

5. Consideration and passing of the following Bills:—

(a) The Air Corporations (Transfer of Undertakings and Repeal) Bill, 1992.

(b) The Coir Industry (Amendment) Bill, 1993 as passed by Rajya Sabha.

(c) The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Bill, 1991 as reported by Joint Committee.

(d) The Specified Areas (Issue of Identity Cards to the Residents) Bill, 1993.

(e) The Banking Companies (Acquisition and Transfer of Undertakings) Amendment Bill, 1993.

[Translation]

SHRI MOHAN SINGH (Deoria): Mr. Speaker, Sir, the following matters should be included in the list of next week's agenda:—

Discussion regarding the problem of increasing unemployment among the educated youth and waiving off loans given to educated unemployed youth by banks.

[English]

SHRI SRIBALLAV PANIGRAHI (Deogarh): Sir, I request that the following matters may be included in the next week's agenda:—

1. Discussion on the comparative merits of Presidential form of

Government and Cabinet form of Government from the suitability point of view of Indian situation.

- 2 Formation of Autonomous Regional Development Agency in different backward areas of the country including one for Western Region of Orissa

11.35 hrs.

STATUTORY RESOLUTION  
RE: DISAPPROVAL OF  
PROTECTION OF HUMAN  
RIGHTS ORDINANCE;  
AND

PROTECTION OF HUMAN RIGHTS  
BILL— (Contd.)

[English]

MR. SPEAKER: I think three hours were allotted to this Bill. We have consumed 2 hours and 43 minutes. I think we can allow one or two Members to make the submissions and then we go to the next item. We have lost 2-3 days. I think we should recoup the loss and we should pass the Bills which we have before us today. I hope the hon. Members will cooperate.

SHRI SYED SHAHABUDDIN (Kishanganj): Sir, this is an important Bill. There should be a few more hours of debate on this.

MR. SPEAKER: I will allow you to speak provided you do not repeat the points.

THE MINISTER OF STATE IN THE  
MINISTRY OF HUMAN RESOURCE

DEVELOPMENT (DEPARTMENT OF YOUTH AFFAIRS AND SPORTS) AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL WASNIK): Sir, he has already spoken.

MR. SPEAKER: Shri Shahabuddin, have you spoken?

SHRI SYED SHAHABUDDIN: No Sir, I have not spoken on this.

MR. SPEAKER: I will allow you. Shri A. Charles to speak now.

SHRI A. CHARLES (Trivandrum): Mr. Speaker, Sir, I stand to support the Protection of Human Rights Bill, 1993, introduced by the hon. Minister of Home Affairs. Of late, there have been continued allegations of human rights in India. We are aware that in the Universal Declaration on Human Rights in 1948, India is one of the sponsors and India also had signed that. We have been protecting human rights from the inception of our democracy. The fundamental rights enshrined in the Constitution of India is the one piece of legislation which we find nowhere in the world, especially article 14, article 19 and article 21 they are all enforceable in a court of law to have equality before law, equal protection of the law, respect of freedom of speech and freedom to move freely. Every right of every individual in this country has been protected under the Constitution. Here, everybody is equal in our country.

Sir, we have been all along protecting the human rights and voicing our opinion for protection of human rights all over the world. In fact, in the Third World India is one of the countries that has always been doing pioneering work wherever there is oppression. But, quite

unfortunately some of the self-styled organisations claiming themselves to be the protectors of human rights such as Amnesty International etc., have always been targeting our country with a political motive. They went to tarnish the image of India and they continue to say that there is violation of human rights in Punjab, Kashmir and in other parts of the country.

MR. SPEAKER: Please come to the Bill. The Bill is quite comprehensive.

SHRI A. CHARLES: Sir, I will not take more than five minutes. We have seen that in the last elections of Punjab how the heroic people of the State have stood firmly against the terrorists. But, these organisations are always projecting the human rights of the terrorists forgetting the fact that innocent men, women and children are the targets of terrorism. These organisations are not aware of the human rights of these innocent people.

Sir, in Kashmir alone during the last four years, in the first year there have been 92 killings, the next year it was 1,177, in the third year it was 1,393 and in the last year there have been 1,909 killings. They are all innocent people who have been killed by the terrorists. No organisation has ever projected the problems of innocent people being killed. They are always encouraging the terrorists. This is very unfortunate.

Sir, this Bill has not been brought forward suddenly with any motive. In the last election manifesto of the Congress(I) Party given by our great leader Rajiv Gandhi, on page 31 it is stated:

"The Congress will establish by legislation a Human Rights Commission to investigate and

adjudicate complaints of violations of human rights, particularly the civil rights of groups or classes of people."

This is exactly why this Bill has been brought forward. This is in fulfillment of one of our election promises. We are happy that the Government has taken cognisance of this promise and brought forward this.

Sir, though this forum is a fact finding Commission, it will have moral codes, especially when the Commission consists of no less person than the former Chief Justice of India and other retired Judges. In clause 21 of the Bill it is stated that a State Government may constitute a body to be known as the Commission. I would plead that it can be modified as that in every State there shall be a Commission.

It shall not be left to the option of the State, when a legislation is passed by this august body. It shall be uniform. The State Commission shall consist of the retired judges. I would request that the hon. Home Minister would consider at this stage to change only one word in clause 21 of the Bill to see that the State also constitute commission consisting of retired judges. The option of constituting the commission or human rights court should not be given to the State. I think, it is a sensible proposal and I would request the hon. Minister to consider this.

Since the time is short, I am concluding.

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Speaker, Sir, on the midnight of 14-15th August, 1947 when the Indian people had their tryst with their destiny, we inherited a colonial apparatus

of repression which included the Police Act. Over the years, this machinery of repression has been modernised and sophisticated with new technological innovations and we have in free India enacted many more repressive laws which are blacker than the blackest laws of the British period.

The Indian establishment has a double face, a Janus' face. We are trying to have within the framework of a democratic order, both a welfare state and a police state. I would not quote many reports because the international reports—whether of international voluntary organisations or of foreign governments or of foreign legislatures—will perhaps irritate the Home Minister. I would not even quote the report of the PUCL and PUDR which are national organisations of eminence. But I would certainly recommend to the Home Minister that he should read them from time to time.

Only today, the newspapers have reported that an eminent organisation in the U.S.A. called Freedom House has called us a 'partially free State'. I would like to quote the UN Human Rights Committee's findings. When we submitted our report on our performance under the Covenant of Civil and Political Rights, we said: "Human rights as embodied in the Covenant stand substantially protected by the Constitution." But the UN Committee on Human Rights under the Covenant of Civil and Political Rights have said: "Many of the International Covenant of Civil and Political Rights provisions do not seem to be applied in India and that a number of provisions in such laws currently enforced, contravene important rights provided in the covenant. The Committee was especially concerned about the arbitrary powers granted to the

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security forces under the Armed Forces Special Powers Act, the Terrorists and Disruptive Activities (Prevention) Act and the National Security Act, in Jammu and Kashmir, the Public Safety Act. This is the international verdict which we cannot escape. I would, therefore, quote for the Minister of Home Affairs, a line in poetry

Sun to Sahi Jahean Maen Hai  
phasana kya

Kaheti hae tujhko khalka khude  
gayabana kya

There is a persistent pattern on massive violation of human rights in our country which is directed largely against the weaker sections of our society and against the people living at the periphery of the national territory. This is a fact that we must take into account.

Sir, I do not trust the motives of the Government in bringing forward this Bill. I am conscious of the fact that there can be a change of heart. But I do not see any change of heart, when I look at the various formulations in the Bill. Perhaps the Government have brought forward this Bill out of strategic compulsions of our international relations, basically economic.

I do not find that the Home Minister is trying to remedy a known evil. He is only trying to silence foreign criticism. In fact, he is trying to hoodwink public opinion and create a smoke-screen and therefore, I would say to begin with that a Commission of this nature cannot be a substitute for the proper functioning of the system itself. The Amnesty International has advised

A Commission can never replace nor should it in any way diminish the safeguards inherent, incomprehensive and effective legal structures enforced by an independent, impartial and adequately

resourceful and accessible judiciary. In India, the creation of such a Human Rights Commission should go hand in hand with a thorough review of the existing mechanisms. I do not see that the Home Minister is prepared to undertake a thorough review of the existing machinery or the existing procedures or the existing mechanism and that is the reason why I doubt his intention and his motive.

First of all, I would like to focus on the status of this Commission. It has been said that it is a fact-finding body Committee. But it does not have an investigating machinery of its own. It does not have any penal powers at all. It does not have even the power to institute a judicial proceeding based on its own findings. It does not have the power to make any mandatory recommendations. Its recommendations are only recommendations which the Government may or may not accept. The Commission, as envisaged in this Bill, is a toothless tiger.

Let us now look at Section 2(F) of this Bill which defines the jurisdiction. It names two international covenants to which we are a party. There are 91 other international instruments relating to human rights adopted since 1926 rights up to 1992, the last one being the International Declaration on the Rights of Minorities. I wish that in this Bill, the jurisdiction was to cover all international instruments on human rights, not just two Covenants. The Government of India is a party to most of these international instruments. I believe, to 90 per cent of these instruments and there is no reason at all for the Government to limit the jurisdiction of this Commission only to the consideration of two Covenants and not to the other 91 international covenants in the field of human rights, not even the universal declaration.



Let us look at the composition of this Commission and the procedure for selection. I think the selection is very heavily loaded in favour of the Government. In order that the Commission, in order to have public credibility, its Members must be selected by a committee which has got non-governmental element as the majority.

I would suggest that the Chief Justice of India ought to be there instead of the Prime Minister. The Prime Minister is already represented there by the Home Minister. He does not have to be there or one of them can choose to be there and let the Selection Committee include the Chief Justice of India.

I am now coming to the Commission. I would particularly like to draw the attention of the House to the last group namely, two Members to be appointed from amongst persons having knowledge of or practical experience in matters relating to human rights. They may well be non-entities. Why cannot you have people who are know activists, nationally known, internationally known, eminent persons who have devoted their entire life to the protection, preservation and promotion of human rights? I wish it was suitably worded so that really eminent persons would come there along with the members of the judiciary who have been mentioned here.

Next I would like to draw the attention of the House to Section 12A of the Bill. Section 12A says.—

"Enquire *suo motu* or on a petition presented to it by a victim or any person on his behalf into complaints of violation of human rights or abetment thereof."

It does not say by whom. In most cases, it is a State V. individual because

that is entirely the concept of human rights.

The human rights conceptually relate to the relationship between the State and the individual. In fact, all these Covenants are the charter for this Commission. It is the States which are asked, under Article 2 of the International Covenant on Civil and Political Rights, to make the necessary laws to take necessary executive measures to protect the human rights and protect the individuals against violations. It is the States which are expected to offer a remedy. The State cannot get away by saying that there are private groups which also violate human rights. Yes, such private groups are criminals and if the sovereignty of the State is indivisible, the State must have the full authority and full power to control the activities of such criminal, terrorists group to protect the rights of the populace against such terrorists groups also. So, either it is a case of the State's incompetence or the State itself acting in a violent manner. It is either incompetence or State violence. Therefore, it must be brought out here in this Section 12(a) (i) by saying, the violation of human rights or abetment thereof by the administrative machinery or by the executive machinery or by a public servant. Something must be there so as to make that absolutely clear and to put it beyond any doubt.

I would now like to draw your attention to Section 12(e). Regarding Section 12(e), with due respect to the hon. Minister, I must say that it is very cleverly worded. It says: "The Commission will review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures." The Home Minister is seeking a

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smoke-screen, seeking an excuse for the massive violation of the human rights by the agents of the State that have become inevitable in a given situation. This is totally ill-conceived. In my opinion, if you permit me to use the word, it is mischievously worded. It is trying to protect the State machinery as a whole. It is a final excuse for all the massive violations of the human rights of the people by the State machinery. I would therefore, request the Home Minister that in order to dispel all the doubts about the intention of the Government, this section 12(e) must be re-worded.

I would like to make the next point about the statement often made by the Government about the acts of terrorism. It is the State which makes the laws and it is the State's duty to enforce the laws. There may be any number of elements in our society who are anxious, who are motivated to break those laws. The State cannot break the laws that it makes. The *raison d'être* of the State, the very basis of the State is to enforce the law. Therefore, if the State violates its own law, that is totally unforgivable in a humane and civilized society. It cannot be compared to the violation of the laws by any other group or individual or organisation. Therefore, that argument which is often made out by the Government, in my opinion, is totally misconceived.

Then, I come to Section 18(1) of this Bill. In this Section, again, you have used the word 'may'. It is about the Commission's recommendations and the procedure. Here, you have used the words "the Commission *may* take". I would like it to be worded as "the Commission *shall* take." We are vesting power in the Commission. We want that power to be used by it. We do not want it to be left to the possible intervention by

the Government through the back-door that the Commission is then obliged to close its eyes. The State is often acting like Gandhiji's monkeys. It does not hear; it does not listen; it does not see. I would like the Commission not to behave like Gandhiji's monkeys.

SHRI BUTA SINGH (Jalore): Bapuji had a goat also! (*Interruptions*)

SHRI SYED SHAHABUDDIN: Therefore, I would suggest that there should be a mandatory provision that when a complaint is brought to the notice, they shall take action. It is not that they may take action.

Then, I would like to draw your attention to the in famous section 19 which excludes the Security Forces from the purview of this Commission, more or less. The term "armed forces" has now been defined in a very comprehensive manner. I would suggest that since most of the violations that have been reported are the acts committed by the armed forces, in that comprehensive sense, the Commission should have the authority to go into their acts.

I do not accept this argument of morale. In fact, if there is discipline, the morale will be higher and then greater the credibility, greater the public acceptance, higher the public prestige of the armed forces will rise, if the few who break the laws are punished and are duly taken note of. Therefore, merely saying that some report will be given by the Commission and then the recommendations made by the Commission will be punished, is not good enough. The Commission must have the right to investigate those complaints and, of course, they can inform the Government and the Government can participate in

these enquires and then help the Commission to come to its finding. But once there is a finding of the Commission, those individuals should not be protected at all.

Now I come to a very negative element in this Bill, that is, Section 20(2) about the annual report. It says that the Government will inform the House when the report is submitted about the recommendations, of the Commission and the reasons for non-acceptance of the recommendations, if any. Now again here, there is the element that the recommendations will not be always accepted by the Government. I do not see why not. The Commission's recommendations must be totally accepted by the Government, must be implemented by the Government. This Commission consists of the highest people in the country ex-Chief Justice, retired judges of the Supreme Court and eminent individuals. And their report and their recommendations must be accepted by the Government. There is no question at all of their non-acceptance. Therefore, I think, we need to change this provision.

There is another very mischievous provision here under Section 36(1). It tries to put a lid on the acts of omission and commission, acts of violation of human rights. It sets the limits as one year. Section 36(2) says that the Commission or the State Commission shall not inquire into any matter after the expiry of one year. Beautiful, I would like to ask the Home Minister: Does a criminal act has any limitation under the Indian law? An ordinary crime has no limit at all.

*(Interruptions)*

MR. SPEAKER: They have introduced it now.

SHRI SYED SHAHABUDDIN: Then I am sorry. I am mistaken. I thought that normally, a murder case can always be taken up in a court of law.

MR. SPEAKER: They have introduced the limitation.

SHRI SYED SHAHABUDDIN: But surely one year limit is totally unrealistic. That means then most of the acts will remain completely un-investigated, unreported and even not looked at by the Commission. This limit must be raised at least to a reasonable period.  
*(Interruptions)*

MR. SPEAKER: Earlier the criminal law was not having any limitation. By amending the Criminal Procedure Code, they have introduced the limitation, limitation with respect of certain kinds of offences and not all kinds of offences.

SHRI SYED SHAHABUDDIN: I would be happy if this provision is at least brought on par with the Criminal Procedure Code.

My last point is, I look as the Bill as a whole, and I come to the conclusion that the Bill is virtually an exercise in deception. It tries to deceive the world opinion, the national opinion, the Human Right's activists all over the world and finally the international organisations which are responsible for the promotion of Human Rights. It creates, as I said earlier, a smoke-screen behind which atrocities may continue to be committed, rights may continue to be violated without any effective check on them. The Commission, therefore, shall not carry credibility under this Bill. It shall not pass itself as an effective remedy for the situation that we face and for the effective protection of the rights of the citizens. Therefore, I consider

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this Bill to be an eye-wash totally inadequate

12.00 hrs.

No doubt, it is, an improvement on the previous Bill that was circulated in this House But, the improvements do not go far enough

THE MINISTER OF HOME AFFAIRS (SHRI S B CHAVAN) Thank you for the small mercy that you are showing

SHRI SYED SHAHABUDDIN Therefore, I would suggest that the Home Minister should consider the following suggestions

One is to amend the Police Act, in order to bring it in line with the functioning of a democratic society I was told, the other day, in the House that under Section 151, a policeman could arrest anyone, at any time, just on suspicion and could enter a house, at any time, without any warrant Therefore, the Police Act must be looked at We cannot go on accepting the Police Act that we inherited from the colonial administration

Secondly, Sir, repeal the black laws, if you are honest

And, thirdly accede to the Optional Protocol of the International Covenant on Civil and Political Rights I would like to know from the Home Minister, what is the reason that we go on backing out from acceding to the Optional Protocol

And I would suggest that he should review the existing procedures and the existing administrative methods, if he is really sincere about protecting the human

rights of our people Merely passing the Bill, which I know will be passed despite all our objections, will be of no avail and you shall not be able, as I said, to carry credibility that the Indian State has for once decided to change the order of things and to remove that ignominy of having some of the features of a Police State, while we have a functioning democracy in our country

DR (SHRIMATI) K S SOUNDARAM (Tiruchengode) Mr Speaker, Sir, I am very much thankful to you for the opportunity given to me, to speak on the Bill regarding protection of human rights

Fundamental Rights, in our Constitution, gives us civil, political and judicial rights which we can enforce in a court of law But, the law enforcing authorities fail to honour these rights of the people and hence, they need some protection

This Human Rights Protection Bill aims to give the people the remedies, if these rights guaranteed under Constitution and other laws are violated

The 1948 Universal Declaration of Human Rights had the status and moral force of a charter sponsored by the United Nations The Vienna Conference also gave a call to strengthen this idea though, there were some dissenting notes After creating the National Commission for Scheduled Castes and Scheduled Tribes, National Commission for Women and the Minorities Commission, now the Government has come forward to introduce this Bill for the protection of human rights While welcoming this Bill, I appeal to the Government that the spirit of the Bill should be implemented in the right earnest Like other Commissions on

Scheduled Castes and Scheduled Tribes, Women and Minorities which did not make much head way, this Bill also should not face the same fate. It is, of course, too early to say how effective it will be in checking the abuses committed by the law enforcement authorities.

Since the Bill deals with the subject which is of much world wide concern, it means that it will have a high profile than the other Commissions. Since the Chairpersons of the National Commission for Scheduled Castes and Scheduled Tribes, National Commission for Women, will be the members of this Commission, we can expect that there will be a coordinated effort in dealing with the violation of human rights, at all levels, than before.

The Commission constituted under this Bill have got wide range of powers. I hope that it will help to solve some social problems, apart from giving justice to law abiding citizens, whether it is a custodial death or atrocities on women or harassment or excesses committed by the security forces, much remains to be done, not only to bring justice to the helpless victims but, it will also persuade the oppressors, whether feudal lords or the police or the combination of both, to act within the constraints of law.

A chapter on Directive Principles of State Policy was also included in our Constitution requiring the State to promote and protect the rights of the most vulnerable sections of our society. These Directive Principles are meant to give a direction to the policy and actions of the Government so as to progressively realise the objective of improvement in the standard of living and quality of life of all sections of our society. To achieve this, our judiciary has been intervening

whenever a complainant had the courage to bring the incident of human rights' abuse to its notice or whenever the incident has been outrageous enough to make it act on its own.

It is hoped that an active National Human Rights Commission will lighten the judiciary burden in this regard. The complex problems created by insurgency, terrorism and extremism in certain parts of the country which are dealt by our security forces should be handled with utmost care. This is because sometimes the insurgents, terrorists are bent on killing innocent citizens with impunity and are indulging in want on death and destruction to deliberately provoke the forces to unleash an attack in crowded areas and terrorist infested areas. But the NHRC should at least be able to ensure that instances of rape and molestation do not go unpunished. For this the Government and the law enforcing authorities should cooperate, so that India's reputation is not tarnished by the biased propaganda abroad.

Being a lady Member, I feel that I am more privileged to speak on this subject since the violation of rights of women are more prevalent in our country and atrocities on woman by law enforcing authorities are increasing. I hope that this will bring to an end such crimes by the authorities.

Apart from enacting laws and setting up of commissions to protect women from the clutches of antisocial elements and authorities violating the laws, I feel that the Government should come forward to help the women who need help. For this purpose the whole country can follow the example of our Tamil Nadu Government headed by our beloved leader Dr. Puratchi Thalaivi who

[Dr. (Shrimati) K.S. Soundaram]

has ordered creation of one police station for each district exclusively handled by women, so that women need not have the fear of approaching the police for their personal grievances and abuses. This eliminates harassment of women by men police in the police stations.

The other scheme launched by our leader Dr. Puratchi Thalaivi in Tamil Nadu is putting cradles in Government health care centres where the unwanted female children can be left without being killed by the parents. The Government takes care of these female children and provides food, shelter and education to them, so that these children are not exposed to the abuse and torture of antisocial elements. Apart from enacting laws to prevent abuse of powers, these welfare schemes can also be undertaken by the Government.

To conclude, I would like to strike a note of caution. These types of commissions should not be used for political purposes. I hope that its Members drawn from eminent positions in public life should have no difficulty in separating the chaff from the grain and focus on incidents of gross violation of human rights. Welcoming this Bill I once again appeal to the Government to give all assistance and help, so that this Commission functions successfully in dealing with violation of human rights.

SHRIMATI DIL KUMARI BHANDARI (Sikkim): While supporting the Bill I fully associate myself with the views expressed by Shri Shahabuddin as regards article 12A and also the human rights violations committed by the State towards the individual.

Here I would like to draw the attention of the hon. Home Minister to the

very sorry state of affairs in most of the northeastern States where the Nepali speaking people are subjected to in human harassment. These people are very poor. They are mostly agriculturists and they travel from one State to the other either on pilgrimage or they come out from one State to the other for medical treatment. But even then while crossing the border they have to bribe the police. Otherwise they will be subjected to harassment. In most of these States many people are languishing in jail without any trial in gross violation of human rights.

I would like to draw the attention of the Home Minister to the fact that the root cause of this harassment particularly to the Nepali speaking people lies in the treaty of 1950 between the Government of India and Nepal which permits citizens of India in Nepal free movement on reciprocity. Because of this treaty only there was a great uproar and a sort of a agitation on Gorkha Hill Council where Sh. Subash Ghising wanted himself and his supporters wished to be differentiated from the citizens of Nepal as Indian Nepalese by changing the nomenclature of the community.

It would not help to differentiate these people who are coming from Nepal and the Indian Nepalese. Here, I would like to suggest to the hon. Minister that this treaty should be amended so that the Nepalese nationals who are coming to India have their passports and they have their visas or vice versa. Otherwise, the Nepali speaking Indians who live in these border areas where their movements are restricted and who are subjected to such in human harassment should be provided with identity cards so that they are not subjected to such in human harassment.

SHRI SUDHIR SAWANT (Rajapur): Mr. Speaker, Sir, though I rise to support the Bill, I would like to mention that at this point of time, there was no requirement of a Human Rights Commission in this country. I make this emphatic statement because there are a lot of demands which have come from Shri George Fernandes and Shri Syed Shahabuddin, one being, that 'armed forces' should have been covered in this Bill.

Sir, India has got a proper democratic forum, a constitution which is empowered to protect the fundamental rights of every citizen in this country. All the provisions are incorporated in it. Why then should we have a Human Rights Commission? Sir, we should look at the situation that is obtaining in this country today.

MR. SPEAKER: Please be brief now. Many speakers want to speak.

SHRI SUDHIR SAWANT: There are a lot of things which have been said.

MR. SPEAKER: You do not have to reply to them. You will make your own points because we have many other Bills to pass.

SHRI SUDHIR SAWANT: Some of them are very important points. Sir, I will be brief.

MR. SPEAKER: We would be happy to have your views rather than your comments on other's comments.

SHRI SUDHIR SAWANT: That is what precisely I want to do. I will be very brief.

I would like to draw the attention of the House to the situation prevailing in

this country. In every part of the country, people talk that there is no law because we find that the underworld is becoming powerful every where. This country is under siege. If there are five bomb blasts in different parts of the country in one particular day at one particular moment, who is behind this? The police were frustrated because the moment they arrest any one, they are to release him, to commit the same crime which he had committed.

They talked of bringing the armed forces also within the purview of the Commission. I would like to say emphatically here that every member of the armed forces, every officer is committed to this country and is committed to protect the human rights. They are also human beings. Are you going to render the armed forces of this country and the police force of this country impotent, to protect the common citizen of this country, to protect the constitution of this country and to safeguard the security of this country?

Only one point I would like to bring out here. When we trained the armed forces, we trained them to be aggressive and we trained them to do their job in the best method in which they are taught. When they are fighting against the enemies of this nation, an aggressive nature or that character is ingrained in the armed forces.

When you call them to fight against terrorism, the worst kind of enemy of the State is a terrorist because a terrorist is a fish in the ocean. And many are fighting against that fish in the ocean of people. There are bound to be certain excesses. I agree with this. But it is not that it is done deliberately. Every member of the armed forces is subject to rules and laws which the forces are having. Why don't you look

[Shri Sudhir Sawant]

at the court martials that have been done in Jammu and Kashmir and in the North-East against the armed forces personnel in certain operations. Today, one officer is posted in one particular area. He is acting and doing his duty. He has to spend the next 15 years for going to the High Court in that State. This is the situation which is most damaging to his morale. I do not find the requirement when you talk of bringing in armed forces or police forces. In fact, I find the requirement is to strengthen the hands of law. That is the problem.

The only problem we face in society today is that of speedy dispensation of justice. This is a great problem. If we tackle that instead of having a human rights commission, then definitely, we would have done more justice. We would have also been able to implement the concept of human rights which the Indian system demands.

SHRI E AHAMED (Manjeri): Does it mean that you say that this Bill is not necessary and the existing system will take care of the human rights violation?

SHRI SUDHIR SAWANT: Precisely, I have mentioned in no uncertain terms that as far as I am concerned, these are my personal views.

MR. SPEAKER: Follow your line please. You were projecting the other side of the picture.

SHRI SUDHIR SAWANT: We have to look at the methods and circumstances in which our police forces and the security forces are working today. Every policeman does not have a family life. Look at his problems. He does not have the compensation required for him to do his duty. Whenever he tries to implement a law, there are hundred forces acting against

him to prevent him. In this country, in the South, the LTTE is coming up. There are bomb blasts in Bombay. The North-East is going up in flames. In Jammu and Kashmir, there is a problem. We have just resolved the Punjab problem. In these circumstances, are you taking Acts only theoretically—passing legislations—to render the forces impotent? That is my question.

MR. SPEAKER: This is not done in the Act.

SHRI SUDHIR SAWANT: It is not in the Act. But what the people have spoken or the Members have spoken here is that this is not sufficient.

MR. SPEAKER: Let us come to the point please.

SHRI SUDHIR SAWANT: The circumstances have brought this Act. I was in the deliberations committee. I also congratulate the Government for having accepted all the recommendations of that Committee. That is why this Act has been properly framed. It was required. It is not what the occidental civilisations are trying to do today. I want to draw the attention of the Government. In this present world, the currency of military power is diminishing. There is an insidious attempt to utilise human rights to enter into the internal affairs of this country. I want to give an example. The American Civil War was fought only on one issue, that is, right of the States to secede from the Union. The southern States worked together. On what line? They wanted to secede from the Union. But the United States did not permit. There was a civil war and millions had died. The same United States today is trying to talk about Jammu and Kashmir as a big problem. The same United States today says that there is a problem in



Jammu and Kashmir. We all know what type of statements have been made.

Sir, the issue of J&K is not an issue to be looked at in narrow terms. The real issue before the country is that is cannot permit any right of any State to secede from the union because once you do it, it will lead to balkanisation of this country and that is why when the occidentals of civilisation are trying to interfere in the internal affairs of this country, we must support all measures taken by the state to control terrorism which is considered as the worst kind of scourge on humanity and specially that which is based on the foundation of organised crimes like narcotics. In this country, terrorism is funded by narcotism and in that particular circumstance, you are trying to bring in armed forces.

I would like to draw your attention to another point. Every criminal arrested by the police in this country is going to apply to the Human Rights Commission tomorrow that the human rights are being violated. What is the method or provision in this Bill to dispense with or to discriminate, in sectors, and take up the issue? I do not understand as to how this Human Rights Commission is going to tackle this problem when it will get millions of applications that human rights are being violated. These are the questions which I would request the Members of this House and the Government to dwell upon.

My last point would be not to take the armed forces or the police forces as our enemy but to take care or look after their problems and interests.

[Translation]

SHRI HARI KISHORE SINGH (Sheohar): Mr. Speaker, Sir, I am grateful

to you for allowing me to speak on such an important Bill.

First of all, I would like to know from the Government that what was the exigency to bring forward this Bill. How many countries in this world have such Human Rights Commission as constituted by the Government? As far as my knowledge is concerned only Canada has such commission and Chairman of the commission was leader of the then opposition party who belong to socialist ideology. At present he is Chairman of the commission and this commission has been accorded several rights, like right of investigation and right to conduct an inquiry. This Bill do not have any separate provision for the commission to conduct an enquiry. Inquiry will be conducted by the Government machinery against whom the charges are levelled, I donot know how it will be done. Therefore, the great jurist Shri Soli Sorabji has said that if the Government wants to assure the world about their efforts for protection of human rights in the country then it is necessarily that an independent inquiring agency should be set up for this purpose.

There has been a continuous struggle for human rights and values since time immemorial and it is still going on. Just now my colleague has recommended that it should be done according to the Indian value system which is already there. Our culture have always given the freedom of thought and expression since time immemorial and it will continue forever. This has been our tradition. We never suppressed our opponents. There have been many great thinkers in our country who have expressed different idealogis. We do respect even an atheist who said that they do not believe in God, their has been freedom of expression and we have been very liberal, adjustable towards them.

[Shri Hari Kishore Singh]

But this cannot be said about our social system. It is shameful that even today man is inferior or superior by birth in our society. Several Social reformers launched a national movement against it during the 19th and 20th centuries. It has brought tremendous change in our society. But still human values are analysed differently in our social system. Freedom movement has brought many changes but the administrative system adopted by us is still colonial, there is a difference between people and governing authorities. Mr. Speaker, Sir, our's is a democratic country, earlier it was a colony of Britishers. Although monarchy persists in Britain yet the common man there prefers to go to police for assistance in case of any problem. Do we have such atmosphere in our country that a citizen could think of going for assistance in case he is in trouble. One has to think ten times before going to police for assistance.

Sir, I would not like to level charges against Government. This is a lacuna in our system and we all are part of it. Whosoever Government has been in power non has made any improvement in it. A politician will think about the problems of prison only when he is under imprisonment but as he joins the Government, he forgets all about it, this is really strange. So I would like to say that proper arrangement should be made for training of police personnel, Constitution on of a commission is not a solution for any problem. It may be under duress that the Government wanted to show the world that we have constituted a Human Rights Commission. But until this commission functions efficiently, nothing will change.

Mr. Speaker, Sir, some world powers especially after the disintegration of USSR, are raising the issue of Human Rights in the interest of their own country.

These are not trustworthy. Just now I was listening to my colleague who raised the issue regarding civil war in U.S. I have also discussed it with a high level U.S. official when I asked whether U.S. could remain united if the issue of human rights was raised during the period of Linken. It is a country where human rights are violated by the Government itself. In an ordinary situation a citizen or policemen can commit mistakes but if the same is done by State or Administration then it is different, so it should be given a second thought. None has any complaint against the sincerity of security forces, they may commit mistakes which should be rectified. But it has become essential that police and security forces should be told about the human rights aspect.

MR. Speaker, Sir, I would like to know whether such training is being imparted in Police Academy, National Defence Colleges for security forces etc. if not, such provisions should be made in this regard.

In the end, I would like to appreciate this step taken by the Government. Its usefulness should be appreciated on national and international forums and they should be given power to investigate wherever necessary.

[English]

SHRI P. C. THOMAS (Muvattupuzha): Sir, I welcome this Bill and congratulate the Government for having worked out this Bill. This has been brought after several deliberations amongst the public as well as amongst the legislatures and I am sure that though there can be some further improvements in the Bill, as has been suggested by various Members, this is a very good framework to safeguard the implementa-

tion of our laws in consonance with the Human Rights.

It is not that there are no laws in India. We have a Constitution. We have various laws wherein the salient features of guarding human rights are clearly envisaged. But the question that remains is of implementation of these laws. They are being misused by several persons in power as well as others. I think, a Bill of this nature which gives power for a particular Commission to inquire into the complaints which are given by persons on their own behalf or by other persons on behalf of others is a very good step. This Bill also gives a *suo moto* power to the Commission to take up acts where there are clear violations of human rights. I think the power given to the Human Rights Commission to make visits to places where some unfortunate persons were kept either because they were convicted for some offences or they were kept for reformation or because of some other reasons in which they want the protection of the society, is a very good step. I think the power given to the Commission to visit such spots is a very laudable step and this power is going to be a safeguard for those unfortunate people. We all know that the conditions in our jails as well as the conditions in our reformatory schools are not up to the mark. There were cases where the persons who were unfortunate to be in such protective walls were put to difficulties and such difficulties were not known to anybody in the world. So, the power given to study the International Treaties and Covenants and to make recommendations also are going to do some good.

I know, there are countries where our Indians are living and they are also working hard for getting jobs. They are also facing many difficulties. There are

very many complaints which are being made off and on. I have a specific case, I do not know whether it has any real relevance here, which I would like to mention. A person went to Saudi Arabia a few years back. He had been working there as a driver. When he was driving his vehicle, he met with an accident. A case was filed. It is very unfortunate that the person who was driving the vehicle had also suffered injuries and who also required treatment had now been convicted for an offence. He was not getting any medical treatment. He is facing a real problem. I had brought this particular incident to the notice of the concerned Minister also.

With these few words, I once again congratulate the Government for this laudable step.

MR. SPEAKER: The Hon. Minister may please reply.

SHRI JAGMEET SINGH BRAR (Faridkot): Sir, I have already given my name. My name was in Serial No. 2. This is really an injustice. I want to express my views. That does not mean I should never be given a chance to speak.

MR. SPEAKER: Okay. You should not repeat the points which are already made.

SHRI JAGMEET SINGH BRAR: I will not repeat even a single point.

SHRI S.B. CHAVAN: Everybody is repeating the points.

[Translation]

SHRI JAGMEET SINGH BRAR: Mr. Speaker, Sir, I rise to support this Bill. I too want to express my views in this

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regard. Nobel Prize winner and father of the Human Rights Movement Shri Ravi Karsan had stated on the occasion of declaration of Human Rights, forty five years back. (*Interruptions*)

[*English*]

MR. SPEAKER: We do not have time for these historical facts. You come to the point.

SHRI JAGMEET SINGH BRAR: I am just beginning it. I just want to comment on this Commission. He said:

"That the value of the decoration exceeds that of a simple recommendation."

[*Translation*]

I would like to congratulate the hon. Home Minister on the introduction of human Rights Bill but at the same time I would like to point out that it is a common issue of the day about the countries who make much hue and cry for human rights and as it is said by some one that—"Pesh-Pesh Raha Har Gunah Main Yaro, Usi Ne, Talb Kiya Gunah Yaro". They themselves are violating human rights. They have violated human rights in Vietnam, Korea, South Africa or Nicaragua. Those who are making much hue and cry regarding violation of human rights in our country, what is their own record. As it is said—"Hum Aah Bhi Bharte Hain, To Ho Jate Hain Badnam, Vae Kahte Bhi Karte Hain To Charcha Nahein Hoti". I would like to draw the attention of the Hon. Minister towards the same point that it is United States who has not signed the U.N. Protocol so far. America who talks much about human-rights in the world and the great Britain, which laid the foundation of democracy in the world, are also included

in it. India, Sri Lanka and Pakistan have not signed the protocol yet. Now, Human Rights Commission is being set up. UNO Committee on Human Rights has conferred this right that the Standing Committee of the countries who have signed UN. Protocol can visit those countries where human-rights are being violated. Now the country like America who has not signed U.N. Protocol would dictate us how to prevent violation of human rights.

I would like to comment on frequently deployment of military and paramilitary forces in the country due to which our condition has been deteriorating. I would like to welcome the formation of National Human Rights Commission, but where violation of Human Rights has been committed by the security forces, be it in Punjab or in Jammu and Kashmir or in Assam, it would not be justified to keep the violation by the security forces outside the purview of Human Rights Commissions. Because there are so many examples of such violation during the last fifteen years as paramilitary forces and military forces have raped many women. I would not like to make personal comment on what happened in Punjab.

It is said that Human Rights are secured in Punjab, a State to which I belong. But whatever has been done by military and paramilitary forces is also known to all people.

I would like to submit to the Home Minister that there are such human rights activists as well as personalities fighting for human rights in this country who have fought the battle for human rights alone for 15-20 years without any aid of the Government. They should also be represented in this Commission. This is my suggestion.

In the end, I would conclude by stating three things. I would not like to make personal comment on the constitution of this commission. But the people who are heading the commission, who are responsible for its functioning, submitted their report on 1984 riots and this report was made public. There occurred a gross violation of human rights. After the independence of the country, five thousand people had been burnt alive but the commission gave a diluted report in this regard. Now these very people are being allowed to head this Commission. I think that it would not solve the purpose. Moreover human rights Commission is not an investigating agency.

[English]

They depend upon the Government agency.

MR. SPEAKER: This point has been made by others.

[Translation]

SHRI JAGMEET SINGH BRAR: Mr. Speaker, Sir, I would like to submit that it has not any relevance. I would conclude by making two more submissions because there is shortage of time. I would not hesitate to submit that human rights have been violated in Jammu and Kashmir and Punjab. I belong to that peace loving State where a credibility of the Government had long been established. Unless Government accept the atrocities committed in 1984 blue star operation and come out with its opinion in this regard as well as in regard to the number of people which were killed in 1984 riots, there is no use of setting up of Human Rights Commission.

With these words, I welcome the formation of Human Rights Commission but at the same time express my strong opposition at its being toothless diluted form.

[English]

SHRI S.B. CHAVAN: Mr. Speaker, Sir, at the outset, I would like to express my grateful thanks to all the hon. Members who have participated in this discussion. In their own way they gave different suggestions as to what kind of improvements are needed. In the Bill, which was introduced and which has gone to the Standing Committee. I must also compliment the Members of the Standing Committee that they have done this job very well. I must also put on record that the standard of discussion of this Bill has been very good because of the fact that this new institution of the Standing Committee has been brought into being and they have been able to go through the entire bill clause by clause. I am also equally happy that all the recommendations which the Standing Committee has made, we have been able to incorporate those in this Bill.

There was hardly any scope for this kind of discussion which actually went on into the House. But still every Member was very much interested in expressing the views about very important measure which ultimately is going to shape things to come.

There might be some hon. Members who might feel that ultimately it is not going to lead anywhere. Of course, they are free to have their own views, I cannot possibly question them in that respect. But so far as the Government is concerned, I can assure the hon. Members that we are very sincere, we definitely

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believe in the Bill and the provision that we have made. Every effort will be made in such a manner that the letter and spirit of this Bill is properly implemented without causing any kind of harm to all those who are, in fact, discharging very difficult duties on the border and also in some other parts of the country.

I have merely to appeal to the hon Members, not to consider that this is the last word. Actually, depending on the experience that we gain there is definitely scope for improvement. We do not rule out the possibility of improving the provisions of the Bill depending upon the kind of experience that this National Human Rights Commission Bill will be having.

Another point which was made by most of the hon Members and to which I had replied when Shri George Fernandes raised the question of opposing the introduction of the Bill itself. At that stage, I had replied to the point as to why the promulgation of ordinance was considered necessary. Actually there were number of factors which were responsible. The Standing Committee had almost finished its discussion. There, they were on the point of submitting the report to the Parliament.

We had also discussed this issue with the major political parties and some of their leaders. I must say that after getting the approval of all those hon. Members we have been able to get the Ordinance issued.

Let me also clear another issue and that was whether it was because of any pressure of any particular Government that this kind of a Bill has been brought in the shape of an Ordinance. Let me say with all the force at my command that it was not because of any pressures exer-

cised by any party or any country that we have brought this bill. But I cannot also be oblivious of the fact that there are certain countries which are, in fact, very much interested in maligning the image of India and they were going to take full advantage of the U.N. Assembly and that exactly was the reason as to why we thought that hearing the criticism in the U.N. Assembly and thereafter bringing this kind of a Bill would have created a different kind of atmosphere. That is why we thought it necessary to bring it in the shape of an Ordinance.

I would just refer to a few of the points raised. I have taken note of the rest of the points as it would not be possible for me to touch almost every aspect which was discussed on the floor of the House.

A common point which was raised was about the composition of the National Human Rights Commission. This was also one of the issues which most of the Members had raised. The point was also raised as to why the Chief Justice of India has not been associated with this. I will not be divulging any secret if I were to tell this hon. House that we, in fact, were keen to have the Chief Justice of India on this Commission. But we found that he was having some kind of a reservation in his mind.

SHRI SYED SHAHABUDDIN: Did he have reservations on the Select Committee or on the Commission?

SHRI S.B. CHAVAN: We wanted to have the Chief Justice of India and also the Chief Justices of the High Courts on the panel to select the Human Rights Commission, but the Chief Justice of India having some kind of a reservation we had to give up that idea and there should not

be any kind of a misunderstanding on that score.

I must say that the panel which has been constituted does consist of a number of members who have a judicial background. Previously it was very much loaded in favour of the bureaucrats and rightly, I must say, that the Standing Committee expressed the view that there was no point in having so many bureaucrats and that instead of that we must go in for people who had the judicial background. Now it will be found that there are a large number of members—almost out of eight there are four to five—who have a judicial background.

Another point was also made as to why human rights activists have not been considered. I think there is a member, Shri Virendra Dayal who, in fact, was in the U.N. service and he was doing active work in the UNHCR. He had the background of U.N. working. He also knew the working of the Human Rights Commissions in different areas and that is why we thought that he should be associated. He has been taken as a member. Another member who has been taken in place of the human rights activists is a judicial member, a Judge of the Supreme Court.

We were very keen to have at least a few minorities being represented on this Commission. A perusal of the composition of the Commission will show that there are three minorities which have been represented in order to make it all comprehensive so that every section of the society feels satisfied that their point of view can be given a legitimate hearing by this Commission.

12.47 hrs.

[MR. DEPUTY-SPEAKER *in the Chair.*]

The next point which was made was about the three Commissions and

what was going to be the jurisdiction of the National Human Rights Commission.

I must say if we go through the Articles of this National Human Rights Commission or the Protection of Human Rights Act, the hon. Members will be able to find out the Chairman of the Scheduled Castes and Scheduled Tribes Commission, the Chairman of the Commission for Women and also the Chairman of the Commission for Minorities have been made as members.

The hon. Member, Shri Paswan, raised a point, whether the Chairman of the Backward Classes Commission should also be associated. I have gone through the announcement made by the Social Welfare Ministry. I am not quite sure whether it is really a kind of a Commission, which the other Commissions are. It is only confined to identify the number of communities which should be added or which should be deleted from the communities which were declared. And whether such a Commission and its chairman should be a member of this National Human Rights Commission is a point, which certainly I do not think, we will certainly be able to associate at this stage. But I will have to go into the details. If they are on par with other Commissions, certainly they can be associated. But the point which was raised was about, what is going to be the jurisdiction of the National Human Rights Commission when these members are associated with the National Human Rights Commission. The matters are very clear on this. If you go through the provisions, where the cases are pending before the Commission for Minorities, the Commission for Women or any other Commission for that matter, which have been associated with the National Human Rights Commission will not go into them. But all other matters

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can be considered by the National Human Rights Commission. There should be no difficulty in going into other aspects of the question.

Sir, a point was also made about compulsory or mandatory provision for the State Commission to be appointed. Some of the hon. Members made a point as to why it has been said that the States may constitute the State Human Rights Commission. We cannot possibly coerce the State Governments to constitute such a Commission. It is entirely for the State Governments to take their own decision. We have given this kind of a provision and if they feel that there are any provisions, which they would like to alter in respect of State Commission, the State Governments have the full authority to make whatever alternations that are necessary. But to consider that the State Commissions also will be considered as mandatory will be a folly on our part; will be infringing on the rights of the State Governments. And we do not propose to create any friction between the States and the Centre.

Sir, the next point which has been discussed at great length, the pros and cons have been discussed, was about the jurisdiction of the National Human Rights Commission on the Armed Forces. Amendments were also suggested asking us to delete para-military forces from the Armed Forces. Sir, I must put on record that all the Armed Forces have been working under very difficult circumstances. We can lightly say on the floor of the House that after all they are also bound to observe certain norms. One of the hon. Members went to the extent of only quoting atrocities committed by the Army Coy. and other para-military forces. But he seemed to be totally oblivious to the fact that normalcy had been brought

about; elections had been held and people have been participating...  
(Interruptions)

SHRI JAGMEET SINGH BRAR: I had mentioned about terrorists also and the violence which the terrorists have been indulging in. I had mentioned about not only the atrocities of the security forces but also the atrocities committed by the terrorists and the violent groups...  
(Interruptions)

SHRI S.B. CHAVAN: If I have not heard you, it is my fault. If you have mentioned it, I am really happy. (Interruptions)

AN. HON. MEMBER: He has added now. (Interruptions)

SHRI S.B. CHAVAN: Actually, he has accepted the position. In fact, it is a terrorist activity. There is a very fine distinction, which we will have to make. The terrorists have been creating conditions in our country, wherein real human values are being trampled upon by them.

It is a gross violation of all human rights. In these areas, hundreds and thousands of people have been killed, innocent people who have nothing to do with what these people have been doing. I know, in Punjab, a number of families of the policeman have been totally wiped out, not even one member left. And if you were to teach them saying, "No, Sir, you should have observed the norms of human rights", you will turn round and say, 'Sir, do you want this terrorism to be put down or you want the human rights to be implemented? What is it that you want?' We have to do both and I cannot possibly say that since you are bringing about normalcy in that area, you get the freedom to commit excesses. It is only the excesses which are going to be enquired



into and not the normal things. In the discharge of your duties, if there is a cross firing and some innocent people were to die, you are not responsible. It is the terrorists who have created this kind of a condition and they are going to be held responsible. Hon. Members may not be aware of the fact... (*Interruptions*)

SHRI JAGMEET SINGH BRAR: There is a lot of State terrorism also, we must admit that.

SHRI S.B. CHAVAN: This has become a fashionable word now a days. All those international agencies who are interested in having a malicious propaganda against our country... (*Interruptions*) Please do not interrupt now. I have heard you with rapt attention. Did I ever interrupt you? So, please for God's sake, keep quiet and if you have any question thereafter, certainly you are most welcome to ask me. This is the twin objective... (*Interruptions*)

SHRI NITISH KUMAR (Barh): You are not able to satisfy your own party Member.

SHRI S.B. CHAVAN: I hope, you are fully satisfied. You may not say that. If I were to cite the Standing Committee, the Standing Committee consist of Members from all parties in proportion to their strength in the House. If they have expressed unanimous opinion, can any party come and say that we have not accepted this, I do not think. This goes at the very root of the Standing Committee system itself. So, please for God's sake try to understand that merely opposing for opposition sake is not good enough, this is a new kind of measure in which the co-operation of all the hon. Members is very necessary.

I was on the point of saying that the armed forces have their own martial law regime. They have their own Act and if

you were to find out inspite of all the difficulties that they have been quoting, I may inform the hon. House, almost 160 officers and men have either been punished with ten years' imprisonment, nine years imprisonment, termination of service, compulsory retirement, suspension and all kinds of cases have been filed against them, not that we have not taken any action. But, I accept the fact that we have not given the kind of publicity which, in fact, is called for. That is because of the fact that we did not want to create some kind of a situation in which armed forces feel bad; and their morale should not be adversely affected. That was the only consideration. But, a number of people have been suggesting that there is no question of any morale required. I am sure, hon. Members who have their parties in power in States — I do not want to quote any State Government here but when I had been to a particular State where a number of people were killed and when I asked for a judicial enquiry, I was given to understand that it is bound to affect the morale of the public. I said, 'perfectly all right, now you have understood what exactly morale is. Otherwise, those who have been consistently in the Opposition, they would not understand what the morale is. Morale of the armed forces is definitely one of the aspects which the Government has to keep in view. We cannot be totally oblivious to the same, at the same time, we are also bound by certain norms and those norms have also to be implemented. Two hundred and sixty police officers have been jailed, especially in Punjab, their services have been terminated for committing excesses. I cannot possibly deny that there have been excesses.

13.00 hrs.

But if the cases are brought to the notice of the Government, we have been

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taking action against them. In fact, the international organisations, like the Amnesty International, Asia Watch and others, have been making all kinds of allegations. We have told them that please, for God's sake, without verifying the facts, do not try to publish a report merely on hearsay things. I know that there are some human rights activists who have been feeding them with all kinds of information and that too with a different purpose altogether. I do not want to blame anyone but, at the same time, I must also put on record that there are agencies which are working in our country, which are feeding information to these international organisations for carrying out a malicious kind of propaganda.

If a man were to commit murder, attempt to murder and rape, these are heinous crimes. If heinous crimes are committed either by armed forces or by paramilitary forces or by police, then there is a provision in the Army Act, in the BSF Act and in other paramilitary Acts that it is the discretion of the Government whether to allow the martial law regime to go on or they should be tried in an ordinary court. This is the existing provision and I am sure that hon. Members will agree with this provision. In fact, there should be no difficulty to the Human Rights Commission when they tell either the Central Government or the State Government that these are the facts of the case and ask them whether they have taken action or not. If the Commission were to feel that the action taken is not adequate, they might recommend it to the Government, and thereafter if any enhancement of the punishment is called for, the powers of review are always available with the Central Government as

well as with the State Governments. Therefore, so far as this aspect is concerned, I am sure that the hon. Members will be able to appreciate the difficulties which the Armed Forces and other people are facing and we should not try to fetter in such a manner that they should totally become helpless and later on turn out and say that with these provisions they are not able to discharge their duty. That kind of a situation will not be allowed to be created. So, that is the kind of thing which the hon. Members will have to keep clear in mind.

The next point which was made was about publishing the report. The provision is if there is an urgent case, the National Human Rights Commission, or for that matter, the State Commission for that particular case, if it is so urgent, can give an interim report. But they are supposed to give their annual report. The annual report along with the report on action taken by the Government, has to be placed in both the Houses of Parliament so that you get the exact idea as to what was recommended and what action the Government has taken in the matter.

The next point which the hon. Members might be having in their mind is that suppose there is a very long gap between the annual report and the action taken report of the Government, it might be that the utility of the Commission's Report will get diluted. I can assure the hon. Members that we have accepted that the response has to be given within one and a half months. If within one and a half months or thereafter, with the permission of the Commission, within the extended time, the State Governments as well as the Central Government will have to submit the Action Taken Report and both the things can be placed on the Table of the House.

SHRI SYED SHAHABUDDIN: But you are not obliged to accept the recommendation. That is the point I made.

SHRI S.B. CHAVAN: I am sure that the hon. Member is aware of the fact that we have the Finance Commission which is a recommendatory body. The Government has a right to reject the recommendations of the Finance Commission. Have you ever come across any case where the recommendations of the Finance Commission have been rejected by the Government?

SHRI SYED SHAHABUDDIN: All right, we take that as an assurance.

SHRI S.B. CHAVAN: Yes, yes. Actually this is a high-powered body presided over by the retired Chief Justice, with two or three judges of the Supreme Court and a retired Chief Justice of the High Court.

These are the people who are constituting this Commission. That is why we will have to create necessary atmosphere. Government does not propose to have any kind of restrictive attitude with them. Let them go ahead. They have to bear in mind that it is the first Commission that this country has constituted and everyone has great hopes from this Commission.

Hon. Members have raised the point that why should we not have a provision that if two members are not there, then the Commission will not be able to take the decision in a matter. Sir, the idea that we have is that it being such a high body, the decisions are not taken by majority. It is a consensus decision that they have to take. They will create a very healthy atmosphere if they were to give unanimous decision which will definitely be binding on all the States and the Central Government. But so far as the terminology is concerned, since it is analogous to the Commissions of Enquiry Act, similar kind of provisions have been made into this.

I must also say one thing here. A point was made about some of the Acts and how is it that we are trying to bring them under the National Human Rights Commission. At the same time, another hon. Member quoted from some U.N. Assembly proceedings. It is true that they are free to have their own opinion. But so far as we are concerned, we have to deal with Punjab; we have to deal with Jammu and Kashmir. Are you aware of the fact that we have to hold a court in a jail? In Tamil Nadu it is in the jail that we have to have the proceedings. We do not publish the names of the witnesses. The witnesses are being eliminated. Members of the judiciary have been eliminated. Even the journalists have also been eliminated. In these circumstances, unless we have to have special provisions, you will not be able to do justice and put some kind of a restriction on the activities which the terrorists are indulging into. These are the reasons that were mainly responsible for this kind of an Act. I cannot say that the State Governments are fully implementing the spirit in which these Acts have been made. There are misuses and misuses are to be avoided.

This time we have introduced another factor that prosecution should be only when the Inspector General of Police gives his permission. Investigation will have to be done by an officer of the rank of Superintendent of Police. So it is not at the lower level that we entrusted it. It is the Superintendent of Police who will be submitting the report and the permission for prosecution will have to be given by the Inspector General of Police. Within 24 hours the man has to be produced before the Court and within three months if the investigation is not completed, then we have to seek the permission from the Court for asking extension of time if the investigation has to be completed. With all

[Shri S B Chavan]

these limitations, I am sure that, we have no escape. If we want to curb the terrorist and insurgent activities in different areas, this is the only method by which we will be able to curb the whole thing.

The Commission has been given the power to review the Acts, to find out as to which are the Acts which go against the directives of National Human Rights Commission so that they will be able to study the whole thing and recommend to the Government as to which are the Acts which they consider have become outdated and which require to be updated. These powers are available with the Commission and I am sure will go through the entire thing and will be able to submit its recommendations to the Government in time. And then we will have to take a view as to what needs to be done. Both the things will have to be properly attended to and this is the kind of approach that the Government has taken in this.

So, there is no smokescreen in this as such. I am sure, hon. Member Shri Shahabuddin will be able to understand that this is not done in order to please anyone but to make our conscience also clear that we mean what we are saying. We would like to see that they do not violate human rights to the extent possible. I cannot possibly assure that there will be no case where human rights are being violated.

If such a case is brought to our notice, certainly we will see that action is taken, but that should not become an example. It is not a correct approach to generalize the whole thing when one incident happens. In fact, there is hardly any scope for repeating the whole thing again. I once again express my gratitude to the

hon. Members and I request the House to pass this Bill.

SHRI SYED SHAHABUDDIN: Mr. Deputy-Speaker, Sir, the Home Minister has put a provision in the Bill that there is a limitation of one year from the happening of the incident within which the complaint has to be lodged. It is a limiting factor in the performance of the Commission.

SHRI S.B. CHAVAN: Actually one year is also ad-hoc or any other period is also ad-hoc. If we try to unearth the cases which have happened three years ago, others will ask why that period should not be extended to five years. These are ad-hoc figures. But, after the Human Rights Commission is constituted, they can certainly go into all the happenings and come to their own conclusions. One year has been specifically given so that they may start the work and thereafter, in furtherance of their objective they should be able to discharge their duties properly.

SHRI JAGMEET SINGH BRAR: Mr. Deputy-Speaker, Sir I am thankful to the hon. Home Minister. I want him to clarify one more thing. He has mentioned that those Police Officers who were responsible for committing atrocities on people have been punished. I would just like to know the answer for one simple question. Five Committees dealing with the Delhi massacre of 1984 have recommended action against 294 Police Officers and not a single Police Officer has been punished in this matter so far. I want the hon. Home Minister to clarify this point.

SHRI S.B. CHAVAN: Sir, I do not think I should answer this question now.

SHRI JAGMEET SINGH BRAR: Sir, there is one more point. The hon. Home

Minister has said that State terrorism is a fashionable word. I have greatest regards for him. There have been evidences of excesses by the people who are posted as the officers in-charge of the district police station. I want to bring a simple evidence to the notice of the hon. Home Minister. It is a recent example which is related with the violation of human rights as well as violation of the personal liberty of a person. Shri Ajmer Singh Lakhwal, President of the Bharatiya Kisan Union who is a heart patient and who is 60 years old was arrested in Ludhiana and he was later released on bail by the Magistrate. *(Interruptions)*. And in one day, a case was registered against him under TADA. The SSP gave the approval on the same day, the TADA gave the approval on the same day and IG also gave the approval on the same day. Usually, it takes one month for the cases to be registered. If this is the position for a person like him, then you can imagine the position of the common people of the State. So, State terrorism is on the increase and the Police Officers who are posted in the districts give reports in the evening daily that they killed 50 or 60 innocent people.

SHRI ANBARASU ERA (Madras Central): Mr. Deputy-Speaker, Sir, the hon. Home Minister has mentioned about the Chairman of the Backward Classes Commission to be included in the Human Rights Commission as one of its members. But, he has not given any assurance. As soon as the full-fledged Commission is formed, the Chairperson of the Backward Classes Commission should be included as one of the members of the Human Rights Commission. Therefore, I want a categorical assurance from the hon. Home Minister in this regard.

SHRI S.B. CHAVAN: I have said so. The present Commission is only there for

identifying the communities. As soon as the full-fledged Commission is appointed, it will be definitely done.

MR. DEPUTY-SPEAKER: We have taken a lot of time.

SHRI ANBARASU ERA: It is mentioned that Chairpersons of the Commission for Women, of the Commission for SC and ST and the Commission for Minorities will be deemed members of the Commission. What I feel is, they will not be treated at par with the other regular members of the Human Rights Commission. Instead of making them as deemed members of the Commission, what I feel is, most of the members from those commissions are committed for the cause of women, for the cause of Scheduled Castes and Scheduled Tribes, for minorities, for backward classes. Therefore, I feel that separate members from among women, Scheduled Castes and Scheduled Tribes and backward classes can be made as members of the Human Rights Commission. *(Interruptions)*

MR. DEPUTY-SPEAKER: Let us follow the procedure.

SHRI UMRao SINGH (Jalandhar): I would like to ask the Home Minister why a person who is a member of the terrorist group or a person who is a member of unlawful organisation should be given the right of protection under the human rights. He had killed so many people. Why is he not being debarred from the provisions of the Protection of Human Rights Act?

SHRI E. AHAMED: There are provisions for the constitution of commission at the State level. In some of the States, there is minorities commission. *(Interruptions)*

MR. DEPUTY-SPEAKER: Shrimati Geeta Mukherjee.

I will now put the Resolution moved by Shrimati Geeta Mukherjee to the vote of the House.

The question is:

"That this House disapproves of the Protection of Human Rights Ordinance, 1993 (No. 30 of 1993) promulgated by the President on the 28th September, 1993."

*The motion was negatived.*

MR. DEPUTY-SPEAKER: I will now put the amendment No. 13 moved by Shri Bhogendra Jha to the vote of the House.

*Amendment No. 13 was put and negatived.*

MR. DEPUTY-SPEAKER: Now we shall proceed to consideration of the Bill.

The question is:

"That the Bill to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY-SPEAKER: Now we shall take up clause-by-clause consideration of the Bill.

Shri Ram Vilas Paswan – not present.

The question is:

"Clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

*Clause 3--Constitution of a National Rights Commission*

MR. DEPUTY SPEAKER: Shri E. Ahamed. Amendment No. 1, are you moving.

SHRI E. AHAMED: I am moving all my amendments.

I beg to move:

Page 3, line 14, —

for "establish offices at other places in India."

*substitute* "establish offices in State capitals and at such other places wherever it may consider necessary." (1)

The Home Minister has given an assurance. The first amendment comes from the Home Minister. Only after that, my amendment comes. The Home Minister has to move an official amendment.

MR. DEPUTY-SPEAKER: I shall now put amendment No. 1 moved by Shri E. AHAMED to the vote of the House.

*Amendment No. 1 was put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 3 stand part of the Bill".

*Motion was adopted.*

*Clause 3 was added to the Bill.*

*Clause 4—Appointment of Chairperson and other Members*

SHRI E. AHAMED: I have a word to submit.

MR. DEPUTY-SPEAKER: Mr. Ahamed, you cannot give any explanation. You have to say whether you are moving or not.

SHRI E. AHAMED: I beg to move:—

Page 3, —

*after line 22, insert —*

"(cc) Chief Justice of India —Member". (2)

Page 3, line 32, —

*after "Member" insert "of the Commission."* (3)

Page 3, line 33, —

*after "vacancy" insert "not exceeding two."* (4)

The Home Minister has said that because there was some reservation on the part of the Chief Justice, he is excluded from inclusion in the Committee.

It is not for the Chief Justice to decide whether he should be there or not. This is the prerogative of the House. It is a very important Committee and whether he should be a Member on the Committee has to be decided. You cannot just make the law like making a *dosa*. The House has to give its casual consideration to this very important Bill.

MR. DEPUTY-SPEAKER: You have to follow the procedure. We cannot deviate from the procedure.

SHRI E. AHAMED: I am asking the Home Minister to accept it because the inclusion of the Chief Justice is an important thing.

MR. DEPUTY-SPEAKER: You had occasion to speak on it. You have spoken on the subject.

I shall now put Amendment Nos. 2, 3 and 4 moved by SHRI E. AHAMED to the vote of the House

*Amendment Nos. 2, 3 and 4 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 4 stand part of the Bill."

*The motion was adopted.*

*Clause 4 was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clauses 5 to 7 stand part of the Bill."

*The motion was adopted.*

*Clauses 5 to 11 were added to the Bill.*

*Clause 12 — Functions of the Commission*

SHRI E. AHAMED: I beg to move:

Page 5, line 27,

for "(i) violation of human rights or abetment thereof; or"

*substitute—*

"(i) violation of human rights, abetment thereof or conspiracy thereto; or" (5)

Page 5, line 33—

for "under" *substitute* "with or without". (16)

The name of the Commission should be included. Otherwise, it is a glaring mistake. It was a very confusing one.

SHRI S.B. CHAVAN: I have studied every aspect of it. I will tell you whether I am going to accept your amendment.

MR. DEPUTY-SPEAKER: I shall now put amendments 5 and 16 moved by Shri E. AHAMED to the vote of the House.

*Amendment Nos. 5 and 16 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 12 stand part of the Bill."

*The motion was adopted.*

*Clause 12 was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clauses 13 to 17 stand part of the Bill."

*The motion was adopted.*

*Clauses 13 to 17 were added to the Bill.*

*Clause 18 — Steps after Inquiry*

SHRI E. AHAMED: Sir, I beg to move:

Page 8,

*after line 39, insert—*

"(2) where the inquiry discloses, the commission of violation of human rights, abetment thereof, or conspiracy thereto, it may initiate proceedings for the prosecution of the offender in the Human Rights Court;" (6)

Page 9, line 3,—

*add at the end—*

"and the concerned Government or authority shall within such period as may be specified by the commission provide the relief to the victim or the members of his family." (7)

Page 8, line 36,—

*after "human rights" insert—*

"or negligence in the prevention violation of human rights by a public servant" (17)



Page 8, line 39,—

*add at the end—*

"or a public servant" (18)

SHRI S.B. CHAVAN: Mr. Deputy-Speaker, Sir, we accept amendment No. 17.

There is a mistake in this amendment. The word 'of' should be there after the word 'prevention'. This is only an amendment to amendment. With that modification, we accept it. It should read:

"or negligence in the prevention of violation of human rights by a public servant"

The word 'of' has to be there.

SHRI E. AHAMED: That is only a printing mistake. That is not mine. But I have no objection to that.

MR. DEPUTY-SPEAKER: I shall now put the amendments No. 6, 7 and 18 moved by Shri E. Ahamed to the vote of the House.

*Amendments Nos. 6, 7 and 18 were put and negatived.*

MR. DEPUTY-SPEAKER: I shall now put the amendment No. 17 moved by Shri E. Ahamed to the vote of the House.

The question is:

"Page 8, line 36,—

*after "human rights" insert—*

"or negligence in the prevention of violation of human rights by a public servant" (17)

*The motion was adopted.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 18, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 18, as amended, was added to the Bill.*

*Clause 19— Procedure with respect to armed forces*

SHRI E. AHAMED: I beg to move:

Page 9, line 20,—

*add at the end—*

"and the Central Government shall submit its report to the Commission as early as possible;" (8)

Page 9, lines 21 and 22,—

omit "either not proceed with the complaint or, as the case may be," (9)

MR. DEPUTY-SPEAKER: I shall now put amendment Nos. 8 and 9 moved by Shri E. Ahamed to the vote of the House.

*Amendments Nos. 8 and 9 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 19, stand part of the Bill."

*The motion was adopted.*

*Clause 19, was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 20, stand part of the Bill."

*The motion was adopted.*

*Clause 20, was added to the Bill.*

*Clause 21— Constitution of State Human Rights Commission*

*Amendment made:*

Page 10,—

*for lines 29 to 32, substitute—*

'Provided further that in relation to the Jammu and Kashmir Human Rights Commission, this subsection shall have effect as if for the words and figures "List II and List III in the Seventh Schedule to the Constitution"; the words and figures "List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir and in respect of matters in relation to which the Legislature of that State has power to make laws" had been substituted.' (15)

(Shri S.B. Chavan)

MR. DEPUTY-SPEAKER: The question is:

"That Clause 21, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 21, as amended, was added to the Bill.*

MR. DEPUTY-SPEAKER: Are you moving your amendments to Clause 22 Mr. Ahamed?

SHRI E. AHAMED: I am not moving.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 22 to 29 stand part of the Bill."

*The motion was adopted.*

*Clauses 22 to 29 were added to the Bill.*

*Clause 30 — Human Rights Court*

SHRI E. AHAMED: I beg to move:

Page 13, line 4,—

*for "may" substitute "shall" (12)*

MR. DEPUTY-SPEAKER: Now I put amendment number 12 to Clause 30 to vote.

*The Amendment No. 12 was put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 30, stand part of the Bill."

*The motion was adopted.*

*Clause 30 was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clauses 31 to 35 stand part of the Bill."

*The motion was adopted.*

*Clauses 31 to 35 were added to the Bill.*

*Clause 36— Matters not subject to jurisdiction of the Commission*

SHRI E. AHAMED: I beg to move:

Page 14,—

*for lines 38 to 40, substitute—*

"36 (1) The findings of the Commission shall prevail over the findings of State Commission where there is divergence in findings on any matter under inquiry" (19)

Page 14, line 42,—

*for "one" substitute "there" (20)*

It is because the decision of the Central Commission should prevail on the State Commission. Otherwise, it will be very conflicting.

MR. DEPUTY-SPEAKER: Now I put amendment numbers 19 and 20 to Clause 36 to vote.

*Amendments Nos. 19 and 20 were put and negatived.*

MR. DEPUTY-SPEAKER: The question is:

"That Clause 36 stand part of the Bill."

*The motion was adopted.*

*Clause 36 was added to the Bill.*

MR. DEPUTY-SPEAKER: The question is:

"That Clauses 37 to 43 stand part of the Bill."

*The Motion was adopted.*

*Clauses 37 to 43 were added to the Bill*

*Clause 1— Short Title extent and Commencement*

Amendment made:

Page 1,—

*after line 7, insert—*

"Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Scheduled to the Constitution as applicable to the State." (14)

(Shri S.B. Chavan)

MR. DEPUTY-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.*

MR. DEPUTY-SPEAKER: The question is:

"That Enacting Formula and the Long Title stand part of the Bill."

*The motion was adopted.*

*Enacting Formula and the long Title were added to the Bill.*

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

*(Interruptions)*

SHRI SYED SHAHABUDDIN: Sir, I just want to pay a compliment to the Home Minister.

MR. DEPUTY-SPEAKER: No.

SHRI SYED SHAHABUDDIN: I will take half a minute, Sir.

*[Translation]*

I would like to say a cuplet to the hon. Home Minister:

"Hathon pe na dhabbe hain, na daman pe koi dag, tum katal karo ho ke karamat karo ho."

*[English]*

SHRI S.B. CHAVAN: I beg to move:

"That the Bill, as amended, be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill, as amended, be passed."

*The motion was adopted.*

MR. DEPUTY-SPEAKER: Now, the House stands adjourned to meet again at 14.35 hours.

13.36 hrs.

*The Lok Sabha then adjourned for Lunch till Thirty Five minutes past Fourteen of the Clock.*

14.35 hrs.

*The Lok Sabha re-assembled at thirty five minutes past. Fourteen of the Clock.*

*(At 14.35 hours quorum bell was rung. No quorum was made. At 14.38 hours quorum bell was rung again and no quorum was made. At 14.41 hours once again quorum bell was rung and no quorum was made. Thereafter the Secretary-General made the following announcement.)*

14.46 hrs.

*Amendment Re: Adjournment of the House till fifteen of the Clock for lack of quorum*

SECRETARY-GENERAL: There is no quorum. The House, therefore, cannot meet, and we may not start the House till there is quorum. Hon. Deputy Speaker has directed that the House should re-assemble at 3 o'clock.