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Title: Discussion on the motion for consideration of the Juvenile Justice (Care and Protection of Children) Bill, 2014.

HON. DEPUTY-SPEAKER: Now, the House will take up Item No. 22 - The Juvenile Justice (Care and Protection of Children) Bill, 2014.

The hon. Minister.

THE MINISTER OF WOMEN AND CHILD DEVELOPMENT (SHRIMATI

MANEKA SANJAY GANDHI): Sir, I beg to move:

"That the Bill to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, herein under and for matters connected therewith or incidental thereto, be taken into consideration. "

HON. DEPUTY-SPEAKER: Shri Shashi Tharoor.

...(Interruptions)

SHRI DEEPENDER SINGH HOODA (ROHTAK): Sir, our amendments have not been accepted... (Interruptions)

HON. DEPUTY-SPEAKER: Madam, are you going to reply in the end?

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Sir, we are raising a question of principle.

SHRI MALLIKARJUN KHARGE (GULBARGA): Are you replying tomorrow? SHRIMATI MANEKA SANJAY GANDHI: No. I would like to reply it today itself.

Sir, their amendments have not been accepted by the office because they gave them only this morning... (.Interruptions)

HON. DEPUTY-SPEAKER: Madam, you may please speak on the Bill.

...(Interruptions)

HON. DEPUTY-SPEAKER: Let her speak. Then, afterwards I would call you, Mr. Tharoor.

SHRI MALLIKARJUN KHARGE: Every time, they are setting wrong precedents. They introduce the Bill same day; they speak same day; they reply on the same day; and you do not accept our amendments! For them, everything is exempted; and for us, you say: "You have not given your amendments in time. So, they have not accepted them." What is this? It is very unfortunate. Sir.

SHRI DEEPENDER SINGH HOODA: Sir, it was decided only yesterday to be on the List of Business. That is why we have moved the amendments today. Sir, we are requesting you to please direct the Table Office to accept our amendments.

HON. DEPUTY-SPEAKER: I will look into this matter.

Yes, now, the hon. Minister.

SHRIMATI MANEKA SANJAY GANDHI: Sir, the Juvenile Justice (Care and Protection of Children) Act, 2000 has been in operation for more than a

decade. In the 14 years of implementation of the Act, several issues have arisen, which have constrained its effective implementation. Some of these issues are:

- An increase in heinous offences committed by children;
 - An increase in reported incidents of abuse of children in institutions, inadequate facilities in homes;
 - Delays in decisions by Child Welfare Committees and Juvenile Justice Boards leading to high pendency of cases;
 - Lack of clarity regarding roles, responsibilities and accountability of - Child Welfare Committees and Juvenile Justice Boards;
- A delay in adoption;
- Inadequate provisions to counter offences against children; and
 - A lack of direction on what to do with children who are in orphanages but are unadoptable.

The proposed Bill attempts to address these issues and strengthen the implementation of JJ system by clarifying roles and responsibilities of statutory bodies and defining procedures. The Bill has a child-friendly approach in all matters related to children brought under its purview and provides for various rehabilitation and reintegration measures.

As the august House is aware, the Bill was referred to the Departmentally- Related Parliamentary Standing Committee on HRD for examination. The Report of the Committee was carefully studied by us; and recommendations are proposed in the Bill to further strengthen the provisions. The Bill consists of 111 sections which are distributed across ten chapters. I would like to explain some of the key provisions in the Bill.

The first relates to heinous offences committed by children. Heinous Offences defined under Clause 2(33) are those for which minimum punishment under IPC or any other law is imprisonment for seven years or more. Under Clause 15(f), if heinous offence is committed by a child below the age of 16 years, then the child is to be tried by the Juvenile Justice Board (JJB) as per the procedures of the JJ System. This implies that a child will not be given detention for more than three years.

If a heinous offence is committed by a child between the age of 16-18 years, then the child is first produced before the Juvenile Justice Board. The Board under Clause 16 is to conduct a preliminary assessment. The assessment by the Board is not a trial but to assess the capacity of the child to commit the offence and whether the child had a 'child mind' or an 'adult mind' in committing the alleged offence. Based on the preliminary assessment, the Board may either dispose of the case by itself or may decide that the child needs to be tried as an adult and thus make an order to transfer the trial of the case to the Children's Court under Clause 19(3). When the matter comes before the Children's Court, the Children's Court under Clause 20 may decide that there is no need for trial of the child as an adult, in such cases, the Children's Court has the power of the Juvenile Justice Board and therefore, instead of transferring the case back to the Board, the Children's Court can conduct an inquiry and pass orders accordingly. This implies that a child will not be given detention of more than three years. On the other hand, the Children's Court may decide that there is a need for trial of the child as an adult and thus, will follow the procedures prescribed under Cr. PC. The quantum of detention in such a case is not prescribed in the Bill and has been left at the discretion of the Children's Court.

Clause 22 of the Bill states that no child for any offences can be sentenced for life without the possibility of release or sentenced to death by the Board or the Children's Court. Under Clause 20, the Bill also states that when the Children's Court finds the child has committed the offence, it will make an order for placing the child in a "place of safety", which is not a jail, till the child attains the age of 21 years. After 21 years, the Children's Court will review the progress of the child and can either release the child on probation or if the child is incorrigible then send the child to jail for the remainder of the term.

We are proposing an amendment in Clause 25, which relates to disqualification. This Clause states that when the Children's Courts finds that the child has committed the offence as an adult, the child will suffer disqualification attached to the conviction under the applicable law. The Children's Court will also keep the records of the child. In all other cases, the child stands protected from disqualification by virtue of Section 25 of the Bill. We are also proposing an amendment in Clause 102. It is proposed that the order by the Board after conducting preliminary assessment is appealable before the Sessions Court and the Court in deciding the appeal under Clause 102 can take the assistance of experienced psychologists and medical specialists other than those whose assistance has been obtained by the Board during the preliminary assessment.

The second significant provision relates to adoption of orphan, abandoned and surrendered children. The provisions in existing laws are cumbersome and it takes too long to adopt a child.

In the existing JJ Act, the institutions housing orphan, abandoned or surrendered children are not linked with the Specialized Adoption Agencies (SAAs) and hence children living in these institutions are unable to be placed for adoption. Under Clause 67, these institutions are required to develop formal linkages with Specialized Adoption Agencies and furnish details of children.

It is also proposed to treat NRIs at par with Indians which is not the case currently. Under Clause 60, if a child is not placed in domestic adoption within 60 days of declaring him legally free, then it is proposed to make the child available for inter-country adoption. Further, under Clause 69, it is proposed to give statutory status to the existing Central Adoption Resource Authority (CARA) to enable it to function more effectively.

The detailed procedures for adoption are to be provided in the Adoptions Regulations to be framed by the Central Adoption Resource Authority which will be developed after passing of the proposed legislation. Apart from adoption, other non-institutional measures are also provided in the Bill such as sponsorship and foster care. Both are new to India. Although these measures are not new in the world, we have defined them in the Bill to bring in more clarity. Foster care as defined in clause 45 means placing a child in a family, which is unrelated to the child and is capable and willing to

keep the child for short or extended period. The selection of such families is to be done by the Child Welfare Committee which will make its decision based on the ability, intent, capacity and prior experience of the family. Sponsorship on the other hand means providing financial support to the families to meet the educational, health and developmental needs of the child. The criteria for sponsorship have also been laid which includes widows, divorced or abandoned mothers, orphan children living with extended families, or parents who are victims of life threatening diseases or are incapacitated due to accident. The principle behind these non-institutional measures is to provide every child with a family like environment, which we all know is most conducive for his or her growth.

Lastly, I would like to explain offences against children. The existing JJ Act covers only specific offences committed against a child such as cruelty, exploitation, employment for begging, giving intoxicating liquor or narcotic drug. Several new offences against children, which are so far not adequately covered under any other law, are proposed to be included in the proposed law. Chapter 9 covers offences committed against children such as sale and procurement of children for any purpose including illegal adoption, corporal punishment in child care institutions, use of a child by militant groups, offences against disabled children, kidnapping and abduction of children. These provisions will ensure that the children are provided with a safe environment for a healthy growth.

The proposed legislation is an attempt to address lacunae in the existing Act and consolidate the primary law relating to children in need of care and protection and children in conflict with law. The Bill, as I have said before, has a child friendly approach in all matters related to children brought under its purview, and provides for various rehabilitation and reintegration measures. Thank you.

HON. DEPUTY SPEAKER: Motion moved:

"That the Bill to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, hereinafter and for matters connected therewith or incidental thereto, be taken into consideration. "

SHRI K.C. VENUGOPAL (ALAPPUZHA): Sir, I am raising a point of order. Under Rule 69, a Bill involving expenditure shall be accompanied by a Financial Memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into a law.

Here in the Juvenile Justice (Care and protection of Children) Bill, 2014 under clause 4 we can see that there is a Juvenile Justice Board being constituted and also Child Welfare Committees being proposed. There are a lot of provisions in this Bill that lead to financial implication. Therefore, I would like to know from the Minister, through you Deputy Speaker, that what will be the financial implication of this Bill. Is there no financial implication? That is what the Government is meaning. Therefore, I want a specific ruling for that because in every Bill, if there is a financial implication, there will be a Financial Memorandum. This Bill has no Financial Memorandum.

HON. DEPUTY SPEAKER: Is there any financial involvement?

SHRIMATI MANEKA SANJAY GANDHI: I am saying that there is no financial commitment.

SHRI K.C. VENUGOPAL: Juvenile Justice Board is there and also there are Child Welfare Committees. These are all financial expenditure items.

SHRIMATI MANEKA SANJAY GANDHI: All I am saying is that these are already in existence. There is no new one. They are already in existence. They are already functioning. Therefore, there is no financial implication.

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Thank you very much Mr. Deputy Speaker.

In discussing the Juvenile Justice (Care and Protection of Children) Bill, I listened attentively to the Minister but I think we need to ask ourselves a basic question. What does justice seek to serve? Does the State exercise its punitive powers in order to be revengeful to extract an eye for an eye, to punish in a manner that can only be described as primitive? Or, do we hope to use the justice mechanism as a corrective to wean people from error and to rehabilitate the young? This question is all the more necessary in the case of children who commit crimes because they are not often sufficiently, mentally or emotionally developed to understand the gravity of their wrong doing. Are we as a society now starting to take revenge on children? I understand where this is coming from, Mr. Chairman, Sir. We are all horrified by the terrible attack on Nirbhaya in 2012. It shocked the national conscience. I myself met the parents of Nirbhaya not once but twice. So, I have great sympathy for their plight. But to actually take that case and to say that – because according to the media some of these heinous acts were committed by a juvenile and that he will get away with a minimum punishment – the system should be changed; this is terrible.

A lot of people are saying things like if he is old enough to rape, he is old enough to hang. I can understand their anger, their emotion. But, Mr. Chairman, the problem with such an approach is two-fold. First of all, it treats children as adults, which is simply wrong morally, legally, constitutionally, ethically and emotionally, as I shall explain. During the immediate aftermath of the Nirbhaya tragedy, the UPA Government undertook extensive consultations in several months, which confirmed that the arguments for doing this were based on fear, moral outrage, misinformation and ignorance. This is why we did not succumb despite popular demand for a change. And, in any case, Mr. Chairman, entire laws, which apply to cases of all juveniles across the board, cannot and should not be determined on the basis of one bad example, no matter how horrible or terrible it might be. Laws are considered and studied instruments of justice. They cannot be based on one instance alone. It is the duty of the

Government of the day to ask itself whether good law and good justice can ever be born out of an impulsive reaction to an emotional situation or a headline.

The Juvenile Justice Bill, despite a few positive provisions regarding adoption and so on, has put before this House a most regressive proposal. The very fact that we are sitting in this House discussing the possibility of convicting children as adult criminals is really primitive has pushed us back to the darkness of 19th Century. Today is a black day for this Parliament in terms of modern jurisprudence. I must sadly accuse the Government of having chosen political expediency over justice.

As the Minister has explained this Bill will create a selective system whereby the Juvenile Justice Board will have discretionary powers to transfer a child in the age group of 16 to 18 accused of certain crimes, that she has mentioned, to an adult criminal justice system for trial and conviction. As the Justice Verma Committee observed in 2013, "We cannot hold the child responsible for a crime before first providing him the most basic rights given to him by the Constitution."

What are these rights? The provision under clause 16 and clause 19(3) of the Juvenile Justice Bill are not only in contravention of the most important fundamental rights guaranteed by our Constitution but are in conflict with its own objectives and principles, Mr. Chairman, here in this document that is before us. The fact is that, as she points out, on one hand it replaces the word 'juvenile' with 'child in conflict with law', which is supposedly more humane. But this very 'child in conflict with law' is meant to be tried for adult offences, an inhumane idea conceived by this Government. Even here there is a flaw; the terms 'child alleged to be in conflict with law' and the 'child found to be in conflict with law' are not defined clearly and are used interchangeably in this Bill, even though there is an obvious difference between 'alleged to be' and 'found to be'. This is just one more confirmation that it is a bad law, badly written and badly thought through.

They claim in their Statement of Objects and Reasons that they are going to be actually catering to the needs of a 'child in conflict' through proper care, protection, etc. etc. – the "child friendly" approach the Minister says today. But the "child friendly" approach suddenly disappears when you are between 16 and 18. International examples, I can give you many, Mr. Chairman, but I do not want to usurp your time, show that transferring children to the adult system has failed to prevent repeat offences, failed to reduce the juvenile crime rate and failed to promote public safety. In fact, this Bill will actually increase the risk to public safety because convicting a child in an adult criminal trial will deny the child the fulfilment of his basic rights, will prevent his physical, emotional and intellectual development and eventually we will be churning out more hardened criminals than reformed adults. There is a US study that established that 80 per cent of the juveniles released from adult prisons go on to commit more serious offences. So, what is this Government proposing? Treating a child this way and jailing children for life is neither in the best interest of the child nor in that of our society as a whole.

The Minister says that crime figures have gone up. This is simply not correct. They have not studied the figures accurately because this very Minister, 14 years ago, introduced the more progressive law that we have, that we are now replacing.

She had then defended in 2000 – I have looked at her debates – and said that this was a child friendly approach saying that it was needed to replace pre-2000 provisions. She had said that the Juvenile Justice Act of 2000 would establish a reform-protection system for all children. I am so disappointed that today, fifteen years later, the same Minister has introduced a Bill to change her own progressive legislation and replace a reform-protection system with a harmful punitive system.

Sir, there are 472 million children in our country. Only 1.2 per cent of all of them have committed crimes. I am talking of 2012-13 figures. The number of children who committed serious and heinous crimes was even more miniscule. In 2013, of all the children arrested for crimes under the Indian Penal Code, 2.17 per cent were accused of murder and 3.5 per cent of rape. This is two per cent of one per cent. So, we are talking of a handful of cases in this country, according to our national crime statistics. How can we pass a law that will jeopardise the other 99.98 per cent children in this country because we are over-reacting or this Government wishes to over-react to these handful of cases? By the way, these are the figures of only FIRs registered. I do not have figures of how many of them were found guilty. Many of these children may not even have been guilty.

What this Government should be doing is that it should properly implement the existing provisions for rehabilitating children in conflict with the law. Instead, it is shrugging off its responsibility by holding the children responsible for the failures of the juvenile rehabilitation system. The Government should fix the juvenile justice system, and not bypass it and victimise our children.

Mr. Deputy Speaker, Sir, furthermore, let us understand one thing. This law will predominantly affect the country's poor and marginalised sections in our society – OBCs, SCs, STs, and minorities. Take my word for it: a majority of children in conflict with the law come from illiterate families, poor homes or even homeless. I have got the statistics which tell us that 77.5 per cent of the arrested children in 2013 came from families with a monthly household income of less than Rs. 4,200. That shows how poor these children are. Eighty-seven per cent had not received any higher secondary education. These are the ones they are trying to punish instead of trying to give them education, instead of trying to give them an opportunity to integrate into our society. Is this really a question of justice? Is this fairness or is this political convenience for this Government?

The provision also lacks constitutional validity. The selective and unequal treatment of children violates the Fundamental Rights guaranteed under Article 14 and Article 15(3) of the Constitution. Here, the equal protection of law guaranteed under Article 14 is gone and equality before the law is also gone. Article 15(3) allows the State to enact special provisions for protecting children because they are vulnerable. Now, what they have done is that clause 7 of the Bill is also in contravention of Article 20(1) of the Constitution which clearly states that a person should not be awarded a penalty greater than the one provided for under the law at the time of the commission of the offence. But if you commit an offence when you are 16 and they arrest you when you are 21, you will be tried as an adult under this law and convicted. The fact is that this violates the constitutional prohibition on procedural arbitrariness under Articles 14 and 21 as well as the test of fairness in Article 21.

The one month period given to the Juvenile Justice Board for their preliminary inquiry is absurdly short and could lead to a presumption of guilt and not of innocence, which itself violates the Constitution.

Sir, when we look at the Statement of Objects and Reasons, it says that one of the objectives is to bring the country's laws and the current

juvenile system in conformity with the United Nations Convention on the Rights of the Child of 1989. The Bill specifies this, but is actually abandoning the Convention by differentiating between the children below 16 years and those between 16 and 18 years. Article 3 of the Convention declares that States party to the Convention ought to give importance to the interest of the child over public safety, contrary to what the Minister and her Bill prescribes. What we are looking at very honestly is that the entire principle of the presumption of innocence has been left to the Board because it is the Juvenile Justice Board which is going to determine whether a child should be tried as an adult. They are not going to be capable of examining and establishing the child's guilt. The Justice Verma Committee had said that such a change would, in fact, actually violate Indian guarantees to the international institutions.

The Bill also violates the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 or the Beijing Rules, which require a child or a young person accused of an offence to be treated differently from an adult. It also violates the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990. This Bill is an equal opportunity offender, as it violates every principle it can possibly violate. Condemnation by the UN Committee on the Rights of the Child will surely follow. This Government may not be embarrassed to shame us before the world, but there is no reason for us, in this Parliament, to accept this retrograde step without a fight.

Clause 22 of the Bill, at least, mercifully and thankfully exempts a child from the death penalty, but the truth is that all children are nonetheless at risk of being detained for 20 years. He will be a hardened criminal after 20 years and you can be sure of that. He will not reintegrate into the society when he has spent 20 years in an adult jail. They could have easily just changed the three year rule to a six or seven years maximum instead of doing this to a child.

What provisions has the Government made to jail convicted children in separate facilities from hardened adult criminals? I see nothing in this Bill. Are there opportunities available for their education? I see nothing in this Bill.

The fact is that even the standards available for determining the age of a child in our country are extremely abysmal. What do we rely on for it most of the time? A Matriculation certificate or a birth certificate from a school or a Municipal Corporation is there, but many Government and Municipal Schools often record the age based on physical appearance of a child, and the children who would be immediately affected by this law, if we pass it today, were born at a time, that is, in 2001 when the level of birth registration in this country was 58 per cent. It is a question of guesswork as to how old they are.

In fact, the proof of age can have drastic repercussions. You may actually convict somebody saying that he is 16 when actually he is 15, and somebody gave him a bigger age to admit him into school. If you doubt me, then ask Gen. V. K. Singh and he will explain to you how it works.

Now, the fact is that there are no specific provisions or guidelines for a female juvenile in conflict and nothing for sex offenders. Do you realise that this law can be so easily misused if children, for example, teenagers are found engaging in consensual sex, the male can be charged with rape and sent to an adult prison now. This is absurd. With a 17 year old boy and 16 year old girl, this can now happen to a child.

I realise that my time is up. I just need a minute more to mention two more points. One is that there is an old established principle of law of *Lex iniusta non est lex* or an unjust law is no law at all. I just want to stress that this is an extremely unjust law. The Supreme Court has on many occasions opined that persons under 18 years of age must be treated as juveniles and should be given separate treatment for offences committed, and the fact is that our justice should be about rehabilitation and not about retribution.

The truth is that the need of the hour is not this Bill. What is needed in our country is child protection and development, under juvenile law, to be given sufficient attention and investment. This Government is starving the juvenile justice system. They are not giving money; there are not enough Juvenile Justice Boards; there are not enough Child Welfare Committees; there are not enough institutional services such as shelter homes, special homes and observation homes; and there is no effective monitoring and coordination mechanism.

Can the Minister truly argue that our country possesses adequate administrative and judicial provisions to operationalize this Bill? Will the Finance Minister -- I see the Minister of State is sitting there -- give her the resources that she needs for this, or will the Finance Ministry again do to her Ministry what they did to the Anganwadis where they do not have enough money? Already, what has happened this year? Rs. 400 crore has just been given for the Integrated Child Protection Scheme, which is 11 per cent less than the Revised Estimate for last year. Budgetary allocations for the development of children have faced drastic cuts. There has been a reduction of 55 per cent in allocations to the States. How are you going to strengthen the system and administer the provisions of this Bill if the Government starves them financially? This Bill will be a bigger disaster.

I want to stress, Mr. Chairman, in conclusion, that children below the age of 18 must be saved from prison and must be protected from the regular criminal framework. We cannot sacrifice a child to appease popular political sentiment.

All children in conflict with law and those in need of care and protection should receive the necessary care, education and counselling, and the State should work to reintegrate them into the society through rehabilitation and assistance and not to cast them aside by regressive measures of retribution.

If we pass this Bill, I say it to our Treasury Benches, posterity will judge us harshly. The child is our future. We must protect the child, rescue the child and not destroy the child. Thank you, Mr. Chairman.

HON. DEPUTY SPEAKER: Hon. Members, I think Mr. Hooda had raised this issue on which I want to give a ruling. You had said something about the Amendments.

SHRI DEEPENDER SINGH HOODA (ROHTAK): Sir, I was on a Point of Order. I will explain the matter by quoting Rule 79 (1). If notice of an amendment to a Clause or a Schedule of the Bill has not been given one day before that day on which the Bill is to be considered, any Member may object to moving of the amendment and such objection shall prevail unless the Speaker allows the amendment to be moved. Now, the power rests in your Chair. We have tabled our amendment today and we accept that. But the Bill itself was listed yesterday. So, we did not have adequate time and our amendment is substantial, as was reflected in the points that our eminent speaker just now made. Our amendment is very important to be

moved. So, we seek a ruling from you.

HON. DEPUTY-SPEAKER: The Juvenile Justice (Care and Protection of Children) Bill, 2014 was introduced on 22.08.2014. The Members would appreciate that amendments to a Bill can be given any time after its introduction without waiting for its inclusion in the List of Business. Therefore, amendments tabled today cannot be permitted under Rule 345. Members would appreciate that examination and printing of Private Members' amendments requires time. That is why rules provide for at least one day's notice. In case, the Bill is not passed today, your amendments will be admitted tomorrow.

SHRI MALLIKARJUN KHARGE: You have made it post-dated!

SHRI DEEPENDER SINGH HOODA : Sir, please allow it.

श्री प्रह्लाद सिंह पटेल (दमोह) : उपाध्यक्ष महोदय, मैं किशोर न्याय (बालकों की देखरेख और संरक्षण) विधेयक, 2014 के समर्थन में अपनी बात कहने के लिए खड़ा हुआ हूँ।

सबसे पहले तो मैं सरकार को और सरकार की जो मंत्री हैं, उनको धन्यवाद देता हूँ... (व्यवधान) जो बात मैं अभी कांग्रेस के मित् से सुन रहा था, वे अच्छी तरह से जानते हैं कि वे मूल पशुओं के लिए भी संवेदनशील हैं, तब बच्चों के लिए उनका खैरिया क्या होगा, उसमें कम से कम मुझ जैसे व्यक्ति को उनकी वकालत करने की जरूरत नहीं है, लेकिन मैं यह जरूर कहूँगा कि हम अपनी बात कहते समय लोकप्रियता के लिए कौन काम कर रहा है, हमें इसका विचार जरूर करना चाहिए। अगर हम देश से बाहर दुनिया के कुछ उदाहरण देखें तो मैं यह बात जिम्मेदारी के साथ सदन में कह सकता हूँ कि कूरता के लिए उम् की मर्यादा और सीमा नहीं रही। हम सबने भी पढ़ा था कि जहां पर आतंकवाद है, सोमालिया में एक आतंकवादी का जो सबसे कम उम्र का व्यक्ति था, उसकी उम्र 12 वंश थी और उसने 17 हत्याएं की थीं। मुझे लगता है कि एक कारण आधार तो नहीं बन सकता, लेकिन समाज को इस बात की चेतावनी जरूर देना है कि बाल मन पर होने वाले खराब प्रभाव समाज के लिए चुनौती बन सकते हैं, इस पर जरूर विचार करना चाहिए।

इस कानून का नाम ही बालकों की देखरेख रखा गया है, यदि कोई अच्छा काम कर रहा है तो उसे अवसर मिलना चाहिए। अगर कोई भटकाव की तरफ है तो उसे सुधार की गुंजाइश मिलनी चाहिए, संरक्षण मिलना चाहिए, लेकिन अगर कोई आदतन होकर गलत रास्ते पर जा रहा है और वह उसमें रच-बस गया है तो उसे सजा का प्रावधान जरूर होना चाहिए और मैं समझता हूँ कि इन तीनों मंशाओं का अगर कोई मूर्त रूप है तो यह विधेयक है। मैं सरकार को बधाई देता हूँ और मैं इसलिए आग्रह कर रहा हूँ कि मैंने जिस बात से शुरू किया, वह एक नकारात्मक बात है, लेकिन आपने तो दिल्ली की घटना का उल्लेख किया है, आप कैसे तय कर सकते हैं।

मैं तीन-चार घासों पर अपनी बात को केन्द्रित करूँगा। घास 75 में साफ लिखा है, जो अध्याय नौ में है कि बालकों के विरुद्ध जो अन्य अपराध हैं, उसमें सीधे कहा गया है, किसी भी प्रकार के कोई समाचार-पत्र या चैनल कम से कम उसके बारे में बढ़-चढ़कर न दिखायें, इससे बड़ा और कोई संरक्षण नहीं हो सकता। दूसरे उसी का दूसरा हिस्सा है, 75(2) में यह कहा गया है कि पुलिस वरिष्ठ प्रमाण-पत्र के प्रयोजन के लिए या अन्यथा बालक के किसी अभिलेख का ऐसे मामलों में प्रकटन नहीं करेगी, जहां कि मामला बन्द किया जा चुका है या फिर उसका निपटारा किया जा चुका है। यह बड़ी बात है, किसी से गलती हो सकती है। अगर इतनी बारीक चीज़ पर भी विधान इस बात की इजाजत देता है कि वह प्रतिबन्ध भी जारी होना चाहिए कि यदि किसी से गलती भी हो गई है, लेकिन सार्वजनिक रूप से उसके दरतावेजों का, न तो समाचार-पत्र में और न मीडिया में उल्लेख करेगा और न ही पुलिस प्रमाण पत्र की तरह उसका उपयोग कर सकती है, इसका प्रावधान भी इसमें दिया गया है। पहले भी हमने कानून देखे हैं, मैं गांव से आता हूँ और मैंने मजदूरों के बीच में काम किया है। अपराध किस स्तर के होते हैं? जैसे एक बलात्कार की जिस प्रकार से चर्चा इस दिल्ली महानगर में हो गयी, अपराध केवल इस तरह के नहीं होते हैं। हालांकि, मैं इसे विंताजनक मानता हूँ। लेकिन, इससे ज्यादा विंताजनक यह है, जब बच्चे स्कूल छोड़ कर, छोटे-मोटे नशे लेकर भिक्षावृत्ति का काम करते हैं। पुलिस उनको नहीं पकड़ती है।

उपाध्यक्ष जी, मैं स्मैक की तल छुड़ाने के लिए कैम्प चलाता हूँ। मैं नशे के खिलाफ काम करता हूँ। जब हम ऐसे लोगों को पुलिस के दरवाजे ले जाते हैं तो आपको सुनकर यह आश्चर्य होगा कि पुलिसवाले कहते हैं कि हम इसे अपने पास नहीं रख सकते हैं। अब उसके लिए जेल होगा या फिर सुधारालय होगा। उसके लिए कौन काम करेगा? मुझे लगता है कि आपको इसके दोनों पक्षों पर विचार करना पड़ेगा। उन्हें स्कूल लेकर जाएंगे तो वे बच्चे स्कूलों में पढ़ने के लिए तैयार नहीं हैं। उन्हें ऐसे खुले वातावरण की जरूरत है, जहां वे नशे को छोड़ सकें, अपराध से दूर हो सकें। लेकिन, उसका जो दूसरा पक्ष है, जिसके बारे में इसमें लिखा गया है कि उनसे भिक्षावृत्ति करवाने का, उनके द्वारा स्मैक बंटवाने का, उनके माध्यम से उसका परिवहन करने का एक समूह काम कर रहा है। अगर वे पकड़े जाएंगे तो वे अपराधी माने जाएंगे, लेकिन उनके अपराध के पीछे कोई और है। इसे हम सब लोग भी अच्छी तरह से जानते हैं। लेकिन, मैं सरकार को और माननीय मंत्री जी को धन्यवाद दूँगा कि इस बिल की धारा-84 के भीतर आपने उन्नाव की समूहों का उल्लेख किया है, जिसमें सात वंश की सजा और पांच लाख रुपये जुर्माने का प्रावधान किया है, इसके लिए मैं आपको हृदय से बधाई देना चाहता हूँ। बच्चा तो सिर्फ एक कैरियर है, अपराध करने वाले लोग बच जाते हैं। इसमें आपने इसका उल्लेख किया है, इसके लिए मैं आपको बधाई देता हूँ। वास्तव में तो सही अपराधी वे लोग हैं, जो बाल मन का उपयोग करके अपराध को बढ़ाने का काम करते हैं। ऐसे ही बहुत सारे दूसरे लोग भी हैं, जो बच्चों का इस बात के लिए उपयोग कर रहे हैं कि हम वास्तव में नशे को और फैलाने का काम कैसे करें? जैसे मैं स्मैक के बारे में जिम्मेदारी के साथ कह सकता हूँ कि तीन बार किसी बच्चे को मुफ्त में स्मैक पिता दीजिए, चौथी बार वह चोरी करके लाएगा और उससे स्मैक पीएगा। इसके बाद वे लोग अपना काम चलाते रहेंगे। लेकिन, इसका दूसरा पक्ष भी धारा-78 और धारा-79 में है। यदि किसी दुकान पर कोई नशीली चीज़ बिकती है और यदि वह किसी छोटे बच्चे को उसे देता है तो उसके लिए भी प्रावधान है। लेकिन, दूसरी तरफ जो इसे बेचने वाला गिरोह है, अगर वह पकड़ा जाता है तो उसके लिए भी उतना ही कड़ा प्रावधान है। मुझे लगता है कि वे छोटी-छोटी चीज़ें भी इसमें हैं।

जब हमारे ऊपर, आपके ऊपर या किसी के ऊपर किसी बालमन को देखने की व्यवस्था सुपुर्द होती है तो आपको तीनों चीज़ों का ध्यान रखना पड़ेगा। यह हो सकता है कि उसके माता-पिता न हों। परिवार की कमियों इत्यादि के कारण वह भटकाव के रास्ते पर चला गया। मैं तो आपके माध्यम से इसमें एक चीज़ और जोड़ना चाहूँगा। कई बार जब कोई बच्चा अपराध करता है तो वह किसी आकस्मिक परिस्थिति के कारण करता है, लेकिन समाज उसको पूरी तरह से दुत्कार देता है। ऐसे में उन्हें गोद लेने की अनुमति देने वाले जो लोग हैं, उनके लिए भी अलग से कोई शब्द होना चाहिए। वास्तव में, गोद लेने की जो परंपरा है, उसमें अगर आप उन बच्चों को गोद लेने जाएं, जिनके माता-पिता नहीं हैं, तो यह हो सकता है कि शायद आप सफल हो जाएं। लेकिन, जिन बच्चों के माता-पिता हैं, लेकिन उन्होंने उसे छोड़ दिया, या फिर पिता नहीं हैं और उसकी मां ने उसे छोड़ दिया है, तो ऐसी स्थिति में गोद लेने की जो कानूनी व्यवस्था है, वह इतनी जटिल है कि आप मानकर चलिए कि आप उस बच्चे को गोद नहीं ले सकते हैं। मैं तो कहता हूँ कि इन सरोकारों से जुड़ने में गोद लेने की परिभाषा बदलनी चाहिए। सम्पत्ति का हक नहीं, बल्कि उसे भटकाव से रोकने का हक अगर एक गार्जियन की तरह देने के लिए कोई तैयार हो, तो उसके लिए भले ही हमें कोई शब्द ढूंढना पड़े या कोई कानून बनाना पड़े, तो मैं चाहूँगा कि सरकार को इसके लिए कोई वर्तोज बनानी चाहिए। यदि कोई एक बिगड़ते हुए बच्चे को सुधारने के लिए एक गार्जियन की तरह उसे गोद लेने के लिए तत्पर है, तो सरकार को उसके लिए एक अलग-से कानून का प्रावधान करना चाहिए।

श्रीमती मेनका संजय गांधी : यह इसमें है।

श्री प्रह्लाद सिंह पटेल : माननीय मंत्री जी कह रही हैं कि यह इसमें स्पष्ट है, मैं भी यह चाहता हूँ कि कहीं न कहीं इसमें इस बात का प्रावधान स्पष्ट तरीके से होना चाहिए।

उपाध्यक्ष जी, जब डॉक्टरों के ट्रीटमेंट के संबंध में सवाल आता है तो मैं चाहता हूँ कि उसमें जो सबसे अहम बात होती है, जिसका सर्वाधिक अभाव जिला मुख्यालयों में होता है, कि क्या हम मनोवैज्ञानिक चिकित्सक का प्रावधान कर सकते हैं? जब कभी आप किसी बाल अपराधी के बारे में विचार करते हैं तो मैं मानता हूँ कि उस बच्चे की पहली आवश्यकता उसके स्वास्थ्य-परीक्षण की नहीं है, बल्कि उसके मनोविज्ञान को समझने की जरूरत है कि वास्तव में उसने किन परिस्थितियों में उस अपराध को किया है। फिर हम

उसे बेहतर और ज्यादा बेहतर संरक्षण दे पाएंगे और उसे एक अच्छे नागरिक की तरह इस देश में स्थापित कर पाएंगे। यह सबसे अहम सवाल है।

महोदय, मैं नरसिंहपुर जिले से आता हूँ। मैंने यहां बच्चों को सुधारालय में देखा है। मैंने देखा है कि वे एक बेहतर सिलाड़ी हो सकते हैं। मैं पूरी जिम्मेदारी के साथ कहूँगा कि चाहे कोई भी बच्चा हो,

वाहे उसके मां-बाप हों या न हों, उसकी दिशा भटक सकती है, लेकिन उसमें कोई-न-कोई हुनर जरूर होता है। मैं नेहरू युवा केन्द्र का महानिदेशक रहा हूँ। मुझे पढ़ाई छोड़े हुए गांवों के बच्चों के बीच काम करने का मौका मिला है।

17.00 hrs.

मैं यह मानता हूँ उनको मंच नहीं मिलता है। कभी उनमें कोई अच्छा खिलाड़ी होगा, उसके अंदर खेल की प्रतिभा होगी, किसी के अंदर गाने की प्रतिभा होगी, भले ही वह पढ़ा-लिखा न हो, उसका स्कूल छूट गया हो, भले ही वह अपराध के रास्ते पर चला गया हो, पर मुझे लगता है कि उस गुण को जानने की जरूरत है। जुवेनाइल कोर्ट की सजा देने के बावजूद भी अगर उसके हुनर को हम पहचान पाए और उसको कोई वोकेेशनल ट्रेनिंग दे दी या दूसरा कोई प्रशिक्षण उसके साथ चला दिया तो मैं जिम्मेदारी के साथ कह सकता हूँ कि लौटकर आने के बाद वह अपराधी नहीं बनेगा, भारत का एक अच्छा नागरिक बनेगा।

हमारे जो मित्र भाई-बंधु हैं, उनसे मैं विनम्रता से कहना चाहता हूँ कि इसमें हम विशेषाभास न करें। वाहे 12 साल हो, 14 साल हो, 16 साल हो या 18 साल हो, आदतन अपराधियों के बारे में इस समाज को सख्त होने की जरूरत है। उसको निश्चित रूप से मौके मिलने चाहिए, उसे पढ़ने का मौका मिलना चाहिए और उसको बाकी सुलेपन के अवसर जरूर मिलने चाहिए। जो वह चाहता है, जो उसकी अपेक्षा है, जो उसके भीतर कुंठा है, जिस बात के कारण, परिवार के अभाव के कारण जो कुंठा पैदा हुई है, अगर उसे पहचानने का हमने काम किया और उसे रास्ता दिया तो हम सफलता जल्दी अर्जित करेंगे। ऐसा मेरा विश्वास है। कुछ समय मैंने इन क्षेत्रों में काम किया और आज भी छोटा-मोटा काम करता हूँ। मैंने बहुत बड़ा काम तो नहीं किया, लेकिन मैं छोटे-मोटे काम करता रहता हूँ। उसी आधार पर मैं जिम्मेदारी के साथ कह सकता हूँ कि कानून अपनी जगह पर होगा, लेकिन कानून का पालन करने वाली मनोवृत्ति की भी सख्त जरूरत है तब कहीं जाकर आप इस कानून को अमलीजामा पहना पाएंगे।

मुझे इस बात का संतोष है कि यह मंत्रालय आदरणीय मेनका जी के पास है, क्योंकि उन्होंने इस क्षेत्र में काम किया है और वे बारीकियों को समझती हैं। इसलिए मैं उनसे कहेगा कि उन लोगों को प्रोत्साहन मिलना चाहिए, एनजीओ तो बहुत सारे होते हैं, इसमें पंजीयन का प्रबन्ध है, लेकिन पंजीयन संस्था का होता है, व्यक्ति का पंजीयन नहीं होता है, उसके काम करने के तौर-तरीकों का पंजीयन नहीं होता है। अगर हम देश से बाहर के देशों से कामकाज के तरीकों में कोई चीज लेना चाहते हैं तो मैं यह चाहूँगा कि एनजीओज के बारे में भी इस बात को तय करना चाहिए कि आप किस क्षेत्र में काम करना चाहते हैं, आपकी मास्टरी किस बात में है, इसलिए मैंने पहले ही कहा है, जिस बात पर मेरा ज्यादा जोर है कि डॉक्टर्स हों, लेकिन वे मनोविज्ञान के चिकित्सक जरूर हों, क्योंकि बाल मन को पढ़ना और उनकी परिस्थितियों को समझना, ये दोनों चीजें बहुत अहम हैं। इस पूरे कालखंड में पुनर्वास का पूरा पूरा काम इसमें दिया गया है। पूरा पुनर्वास का काम इसमें है, कानून की जद है, 16 से 18 साल के बीच में भी अगर कोई क्रूर अपराध करता है तो उसे उतनी ही क्रूर और कठोरतम सजा मिलनी चाहिए। उसे सुधारने के अवसर जरूर दो बार मिलने चाहिए। अगर कोई इस कदम के कारण बच जाए कि उम्र का सहारा लेकर बचकर नए अपराध को पैदा करे, नए लोगों को शुरूआत के लिए प्रेरित करे, ऐसे लोगों को रोकना चाहिए। आज हम सब अखबार पढ़ते हैं। हम देखते हैं कि छोटे बच्चों को हथियार देकर उनका दुरुपयोग कराया जा रहा है। हम सबकी आंखें धींधी देखती हैं, चित्त देखती हैं, समाचार पढ़ती हैं, इसलिए हमको अपनी उस मनोवृत्ति से उबरना पड़ेगा। मैं मानता हूँ कि उसकी संख्या कम हो सकती है, वे लोग जघन्य हो सकते हैं। मैं मानता हूँ कि उनकी कूरता उन बच्चों को इस बात के लिए शायद कभी माफ नहीं करेगी कि उन बच्चों का दुरुपयोग करके अपने गलत मनसूबों को पूरा करना चाहते हैं। उसके खिलाफ आपको लड़ाई लड़नी पड़ेगी। एक तरफ बच्चों के प्रति हमारी सहृदयता हो और दूसरी तरफ अपराधियों के प्रति हमारा कठोर रवैया हो, मैं समझता हूँ कि यह कानून दोनों बातों का संतुलन है।

मैं सरकार का इस बात के लिए धन्यवाद करता हूँ और इस बिल का समर्थन करता हूँ। मैं अपेक्षा करता हूँ कि सदन इस पर अपनी राय देकर जरूर इसका समर्थन करेगा।

SHRI V. PANNEERSELVAM (SALEM): Sir, I thank you for this opportunity to speak on this much awaited Bill.

This Bill seeks to replace the earlier Act enacted in the year 2000. The present Bill addresses the children in conflict with law and children in need of care and protection. In the case of heinous crimes, the juveniles will be tried as adults even if they are 16 years of age instead of 18. Whether juveniles will be tried as adults will be determined by the Juvenile Justice Boards to be constituted in each district. There will also be Child Welfare Committees in each district of the country. The CWC will determine the institutional care for children in need of care and protection.

This Bill also includes the procedure for adoption and the eligibility of adopting parents. The Bill also prescribes penalties for abducting or selling a child, offering narcotic substances to a child and also penalties for cruelty against a child.

Whether this Bill is an agreement with the UN Convention on the Rights of the Child is a moot question. The UN Convention requires all signatory countries to treat every child under the age of 18 years as equal. But this Bill tries to strike a balance in line with the procedure followed in USA to try a juvenile even when he is thirteen years. South Africa and France have brought it down to sixteen years. While Canada and Germany have brought it down to fourteen years, Britain has brought it down to seventeen years. Without being impressed by this precedence, the Standing Committee on Human Resources Development stated in its Report that the proposed bringing down of age to sixteen in our Bill was in violation of the convention. However, the Government is going ahead to treat sixteen year old juveniles as adults if they are found guilty of very serious offences like murder, rape and drug offences.

The penalty for selling a child gets lesser penalty than the punishment for offering drug to a child. I wish the penalties are in proportion to the gravity of the offence. I am afraid the makers of this Bill failed to obtain right kind of data while drafting this Bill. Even the Standing Committee has pointed out that this Bill was based on misleading data regarding juvenile crimes.

There is much debate outside the Parliament now about the violation of certain provisions of the Constitution. Some people point out that the principles of Articles 14 and 15(3) have been violated. There is also a human cry about trying as an adult, a person who is apprehended after 21 years of age for the very serious offence committed when he was between 16 and 18 years of age. So, such critics point out that this is in violation of Article 20(1) of the Constitution. This means that at a later date, the same person may face a penalty that is higher than what would be applicable to him at the time of commission of the serious offence. That opposition is raised on the plea that it goes against the right to equality. I would like to point out that such juveniles who violate laws are not equals but are definitely different from those who are taken care and protected well as children who have the freedom to enjoy their childhood. So, in my opinion this Bill is negatively righteous.

Even stray dogs in this country have got protection but not many street children. This is unfortunate. The noise of those who raise voice for animals is louder than the voice of the people who want care and protection for children. Recently, an interaction with some students of Political Science of reputed university revealed an anomalous situation. Those students who conducted a study on the amount being spent by both Centre and States on children in Reform Homes came with some astonishing findings. I was shocked to find out from their unpublished reports that all the

local bodies put together in the country are spending more money on stray dogs than the total money spent on juvenile homes across the country. This situation if verified and found to be true must be changed for better. We need to be more humane to humans.

This Bill according to a columnist is an agitated reaction to an unfortunate incident taken place in the national capital. Unfortunately, the similar recent bus incident in a rural area in a neighbouring State failed to evoke that much of public reaction. So, there is a need to be cool and collected while framing laws.

In this information era, children appear to be more informed. But the fact remains that they are not matured enough to handle so much of information. This has resulted in violent behavior in many a children all over the world. Only yesterday, I read from a newspaper that a four year old child in USA was handcuffed by the police for violent behaviour of that child.

Respected Deputy Speaker, Sir, any number of laws can be brought to tame juveniles but only the way how they are brought up can change them.

Yentha Kuzhathaiyum Nalla Kuzhanthai Than

Mannil Pirakkyiley,

Athu nallvan aavathum, theeyavan aavathum

annai valarpathiyeley.

It is what our founder leader, Puratchi Thalaivar MGR reiterated. It means that all children are born innocent and they are growing to be good or bad is in the care and protection given by a mother.

Following the footsteps of our founder leader, our beloved leader, Makkalin Mudalvar Amma is guiding our Government of Tamil Nadu to take care of children right from the cradle. We have Cradle Baby Scheme for abandoned children so that they are taken proper care. This is a great social concern. Dropout rate in schools in our State has come down because of nutritious noon meal scheme and various other incentives like free text-books, cycles, uniforms, computers for scholarship for higher education. Apart from hostels for SCs, STs and OBCs under the care of the Social Welfare Department, the Government of Tamil Nadu provide enough opportunity for children to grow as children.

Urging upon the Government to provide right kind of atmosphere for children to grow as better citizens by way of training and placing right kind of people in the Protection Homes and Child Care Hostels, I conclude. Thank you.

DR. KAKOLI GHOSH DASTIDAR (BARASAT): Sir, I stand here to discuss the Juvenile Justice (Care and Protection of Children) Bill, 2014 brought by our hon. Minister, Shrimati Maneka Sanjay Gandhi. This Bill replaces the Juvenile Justice (Care and Protection of Children) Act, 2000. The Bill permits juveniles between the ages of 16 and 18 years to be tried as adults for heinous offences. Also, any 16 to 18 year old, who commits a lesser, i.e., less serious offence, may be tried as an adult only if he is apprehended after the age of 21 years. There are differing views on whether juveniles should be tried as adults. There are arguments that the current law does not act as a deterrent for juveniles committing heinous crimes. Another view is that a reformatory approach will reduce likelihood of repeating offences. The provision of trying a juvenile committing a serious or heinous offence as an adult based on date of apprehension could violate the Article 14 (right to equality) and Article 21 (requiring that laws and procedures are fair and reasonable). The provision also counters the spirit of Article 20(1) by according a higher penalty for the same offence.

India has ratified the United Nations Convention on the Rights of the Child. It requires treating every child under the age of 18 years as equal. The provision of trying a juvenile as an adult contravenes this Convention also.

Of course, the penalties provided in the Bill are not in proportion to the gravity of the offence. For example, the penalty for selling a child is lower than that for offering intoxicating or psychotropic substances to a child. However, the census data at the moment shows that juveniles between the ages of seven to 18 years constitute about 25 per cent of the total population. The National Crime Records Bureau shows that the percentage of juvenile crimes has gone up in the recent past and it has increased from 1 per cent to 1.2 per cent from 2003 to 2013. During the same period, 16 to 18 year olds accused of crimes as a percentage of all juveniles accused have increased from 54 per cent to 66 per cent. So, here comes the necessity of giving this a serious thought. But the mention of the JJB and also the Boards to look into whether these children, as we call them, should be taken special care of, has a financial implication which has to be dealt in detail.

I would like to mention here that the police who are going to investigate or the Boards that are going to look into these matters should have women as members. My learned friend was speaking about psychiatrists. I would also think that we should have children psychiatrists on this Board, who should look into the mental capacity of the children.

I would like to bring here to the notice of this august House about a film which was called '*Taare Zameen Par*'. Just because the requirements of children are not understood or appreciated, sometimes children are misled. In this country, we have so many families who live below poverty line. If a child who is lifting, be it a food article or a toy out of dire shortage of fund in his house, then I should think that the child is not to be blamed. It is the society or the State, which has to be blamed; and the corrective measures have to be taken by the family, by the neighbourhood, by the State.

So, this child-friendly move that has been taken up by the hon. Minister is appreciated. Besides, we should try to lift the social status of these children through education, through supplying them food through Governments. We are doing it in our State of West Bengal. We are imparting education to the children, particularly, to the girl child through the 'Kanyashree' an innovation of CM Kumari Mamta Banerjee. Similarly, the country is trying to provide food grains through the 'Mid Day Meal Programme'. But there should be other facilities also given to the children besides education. The children should be exposed to recreational facilities. The children should be given vocational training. Their childhood should be our concern. We should see that the child is not carried away due to poverty to commit such a crime, which might lead to the child being named as a criminal. This

kind of criminal mentality in the child can be combated only if the child is taken care of in a compassionate way right from birth and given, if not equal, similar facilities of a middle class family so that the child's mentality is not crime-oriented.

With these few words, I conclude. Thank you.

SHRI TATHAGATA SATPATHY (DHENKANAL): Hon. Deputy-Speaker, Sir, I am thankful to you for giving me this opportunity to speak on this important Bill.

All the previous speakers and most others after me, would give data about all that has happened in the previous Bill of 2000. We had a Bill even prior to that. So, this is practically the third Bill. I have a few points; and I am not harping on data because I think the Minister and the people in the Official Gallery know much better than I do.

Sir, it is not NCRB or anything as such, that matters. How I see this Bill is that it is kind of a pincer movement. There is one part, which says 'care and prevention' and the other part is 'juvenile justice'. Our sincerity for the future generation is amply seen in the eyes of the hon. Deputy-Speaker, who sits there in the Chair and sees the overcrowded House, how people are concerned about our children and about our future. That being what it is, I would like to point out to the Government that care and protection should be of prime importance. It is not the retribution that one should look at.

When a child is committing a crime, we are not having a system to study what has caused the child to adopt this path. It may be economic hardships, family background, environment or peer pressure. What is it that is causing the child to adopt a path of criminality for which we bring in this Juvenile Justice Bill and bring the age down to 16 years from 18 years?

Sir, I believe that taking a reactive approach will not help this country. We have to take a long term approach in cases where we are dealing with children or infants. What the past has shown is that implementation of the law has been the biggest problem. We have some 600 odd districts in this country. Therefore, probably whatever there is in the Bill, we will have some 600 plus Juvenile Boards because they plan to have one Board per district. These will be like your subordinate judiciary where there is no AIR reporting like in the Supreme Court or in the High Court. Whatever the subordinate Judiciary give judgements, those are not reported and there is no standardisation. So, one person having an auto accident can go scot-free and it will not be counted as culpable homicide. But in another case, if the person is known socially, who is big, whose name is known all over the country, and he has an accident, right or wrong, I am not getting into that, but sometimes we see that subordinate judiciary likes to take a bravo or a pat on their own back that they could punish a superstar. This sort of thing affects politicians, it affects bureaucrats, it affects movie stars and it affects all kinds of people.

Similarly, in the district Boards also, when you will have 600 plus Boards, what is the conditionality that you are going to impose on them? Where will be the standardisation? Where there will be a process by which they will deal with the children and the crimes that these children might commit?

I believe that laws should be so framed that they are very easily understandable. If we leave ambiguity in our laws, then what will happen is that everybody will understand the law differently and it will have different connotations and different interpretations in all these separate places. So, with 600 districts again, we will have the law being interpreted completely differently at every single district. If I am given a chance, I would prefer that if ten children committing crime, let them go scot-free but not a single child who is innocent should be punished because of an ambiguity in our law. Ambiguities are galore in this Bill. If we see that, it will be very easy to point out.

Sir, I have noticed one thing today. In my school days, when we were kids, we appear to be physically smaller. But now because of our food intake, the kind of fertilizers, pesticides, hormones that our children take today, they tend to grow big. So, their maturity puberty at a much earlier age. So, I am not stuck on what the hon. Minister has stressed that from eighteen by lowering the age to sixteen, it might solve some problems. I would like that the Government should reconsider whether setting the base age, whether eighteen or sixteen, whether that is wise or not. That should have a free fall in the sense that if a crime is really heinous and is terrible like the Nirbhaya case, if something like that happens, if the child is even fourteen years old, I personally feel that the child should be judged as an adult and there should be no leniency in that kind of a case. Although I support the lowering of the age, I believe that there is no rationale behind the number sixteen and it should have the freedom and these district Boards should have the freedom to judge each and every case on individual merit.

I had also said in my speech on the Demands for Grants under the control of the Ministry of Home Affairs that the police in this country should try to take in active members of society and there should be social policing also. Especially in the case of children, it is necessary that we involve social leaders, not political leaders and bureaucrats, but social leaders who will take care of children who will see if there is a tendency of criminality among children and at the very outset they can address the problem.

There is one funny aspect to it and, that is, clause 7 which is very interesting. Sir, you would have noticed it.

SHRIMATI MANEKA SANJAY GANDHI: We have withdrawn that.

SHRI TATHAGATA SATPATHY: It is good. They have withdrawn that. I think the respected Minister also found it absurd. So, with that gone, it leaves me a little bit short of speech.

The other part that I would like to point out to the Government is that there is a lot of discretion left at the hands of the police officer dealing with the children. Now, Sir, you are very well aware that our police officers are found to be extremely insensitive and callous in most cases dealing with adults. When it is a child, we obviously cannot expect them to have feelings, to have emotions and to be bothered about the future of the child. So, I would request the Government that they should reconsider about the discretion of the police officers because their sensitivity is something that one needs to actually question. It is necessary that apart from having District Boards, you have to also create State Boards which will monitor the

activities of the District Boards. I would suggest that there should be a system set up by the federal Government that would obviously try to take into account the reports that come in from all the States and there should be annual reports which should help in standardizing the prosecution of juveniles across the country.

The other point that I would say is that this law, to me, seems to be a law that will phase out in time as we have seen in the earlier two laws. The last one was in 2000 and the one previous to that was in 1986 or 1987. So, all the time when we are making our laws, we are making it with a very short-sighted approach and at the end of the day, very soon by the time the law is actually implemented at the ground level, we find that our machinery is incapable of handling it and also the children, whom it is supposed to address, have grown away from those particular kinds of crime. So, there should not be any ambiguity. Yet it should be an open ended law which can transform itself over a period of time.

I again welcome this law. I like the way they have lowered the age. But I would suggest that 16 also should not be the limit. It should be a freefall. Thank you, Sir.

SHRI MUTHAMSETTI SRINIVASA RAO (AVANTHI) (ANAKAPALLI): Deputy-Speaker, Sir, I thank you for giving me an opportunity to speak on the Juvenile Justice (Care and Protection of Children) Bill, 2014. I rise to support the Bill. The Bill seeks to try 16 to 18 years old accused of heinous crimes as adults. In its previous form, the law assumed that adolescents, whether 15 or 17, are less morally culpable than adults for criminal behavior and are more capable of change and rehabilitation. But that is a view that is being questioned day in and day out since December, 2012 Delhi gang rape case of Nirbhaya and the Shakti Mills gang rape of August, 2013. In both the cases, young men below 18 were the co-accused. Mahmud and his friends escaped from the Government-run juvenile home last year, which only added to the spectre of dangerous young boys running around freely in the city.

These incidents have compelled the NDA Government to try 16 to 18 years old accused of heinous crimes as adults. I fully support it because of the increase in the crimes committed by juveniles.

Sir, at the same time, we have to spread awareness among the children and impart moral education to them. Then only we can implement these laws. Despite so many laws in our country, these incidents are occurring. For example, giving and accepting dowry is illegal but for many years this practice is followed by people. So, we should try to spread awareness among children, especially through media, people representatives, officials and schools. In our educational system instead of quantity of knowledge we should insist on quality of knowledge. We should impart moral education to our children through stories from Ramayana and Mahabharata and other historical events. I strongly feel that only moral values can bring about change in the system in a society.

Sir, it is needless to say that juvenile homes in our country are in pathetic conditions. There is a need to reduce conflict in juvenile homes. The multiple incidents of rioting, escape and violence in juvenile homes last year are a matter of serious concern. The Committee of High Court Judges had also recommended that immediate action should be taken to improve the conditions in these homes. The security at these homes is also required to be upgraded by installing CCTV cameras, perimeter cordon and increasing the number of watchtowers.

The inmates with serious behavioral issues should be shifted to a separate facility. There is a need to provide psychological support to the inmates by allowing family visits. The NGOs running non-formal education classes in juvenile homes should provide classes for dance, aerobics, sports, yoga and meditation to the inmates as a means to curb incidents of violence in these homes. There are no proper toilets and drinking water facilities. There is no proper monitoring. There is no proper health check up. These boys should be given proper counsel and boys with good behavior should be released immediately. They need to be imparted skill development training. They need to be provided vocational education.

The juvenile homes for girls are no better. I would request the Minister to make surprise inspections of juvenile homes by her Ministry officials and action should be taken suitably.

Finally, vacancies in the juvenile courts need to be filled up. I would be obliged if the Minister informs the House about the allocation of the budget for juvenile homes for the year 2015-16.

With these words, I support the Bill. Thank you, Sir.

SHRI GAJANAN KIRTIKAR (MUMBAI NORTH WEST): Thank you Deputy-Speaker, Sir. Regarding the Juvenile Justice (Care and Protection of Children) Bill, 2014, I have a few suggestions to make.

Private adoption clause should be inserted in the Hindu Adoption Act. Condition of court order should be made mandatory for such adoption.

In respect of late marriage and financial stability, the age limit should be extended from 16 to 18 years. The age of adoptive parent should be extended to 50 years for male and 40 years for female. It may vary as per financial background and health stability.

In matrimonial cases, if custody is given to mother, she shall get the right of father as well as that of mother. If full custody is given to the mother, only she should have the right on her child and in that case, father's right should be waived. In that case, the mother has to be given adoption right. Please refer to Tista Chatterji case. In that case, the mother wanted to change the name of her child in the passport. She was not allowed to do so, but finally she could win her case in the court. That is not enough. All the official authorities should be given the direction to allow the change of name of a child as per his own choice and wish. Or, the custodian parents can give their names to his child. For that, no court order is required or there is no need of any consent of his or her original father or mother. The Hindu law or the Hindu Adoption Act should be reformed accordingly.

Every payment made to an orphan house for adoption should be made by cheque and not in the form of cash. An online form for adoption is

mandatory. Minimum and maximum disposal of such forms for adoption for each orphan house, whether it is government or private, should be checked.

Bal Kalyan Samiti should be educated properly and maximum training should be imparted to their employees.

The Indian Council of Social Welfare Committee is to be established in every district of the country. After a court's order, there should be no need for registration of an Adoption Deed. Now, there is only one ICSW in Maharashtra. Similarly, this must be the case in other parts of the country, in every State so that every district has such a centre. The matter relating to adoption in the court should be disposed of within one month.

Sir, I have got some reports which would mention very briefly. The Report of the Standing Committee on Human Resource Development on The Juvenile Justice (Care and Protection of Children) Bill, 2014, in para 3.29 says:

"The Committee noted that clauses 7, 15(3), 16(1), 19(3), 20(1), 20(3), 21 and 22 of the Bill constituted distinct violations of the provisions of the United Nations Convention on the Rights of the Child, 1989."

Will the Women and Child Development Department explain on what basis has it proceeded with the amendments, despite the incompatibility of the provisions with the UN convention on the Rights of the Child?

It further says:

"The objective analysis of the data of the National Crime Records Bureau placed before the Committee makes it abundantly clear that the percentage of juvenile crimes in India, which is 1.2 per cent of the total child population of the country, is quite low.

Secondly, some incidents of juvenile crime, though a cause of serious concern, should not be the basis for introducing drastic changes in the existing juvenile justice system."

Sir, these are the points which I wanted to bring to the notice of the hon. Minister. Thank you very much.

SHRI B. VINOD KUMAR (KARIMNAGAR): Sir, I thank you for giving me this opportunity.

The Juvenile Justice (Care and Protection of Children) Bill, 2014 has been introduced by the hon. Minister to replace the Act passed in this House in the year 2000. The crux of the Bill is with regard to the trial of juveniles as adults. I think, that is the only important issue which we have to debate on in this House because the child, who is aged between 16 and 18 years and is accused of having committed a heinous crime as specified in the Bill, is going to be tried as an adult. This is the crux of the issue, I think, which we have to discuss and debate on, in detail. Nearly, 80 per cent of the juvenile offenders in conflict with law come from desperately poor and deprived socio-economic backgrounds. Their childhoods have been full of poverty, violence, abuse and neglect. They have been deprived of basic necessities such as love, affection, care and a nourishing environment. It is their harsh upbringing that is primarily responsible for them turning to crime.

Let us see the statistics. The percentage of juvenile crimes to total crimes is 1.2 per cent, and the percentage of violent crime is even lesser. It is not the 1.2 per cent of children who are committing crime as mentioned by one of my colleague MP but it is the crime rate of 1.2 per cent of crimes committed by the juveniles of all the crimes. Heinous crimes such as rape and murder constitute even less when compared with the crimes committed by the adults.

The Standing Committee on Human Resource Development (HRD), which has submitted its Report, has said that the increased rape cases among juveniles can be attributed to the Protection of Child from Sexual Offences Act, 2012, which increased the age of consent to sexual activity from 16 to 18 years. This Act has increased the age from 16 to 18 years. So, that is an observation made by the Standing Committee on HRD.

My Party seriously opposes this Clause, which is inserted in the Act about the crime committed by juveniles who are aged between 16 and 18. As regards the other Clauses, which are specified in this Bill, when compared with the earlier Acts, I think that there are a few Clauses, which are good. For example, the constitution of the Juvenile Justice Board, and earlier the conducting of an inquiry was not specified clearly whereas in this Bill it is very clear. It also states that it should have a preliminary inquiry conducted in certain cases by the Juvenile Justice Board to determine whether a child is to be placed in a home or sent to children's court to be tried as an adult. This is what is specified in it, which I think is not a good step to insert that Clause or section in this Bill.

As regards Child Welfare Committees also, the hon. Minister had taken good steps for the functioning of these Committees. It is good that Special Juvenile Police Units and Child Welfare Police Officers are constituted. In the earlier Act the constitution of such Police Units was not there. These Units will be established in each District consisting of a police officer with two social workers, and one Child Welfare Police Officer who will be present in every police station. But I do not know how the budget for the same is going to be allocated. I am saying this because law and order is a State subject. I do not know whether this Union Government will support the States to have this functioning in each police station.

With regard to adoption also the provision made in this Bill is laudable and very good. I am saying this because earlier the juveniles who had committed some crime, their care was not taken after they became adults. Sir, I would request the hon. Minister to consider deleting this provision which is there in clauses 7, 16, 19 (3) and 20 of this Bill wherein a juvenile, who is aged between 16 and 18 years, if he commits some heinous crime, is to be tried as an adult. I think this is not a good provision in the present circumstances. The speakers who spoke earlier also mentioned about the conditions prevailing in our country where we have to take care of these growing children. It is better to educate them and to have moral classes at primary and secondary education levels so that we can control all such crimes. But if a child in the age group of 16 and 18 years is tried as an adult, and in the event the charges are proved and conviction is made, I think it will not be good for society at large. I would request the hon. Minister to see that this clause is withdrawn. Thank you.

SHRI MD. BADARUDDOZA KHAN (MURSHIDABAD): Hon. Deputy-Speaker, Sir, on behalf of my Party, I rise to speak on the legislation relating to Juvenile Justice (Care and Protection of Children) Bill, 2014. I am not totally against the legislation. As we all know, the concerned Act was first passed by Parliament in the year 2000 and it was further amended twice, in 2006 and 2011, to overcome lacks in its implementation. Then, why is the Government in a hurry to bring a new Bill which would replace the Juvenile Justice Act of 2000?

Sir, we know that there are some heinous crime cases like 'Nirbhaya'. It is also partly true that crimes being committed by children in the age group of 16 to 18 years are increasing and to combat this situation, the new Bill is being introduced, though there are some differing views within the Cabinet, within the Standing Committee, and among experts and social activists. The 264th Report of the Departmentally-related Standing Committee on HRD on the Juvenile Justice (Care and Protection of Children) Bill, 2014, which was submitted on 25th February 2015, has severely criticized the radical amendments in respect of juveniles aged between 16 and 18 years accused of committing 'heinous offences'. The PSC Report specifically highlights that such far-reaching amendments are not backed by any data of the NCRB which, in contrast, suggests that juvenile crime rate has remained at a mere 1.2 per cent of total crimes committed. It is a sensitive issue. We cannot determine it at a glance that the juveniles between the ages of 16 and 18 years who committed the crimes be tried as adults.

Before making such a major sensitive change, we must think why crimes being committed by juveniles are increasing. Why are they committing heinous crimes like murder and rape? We must think of the social status of these children who are committing such heinous crimes. If we look into the incidence of crime against children during 2011, as per the report of the National Crime Records Bureau, 2011, the crimes against children reported a 24 per cent increase when compared with 2010 figures. An increase of 43 per cent was registered in kidnapping and abduction crimes that attract IPC provisions. While rape cases were increased by 30 per cent, procurement of minors increased by 27 per cent, and foeticide increased by 19 per cent over the figures of 2010. Everybody knows about cruelty to child labour. Due to poverty, they are working very hard like adults in brick-fields, small industries, shops and in agriculture sector. These are also crimes against children. There are some laws to prevent such crimes, but where is the implementation of such laws to save the childhood of the juveniles? In some cases, law-makers are the law-breakers. Then, who will save the childhood? The net result is that juveniles are acting like adults. Sometimes, they are committing heinous crimes. Now, we are going to introduce harder laws than before. Is it the only solution? On the other side, this Bill will possibly violate articles 14, 21 and 20 (1) of the Constitution.

Also, the provision of juveniles between the ages of 16 and 18 to be tried as an adult is not in accordance with the United Nations Convention on the Rights of Child as ratified by India and mentioned in the Statement of Objects and Reasons of the Bill. A solution to the problem has to be thought of within the parameters of the Juvenile Justice Act itself and this can be done by strengthening the institutions under the Act and by ensuring that a juvenile who has committed such a crime is not allowed to repeat the offence and/or intimidate the victim again. One immediate amendment that can be moved is to remove the upper limit of three years for detention under the present Act to a suitable period agreed upon by all concerned persons. The juvenile can be kept in a safe place or institution under the JJ Act during this increased period.

Thus, the Amendment suggested in the Juvenile Justice Bill 2014 is short-sighted and unjust and against all tenets of human rights. It will not lead to either public safety or improvement in juvenile behaviour. To achieve this, the Juvenile Justice Act should be strengthened and amendments can be made to it to ensure that juveniles who have committed offences do not repeat them and remain a threat to society.

So, I urge upon the Government to discuss this very sensitive issue on a large scale. Special consultation with the eminent psychologist and social activists is much needed. First save the childhood of the juveniles and then punish if necessary. With this, I conclude my speech.

SHRI P. SRINIVASA REDDY (KHAMMAM): Hon. Deputy Speaker Sir, I rise to speak on behalf of my party YSRCP to support the Juvenile Justice (Care and Protection of Children) Bill 2014.

The present juvenile system has proved to be ineffective and required better implementation, but the new amendment would be too harsh on juveniles and would make them bitter. Categorizing juveniles in such a way and trying and putting them in jails along with adults could lead to their becoming hardened criminals. The proposed amendment says juveniles above 16 years could be treated at par with adults if involved in heinous crimes, like rape and murder, for which there is a minimum imprisonment of seven years.

According to the latest report of National Crime Records Bureau, there have been 43,506 crimes registered against minors under the Indian Penal Code (IPC) and the Special Local Law (SLL) by juveniles and 28,830 had been committed by those aged between 16 and 18 years of age. A large number of juveniles belonged to the poor families whose annual income was up to Rs 25,000.

The decision to amend the Juvenile Justice Act came after the outrage that followed the verdict in the December 2013 bus gangrape case in Delhi. One of the accused, who is a few months short of 18, was sent to an observation home for three years as per the provisions of the Act.

Almost 50 per cent of all sexual crimes in the country are committed by 16-year old who know the Juvenile Justice Act. Data from the National Crime Records Bureau shows 67 per cent of juveniles charged with rape are over 16 years old.

The Government has adopted a welcome move which prevents children from exploitation at the hands of criminal gangs which specifically hire minors. The current justice system was not helping in reformation of juveniles in conflict with law and this amendment is a way to tell these offenders that they would not be let off easily for committing heinous crimes. The juveniles will know that they will not go scot-free but can be kept in jail for a long time.

Here, we have to see the reasons why the children, who are our country's future leaders, scientists, teachers, bureaucrats etc, become criminals.

Some children get dissatisfied with school life. Parental irresponsibility, unmanageable students-teacher ratio, lack of entertainment and sports facilities in schools, indifference of the teachers may all contribute to this. The children who become criminal need to be rehabilitated irrespective of the reasons or conditions under which they committed crime. Punishment is no measure. A suitable way in which they could be rehabilitated is the need of the hour. With this, I conclude my speech.

SHRIMATI SUPRIYA SULE (BARAMATI): Thank you. I stand here on behalf of my Party but I hate to admit that I stand on the floor of the House in dilemma regarding this Bill. I am a mother of a teenager. I have a 16-year old child and a 13-year old child in my house, who are opposite personalities. For several years, I have worked in education. So, I have dealt with a lot of children. Overall, this Bill is very positive. What she has done for adoption, I must compliment the Ministry for the intervention they have done because my family has adopted two children and I saw the pain that the mother goes through when she cannot conceive and the trauma of getting the child and not being able to bring the child home. So, all the measures that the Ministry has taken are very welcome. But where I stand in my dilemma is whether 16 is good or 18 is good. I know this entire story of 16 and 18. when the UPA was in power, all of us went through this whole thing three years ago and at that time the entire policy was put on hold. So, I would like her to explain this because there are critics of this Bill also who have over a period of time worked with children, who have reservations on making 18 into 16. So, in her reply, if she explains this, it will be much appreciated.

For years, I have lived in the city of Mumbai. Mumbai is a city which is very vibrant, which has a lot of child trafficking, child labour and a lot of serious issues. There is an NGO in Mumbai called Aangan. Together, the Mumbai Police and Aangan made exceptionally good shelters. The crime rate in any way is not very high in Mumbai but even if it is 0.1 per cent it is bad because children are not supposed to be left vulnerable. Children need to be protected. That is the whole idea of this Bill, which is about care and protection. These shelters have made a great intervention. Crime has gone down and children are in proper homes. But that is one isolated example of success. What we really need is to run this pan India.

A point was made by Shri Tathagat Satpathy. I associate with what he said. One Nirbhaya case is the reason why we are doing this. Laws cannot be made by emotions. When you are a mother of the daughter, you feel in every rape the person should be hanged. That is what every mother feels. Even I feel that way. But I am not just here standing here as a mother; I am a policy maker here. When you are the mother of the son, you feel he should be forgiven and given a chance. We cannot have gender differences. I would definitely like here to introspect and do it.

I appreciate her dividing it into three categories where there is heinous crime to be treated differently but still there are a lot of people who have worked in this field, who have researched and who are probably critics and feel that because of the commitments that we have made internationally we should think of it. That is one clarification required.

There is another aspect where Article 15 of the Constitution talks about protecting all our children. Now, are those below 18 years of age children? For every mother, even if her son is of 40 years, he is a child. I do understand, it is not very realistic. But from 16 years to 18 years is a very small and very tender gap. Kids sometimes do not do things because they want to do but because they are under pressure. No mother gives birth to a criminal. She gives birth only to a child with circumstances. Even in the Nirbhaya case, I am not defending the boy who did it and who is 17 years of age today but he was on the streets of Delhi at the age of 11 and he has no family. In most of these cases where these children are going through these issues are not just poverty-stricken or from broken homes or are orphans. That is something we need to look at in the larger picture.

This is a very serious Bill which is going to have a social impact for a lot of people for generations to come. I think, we need to really see whether this reduction from 18 to 16 is to be done. There are children at 15 years also. Are we going to cut it further? What is going to be the benchmark? If the Minister could kindly clarify what is the roadmap for the future we would definitely like to hear from here.

There is another thought. What have the Verma Committee and the Parliamentary Standing Committee Report said? There are two cases in the Supreme Court – one of 2013, the Salil Bali case and another of 2014, Dr. Swamy case. In all these cases, they have said, 'Do not reduce the age'. Why are these expert committees saying that it should remain at 18 and why does the Ministry say that it should be brought down to 16? I think, this really needs to be discussed. These are some areas where I find my own dilemma.

The 'places of safety' is something that we really need to look into because even in the State I represent we have a lot of homes and shelters but the basic abuse of children and young boys starts in these shelters in a lot of cases. There could be somebody who runs them who abuses these children. We have to look at this. Care and protection should be from both sides. It is not just that children commit the crime but it is even that the children suffer such crime and they go through it. I think there are very good preventive measures which the hon. Minister could talk about.

18.00 hrs.

HON. DEPUTY SPEAKER: Madam, just stop for a minute. It is already 6 o'clock. I would like to know whether the House agrees to extend the time of the House.

...(Interruptions)

THE MINISTER OF URBAN DEVELOPMENT, MINISTER OF HOUSING AND URBAN POVERTY ALLEVIATION AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI M. VENKAIHA NAIDU): Sir, you can extend the time of the House by one hour. Let us continue with the discussion. Then we will see what can be done.

SEVERAL HON. MEMBERS: No, Sir....(Interruptions)

SHRI M. VENKAIHA NAIDU: What is your problem? एक पार्टी से अगर एक व्यक्ति बोलेगा तो सुनने में आसानी होगी...(व्यवधान)

SHRI DEEPENDER SINGH HOODA: Sir, we insist that 'Zero Hour' be taken up. Sir, you are aware about the amendments that we have

moved...(Interruptions) If our amendments are moved, we have no problem. Sir, if you allow our amendments to be moved, we have no problem. Otherwise, Sir, we insist for the 'Zero Hour'. Sir, the reason that you gave for our amendments not to be taken up...(Interruptions)

SHRI M. VENKAIAH NAIDU: Deputy Speaker, Sir, there will be a practical problem. Please try to understand. There is nothing political. There is no difficulty either way. The only issue is, as of now we have only two days left. Tomorrow we have to take up the Land Boundary Accord between India and Bangladesh at 2 o'clock. It is a Constitutional amendment. Keeping that in mind we may clear this Bill today. If you want to take it tomorrow, you will have to complete it without 'Zero Hour' and then go to this.

SHRI DEEPENDER SINGH HOODA: Options are with you.

SHRI M. VENKAIAH NAIDU: I have no problem with any of these options...(Interruptions)

श्री जय प्रकाश नायगण यादव (बाँका) : महोदय, इस पर समय बढ़ाया जाए...(व्यवधान)

SHRI DEEPENDER SINGH HOODA: Sir, as long as the amendments are moved...(Interruptions) If our amendment is circulated and moved...(Interruptions)

HON. DEPUTY SPEAKER: As the hon. Minister has suggested, we can continue with this tomorrow after Question Hour, without 'Zero Hour'.

SHRI DEEPENDER SINGH HOODA: No, Sir, we can agree only if the amendments are moved.

HON. DEPUTY SPEAKER: I have already given the ruling. Your amendments will be taken if we are taking it up tomorrow.

SHRI DEEPENDER SINGH HOODA: Sir, we want an assurance that tomorrow it will be taken up.

HON. DEPUTY SPEAKER: Please listen to me. I have already given the ruling. There is no problem in taking your amendments if we are taking up the Bill. You can now give the amendments.

SHRI DEEPENDER SINGH HOODA: We have already given the amendments.

HON. DEPUTY SPEAKER: Then that will be taken up tomorrow.

...(Interruptions)

SHRI M. VENKAIAH NAIDU: I gave you two options.

HON. DEPUTY SPEAKER: The hon. Minister has said that he has no objection. As soon as Question Hour is over, we will take up the Bill because at 2 o'clock another Constitution Amendment Bill will be taken up. The Government is ready to take it up tomorrow. What is the problem?

...(Interruptions)

HON. DEPUTY SPEAKER: We can take up 'Zero Hour' in the evening.

SHRI MALLIKARJUN KHARGE (GULBARGA): My mike is always controlled from somewhere else...(Interruptions) It is very difficult to speak.

SHRI M. VENKAIAH NAIDU: You must be able to tell us कि आपका रिमोट कहाँ है?...(व्यवधान)

श्री मल्लिकार्जुन खड़गे: हमारा रिमोट कहीं भी रहने दो, लेकिन यहाँ हम सबको कन्ट्रोल करने वाले आप हैं कि बोलो तो बोलना, उठो तो उठना, इंटरड्यूज करो तो करना...(व्यवधान) Sir, you can continue with the discussion tomorrow. Allow us to take up 'Zero Hour' matters now as it will not be possible to take up 'Zero Hour' tomorrow.

HON. DEPUTY SPEAKER: We will take 'Zero Hour' at 6 o'clock.

SHRI MALLIKARJUN KHARGE: Sir, please listen to me. We neither have Short Duration Discussion, Calling Attention nor Discussion under Rule 193. We are avoiding all the discussions. We are avoiding even the discussion arising out of Starred Questions. Whatever the Government want we discuss. They introduce whatever they want and then reply to it.

SHRI M. VENKAIAH NAIDU: It is very unfair on the part of a very seasoned parliamentarian like Kharge Ji.

SHRI MALLIKARJUN KHARGE: Have you allowed anything other than this?Therefore, Sir, do not take out our rights. So, you continue the 'Zero Hour' after 12 o'clock. Today, you can take the up 'Zero Hour' because you did not take it up at 12 o'clock because of so many reasons. We obliged because of Constitutional amendment. Everybody cooperated; your Bill got passed. That is a different thing. Therefore, it is better to continue with the 'Zero Hour'.

HON. DEPUTY SPEAKER: Already, the Minister has said.

...(Interruptions)

SHRI MALLIKARJUN KHARGE: The Minister stated of canceling the 'Zero Hour'.

SHRI M. VENKAIAH NAIDU: Do not put words into my mouth, Sir. What I suggested is, this is also an important Bill. As, just now Supriya was raising certain points, even as an individual, I also have strong opinion on this Bill. I have an opinion; that may be to your liking. If a person is capable of committing a heinous crime of rape against the other section, we have to take care of the physiological changes that have come in the recent past among the youngsters also. All these aspects have to be studied. ...(Interruptions) You try to understand. We have a Parliamentary system. You have to understand. Even the Minister also has a view as a Member of Parliament. ...(Interruptions)

My point is, Sir, either you continue the Bill now or let us agree to take it up immediately after the Question Hour; let us complete the

Bill...(Interruptions)

SHRI MALLIKARJUN KHARGE: No; after the 'Zero Hour' you can take it....(Interruptions)

SHRI M. VENKAIAH NAIDU: Then, we can take up the Constitutional amendment and then we can take up the 'Zero Hour' in the evening. It can be either way, today or tomorrow. ...(Interruptions)

SHRI MALLIKARJUN KHARGE: We can forgo our lunch but we cannot forgo our 'Zero Hour'. 'Zero Hour' you should take. Then, naturally, during lunch hour, we can take it.

SHRI DEEPENDER SINGH HOODA: We are ready to forgo lunch....(Interruptions)

HON. DEPUTY SPEAKER: Generally, what the Minister also said and what you people also expressed, that can be done via media, no problem. Generally, one or two issues only the Speaker will allow during the 'Zero Hour'. Any important issues she is going to allow even at 12 o'clock. Afterwards, we will see that the Bill will be completed. Whatever the 'Zero Hour' list is remaining, that can be taken at 6 o'clock. That is all. Today also at 6 o'clock we are taking it up.

SHRI MALLIKARJUN KHARGE: As an exceptional case you take it up at 6 o'clock. Every day if you take it up at 6 o'clock, then what is the importance of that?

SHRI K.C. VENUGOPAL(ALAPPUZHA): Then, what is the relevance of the 'Zero Hour'?

HON. DEPUTY SPEAKER: Okay. Supriya ji, have you completed your speech? Only two Members want to compete. Afterwards we will take the 'Zero Hour'. We can extend the time of the House up to 7 o'clock or till the 'Zero Hour' is over. Shrimati Supriya Sule to continue.

SHRIMATI SUPRIYA SULE (BARAMATI): Sir, I have just two points. I would like the hon. Minister to make sure that every child is protected and make sure that there is no conflict of this Bill with the Constitution; all the amendments have been mentioned earlier.

This Bill is about psychology, sociology and legal aspect. That is the whole idea of getting this concept. I think, every child deserves a right to live; every citizen deserves it. So, I think, whether it is 16 years or 18 years, she should definitely explain to us at length and convince us why it is so. We are happy to support it, but, at the same time, every child is an asset to this country. Their education, their livelihood, I think, is our responsibility especially of all of us who make decisions here. So, I hope that whatever choice we make for them is the right decision. Even if a child makes some mistake, of course relative what it is, but definitely he deserves a second chance. Thank you, Sir.

SHRI DHARAM VIRA GANDHI (PATIALA): Thank you, Sir, for giving me an opportunity to express my views on this Bill. It is a very important Bill from the children point of view and from the point of view of the right of the children. I think that juveniles need reforms and not prisons as has been propagated or brought in the Bill.

Sir, I would like to touch upon this Bill from two perspectives. One is the psychological perspective and another is the physiological, the medical perspective. Ours is a country where 42 per cent children are severely malnourished and their malnourishment level equals combined net population of 14 Sub-Saharan African countries. Our erstwhile Prime Minister has called it a national shame. A country which has abstract poverty and children driven into crime by the parents, a society which has a lot of child abuse, a society where child labour is still prevalent on a large scale and a country where gangs of people are involving small children into crime world either by compulsions or by economic greed or by other means, in that country we are talking of bringing down the age 18 to 16 years. This is a gross injustice to the rights of the children.

At the physiological level also, I want to tell you that this Bill is formulated on flawed assumptions that it is scientifically possible to determine maturity and mindset beyond reasonable doubt. This is not possible to determine maturity and mindset beyond reasonable doubt that a child at the age of 16 is able to comprehend, to judge and to act reasonable, rationally with legal implications and with societal implications because of his brain structure. There are several studies where it is mentioned that a child of 16 years of age is not capable of comprehending a situation as to what is good or bad for him.

Sir, a latest research by Richard J. Bonnie and Elizabeth S. Scott shows that individualised assessments of adolescent maturity are not possible and suggesting that it can be done would mean "exceeding the limits of science." So, scientifically, I say with all authenticity and all researches available with me that it is not possible at the age of 16 to judge the risk, to judge the implications and to take rational decisions not to be overwhelmed by emotions. Let this age be 18 years.

Lastly, I will quote an important study which says:

"The research indicates that the prefrontal cortex matures gradually; maturation extends over the course of adolescence and into early adulthood. This region controls the brain's executive functions – advanced cognitive processes employed in planning, controlling impulses, and weighing the consequences of decisions before acting. Maturation in the connections between the prefrontal cortex and other regions of the brain also occurs gradually, resulting in improvement over time in impulse control and emotional regulations."

It is not just emotional. It is very much physiological and anatomically the child is not developed enough to make any judgment for himself or to take rational decisions. So, I oppose this Bill not only at the physiological level but also at the anatomical level. All the evidences are available with me right from the University of London to the National Institute of Mental Health (NIMH) at New Delhi and at Bengaluru that the child is not capable of taking decisions himself. So, reducing the age from 18 to 16 years is doing gross injustice to the juvenile population. It will also not reduce the crime. It will take away the rights of the children. It cannot be regarded as a good Bill. It is also against our commitment to the United Nations Convention on the Rights of the Child. So, I oppose this Bill very strongly. Thank you.

HON. DEPUTY SPEAKER: Now, we shall take 'Zero Hour'. Shri Ravneet Singh.