित शाह जी ने लोक सभा में बताया था। 18 राज्यों ने, 16 उच्च न्यायालयों ने, सर्वोच्च न्यायालय ने, 22 लॉ यूनिवर्सिटीज़ ने, 5 विधिवेत्ताओं ने - जो शिक्षाविद् हैं, 200 आईपीएस ऑफिसर्स ने और करीब 40 सांसदों ने अपने सुझाव दिए और स्टैंडिंग कमिटी के पास 3,200 सुझाव आए, उन 3,200 सुझावों में से इन 3 कानूनों को बनाया जा रहा है। यहां जिन मुख्य बातों पर चर्चा हुई, मैं उनमें 4-5 बातें उल्लिखित करना चाहता हूँ। लोग महिलाओं के हित की बात करते थे, लेकिन महिलाओं को न कानून संरक्षण दे पाता था, न पुलिस दे पाती थी। आज इस कानून के द्वारा 18 वर्ष तक की महिलाओं को, यानी 18 वर्ष तक की बच्चियों को उस श्रेणी में लाया गया है, जहां यदि उनके साथ बलात्कार होता है, तो उसे फांसी की सज़ा दी जाएगी। ज़ीरो एफआईआर और absconding, यानी फरार होने के अपराध से संबंधित धाराएं पहले कम थीं, जिनको इस नए बिल में बढ़ा दिया गया है।

उपसभापति महोदय, जो बुनियादी परिवर्तन हुए, उन बुनियादी परिवर्तनों से समाज के सबसे हाशिये के लोग, महिलाओं और भारतीय परिवेश में आ रही नई चुनौतियों का सामना करने में ये तीनों कानून समर्थ होंगे। इस देश में 58 साल तक कांग्रेस पार्टी ने राज किया। कांग्रेस के शासनकाल में सीआरपीसी में 78 परिवर्तन किए गए, 78 संशोधन किए गए और इंडियन एविडेंस एक्ट में 22 संशोधन किए गए, लेकिन एक पैचवर्क चलता रहा, आज इस पैचवर्क से अलग हटकर माननीय प्रधान मंत्री श्री नरेन्द्र मोदी जी और माननीय गृह मंत्री श्री अमित शाह जी ने इन तीनों कानूनों में आमूलचूल परिवर्तन किए हैं। सीआरपीसी की 177 धाराओं में बदलाव लाया गया है, 24 धाराओं को हटा दिया गया है। इंडियन एविडेंस एक्ट में लगभग 24 धाराओं में परिवर्तन किया गया है और 6 धाराओं को हटा दिया गया है। इन सभी बातों को कहते हुए मैं जिस बात को रेखांकित करना चाहता हूँ, वह यह है कि लोकतांत्रिक तरीके से इस देश के हित में, इस देश के संदर्भ में जो तीन कानून बने हैं, उसका आधार क्या है। पहले आधार दमन और दासता थी, अब आधार मानवीयता और मानवाधिकार है। इन कानूनों के द्वारा मानवाधिकार को संरक्षित करने की पूरी कोशिश की गई है। हर व्यक्ति यह महसूस करे कि न्याय से दंड निकलता है, पहले दंड से न्याय निकलता था। पहले rule by law था, अब rule of law है। यह एक बड़ा बुनियादी परिवर्तन इन तीनों कानूनों के द्वारा किया गया है। इस देश में ब्रिटिश राजसत्ता का अंत 1947 में हुआ। 1947 में अंत होने के बाद यह उम्मीद जताई गई थी कि इस देश की मानसिक स्थिति को देखते हुए, इस देश के संदर्भ को देखते हुए, इस देश के इतिहास और विरासत को देखते हुए कानूनों में परिवर्तन किया जाएगा। एक बड़ा सवाल उठता है - जो लोग आज सदन में नहीं हैं, जो बाहर हैं, देश उनसे सवाल पूछेगा कि आपने परिवर्तन क्यों नहीं किया। पहले मुझे लगा कि आलस्य का भाव था, उनमें

वह जोर नहीं था कि किसी चीज़ में परिवर्तन कर सकें, लेकिन जब मैंने राज्य सभा की बहस को देखा, तो उसकी तीन घटनाओं का उल्लेख करना चाहता हूँ। 19 अगस्त, 1959 को जी. रामचंद्रन जी ने राज्य सभा में एक सवाल उठाया। इस देश में Queen Victoria, George Pantham की मूर्तियाँ क्यों लगी हुई हैं? सरकार के पास जवाब नहीं था। सरकार ने कहा कि हम खाली स्थान नहीं छोड़ना चाहते हैं। जब नई मूर्तियों का निर्णय होगा, तो इनको हटा दिया जाएगा। उस वक्त की सरकार को यह एहसास नहीं हो पाया कि Queen Victoria, George Pantham कौन हैं? इनके कारण ही जलियाँवाला बाग कांड हुआ, इनके कारण ही शहीदों की शहादत हुई, इनके कारण ही हजारों लोग जेल में बंद हुए। 12 साल जब हुए, तब 1959 में सवाल हुआ। 30 मार्च, 1966 को इसी राज्य सभा में श्री अटल बिहारी वाजपेयी जी ने जब सवाल खड़ा किया कि George Pantham की मूर्ति क्यों लगी हुई है और वाजपेयी जी ने सरकार को जताते हुए कहा कि क्या आप उनकी प्रतिमा पर चारकोल लगाने की प्रतीक्षा कर रहे हैं, तो सरकार का जवाब था कि अभी निर्णय नहीं हुआ है कि उन मूर्तियों को हटाएं। उसके बाद 5 मार्च, 1969 में श्री दत्तोपन्त ठेंगड़ी जी ने राज्य सभा में सवाल खड़ा किया कि नॉर्थ ब्लॉक और साउथ ब्लॉक में कितने British Crown के symbols लगे हुए हैं, कितने pillars पर symbols लगे हुए हैं? सरकार का जवाब था कि चार pillars पर symbols हैं और नॉर्थ ब्लॉक और साउथ ब्लॉक की दीवारों पर Commonwealth और British symbols लगे हुए हैं। सरकार के पास जवाब था कि उचित समय आने पर हम इन संकेतों को हटाएंगे। जिन लोगों ने ब्रिटिश साम्राज्यवाद के साथ सामाजिक जीवन जीते हुए, उनकी संस्कृति का हिस्सा बनते हुए, जिसे Macaulay ने कहा था कि वे रंग से तो भारतीय हैं, लेकिन अपनी सोच में, समझ में, बुद्धि में, विवेक में वे अंग्रेज हैं, ऐसी ही जमात ने इस देश को ब्रिटिश कानून का बंधक रखा।

महोदय, मैं Indian Evidence Act के चार सेक्शन्स के बारे में जिक्र करना चाहता हूँ। Section 57, Section 37, Section 81, Section 82 इसको कोई भी भारतीय पढ़ेगा, उसमें British Crown, His Majesty, British Parliament, Crown's Printing Press, इन सबका जिक्र है। 1947 में देश आज़ाद हुआ और 70 साल तक हमारे कानूनों में ब्रिटिश साम्राज्यवाद, British Crown, British Parliament, British High Courts, British seals, British symbols और London Gazette का जिक्र होता रहा। आज उन कानूनों को अपदस्थ कर दिया गया है। सर, प्रधान मंत्री नरेन्द्र मोदी जी ने इस देश को decolonize करने का एक बड़ा अभियान छेड़ा है, वह एक सर्वसमावेशी अभियान है। मैं एक चिंतक Gutto को उद्धृत करना चाहता हूँ। कैसे Gutto की बातें प्रधान मंत्री मोदी जी के कार्यक्रमों में दिखाई पड़ रही हैं। Gutto ने कहा, "Before decolonizing of the legal system, justice system and laws, you have to decolonize your mind." प्रधान मंत्री नरेन्द्र मोदी जी ने जिस प्रकार से राजपथ को कर्तव्य पथ बनाया, 2019 में जिस प्रकार बजट के औपनिवेशिक स्वरूप को बदल दिया, 2017 में लाल बत्ती को समाप्त कर दिया - यह एक ऐसी नई पद्धति शुरू हुई, जिसमें Ghazini, Ghori, Mountbatten, Curzon, जिनका दबाव इस देश की संस्कृति पर, इस देश की विधा पर, यूरोप केन्द्रित था, उसको समाप्त करने का काम किया।

अफ्रीका के Ngugi wa Thiong'o थे, जिन्होंने declonising mind की बात कही थी। हिन्दुस्तान के Christian Bhattacharya थे, जिन्होंने विचार के स्वराज की बात कही। अब Ngugi

से लेकर Bhattacharya तक और अमेरिका में बैठी हुई भारतीय मूल की Gayatri Smriti Bhat, इन तीनों ने वैचारिक बात कही और हम decolonization पर सेमिनार करते रहे, हम लोग लेख लिखते रहे कि प्रधान मंत्री श्री नरेन्द्र मोदी जी दुनिया के अकेले शासक हैं, अकेले ऐसे प्रधान मंत्री हैं, जिन्होंने राजनैतिक आजादी के बाद वैचारिक आजादी को, सांस्कृतिक आजादी को, सामाजिक आजादी को अपना एक मिशन बनाया और इस मिशन के कारण वह अखबार, चीन का Global Times जो भारत का आलोचक है, लेकिन जब एक शक्ति के साथ, एक उद्देश्य के साथ काम होता है, तो उसके बारे में Global Times ने लिखा, 30 मई, 2023 को अपने सम्पादकीय में समर्थन करते हुए लिखा ...**(समय की घंटी)** ... उपसभापति महोदय, मैं एक मिनट में अपनी बात समाप्त करता हूँ। 'We emotionally support India's move for decolonization.' और मैं इससे जोड़ता हूँ कि The Guardian अखबार ने 19 मई, 2014 को प्रधान मंत्री जी के बारे में लिखा कि Modi's new tryst with destiny, उसने जो कहा था कि प्रधान मंत्री नरेन्द्र मोदी जी भारत की सांस्कृतिक, वैचारिक पृष्ठभूमि को अंग्रेजियत से अलग करना चाहते हैं, he is a gifted politician. आज हम इस बात को देख रहे हैं। आज पूरी दुनिया में इस बात की चर्चा हो रही है कि decolonization का एजेंडा पूरी दुनिया में मुख्य धारा का एजेंडा बन चुका है। आज प्रधान मंत्री नरेन्द्र मोदी जी ने यह साबित कर दिया है कि यदि देश को अपनी अस्मिता के आधार पर, अपने पैरों पर चलकर आगे बढ़ना है, तो उसे अपने आपको विदेशी दासता से मुक्त करना पड़ेगा। मैं उनके लिए दो पंक्ति बोलता हूँ, जो प्रधान मंत्री मोदी जी ने decolonization का संदेश पूरी दुनिया को दिया है,

*"दिशा दीप्त हो उठी प्राप्त कर
पुण्य प्रकाश तुम्हारा,
लिखा जा चुका अनल-अक्षरों
में इतिहास तुम्हारा।"*

बहुत-बहुत धन्यवाद।

MESSAGE FROM LOK SABHA - Contd.

The Press and Registration of Periodicals Bill, 2023

MR. DEPUTY CHAIRMAN: Now, Message from the Lok Sabha. Secretary-General.

SECRETARY-GENERAL: Sir, with your kind permission, I rise to report that the Lok Sabha, at its sitting held on 21st December, 2023, has agreed, without any amendment, to the Press and Registration of Periodicals Bill, 2023, which was passed by the Rajya Sabha, at its sitting held on 3rd August, 2023.
