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Title: The Motion for consideration of the Surrogacy (Regulation) Bill, 2016- (Bill Passed.).

HON. SPEAKER: Now, we will take up Item No. 16, the Surrogacy (Regulation) Bill.

... (*Interruptions*)

HON. SPEAKER: Hon. Minister, Shri Jagat Prakash Nadda.

... (*Interruptions*)

THE MINISTER OF HEALTH AND FAMILY WELFARE (SHRI JAGAT PRAKASH NADDA): Madam, I beg to move* :

“That the Bill to constitute National Surrogacy Board, State Surrogacy Boards and appointment of appropriate authorities for regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto, be taken into consideration.”

Madam, it is a historic day when this Parliament is taking up the Surrogacy (Regulation) Bill of 2016. ... (*Interruptions*)

It is a long-awaited Bill. ... (*Interruptions*) All sections of society, and practically every political party was of the opinion to see to it that commercial surrogacy should be immediately stopped and altruistic surrogacy should be the only way on ethical grounds. ... (*Interruptions*) We all know that India had become a hub of surrogacy clinics where commercial surrogacy was going on. ... (*Interruptions*) Even the 228th Report of the Law Commission had recommended strongly for prohibiting commercial surrogacy. ... (*Interruptions*) Not only that, the issue related to the unethical practices and the issue related to the exploitation of surrogate mothers was also an issue, which was discussed at length. ... (*Interruptions*) Then there was also

the issue of children born through surrogate mothers being abandoned. ... (Interruptions) These were the issues that needed to be deliberated and discussed. ... (Interruptions) Rackets were being run by intermediaries for importing human embryos. ... (Interruptions) This was also one of the issues, which was discussed. ... (Interruptions)

Practically, the NGOs and civil society were also of the opinion that such type of commercial surrogacy should be stopped. ... (Interruptions) The Supreme Court also took notice of it. ... (Interruptions) Therefore, the Cabinet Secretariat had decided that the Department should come out with a legislation. ... (Interruptions).

Keeping all these factors in view, the Union Government went through the deliberations. Along with this, there were assurances in Parliament. In total 11 assurances were there – six from Lok Sabha, and five from Rajya Sabha. ... (Interruptions)

The Government had decided that very soon we would be coming out with a legislation. Now the day has come. Today, this legislation has come. Keeping the Indian ethos in mind, trying to stop the exploitation of mothers, and see to it that the children are not abandoned and foreigners do not get away over surrogacy, we have decided to come with this Surrogacy Bill 2016 to regulate it.

We are moving towards the pure altruistic surrogacy. We are completely banning commercial surrogacy which would prevent exploitation of women in India. In future, children born through surrogacy will be taken care of. ... (Interruptions)

These are the issues brought before the Bill. Provisions in the Bill are basically aimed at defining a 'mother' and a 'surrogate mother'. Secondly, it is aimed at which family will get the permission to go for surrogacy. What are the limitations which would ensure that that does not happen? ... (Interruptions)

These provisions are given in the Surrogacy Bill. I am of the considered view that the Bill should aptly be put before Parliament and Parliament should deliberate on this Bill. Suggestions would be well taken care of. I would request the Members of all Parties to participate in this debate, and pass this Bill, after considering all the details of the Bill. ... (Interruptions)

Thanking you, Hon. Speaker.

HON. SPEAKER: Motion moved:

“That the Bill to constitute National Surrogacy Board, State Surrogacy Boards and appointment of appropriate authorities for regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto, be taken into consideration.”

This is a very important Bill. Hon. Members, please go back to your seats.

... (*Interruptions*)

DR. KAKOLI GHOSH DASTIDAR (BARASAT): Hon. Speaker, I thank you for giving me this opportunity to speak in favour of the Surrogacy (Regulation) Bill, 2016. This is a very important Bill, particularly with respect to women who have been exploited extensively in a certain part of Gujarat - I don't want to name it - and elsewhere in the country. ... (*Interruptions*)

Actually for surrogacy to take place, it has to be preceded by. In Vitro Fertilization (IVF) which has been compared to man's landing on moon because in IVF, a woman's ovaries are stimulated to give multiple number of oocytes, and then they are fertilized outside in the laboratory by a person who sits in the laboratory for hours together, controlling the different parameters which support life like oxygen, carbon dioxide, humidity and all the other protein molecules which let the embryo grow and survive. ... (*Interruptions*)

This IVF has been so difficult that it took nearly 100 years before the birth of Louise Brown who could be announced by Professor Robert Edwards and Patrick Steptoe of England in 1979, followed shortly by Subhash Mukherjee giving birth to Kanu Priya or Durga in Bengal, followed in, 1986-87 by the birth of Imran. Professor Robert Edwards has been given the Noble Prize for this IVF baby's birth, Louise Brown. Our very own Indian Council of Medical Research gave lifetime achievement to Dr. Ghosh Dastidar and Chakravarty for their work in India. So, only after IVF is done, is embryo available for transfer and surrogacy to follow.

At the onset, I would like to bring to your notice that here it is given that the embryo is only up to 56 days.

In this age of cryopreservation today, sometimes, we can cryopreserve the embryo for years together. So, 56 days, counted from the day of fertilisation, should be replaced by any number of days before the baby is given in the mother's womb. During that period, it can be cryopreserved. That has to be looked at. ... *(Interruptions)*

Also, in the subclause (k), 'foetus' means that the human organisation during that period of development beginning from 57th day should therefore also be changed because foetus takes place inside the womb. So, both the provisions of 56 days and 57 days would have to be changed. ... *(Interruptions)*

Let us have a public debate like we had for the ART Draft Bill. I think it was started in 1998-99 by Indian Council of Medical Research. We had three-four public debates in different parts of the country but I do not know the fate of that Bill. Even till today, it has not been tabled. This subject of surrogacy should have come along with the ART Bill because as I explained, without having an IVF Laboratory and a Test Tube Baby Laboratory, we cannot have surrogacy. ... *(Interruptions)* So, these two subjects should have been brought together. By bringing this separately, maybe, we are trying to hinder those unscrupulous people who are exploiting women. That should have been brought together. So, I suggest that we have a public debate throughout the country and take the opinion of different categories of people including experts. ... *(Interruptions)* Here also, there is a mention about embryologist, but there is a sea change in the subject of ART at the moment. When I was a student in the 1980s, an embryologist was not as same as an embryologist today. Particularly, an embryologist who is growing the child in the laboratory today has his experience in In-Vitro growth, so, a specialised embryologist is making the babies today. This also has to be changed here. ... *(Interruptions)*

I understand that there have been many meetings with the Ministry, with the officers and with the professional bodies but when the final draft of the Bill was made and this was tabled here, the professional bodies like the Federation of Obstetric and Gynaecologist Societies of India, ISAR or the NGOs were not consulted. I think there has to be another meeting before this Bill is passed. ... *(Interruptions)*

The hon. Supreme Court, Madam, has recently decriminalised Section 377 and the LGBT community has been accepted to be a part of the mainstream. So, we have same sex couples now. But, in this Bill, there is no mention of the same sex couples. Being a part of such a team which works on this, the person knows, the doctor knows that the demand from the transgender and LGBT community, same sex couples, whether they are two men or two women, they come with a demand of a child. ... *(Interruptions)* Two-men couples require a surrogate mother. Two-women couples do not require a surrogate mother if both women are healthy. But we have to include them if we have to do justice. We have just passed the Transgender Welfare Bill two-three days back. If we have to do justice to a transgender couple or a same sex couple, then their mention has to be in this Bill. ... *(Interruptions)* So, we have to consider these points very seriously. The drafting was hasty, we need another Bill.

It is also a matter of great concern and despair that we leave the treatment of infertile couples mostly to the hands of private clinics. Many government hospitals do not have the setup to carry out In-Vitro fertilisation and embryo transfer. ... *(Interruptions)* To my understanding, All India Institute of Medical Sciences has a unit but that is not sufficient for the whole of the country. So, training should be given through people who have worked on this for more than thirty years now and then the doctors can be appointed and super-specialised embryo labs can be set up in the medical colleges and government hospitals to make the treatment for infertile couples who cannot afford expensive treatment easily.

Each injection for stimulation of ovaries costs between Rs.1,000 and Rs.3,000. So, the Government has to step in by the side of these couples to help them and also to keep the unscrupulous private clinics at bay from exploiting these couples. ... *(Interruptions)* The Government should have some extra funds. A separate fund should be created for infertile couples.

There might be couples in which the woman has no uterus from birth. There might be couples in which a woman has no internal genitalia from birth. There is a disease called “Rokitansky Kustner Hauser Syndrome” in which the woman has nothing. ... *(Interruptions)* So, for cases like that it is useless to wait for five years for treatment. The patient is ageing everyday and as her age increases her reserve of cohort of follicles waiting to grow every cycle is reducing. So, we have to have a

provision for such women who have no uterus when we are giving them medical surrogacy. The most important call for medical surrogacy is a woman who has no uterus, who has no reproductive organs. Her mention should be made here. ... (*Interruptions*)

Also, we must vehemently stop fashion surrogacy that is taking place in our country, not only commercial surrogacy in which the surrogate mother is being exploited. I do not want to name them but there are film stars and relatives of film stars who are going in for surrogacy and are using surrogate mothers only because they do not want their figure to be destroyed. ... (*Interruptions*) Fashion surrogacy must stop in this country. We must only do medical surrogacy by which we will stand by the women who are suffering.

Till today our society looks down upon women who do not get children. They say, "In the morning we should not look at your face because you are infertile and my day will be bad". But it is a disease. She is not a *baanjh* a curse. She is not trying to harm anybody socially. It is only that she has not been given the power to procreate. ... (*Interruptions*) And when medical treatment is available, why should not we stand by her?

Also, we have to compensate surrogates. I understand that we do not support commercial surrogacy; we do not. But our own children, Indians living abroad, NRIs not being able to conceive children abroad should be included in here so that not only Indian couples living in India but Indian couples living abroad are also given the facility. ... (*Interruptions*)

The Medical Council Act of 1956 has defined the term Embryologist but we have to change this definition because today's Embryologist is much different from what it was in 1956. It says here, a oocyte means a naturally ovulating oocyte. ... (*Interruptions*) But now oocyte does not only mean a naturally ovulating oocyte. In today's science, a woman is given injections, follicle stimulating hormones, to get multiple eggs. Those eggs are retrieved either by ultrasound or by laparoscope and we might get 18 to 20 oocytes from a lady and we might freeze them and we might make babies from them. Those are also oocytes. ... (*Interruptions*) So, that is another mistake here.

When both members of a couple are suffering with proven infertility, when the altruistic purpose is applicable, we have to keep in mind the LGBT community also and we must have a public debate before we pass this Bill. Thank you.

SHRI BHARTRUHARI MAHTAB (CUTTACK): Madam Speaker, the Minister while introducing the Bill in this House for consideration and passing has said it is a momentous day today while we are considering the Surrogacy Regulation Bill of 2016. ... (*Interruptions*) It is indeed a momentous day today that despite turmoil inside the House, he thought it fit that we should also deliberate on some serious subject that has been in the mind of large section of society of our country for quite some time. ... (*Interruptions*)

Surrogacy is the practice where one woman carries the child of another with the intention of handing over the child after birth. ... (*Interruptions*) The Bill prohibits commercial surrogacy and allows altruistic surrogacy. Altruistic surrogacy involves no compensation to the surrogate mother other than the medical and insurance expenses related to the pregnancy. ... (*Interruptions*) The intending couple must be Indian citizen and married for at least, five years with at least, one of them being infertile. ... (*Interruptions*)

Madam, the surrogate mother has to be a close relative who has been married and has a child of her own. ... (*Interruptions*) Undertaking surrogacy for a fee, advertising it or exploiting the surrogate mother will be punishable with imprisonment for ten years and a fine of up to Rs. 10 lakhs. ... (*Interruptions*)

The Bill permits surrogacy only for couples who cannot conceive a child. This procedure is not allowed in case of any other medical conditions which could prevent a woman from giving birth to a child. ... (*Interruptions*) The surrogate mother and the intending couple need eligibility certificates from the appropriate authority. The Bill does not specify a time limit within which such certificates will be granted. ... (*Interruptions*)

Madam, these are certain points I am referring to and I expect the Minister will reply to these concerns which I am expressing here. ... (*Interruptions*) It also does not specify an appeal process in case, the application is rejected. The surrogate mother

must be a close relative. ... (*Interruptions*) The Bill does not define the term close relative.

Madam, in 2005, the Indian Council of Medical Research (ICMR) had issued guidelines to regulate surrogacy arrangements. ... (*Interruptions*) The guidelines stated that – “the surrogate mother would be entitled to monetary compensation, the value of which would be decided by the couple and the surrogate mother”. ... (*Interruptions*)

In 2008, the Supreme Court of India in the Baby Manji Yamada vs Union of India case, highlighted the lack of regulation for surrogacy in India. ... (*Interruptions*) In 2009, the Law Commission of India observed, to which the Minister referred to, that surrogacy arrangements in India were being used by foreign nationals and it could lead to exploitation of poor women acting as surrogate mothers. ... (*Interruptions*) The Law Commission recommended prohibiting commercial surrogacy, allowing altruistic surrogacy and enacting a law to regulate surrogacy. ... (*Interruptions*)

In 2015, Government notified prohibitory surrogacy for foreign nationals. ... (*Interruptions*) In 2016, November 21st, this Bill was introduced in this House. The Standing Committee of Health and Family Welfare submitted its report on 10th of August, 2017. Now, it is listed for consideration and passing. Only two hours have been allotted for the deliberation of this Bill. ... (*Interruptions*)

Before I come to the key issues of this Bill, Madam, which need further consideration and elaboration, I must say, today, surrogacy industry thrives amid regulatory gaps. ... (*Interruptions*)

India has an estimated 20 to 25 million infertile couples. For medical practitioners, it is a market opportunity. ... (*Interruptions*) There were 59 clinics offering IVF, that is, in vitro fertilisation in 2001. By 2011, it went up from 59 to 600 within a span of 10 years. ... (*Interruptions*) The Minister can tell us what the number is today if he has made a count.

Commercial surrogacy has been allowed in India since 2002 but remains an unregulated grey area. ... (*Interruptions*) In 2008, the court said in a judgement that surrogacy as a medical procedure is legal in several countries including in India without elaborating on what makes surrogacy legal. ... (*Interruptions*) In 2008,

another case on the citizenship of surrogate babies led the Gujarat High Court to state that there is an extreme urgency to push through legislation which addressed issues that arise out of surrogacy.

Hon. Speaker Madam, United Nations-backed study conducted in 2012 estimates the surrogate business in India to be worth more than USD 400 million a year. ... (*Interruptions*) But civil society activists say that the size of the market could well be more than twice that amount. This was the position in 2012. We are in the last month of 2018 now. This Bill in India is the first attempt to regulate the sector and I congratulate the Government for it. ... (*Interruptions*) The Bill also seeks to streamline the process of restructuring surrogates who currently earn anything between Rs. 1.5 lakh to Rs. 4 lakh for services with a 25 per cent bonus for delivering twins. ... (*Interruptions*) The Bill also requires the commissioning couples to approach registered ART banks and not private IVF clinics as is currently the case. ... (*Interruptions*) One problem, however, is the lack of hard data about the sector. Surrogacy has always been a debatable topic. Countries such as Germany, France and Italy have banned it, whereas United Kingdom, Canada, China etc. allow certain forms of surrogacy. ... (*Interruptions*) In India, this surrogacy Bill is a cause for concern in many ways. While the report of the Parliamentary Standing Committee on Health and Family Welfare did not touch upon the controversial issue of the dissolving homosexual couples or single parents from availing surrogate services to which my previous speaker referred to, it has come down hard on the exclusion of divorced or widowed women and live-in couples. ... (*Interruptions*) The committee has said surrogacy is one of the least used options by childless Indians. If these categories are to be banned, then why have surrogacy at all? ... (*Interruptions*) Therefore, it has recommended to broad-base the eligibility criteria and widen the ambit of persons who can avail surrogacy services by including live-in couples, divorced women and widows also. ... (*Interruptions*) I would like to know from the Minister why the Government has not accepted the view of the Standing Committee.

Now I come to the four key issues which need consideration of this House and of the Government. The first is the definition of infertility. It is restricted to failure to conceive. ... (*Interruptions*) That is how the Bill determines it. Under clause 2(p), clause 4 sub-clause (iii)(a)(i), “infertility is a condition that has to be proven by an intending couple in order to be eligible to commission a surrogacy procedure. ...”

(Interruptions) The Bill defines infertility as “inability to conceive after five years of unprotected coitus or other medical condition preventing a couple from conception”. This definition does not cover all cases in which a couple is unable to bear a child.

In countries like the Netherlands, South Africa and Greece, altruistic surrogacy is very much permitted. There are certain other gaps also, which I am sure the Government is aware about. ... *(Interruptions)*

This Bill specifies various eligibility conditions for couples intending to undertake surrogacy under section 4 (iii) (c); under section 48 (a) additional eligibility criteria are to be specified through regulations. Why should we have this excessive delegation of legislative powers? ... *(Interruptions)* It should be specified in the parent law. It cannot be delegated to regulation. ... *(Interruptions)*

In order to initiate a surrogacy procedure, the surrogate mother and the intending couple are required to obtain certificates of eligibility and essentiality upon fulfilling various conditions. However, the Bill does not specify a time limit by which the authority will grant these certificates. ... *(Interruptions)* The Bill does not specify a review or appeal procedure in case the surrogacy applications are rejected. I would like to remind this House that other laws such as those on Transplantation of Human Organs and Tissues Act, 1994 and the adoption-related provisions of the Juvenile Care and Protection Act, 2015 have prescribed time periods within which applications should be processed and they have also provided procedures for review and appeal in case applications are rejected. ... *(Interruptions)*

The Bill states that the surrogate mother has to be a close relative of the intending couple who commission the surrogacy. The Bill does not specify who would be a close relative. ... *(Interruptions)* The Standing Committee has addressed this issue very minutely and it requires reconsideration by the Government. The Standing Committee has observed that surrogacy by close relatives would always be out of compulsion and coercion, not because of altruism. Such an arrangement within the family may first create deeper psychological and emotional impact on the surrogate child; secondly, parental custody issues would also arise; and thirdly, inheritance and property disputes may also arise. ... *(Interruptions)* The Committee had recommended the criterion of being a close relative to be removed and to allow both related and unrelated women to become surrogates.

Another important point here is, whether power is a tool or the objective of coercion. ... (*Interruptions*) Is it power that creates knowledge or knowledge that creates power? If there is no certain truth, how does the power-knowledge nexus operate in creating the world that thrives on activity and information that have been internalised generations after generations until they become norms and moral dictums of the society? ... (*Interruptions*) These questions arguably apply the most in parenting. The obligation to bear children is so deeply nurtured in any social structure that distancing oneself from it is a stigma. ... (*Interruptions*) Therefore, I would say, our scriptures have sanctified surrogacy of many forms. Regulate it, but do not commercialise it. ... (*Interruptions*)

श्री निशिकान्त दुबे (गोड्डा): अध्यक्ष महोदया, माननीय मोदी जी की सरकार नड्डा जी के साथ आज एक बड़ा ही ऐतिहासिक बिल सदन में लायी है। भर्तृहरि महताब साहेब कह रहे थे कि इस बिल के लिए केवल दो घंटे का समय एलॉट हुआ है। ... (व्यवधान) यदि कांग्रेस के मित्र साथ देते तो इसके ऊपर बड़ी चर्चा हो सकती थी, लेकिन कांग्रेसियों को बड़ा डर है, जो ये बार-बार राफेल की चर्चा कर रहे हैं। कांग्रेस का हाथ भ्रष्टाचार से इतना सना हुआ है कि वह किसी भी विषय पर चर्चा करने के लिए तैयार नहीं है जबकि भारतीय जनता पार्टी चर्चा करना चाहती है। ... (व्यवधान) वर्ष 1948 से जीप घोटाला से बात शुरू हुआ है, चाहे मुद्रा कांड हो, चाहे बोफोर्स कांड हो। ये जिस पर जेपीसी की बात कर रहे हैं, मैं यह बताना चाहता हूं कि बोफोर्स में जेपीसी हुई और यह प्रूव हो गया कि राजीव गांधी जी ने ...* की थी।

उसी तरह से टू जी में सुप्रीम कोर्ट का जजमेंट आया कि ये ... * थे, उसमें भी जेपीसी बन गई। मेरा कहना है कि कोई भी चीज हो, डिबेट में होनी चाहिए। यदि वे डिबेट के लिए तैयार हैं, तो भारतीय जनता पार्टी भी तैयार है। ... (व्यवधान)

जहां तक इस बिल का सवाल है, इस बिल में माननीय नड्डा जी ने कहा कि सरोगेसी की इंडस्ट्री दो बिलियन की है और सबसे ज्यादा यानी 80 परसेंट सरोगेसी कमर्शियल हो रही है, इस कारण भारत की नाक बार-बार इंटरनेशनल फोरम में गिर रही है इसलिए माननीय मोदी जी की सरकार में माननीय नड्डा जी मंत्री रहते हुए यह बिल लेकर आए हैं। नड्डा जी ने दो-तीन बातें कही हैं। मैं काकोली दस्तिदार जी और महताब जी का बहुत सम्मान करता हूं। ... (व्यवधान) नड्डा जी ने कहा कि भारतीय सभ्यता और संस्कृति के आधार पर जो चीजें हो सकती हैं उसके आधार पर भारत सरकार यह बिल लेकर आई है। यदि स्टैंडिंग कमेटी ने कोई बात कह दी ... (व्यवधान) आप बताएं कि लिव इन रिलेशनशिप में कौन किसके साथ रह रहा है, यह कहीं रजिस्टर्ड तो

नहीं है, कोई भी किसी के साथ रह सकता है। यदि आप इसे सरोगेसी की तरफ ले जाएंगे, इसे इसके साथ इन्कलूड करेंगे तो आप कमर्शियल के लिए एक्सप्लायेटेशन करेंगे या नहीं? यह बहुत ही बड़ा रीजन इंटरनेशनल हुआ है।...((व्यवधान)

यहां तक कि 377 में सुप्रीम कोर्ट का जजमेंट आया, उसमें कहा गया कि अभी हम शादी तक नहीं जा रहे हैं। यहां डिबेट आई कि यदि दो एडल्ट कपल शादी कर लें तो वह सरोगेट हो सकते हैं। भारतीय सभ्यता और संस्कृति में जो चीजें हो सकती हैं, हम उसके आधार पर यह बिल लेकर आए हैं। वर्ष 2008 के सुप्रीम कोर्ट के जजमेंट को कोट किया गया, आप देखें कि सुप्रीम कोर्ट के जजमेंट में कितनी बड़ी समस्या है कि सरोगेट बच्चा जापान चला गया।...((व्यवधान) लेकिन जापान का कानून उसे नागरिकता देने को तैयार नहीं है। उसके मां-बाप जापान के हैं, जापान का कानून कहता है कि उसे नागरिकता नहीं देंगे। इस तरह की सिचुएशन आएगी तो भारत सरकार क्या करेगी? उसी तरह से मैं आपको आस्ट्रेलिया के बारे में बताना चाहता हूं। ...((व्यवधान) आस्ट्रेलियन कपल यहां आए, दो बच्चे पैदा हो गए, दो बच्चों में एक बच्चा लेकर वह चले गए और एक बच्चा वहीं रह गया। अब समस्या यह है कि उस बच्चे की मां कौन है, बाप कौन है, उसे कौन खिलाएगा, कौन पिलाएगा? इस तरह की इतनी समस्याएं भारत में आ गईं और इसके कारण ही भारत में यह बिल लाया गया। ...((व्यवधान)

मैं आपको फिर से बताना चाहता हूं कि कांग्रेस हर बार आवाज़ उठाती है। ...((व्यवधान) हमारी सरकार महिलाओं के लिए कितनी चिंतित है, गांव, गरीब, पिछड़े, दलित, आदिवासी, महिलाओं के लिए चिंतित है। ...((व्यवधान) वर्ष 2009 में लॉ कमीशन की रिपोर्ट आई। 5 अक्टूबर, 2005 को यह बिल आया, लॉ कमीशन ने रिकमेंडेशन की कि सरोगेसी पर बिल लेकर आइए। वर्ष 2009 से 2014 तक कांग्रेस की सरकार रही, उसने किसी प्रकार की रोक नहीं लगाई। ...((व्यवधान) हम 2015 में हम कुछ चीज लेकर आए ताकि हम कुछ रोक पाएं। ...((व्यवधान)

अध्यक्ष जी, मैं इस बिल के बारे में चर्चा करना चाहता हूं कि इस बिल में क्या किया गया है, जैसे अभी इनफर्टिलिटी के बारे में कहा गया।...((व्यवधान) इनफर्टिलिटी के केस में वह इंडियन सिटिजन होना चाहिए। यदि हम एनआरआई की बात करें तो यहां कई केस ऐसे हैं कि लोग शादी करके चले गए या दूसरी शादी कर रहे हैं इसलिए हमने इस बिल में इंडियन सिटिजन की बात कही है। ...((व्यवधान) यदि हम क्लिनिक की बात करें, हम केवल सरकारी क्लिनिक की बात नहीं कर रहे हैं, हम प्राइवेट क्लिनिक को लाइसेंस देने की बात कर रहे हैं। पांच साल में यह बात तय हो जाती है कि बच्चा होगा या नहीं होगा। यदि बच्चा नहीं होगा, आप देखें कि आज भी समाज में प्रचलन है कि जिन महिलाओं के बेटा नहीं है, बेटी नहीं है या बच्चा नहीं है उनको इज्जत, सम्मान, संरक्षा और सुरक्षा चाहिए। पांच साल का वक्त बहुत ज्यादा होता है, इसमें तय हो जाता है कि यह पुरुष बच्चा पैदा करने लायक है या नहीं है या महिला बच्चा

पैदा करने लायक है या नहीं है। ... (व्यवधान) हमने इसलिए पांच साल का वक्त दिया। मान लीजिए कि लड़की हो गई, कई लोगों को लगता है कि हमें लड़का होना चाहिए, उनको लगता है कि उनसे लड़का नहीं होगा। अगर मान लीजिए कि किसी को लड़का हो गया तो कई लोगों को लगता है कि उनको लड़की होनी चाहिए। जिस तरह से काकोली जी ने कहा कि फैशन सरोगेसी नहीं होनी चाहिए, इसके लिए उन्होंने कहा कि उसे कोई बच्चा नहीं होना चाहिए। इसमें एक डेफिनेशन डाली। इसके साथ एक एज भी डाल दी। मान लीजिए कि पुरुषों के लिए वह सर्टेन एज 26 से 55 साल है।... (व्यवधान)

महिलाओं के लिए वह एज 23 से 50 साल है।... (व्यवधान) मैं यह कह रहा हूँ कि इस सरकार ने समय-समय पर क्या होना चाहिए, इस बारे में बहुत कुछ किया है। मैं आपको बताना चाहता हूँ कि जो इसका क्लॉज-3 है, इसमें कमेंसमेंट क्या होगा। क्लोज रिलेशनशिप के बारे में आप समझें, इसमें दो चीजें हैं। मैं मंत्री जी से आग्रह करूंगा, यह एक बड़ा प्रश्न है कि क्लोज रिलेशनशिप क्या होगी?... (व्यवधान) आपका जो 1984 का एक्ट है, मान लीजिए यदि किसी को ट्रांसप्लांट कराना है, उसमें बेटे को, बेटी को, वाइफ को आप क्लोज रिलेटिव मानते हैं। इसी प्रकार से हमने जो कंपनी बिल पास किया है, उसमें रिलेटिव की अलग डेफिनिशन है।... (व्यवधान) लेकिन, ये जो चीजें हैं, ये आपने फ्री रखी हैं और मेरा आपसे आग्रह है कि क्लोज रिलेशनशिप में ये चीजें कैसे ठीक होंगी, यदि आप इसका जवाब देंगे तो अच्छा होगा?... (व्यवधान)

इसके बाद, हमने Regulation of Surrogacy and Surrogacy Procedures बनाया है।... (व्यवधान) हमने क्लॉज-4 में डिस्ट्रिक्ट मेडिकल बोर्ड का गठन किया है। उसमें कौन-कौन से डिस्ट्रिक्ट मेडिकल बोर्ड के मैम्बर होंगे, उसकी व्यवस्था की है। सरोगेसी क्लिनिक कौन होगा, इसकी व्यवस्था हमने की है, इसके मैम्बर राष्ट्रीय स्तर पर कौन होंगे, इसके मैम्बर स्टेट स्तर पर कौन होंगे, इसकी व्यवस्था की गई है, क्योंकि यह समय बहुत भाषण देने का नहीं है। भारत सरकार बहुत सोच-समझकर एक अच्छा एवं ऐतिहासिक बिल लाई है।... (व्यवधान) मोदी जी का विचार जो महिलाओं के प्रति है, गरीबों के प्रति है, मोदी जी का प्रचार जो 'बेटी बचाओ बेटी पढ़ाओ' के प्रति है, मोदी जी का विचार 'सबका साथ सबका विकास' के प्रति है, मोदी जी का विचार जो कांग्रेस के भ्रष्टाचार के खात्मे के लिए है, उसके लिए सदन से आग्रह है कि इस बिल को पास करा दें। इन्हीं शब्दों के साथ जय हिन्द, जय भारत।

SHRIMATI SUPRIYA SADANAND SULE (BARAMATI): Madam, I stand on behalf of my Party to make a short speech because it is a very important speech. I wish we had more time. But, I would, on behalf of all my colleagues, request that you give

them a hearing. If the JPC is formed, maybe we can have a better debate here. I would request my colleagues to hear what they are saying. ... (*Interruptions*)

Madam, I congratulate the hon. Minister for bringing such an important social issue. It is because surrogacy is not just about the morals, as the earlier hon. Member was speaking, it is about parenthood. Nobody can justify what the yardstick of a parenthood is. There are just a few short points that I would like to ask. ... (*Interruptions*)

The hon. Minister has said that there is a five-year clause. Sir, fertility does not take five years to be justified. So, why five years? There could be couples who scientifically can prove that they are infertile. So, I really do not feel the scientific reason of a five-year clause. So, I would request the hon. Minister to re-think the five-year clause. ... (*Interruptions*)

Secondly, there could be very fertile couples who do not have children. History and data show it, if you look at the National Survey of India. As a matter of fact, Mahtab Ji had a question in the year 2014 in this 16th Lok Sabha where the reply was that 8.2 per cent women have fertility issues, which is a substantial number. ... (*Interruptions*) So, in this case, there could be no evidence of fertility. But, there could be men and women, who are both fertile, but do not manage to have children. So, sometimes, it even challenges science. Suppose a couple is married for several years and cannot have a child. But, they are still fertile and do not produce. So, why should they be left out of this, if they are deserving couples? So, I request the hon. Minister to re-consider as to why this should be. There are cases and data has shown it. So, these are two Clauses I will like you to re-look at. ... (*Interruptions*)

A lot has been said technically about 'close relative' by Dr. Kakoli. That is something he needs to clarify. I request him to do that. ... (*Interruptions*)

Another issue is about 'single parent'. There are so many single parents in the Adoption Bill. You allow single woman and man to adopt children. So, if you can adopt a child, why can you not have a surrogate child? There are categories like widow, single, divorcee or transgender. ... (*Interruptions*) After passing such a historic Bill just day before yesterday, I see no reason why it has to have a condition of being

married. Can a single parent not have children? There are generations where people have had that. So, I do not think we should do that. We must insist that they get it.

Out of 42 recommendations made, only 11 have been taken up by this. So, you could take all 42 recommendations or give a clarification for not taking up ... *(Interruptions)*.

Lastly, there is a certificate required. Now what will be the time-bound manner for us to get certificate because the application is made but there is no methodology spelt out? So will that be done? If so, how soon will that be done? In this country, if there are one lakh women, 136 women die also in pregnancy. So, it is a very sensitive issue and with the noise, I would like to express it but at least given the circumstances, I would like to make a small intervention. It is a very good Bill and we support it... *(Interruptions)*. But it is not modern enough. I would submit that a child is something which is an emotional thing. Let us not get caught only into the rights and wrongs of the Bill. Every human being deserves the child. It is the ultimate that any parent can have. Madam, fortunately, you and I have had that blessing. So let us make sure that every couple deserves a child and let us give them a chance... *(Interruptions)*. Let us not get into just the illegality. Let us see that it is a fair and a good legislation which will help all parents who are looking for this happiness... *(Interruptions)*.

DR. BOORA NARSAIAH GOUD (BHONGIR): Madam, I thank you for giving me this opportunity. I also congratulate the Minister for bringing this Bill... *(Interruptions)*.

Madam, in the Hindu mythology, Lord Balrama was born through surrogacy where the Devki's pregnancy was transferred to Rohini by Maya. We have had umpteen instances of surrogacy in Mahabharata and other mythologies... *(Interruptions)*.

Now we are caught between science and the common sense. The science gives opportunity to the childless couples to have a child through surrogacy as they are infertile because of various reasons. We have to give this facility of motherhood to the infertile couple. There is no doubt about it... *(Interruptions)*.

Madam, the whole problem about this Bill is that it has been brought in because of the commercial nature of surrogacy. If we have to take into consideration the commercial nature of surrogacy, what is happening now? As has been pointed out by the speaker who just now spoke, there is a five year clause... (*Interruptions*). As a doctor I can say that we do not have to wait for five years in all the cases. There are certain medical conditions like lack of ovaries, lack of wombs, lack of sperms, azoospermia in the male, etc. In such cases, they are infertile outrightly. You do not have to wait for five years. Suppose we fall from 10th floor of a building. We do not have to wait to know what will happen because either we would get injured or else we would die... (*Interruptions*). Similarly, in the infertile couple who are suffering from azoospermia, we do not have to wait for five years. Therefore, I would urge upon the Minister to re-consider it. If there is no chance of a couple getting fertile, they have to go for surrogacy... (*Interruptions*).

The second question is regarding the commercial use and illegality. Now what is commercial use? We have three people in this whole scenario. One is the intending couple. The second is the surrogate mother and the third is the doctor and the centre which would give the scientific service. Now the definition of 'close relative' is not given anywhere... (*Interruptions*). The surrogate mother can be a close relative or a cousin or she may not be a close relative. Suppose an authority gives them a certificate that they are close relatives but the surrogate mother takes money for extending the services of surrogacy. Then, who will be punished? Is the surrogate mother going to be punished or would the doctors who are going to give service be punished or is the intending couple going to be punished? This point has not been made in this Bill. If the surrogate mother takes the money even if she is a close relative, do you mean to say that that close relative is going to be punished? ... (*Interruptions*). If the doctor does not know what is the commercial agreement between the close relative and the intending couple, is the doctor going to be punished? I think though the intention is good, the content can be misused. Whenever we bring more authorities into the system, the chances of misuse are more. ... (*Interruptions*).

My request would be this. ... (*Interruptions*) As there is so much of pandemonium going on in the House, I would like to state that better late than never, while framing the rules and the guidelines if the hon. Minister can correct all these

things, it would be better because the people who extend the services should not be punished unnecessarily. ... (*Interruptions*) Otherwise, I can challenge that no one in this country will ever attempt to extend the services of the surrogacy. Before we take a challenge; before we put a legislation, we have to take care of three parties involved in the entire gamut of the surrogacy – the surrogate mother, the intending couple and the service provider. ... (*Interruptions*) These three people should be safeguarded. I hope, the Minister will take precautions while framing the guidelines. Thank you very much.

SHRI DHARAM VIRA GANDHI (PATIALA): First of all, I stand here to congratulate the hon. Minister of Health, Shri J.P. Naddaji for putting forward and bringing out this most advanced Bill on surrogacy. Surrogacy is a big problem in India. ... (*Interruptions*) Infertility has grown manifold during the last ten to fifteen years and the infertility centres have cropped up and sprangled up like anything as much as to the tune of 6000, all over the country and are exploiting the issueless couples to a big extent. ... (*Interruptions*) This Bill was mandatory to regulate the surrogacy rules; surrogacy problems in our country.

I have few suggestions to make. First of all, it is not in the interest of the intending parents or the infertile parents. It is in the interest of the surrogate mother which is also to be looked at equally by this law.

Secondly, I fully agree with my earlier speaker that the age for decision to have a child through surrogacy should not be decided by years. It can be decided within a very short period of time, for example, in the case of congenital absence of ovaries and total azoospermia. ... (*Interruptions*) These are the conditions for which the patient can be taken up for a surrogate child even after one year or so, if the couple desire so.

Thirdly, I firmly believe that only Non-Resident Indians (NRIs), who are passport holders should be allowed to avail the facility of surrogacy in India. The Foreign Passport Holders or the Foreign Nationals should not be allowed to avail the surrogacy provisions or the surrogacy facilities in our country. ... (*Interruptions*) So, I once again congratulate the hon. Minister for bringing out this very-very important and advanced Bill to this country. I stand and support this Bill fully and wholeheartedly. Thank you.

HON. SPEAKER: Now, Dr. Shrikant Eknath Shinde – Not Present

श्री कौशलेन्द्र कुमार (नालंदा): अध्यक्ष महोदया, आपने मुझे इस महत्वपूर्ण बिल पर बोलने का मौका दिया है, इसके लिए मैं आपको धन्यवाद देता हूँ। ... (व्यवधान)

सरकार सरोगेट मदर के विषय में सही प्रक्रिया एवं विनियमन का प्रावधान कर राष्ट्रीय सरोगेसी बोर्ड और राज्य सरोगेसी बोर्ड का गठन कर रही है। यह काफी सराहनीय कदम है। ... (व्यवधान) इससे सरोगेसी मदर को ठगने और उसके साथ काम निकालने के बाद उसे छोड़ देने की बात अब नहीं होगी। अब कॉमर्शियल सरोगेसी भी प्रारंभ हो रहा है। ... (व्यवधान) इसे लीगल किया जा रहा है। यहां थोड़ा ध्यान देने की जरूरत है, क्योंकि यह देखा जाता है कि शुरुआती समय में उस महिला की काफी पुछ होती है और उसका ख्याल रखा जाता है, किन्तु काम निकालने के बाद उसे उसके हालात पर छोड़ दिया जाता है। बहुत से विकसित देशों में भी सरोगेसी पर प्रतिबंध है। ... (व्यवधान)

अतः इस विषय को ध्यान में रखना होगा। सरकार को सुनिश्चित करना होगा कि सरोगेट माताओं के साथ काम निकालने के बाद उनके साथ अनैतिक व्यवहार, शोषण और सरोगेसी से उत्पन्न बालकों के परित्याग की घटनाएं नहीं हों। ... (व्यवधान) आशा है कि इस कानून के प्रभाव में आने के बाद देश में किराए की कोख सेवाओं में सरोगेट माताओं के साथ अनैतिक व्यवहार पर नियंत्रण होगा। ... (व्यवधान)

कॉमर्शियल सरोगेसी की घटनाएं रुकेंगी। सरोगेसी में पैदा हुए बालकों का शोषण नहीं होगा। साथ ही प्रजनन क्षमता से वंचित दम्पति भी माँ-बाप का सुख भोग सकेंगे।

इन्हीं शब्दों के साथ मैं इस विधेयक का समर्थन करते हुए अपनी बात समाप्त करता हूँ। ... (व्यवधान)

श्री जय प्रकाश नारायण यादव (बाँका): माननीय अध्यक्ष महोदया, आपने सरोगेसी बिल, 2016 पर मुझे बोलने का मौका दिया, इसके लिए धन्यवाद। देश में “बेटी पढ़ाओ-बेटी बचाओ” का नारा दिया गया है लेकिन आज बेटियों की अस्मिता खतरे में है। उनके साथ दुष्कर्म हो रहा है और बिहार में मुजफ्फरपुर इसका जीता-जागता उदाहरण है। ... (व्यवधान) आज देश में नारी का बहुत अपमान हो रहा है, जिसे बचाने में सरकार विफल हुई है। जहां तक इस बिल का सवाल है, हमारी भारतीय सभ्यता, भारतीय संस्कार, भारतीय संस्कृति में भारी गोरखधंधा सरोगेसी के नाम पर किया गया और दौलत कमाने का काम किया गया है। ... (व्यवधान) इसे व्यवसाय बना लिया गया है। कानून बनाया जा रहा है, लेकिन इस बात का ध्यान रखना चाहिए कि इसका दुरुपयोग न होने पाए। हमें लगता है कि अच्छा काम करने के लिए कानून लाया जाता है लेकिन जैसे कहा गया कि अच्छे दिन आएंगे, लेकिन अच्छे दिन नहीं आए बुरे दिन आ गए। 15 लाख

रुपये आएंगे, लेकिन आए नहीं। दो करोड़ नौजवानों को नौकरी देने की बात कही गई, लेकिन उन्हें कहा गया कि पकौड़े की दुकान खोलो। ... (व्यवधान) देश में दिखावे के लिए अच्छे-अच्छे बिल लाए जाते हैं। लेकिन आज जो यह सरोगेसी बिल आया है, मेरा कहना है कि इसका अच्छा यूज होना चाहिए और कानून अच्छी तरह से लागू होना चाहिए और इसे गोरखधंधा या व्यवसाय न माना जाए। ... (व्यवधान)

SHRI N.K. PREMACHANDRAN (KOLLAM): Madam Speaker, I thank you for giving me this opportunity. ... (*Interruptions*) The Surrogacy (Regulation) Bill, 2016 is a very comprehensive Bill which is prohibiting the commercial surrogacy as well as legalising surrogacy. ... (*Interruptions*) That is the significant feature of this Bill. This Bill is also preventing the unethical practices which are being followed in the country in the field of surrogacy. ... (*Interruptions*)

I would like to highlight a point regarding the children born out of the surrogated mother. ... (*Interruptions*) Sufficient care and protection should be provided to the children who are born out of the surrogated mother because after their birth, most probably there is a chance of discrimination. ... (*Interruptions*)

Madam, another important fact which I would like to point out to the hon. Minister is – most of the hon. Members have already spoken about it – regarding the distinction between commercial surrogacy and ethical surrogacy. ... (*Interruptions*) This has not been well explained in this Bill. It has to be made very clear. That is the only one deficiency or lacuna which is found in this Bill. ... (*Interruptions*) So, the commercial surrogacy as well as the ethical surrogacy, as it has been rightly stated in the aims and objects of the Bill, the word itself is very clear. ... (*Interruptions*) So, that has to be distinct. Otherwise, it will be creating problems.

As rightly pointed out by Shrimati Supriya Sule, the fertile couples can have children even five years after their marriage. Some persons want to maintain their beauty and so they want to avoid child birth. ... (*Interruptions*) In this way, this can be misused. On this point also, I would like to seek a clarification from the hon. Minister. ... (*Interruptions*)

These are the points which I wanted to make. With these words, I support the Bill. ... (*Interruptions*)

श्री जगत प्रकाश नड्डा : माननीय अध्यक्ष महोदया, 9 वक्ताओं ने इस बिल पर अपना मत रखा है। ... (व्यवधान) मैंने शुरू में कहा कि आज एक ऐतिहासिक दिन है, जब एक ऐतिहासिक बिल पर चर्चा हो रही है। ... (व्यवधान) यह ऐतिहासिक घटना है कि इतने हो-हल्ले के बावजूद भी इतनी क्वालिटी डिबेट हुई है। इस क्वालिटी डिबेट के लिए मैं सबको बधाई देना चाहता हूँ। ... (व्यवधान) I really appreciate all the hon. Members who have positively participated in this debate. ... (*Interruptions*) The quality debate which has taken place and the issues which they have raised shows really the concern of the Members of Parliament as to how we are concerned about protecting the dignity and interests of women, protecting the children and also see that they are not exploited and at the same time ensure that they are given the best type of treatment from the point of view of medical science. ... (*Interruptions*) The issues which have been raised about their health and their concerns are well taken.

15 00 hrs

First of all, I would like to appreciate the quality of debate which has taken place in this Parliament in so much of noise and hue and cry. But this debate has taken place and I really thank all of you. The issue for which this Bill has come is first of all to see to it that commercial surrogacy does not take place. कमर्शियल सरोगेसी को हम टोटली रिजेक्ट करते हैं। यही लॉ कमीशन की रिपोर्ट भी है और सुप्रीम कोर्ट की अंडरस्टैंडिंग है। All sections of the society, all NGOs and all civil societies have said that commercial surrogacy should go. But at the same time, the intention is to save the family और यदि फैमिली में कोई बच्चा पैदा नहीं हो पा रहा है, तो उसे कैसे रेगुलेट कर सकते हैं ताकि मॉडर्न साइंस की फैसिलिटी के द्वारा अपना बच्चा होने की सुविधा दी जा सके, इस बात को ध्यान में रखते हुए इस बिल को लाया गया है। फैमिली का मतलब है, एक रजिस्टर्ड, डिक्लेयर्ड हसबैंड एंड वाइफ, जिनके हर प्रयासों के पश्चात् conception is not taking place and this is proved that the conception is not taking place, तो उसके लिए इस बिल के माध्यम से रेगुलेट करने की कोशिश की गई है। सभी मेम्बर्स ने कहा है कि पहली बार अन-रेगुलेटेड एरिया को रेगुलेट करने की कोशिश की गई है। इसे हम आगे बढ़ाना चाहते हैं। इस दृष्टि से हम इस बिल को रखना चाहते हैं।

आपने जो प्रश्न उठाये हैं, उनके कुछ विषयों के बारे में, चूंकि इसमें 23 अमेंडमेंट्स आने वाले हैं, जिनसे बहुत-सी बातें क्लीयर होने वाली हैं, उनको भी आपके सामने रखना चाहता हूँ।

जहाँ तक एआरटी बिल की बात है, एआरटी बिल को इसके साथ क्यों नहीं लाया गया? एआरटी बिल के सारे सजेशंस रिसीव कर लिये गये हैं। वे कंसिडरेशन में हैं। But at the same time, the Law Commission and the Supreme Court were clear that Surrogacy Bill should come as soon as possible. तो हमें एआरटी बिल और इसे सेगरिगेट करना पड़ा। But that is also very much under consideration. We have received all inputs from all organizations and we are working on it. This is what I have to say और सेरोगेसी बिल को हम लेकर आये हैं।

The second issue was about the embryo. We have said “56 days”, but Madam Kakoli said that it could be preserved for years together. In the same way, about the foetus, we have mentioned 57 days, but she said that it could be preserved for a much longer time. This will be deliberated while framing the rules and regulations and we are open to that. So, this is how I would like to comment on this issue.

The issue related to Section 377, उस इश्यु पर हम यह कहना चाहते हैं कि यह रेगुलेशन और यह सुविधा डिफाइंड फैमिलीज के लिए देने वाले हैं। Section 377 only withdraws the criminalization of the same sex living together, but persons in live-in relationship, or a single parent - they do constitute the family. So, keeping that factor in view, जो डिफाइंड फैमिलीज़ हैं, अभी उन्हीं को यह सुविधा देने का प्रयास कर रहे हैं।

With regard to the query on the foetus and embryologist, as I told you that it would come under the rules and regulations and we would take care of it accordingly.

SHRIMATI SUPRIYA SADANAND SULE : There are many families where either the mother or father or the parents have died. So, I humbly request you not to say that a family should be complete or it should be husband and wife.

I would humbly request you, Sir. It is not fair to say that a single parent is not a family. If you do not mind, please clarify it because it is going on the records of the Parliament. It is my humble request.

SHRI JAGAT PRAKASH NADDA: Supriya Suleji, I respect your sentiments. But at this point of time, we are talking about the family. There are other methods also of adoption and other ways where a person, a single family can have a child. So, that would be taken care of.

Madam, the third point was about the NRIs. At present, NRIs are included in the Bill. It is only the foreigners, who are not included. But NRIs are included in the Bill. That is what I would like to say about it ... (*Interruptions*)

On the issue relating to the certificate of infertility, the certificate is to be given within 90 days. Here, the number of days have been specified. So, the certificate will be given within 90 days ... (*Interruptions*)

In the same way, the appeal against the decision of not allowing surrogacy will be decided within 30 days. They can appeal within 30 days; and they will be heard and given the opportunity. So, accordingly, it would be decided ... (*Interruptions*)

There was one big issue about the close relatives. This also will be decided in the rules and regulations. Accordingly, we would have discussions. So, this issue will also be taken care of and we will move forward ... (*Interruptions*)

Shri N.K. Pramachandranji asked about altruistic surrogacy. Altruistic surrogacy is a surrogacy where there is no commercial consideration. So, I have tried to address his point ... (*Interruptions*)

SHRI BHARTRUHARI MAHTAB: Madam, the hon. Minister has said that a lot of changes would come forth in the regulations.

SHRI JAGAT PRAKASH NADDA: Mahtabji, there would be no changes. The issues raised by you will be taken care of in the rules and regulations.

SHRI BHARTRUHARI MAHTAB : This is one of my points that you are delegating a lot of law-making provisions to the regulators. That should not happen. That should be rather part of the Bill and the part of the law. It would be easier ... (*Interruptions*)

SHRI JAGAT PRAKASH NADDA: I totally agree with you. But for the first time, it is being regulated. We will take care accordingly ... (*Interruptions*)

So, with these words, Madam Speaker, I would request that this House should consider this historic Bill and pass it unanimously. Thank you.... (*Interruptions*)

HON. SPEAKER: The question is:

“That the Bill to constitute National Surrogacy Board, State Surrogacy Boards and appointment of appropriate authorities for regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto, be taken into consideration ”

The motion was adopted.

... (*Interruptions*)

HON. SPEAKER: The House will, now, take up clause-by-clause consideration of the Bill.

Clause 2 Definitions

Amendments made:

‘Page1, *for* lines 10 to 14, *substitute*—

‘(a) “abandoned child” means a child born out of surrogacy procedure, deserted by his intending parents or guardians and who has been declared as abandoned by the appropriate authority after due enquiry;’. (3)

Page 2, line 32, *for* ‘(n) “human embryologist”’ ,*substitute* ‘(n) “embryologist”’. (4)

Page 3, *after* line 12, *insert*—

‘(ya) “sex selection” shall have the same meaning as assigned to it in clause (o) of section 2 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;’. (5)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3

**Prohibition and regulation of
surrogacy clinics**

Amendments made:

‘Page 3, line 40, *omit* “human”. (6)

Page 3, line 46, *omit* “human”. (7)

Page 4, line 5, *omit* “human”. (8)

Page 4, line 18, *omit* “human”. (9)

Page 4, line 26, *omit* “human”. (10)

Page 4, *after* line 30, *insert*—

“(viii) no surrogacy clinic, registered medical practitioner, gynaecologist, paediatrician, embryologist, intending couple or any other person shall be involved in any form of sex selection for surrogacy.”.’ (11)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

**Clause 4 Regulation of surrogacy and
surrogacy procedure**

Amendments made:

‘Page 5, line 21, *after* “surrogate mother”, *insert* “,for a period of sixteen months covering postpartum delivery complications.” (12)

Page 5, *for* lines 34 to 36, *substitute*—

“(IIA) no woman shall act as a surrogate mother by providing her own gametes;”;

(III) no woman shall act as a surrogate mother more than once in her life time:””

(13)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 4, as amended, stand part of the Bill.”

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 was added to the Bill.

**Clause 6 Written informed consent
of surrogate mother**

Amendment made:

Page 6, *after* line 11, *insert-*

“(2) Notwithstanding anything contained in sub-section (1), the surrogate mother shall have an option to withdraw the practice of surrogacy before the implantation of embryo in her womb.”. (14)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 6, as amended, stand part of the Bill.”

The motion was adopted

Clause 6, as amended, was added to the Bill.

Clauses 7 and 8 were added to the Bill.

Clauses 9

Prohibition of Abortion

SHRI N.K. PREMACHANDRAN (KOLLAM): Madam, I beg to move:

Page 6, line 21,-

after “surrogacy clinic, ”

insert “hospital,”.

(24)

Page 6, lines 22 and 23,-

for “except in such conditions”

substitute “except when the pregnancy is dangerous to the life of surrogate mother, with due certification to the effect from District Medical Board,”. (25)

HON. SPEAKER: I shall now put amendment nos. 24 and 25 to clause 9 moved by Shri N.K. Premachandran to the vote of the House.

The amendments were put and negatived.

HON. SPEAKER: The question is:

“That clauses 9 to 13 stand part of the Bill.”

The motion was adopted

Clauses 9 to 13 were added to the Bill.

**Clause 14 Constitution of National
Surrogacy Board**

Amendment made:

Page 8, line 5, *omit* “human”. (15)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: Shri N.K. Premachandran, are you moving amendment nos. 26 to 28 to clause 14?

SHRI N.K. PREMACHANDRAN : Yes, Madam, I beg to move:

Page 8, line 5,-

after “human embryologists”

insert “working in the Medical Educational Service or Health Service
under the Central Government or a State Government”.

(26)

Page 8, line 7,-

after “*prasuti-tantra*”

insert “working in the Medical Educational Service or Health Service
under the Central Government or a State
Government”.

(27)

Page 8, line 8,-

after “social scientists”

insert “working under the Central Government or a State Government”. (28)

HON. SPEAKER: I shall now put amendment nos. 26 to 28 to clause 14 moved by Shri N.K. Premachandran to the vote of the House.

The amendments were put and negatived.

HON. SPEAKER: The question is:

“That clause 14, as amended, stand part of the Bill.”

The motion was adopted

Clause 14, as amended, was added to the Bill.

Clause 15 was added to the Bill.

Clause 16 Meetings of Board

SHRI N.K. PREMACHANDRAN : Madam, I beg to move:

Page 8, line 41,-

for “six months”

substitute “four months”. (29)

Page 8, line 46,-

after “shall be decided”

insert ”, after obtaining written opinion from the experts and after giving due consideration to the reports,”. (30)

HON. SPEAKER: I shall now put amendment nos. 29 and 30 to clause 16 moved by Shri N.K. Premachandran to the vote of the House.

The amendments were put and negatived.

HON. SPEAKER: The question is:

“That clauses 16 stand part of the Bill.”

The motion was adopted

Clauses 16 was added to the Bill.

Clause 17 was added to the Bill.

Clauses 18

Disqualification for appointment as Member

SHRI N.K. PREMACHANDRAN : I beg to move:

Page 9, line 21,-

after “a practicing member or”

insert “directly or indirectly connected to the functioning of a surrogacy clinic or in an organization directly or indirectly connected with a surrogacy clinic or”. (31)

Page 9, line 24,-

after “or representing”

insert “or relating to”. (32)

HON. SPEAKER: I shall now put amendment nos. 31 and 32 to clause 18 moved by Shri N.K. Premachandran to the vote of the House.

The amendments were put and negatived.

HON. SPEAKER: The question is:

“That clauses 18 to 23 stand part of the Bill.”

The motion was adopted

Clauses 18 to 23 were added to the Bill.

Clause 24

Composition of State Board

Amendment made:

Page 10, line 40, *omit* “human”. (16)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: Shri N.K. Premachandran, are you moving amendment nos. 33 to 36 to clause 24?

SHRI N.K. PREMACHANDRAN : Yes, Madam, I beg to move:

Page 10, line 33,-
after “nominees”

insert “not below the rank of Joint Secretaries”. (33)

Page 10, line 40,-
after “human embryologists”

insert “working in the Medical Educational Service or Health Service under the Central Government or a State Government”.
(34)

Page 10, line 42,-
after “*prasuti-tantra*”

insert “working in the Medical Educational Service or Health Service under the Central Government or a State Government”.
(35)

Page 10, line 43,-
after “eminent social scientists”
insert “working in the State Government service”.
(36)

HON. SPEAKER: I shall now put amendment Nos. 33 to 36 to clause 24 moved by Shri N.K. Premachandran to the vote of the House.

The amendments were put and negatived.

HON. SPEAKER: The question is:

“That clause 24, as amended, stand part of the Bill.”

The motion was adopted

Clause 24, as amended, was added to the Bill.

Clause 25 was added to the Bill.

Clauses 26

Meetings of State Board

HON. SPEAKER: Premachandran *ji*, are you moving your amendment no. 37 to clause 26?

SHRI N.K. PREMACHANDRAN : Madam, I am not moving my amendment.

HON. SPEAKER: The question is:

“That clauses 26 to 31 stand part of the Bill.”

The motion was adopted.

Clauses 26 to 31 were added to the Bill.

Clause 32

Appointment of appropriate authority

SHRI N.K. PREMACHANDRAN : I beg to move:

Page 12, line 44,--

after “Family Welfare Department”

insert “or Medical Education Department”. (38)

Page 13, line 3,--

after “medical practitioner”

insert “in Medical Education Service or Health

Service of the State Government”. (39)

HON. SPEAKER: I shall now put amendment nos. 38 and 39 moved by Shri N.K. Premachandran to clause 32 to the vote of the House.

The amendments were put and negatived.

HON. SPEAKER: The question is:

“That clause 32 stand part of the Bill.”

The motion was adopted.

Clause 32 was added to the Bill.

Clause 33 Functions of appropriate authority

Amendment made:

Page 13, line 25, *after* “clause (iii) of section 4”, *insert*

“within a period of ninety days”. (17)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 33, as amended, stand part of the Bill.”

The motion was adopted.

Clause 33, as amended, was added to the Bill.

Clause 34 Powers of appropriate authority

SHRI N.K. PREMACHANDRAN : I beg to move:

Page 13, line 28,--

after “summoning of”

insert “any person required for proper

adjudication of the complaint or”. (40)

HON. SPEAKER: I shall now put amendment no. 40 moved by Shri N.K. Premachandran to clause 34 to the vote of the House.

The amendment was put and negatived.

HON. SPEAKER: The question is:

“That clause 34 stand part of the Bill.”

The motion was adopted.

Clause 34 was added to the Bill.

Clause 35	Prohibition of commercial surrogacy, exploitation of surrogate mothers and children both through surrogacy
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Amendment made:

Page 14, *for* lines 12 to 16, *substitute*—

“embryo or human gametes for surrogacy or for surrogacy
procedure”; and

(g) conduct sex selection in any form for surrogacy.

(2) Notwithstanding anything contained in the Indian PenalCode,

contraventions of the provisions of clauses (a) to (g) of sub-section (1) by any person shall be an offence punishable with imprisonment for a term which may extend to ten years and with fine which may extend to ten lakh rupees.”.

(18)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 35, as amended, stand part of the Bill.”

The motion was adopted.

Clause 35, as amended, was added to the Bill.

Clause 36

**Punishment for contravention
of provisions of Act**

Amendments made:

Page 14, line 22, *omit* “human”. (19)

Page 14, lines 27 and 28, *for* “which shall not be
less than five years”, *substitute* “which may extend
to five years”. (20)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 36, as amended, stand part of the Bill.”

The motion was adopted.

Clause 36, as amended, was added to the Bill.

**Clause 37 Punishment for initiation of
commercial surrogacy**

Amendments made:

Page 14, line 34, *omit* “human”. (21)

Page 14, line 37, *for* “which shall not be less than
five years”, *substitute* “which may extend to
five years”. (22)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 37, as amended, stand part of the Bill.”

The motion was adopted.

Clause 37, as amended, was added to the Bill.

**Clause 38 Penalty for contravention of provisions
of Act or Rules for which no
specific punishment is provided**

Amendment made:

Page 14, line 42, *for* “which shall not be less than
three years”, *substitute* “which may extend to
three years”. (23)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 38, as amended, stand part of the Bill.”

The motion was adopted.

Clause 38, as amended, was added to the Bill.

Clauses 39 to 51 were added to the Bill.

Clause 1

Short title extent and commencement

Amendment made:

Page 1, line 5, *for* “2016”, *substitute* “2018”. (2)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That clause 1, as amended, stand part of the Bill.”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made:

“Page 1, line 1, *for* “Sixty-seventh”, *substitute* “Sixty-ninth”. (1)

(Shri Jagat Prakash Nadda)

HON. SPEAKER: The question is:

“That the Enacting Formula, as amended, stand part of the Bill.”

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Long Title was added to the Bill.

... (Interruptions)

HON. SPEAKER: The Minister may now move that the Bill, as amended, be passed.

SHRI JAGAT PRAKASH NADDA: I beg to move:

“That the Bill, as amended, be passed”.

HON. SPEAKER: The question is:

“That the Bill, as amended, be passed”.

The motion was adopted.

... (Interruptions)

15 20 hrs

THE CONSUMER PROTECTION BILL, 2018