

Sixteenth Lok Sabha

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Title: Motion for consideration of the Personal Laws (Amendment) Bill, 2018 (Motion adopted and Bill passed).

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE AND MINISTER OF STATE IN THE MINISTRY OF CORPORATE AFFAIRS (SHRI P.P. CHAUDHARY):

Madam Speaker, on behalf of Shri Ravi Shankar Prasad, I beg to move:

“That the Bill further to amend the Divorce Act, 1869, the Dissolution of Muslim Marriages Act, 1939, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955 and the Hindu Adoptions and Maintenance Act, 1956, be taken into consideration.”

14 32 ½ hrs

At this stage, Shri Dharmendra Yadav and some other hon. Members came and stood on the floor near the Table.

... (*Interruptions*)

Madam, this Bill was introduced on 10th August, 2018 and it is a very short Bill. ...

(*Interruptions*) It provides that leprosy is one of the oldest known diseases and it is to be treated as an incurable disease. ... (*Interruptions*) It has been made a ground for divorce in the Personal Laws. ... (*Interruptions*) There are five Personal Laws, namely, the Divorce Act, 1869, the Dissolution of Muslim Marriages Act, 1939, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955 and the Hindu Adoptions and Maintenance Act, 1956. ... (*Interruptions*)

At present, leprosy is a curable disease and in various judgements, the hon. Supreme Court and High Courts had observed that the Government is required to remove this discriminatory provision. ...(*Interruptions*) Apart from this, the United Nations General Assembly adopted a Resolution and also recommended for elimination of discrimination against leprosy affected persons in India. ...(*Interruptions*) We have also ratified this Resolution. ...(*Interruptions*) In addition to this, the National Human Rights Commission has also recommended amendment and deletion of discriminatory provisions in 16 Acts and they have been identified. ...(*Interruptions*) Out of these 16 Acts, 6 Acts come under the purview of the Ministry of Law and Justice of the Government of India, the other Acts are coming under the purview of various other Departments, Ministries of the Government of India and State Governments. ...(*Interruptions*) Then, the Committee on Petitions of Rajya Sabha, in its 31st Report, also recommended for amendment in those Acts. ...(*Interruptions*) The Law Commission also, in its 256th Report, *inter alia*, recommended for repeal of the Lepers Act, 1898 and amendment to certain Personal Laws for removing the discriminatory provisions in these Acts. ...(*Interruptions*)

Madam, the Lepers Act, 1898 was already repealed by the Repealing and Amending Act. ...(*Interruptions*) The present proposal is to remove the discriminatory provision in these five Acts which I mentioned just now. ...(*Interruptions*) Out of the 16 Acts identified, these 5 Acts are being administered by this Ministry. All these Acts are related to the Concurrent List. ...(*Interruptions*)

This is a beneficial legislation. ...(*Interruptions*) Therefore, I request the august House to kindly consider and pass this Bill. ...(*Interruptions*)

HON. SPEAKER: Motion moved:

“That the Bill further to amend the Divorce Act, 1869, the Dissolution of Muslim Marriages Act, 1939, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955 and the Hindu Adoptions and Maintenance Act, 1956, be taken to consideration.”

SHRI KALYAN BANERJEE (SREERAMPUR): Madam Speaker, I must say that this Bill is, of course, a beneficial legislation, there is no doubt about it. ...(*Interruptions*) There are a number of judgements of the Supreme Court and High Courts in respect of this subject and the opinion of the National Human Rights Commission is also there. ...(*Interruptions*)

But insofar as the Bill is concerned, no doubt it should be passed. But I have to point out two or three things to the hon. Minister, through you. As far as the rehabilitation and integration of a person affected by leprosy is concerned, very effective and speedy steps should be taken by the Central Government itself and by the different hospitals. Till now, we look at the persons affected by leprosy in a different way. Although the Bill will be passed, what is necessary is that there should be a change of public opinion especially in rural areas. For that purpose, endeavour should be made, through wide publicity, by the Central Government as well as the State Governments in respect of cure of the person who has been affected by leprosy. After all, they are not untouchables. This public consciousness has to be created. This is my number one point.

The second point is this. Since it has come under the personal law, I will make this request to the hon. Minister, through you Madam. Unfortunately, in our country divorce cases are pending for long for years together and decades together. Although the family court has been constituted, it is not there everywhere. Family court should be constituted everywhere, so that the cases are disposed of very speedily. The women of our country are suffering when divorce case is filed against them. Madam, under Section 125 Cr.PC, although the provision for maintenance is there, the time limit is not there. I will request the hon. Minister, through you, that appropriate law should be brought in so that speedy receiving of maintenance by the wife and the children are made in the legislation when a divorce case is pending before different courts. Family courts should be constituted everywhere. With this, I conclude.

SHRI BHARTRUHARI MAHTAB (CUTTACK): I stand here to participate in the debate for amendment that has been moved by the hon. Minister relating to Personal Laws (Amendment) Bill, 2018.

Very rightly the Minister has brought this Bill. As per the prevalent situation today, it is an outdated impression that leprosy cannot be cured and therefore, it will be a cause for divorce. So, this Bill seeks to amend the Dissolution of Muslim Marriages Act, the Special Marriage Act, the Hindu Marriage Act and even the Hindu Adoptions and Maintenance Act. In leprosy people get affected at a later stage also. Therefore, it was a concern earlier when leprosy was not curable. But nowadays, with modern medicines, leprosy is curable. That stigma which was there earlier that a person who suffers from leprosy has to be outcast, should be left outside the habitation and should always be left to his/her fate, that situation does not exist today.

Many people who suffer from leprosy get cured with adequate treatment and that is an oral treatment, which needs to be given to those who suffer from leprosy ...
(Interruptions)

Therefore, as this Bill refers to only a disease, which is curable and which is not contagious, I fully support it as the Government has moved it with certain amendment to make certain corrections in the Personal Law ...*(Interruptions)*

So, I fully support the amendments that have been moved in this Bill.

Thank you

SHRI B. VINOD KUMAR (KARIMNAGAR): Hon. Madam Speaker, I am thankful to you for giving me this opportunity to speak on this very important Bill ...*(Interruptions)*

The hon. Law Minister had introduced this Personal Laws (Amendment) Bill in the Monsoon Session, 2018. It seeks to amend the five Acts, which are: The Divorce Act, 1869,

the Dissolution of Muslim Marriages Act, 1939, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955 and the Hindu Adoptions and Maintenance Act, 1956...*(Interruptions)*

Madam, each of these Acts prescribed leprosy as a ground for seeking divorce or separation from the spouses. In fact, actually, this Bill should have been brought forward a decade back.

The National Human Rights Commission, way back, in 2008 recommended for such a legislation. The United Nations General Assembly also adopted a similar Resolution in 2010. In fact, the Law Commission has also recommended for such a legislation ...
(Interruptions)

In spite of all these recommendations, there was delay on the part of the Governments to introduce this Bill. Anyhow, the present Government had brought forward this Bill in the Monsoon Session, and now, we are discussing it.

There are many grounds for divorce in the Acts, which I initially specified in my speech. Among them, leprosy is also a ground for divorce. Now, as leprosy is curable with multidrug therapy and other medications, I think, this is a good legislation, and we should pass this Bill unanimously and see that leprosy is not a ground for divorce for the couples ...
(Interruptions)

Madam, in addition to it, I would like to make a request to the hon. Minister. Still leprosy is seen as untouchable. Among the poverty-stricken people, this disease is visibly seen.

Therefore, the Central Government as well as the State Governments should concentrate to eliminate this disease in the society ...*(Interruptions)*

With these I conclude. Thank you very much, Madam.

SHRI ASADUDDIN OWAISI (HYDERABAD): Hon. Madam Speaker, I stand here to oppose this Bill. Why do I oppose this Bill? I understand the spirit behind it that India voted in favour of eradication of leprosy in the UN General Assembly by Resolution 65 of 14th March, 2011 ...(*Interruptions*)

Madam, my opposition to this Bill is as follows. Firstly, the National Leprosy Elimination Programme Report recorded new 1,35,485 cases of leprosy in 2016-17. This means, every four minutes, a person is diagnosed with leprosy ...(*Interruptions*)

The Finance Minister in his Budget Speech said that in 2018, leprosy will be eradicated. That has not been the case.

Why do I oppose it, Madam, is that in Islam -- because they are amending the Muslim Personal Law – a marriage is a contract and it is a contract signed between two consenting parties. The Indian Contract Act of 1872 says: “For contract to evaluate, it is required that it is free from every undue influence, fraud...” ...(*Interruptions*)

So, Madam, over here, if a party is concealing a disease --because one is marrying, it is a Civil Contract -- the consent is impaired; and according to the Indian Contract Law, Section 17, the active concealment of a fact by one having knowledge of belief is a fraud.

In Islam, you do not understand, it is a civil contract....(*Interruptions*) That amendment to the Dissolution of Muslim Marriages Act is for a woman. It is not for a man. You are taking away the right of a woman to divorce a man who is concealing his disease. ...(*Interruptions*) That is why, it is important to understand that in Hindu law, it is *kanyadan*. A man is giving his daughter to another man. ...(*Interruptions*) In Islam, it is not that case. It is a contract which is being signed between a husband and a wife. If a wife does not know that her husband is having an ailment, that in itself is null and void. ...(*Interruptions*)

My last point is this. ...(*Interruptions*) I want to bring to your notice that in the Triple Talaq Bill, you must have heard कि “मुस्लिम देशों में क्या हो रहा है, इस्लामिक देशों में क्या हो रहा है”।।

would like to know from the hon. Minister कि क्या आपने कभी किसी मुस्लिम देश का लॉ पढ़ा है? पाकिस्तान का 1961 का आर्डिनेंस, बांग्लादेश का 1971 का आर्डिनेंस; leprosy is a ground for divorce. Why is it that you have not looked कि मुस्लिम पड़ोसी देश में क्या हो रहा है, पाकिस्तान में क्या हो रहा है या ईरान में क्या हो रहा है? ...*(Interruptions)* That is why I say, this is a duplicity of this Government. ...*(Interruptions)* Leprosy should be eradicated. But the Government is not spending money. Madam, 1,35,485 new cases have come to notice. ...*(Interruptions)* That is why I feel that the Government is doing it selectively. ...*(Interruptions)*

After Section 377 Judgement of the Supreme Court, Section 13 of the Hindu Marriage Act says that sodomy is a ground for divorce. Would you take it out now? ...*(Interruptions)* I want to know from you. Would Section 13 apply to the Hindu Marriage Act after Section 377 Judgement? ...*(Interruptions)*

So, I would request the Government to please do not interfere in the Muslim Personal Law. Marriage is a civil contract and the wife should know if her husband is suffering from any ailment because it is a contract. ...*(Interruptions)* Concealment of a fact, according to the Indian Contract Act is a fraud. That is why I oppose this Bill.

श्री मोहम्मद बदरुद्दोजा खान (मुर्शिदाबाद): अध्यक्ष महोदया, सरकार द्वारा जो बिल लाया गया है, मैं इस बिल का समर्थन करता हूं क्योंकि इसको ओपोज करने की कोई वजह नहीं है। जब लेप्रोसी क्यूरेबल नहीं था, तब डाइवोर्स की बहुत घटनाएं होती थीं। अब तो यह क्यूरेबल डिसीज है, एमडीटी से इलाज हो रहा है। सुप्रीम कोर्ट का आर्डर था और लॉ कमीशन की अनुशंसा थी, इसलिए यह बिल लाया गया है। यह ठीक बात है कि यह क्यूरेबल डिसीज है, लेकिन मेरा एक प्रश्न है कि now it is a curable disease but people's mindset is still not clear. So, public awareness is necessary. It should be started in school level also. ...*(Interruptions)* You are trying to remove this type of superstition. It is good. But some religious superstitions are being spread throughout the country by RSS and BJP which is not good. ...*(Interruptions)* Especially in Kerala regarding Sabarimala, some RSS people are doing this. They have attacked our MP's office also. In such a way, they are damaging our social condition also. I have a question. How will you cure this type of damage? You are curing the issue of leprosy because it is a curable disease now. ...*(Interruptions)* But

you are spreading religious superstition in such a way and you are damaging your social condition. How will it be cured?

The Government must look into this matter very seriously. But the Government is not doing this. The Government is using its power for religious matters. I condemn these things which the Government is doing. This Bill is good. You please look into the matter. How your party is damaging in Kerala?

SHRI P.P. CHAUDHARY: Madam, I extend my thanks to all the Members who have participated in the discussion of this Bill. Shri Kalyan Banerjee has raised the issue with respect to the rehabilitation of person who is suffering from such disease but I would like to make it clear that this disease is a curable one. Therefore, there is no proposal with the Government to provide rehabilitation and apart from this, this is a discriminatory provision and to remove this discriminatory provision from these five acts, this Bill is before this august House. For rehabilitation, the steps are required to be taken not by the Government of India but by the various State Governments. So, it is within the domain and subject matter of the State Government for providing rehabilitation if they treat it so. So, the Ministry of Health and Department of Social Justice may be in consultation with these respective State Governments, and can do these things.

Shri Bhartruhari Mahtab has supported this Bill. I would also like to make one point clear, to which Shri Kalyan Banerjee has referred, is Section 125 of the Criminal Procedure Code for providing rehabilitation. There is no time limit. But there is no such proposal and this is nothing to do with the subject matter in issue before this august House.

Many other Members have raised many things. Shri Asaduddin Owaisi has opposed this Bill on the ground that there is no eradication of leprosy. It is not a question of eradication. It is a question of curability. The disease is curable. Apart from this, the Government has taken a decision. In view of the fact that leprosy is now curable and in view of the various judgements of the Supreme Court and High Courts, certain directions

were also issued for reviewing these discriminatory provisions from various enactments and out of 16 enactments, six enactments relate to the Government of India and to our Ministry. The other enactments relate to other Ministries and to State Governments. So, they are required to take action. Not only this, the Human Rights Commission has also given suggestions. The Government of India is also a signatory to that. In view of this, this Bill is before this august House and I request the hon. Members to kindly pass this Bill.

श्री विनायक भाऊराव राऊत (रत्नागिरी-सिंधुदुर्ग): माननीय अध्यक्ष महोदया, मैं आपके माध्यम से मंत्री जी से जानकारी लेना चाहता हूँ कि कुष्ठ रोग एक क्योरेबल डिजीज है, ... (व्यवधान) ऐसा सरकार मानती है। लेकिन आज भी कुष्ठ रोग के बारे में समाज में कुछ भेद हैं, कुछ भ्रांतियाँ बनी हुई हैं। ... (व्यवधान) इसके पहले कुष्ठ रोगियों के रिहैबिलिटेशन से संबंधित कुछ काम एन.जी.ओज़ द्वारा किए गए हैं। ... (व्यवधान) इसके साथ ही, केन्द्र सरकार से अनुदान प्राप्त करने के लिए आधार कार्ड को अनिवार्य किया है। ... (व्यवधान)

माननीय अध्यक्ष: यह इससे संदर्भित नहीं है।

The question is:

“That the Bill further to amend the Divorce Act, 1869, the Dissolution of Muslim Marriages Act, 1939, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955 and the Hindu Adoptions and Maintenance Act, 1956, be taken into consideration.”

The motion was adopted.

... (Interruptions)

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

The question is:

“That clauses 2 to 6 stand part of the Bill. ”

The motion was adopted.

Clauses 2 to 6 were added to the Bill.

Clause 1 Short title and commencement

Amendment made:

Page 1, line 4,--

*for “Act, 2018”,
substitute “Act, 2019”.*

(1)

(Shri P. P. Chaudhary)

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.

The Enacting Formula and the Long Title were added to the Bill.

... (*Interruptions*)

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

SHRI P.P. CHAUDHARY: 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.

