

further to amend the Constitution of India.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

SHRI KUSUMA KRISHNA MURTHY: I introduce the Bill.
(Interruptions)**

MR. DEPUTY-SPEAKER: No; nothing will go on record. Now Mr. Harish Rawat.
(Interruptions)**

MR. DEPUTY-SPEAKER: There is a limit. For one hour in the morning, we had taken up this case. Again you are taking it up. One minute wasted means a loss of Rs. 4800. It is poor man's money. I will not allow it.

FOREST (CONSERVATION) AMENDMENT BILL††
(Amendment of section 2, etc.)

SHRI HARISH RAWAT (Almora): I beg to move for leave to introduce a Bill to amend the Forest (Conservation) Act, 1980.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill to amend the Forest (Conservation) Act, 1980."

The motion was adopted.

SHRI HARISH RAWAT: I introduce the Bill.

15.35 hrs.

FREE LEGAL SERVICES BILL—
Contd.

MR. DEPUTY-SPEAKER: We now take up further consideration of the

following motion moved by Shri Eduardo Faleiro on 5 March, 1982, namely:

* "That the Bill to provide free legal services to indigent persons in certain cases, be taken into consideration."

Mr. Giridhari Lal Vyas.
(Interruptions)

MR. DEPUTY-SPEAKER: Mr. Vyas is on his legs I am not allowing anybody else.

श्री गिरधारी लाल व्यास : (भील-वाड़ा) : उपाध्यक्ष महोदय, यह जो फ्री लीगल सर्विसिज बिल प्रस्तुत किया गया है. इसका मैं समर्थन करता हूँ।

इसका मुख्य उद्देश्य यह है कि स्टेट गवर्न-मेंट्स और मेट्रोल गवर्नमेंट दोनों ऐसे लोगों को फ्री लीगल एड दें जो कि गरीब हैं और गरीबों को सतह में न लेते हैं। उन लोगों को ऐसी हालत नहीं है कि वे अपना मुद्दा लड़ सकें। इसलिए मैं आपसे प्रार्थना कर रहा था कि यह बिल बहुत आवश्यक है इसके बिना गरीब लोगों को किसी प्रकार का सहायता नहीं मिल सकता। कांस्टिट्यूशन के आर्टिकल 339 ए (1) में भी इस प्रकार का प्रावधान के आर्टिकल 339 ए (1) में भी इस किया गया है कि: —

"Article 39A of the Constitution directs the State to secure that the operation of the legal system promotes justice on the basis of equal opportunity and in particular directs it to provide free legal aid by suitable legislation or schemes or in any other way to ensure that the opportunities to secure justice are not denied to any citizen by reason of economic or other disabilities."

**Not recorded.

††Published in Gazette of India Extraordinary Part II, Section 2, dated 19-3-82.

तो इस प्रकार का जो यह प्रावधान इस बिल द्वारा किया गया है इससे गरीब लोगों को मुकदमों में ठीक प्रकार से सहायता मिल सकेगी ।

आज देश की 50 प्रतिशत जनसंख्या गरीबों की तरह से नीचे है । आज वे न्याय प्राप्त नहीं कर पा रहे हैं । उनकी आर्थिक स्थिति मजबूत नहीं है । इसलिए इस प्रकार के प्रावधान को नितांत आवश्यकता है । सरकार ने पहले भी इस प्रकार की सहायता सुप्रीम कोर्ट, हाई कोर्ट, डिस्ट्रिक्ट कोर्ट और एम० डी० आ० के कोर्ट में उपलब्ध करवाने की कोशिश की है, लेकिन इसमें पूरी सफलता प्राप्त नहीं हो पाई है । आप जानते हैं कि सुप्रीम कोर्ट में बकील एक पैरवी के लिए 5-6 हजार रुपये लेते हैं । गरीब आदमी यह फीस नहीं चुका सकता, सरकार को तरफ से जिन बकीलों की व्यवस्था होती है, वे अनुभवहीन होते हैं, जिससे वे मुकदमा हार जाते हैं । तजुर्वेकार बकीलों की सलाह गरीब आदमी का प्राप्त नहीं हो पाती ।

इसलिए मेरा निवेदन है कि हर स्तर पर गरीब लोगों के मामलों को अच्छे बकीलों के सुपुर्व किया जाए, जिससे मुकदमों की सही पैरवी हो सके ।

मैं एक उदाहरण देना चाहता हूँ । हमारे यहां राजस्थान में जागीरदारी प्रथा थी, जिसे राजस्थान सरकार ने समाप्त कर दिया और उनको जमीनों को उन कास्तकारों के नाम कर दिया जिनका काफ़ी समय से कब्जा था और वे उस पर खेती करते थे । पर उन जागीरदारों ने तरह-तरह के मुकदमों के और अफसरों से मिल कर उन लोगों का कब्जा नहीं होने दिया और उनको जमीनों से निष्कासित करवा दिया । इसलिए गरीब आदमी के लिए

यह सहायता अत्यन्त आवश्यक है । गरीबों को जो कानूनी अधिकार दिए गए हैं, उनका सही तरह से वह उपयोग कर सके, इसलिए उनको इस प्रकार की सहायता नितांत आवश्यक है ।

लैण्ड रिफार्म के तहत बड़े-बड़े जमींदारों की जमीनें ली गई हैं, लेकिन आज भी बहुत से ऐसे बड़े-बड़े जमींदार हैं, जिन्होंने गलत नामों पर गलत तरीके से जमीनों पर कब्जा कर रखा है सिर्फ से बचने के लिए । मगर उसके बाद भी जो जमीन सरकार के पास आई और गरीबों में बांटी उस पर गरीब आदमी काबिज नहीं हो पाता क्योंकि लाठी, बन्दूक और तलवार को ताकत बड़े जमींदारों के पास है और वह लोग कानूनी दांव पेंच चला कर उन जमीनों पर गरीबों को काबिज नहीं रहने देते और बेदखल करने का प्रयास करते हैं । गरीब आदमी बड़े लोगों से मुकदमा नहीं लड़ सकते हैं । इसलिए यह व्यवस्था जरूरी है कि उनके फ्री एंड मिले और प्रीसाइडिंग अफसर भी ऐसे होने चाहिए जो इन लोगों की सहायता इस कानून के तहत कर सकें तभी उनका भला हो सकता है और जो आशायें उनको सरकार की तरफ से है वह पूरी हो सकती हैं ।

इसी तरह से मजदूरों के मामले हैं, लैण्डलैस लेबर के मामले हैं जिनकी सहायता करना भी जरूरी है । बोर्डेड लेबर के सम्बन्ध में भी कई प्रकार के प्रश्न हमारे सामने आते हैं । लैण्डलैस लेबर, फार्म लेबर, माइनर्स और इण्डस्ट्रियल लेबर्स के सम्बन्ध में कई तरह के मुकदमों आते हैं जिनके ज़रिए पैसे वाले लोग उन लोगों पर अत्याचार करते हैं । उन अत्याचारों से बचने के लिए बहुत बड़ी कानूनी सहायता उनको मिल सके इस तरह की व्यवस्था होनी चाहिए । इंडस्ट्रियल लेबर तो ट्रेड

युनियन के जरिए सुरक्षित हो रहा है, मगर जो अनआर्गनाइज्ड लेबर है उसको कोई प्रोटेक्शन नहीं है। जो लेबर डिपार्टमेंट है वह भी उनकी सुरक्षा नहीं करता है, बल्कि पैसे वालों का ही पक्ष करता है। गरीब लोगों के पक्ष में लेबर डिपार्टमेंट को पैरवी करनी चाहिए। लेकिन ऐसा नहीं होता परिणामतः गरीब को न्याय नहीं मिलता है। इन चीजों का रोकने के लिए बड़े प्रयास की आवश्यकता है।

भारत सरकार ने प्रधान मंत्री के नेतृत्व में इस प्रश्न को 1975 में 20 प्वाइंट प्रोग्राम के तहत लिया था, आज भी यह प्रश्न हाथ में लिया गया है। मगर इसकी ओर ज्यादा व्यवस्था करने की आवश्यकता है। इसलिए इस व्यवस्था का जितना ज्यादा मजबूत किया जायगा उतनी अच्छे तरीके से व्यवस्था हो पायेगी।

उपाध्यक्ष महोदय, वकीलों में भी गरीबों के मामले अपने हाथ में लेने में दिलचस्पी नहीं होती है। वह पैसे वालों की ही पैरवी करते हैं। सरकार की तरफ से 50, 100 रु० किसी मुकदमें में तय कर दिये जाते हैं तो उस केस को कोई बड़ा वकील नहीं लेता। छोटे छोटे वकीलों को लगा दिया जाता है जिनको कानून की पूरी जानकारी नहीं होती। इसलिए गरीब आदमी पिट रहा है। अतः लीगल एड के जरिए ऐसी व्यवस्था करनी चाहिए जिससे ऐक्सपोर्ट लोगो की उनको सहायता मिल सके।

हमने यह भी कोशिश की कि जहां बड़ी बड़ी अदालतों में गरीब लोगों को न्याय न मिले तहां उनको न्याय पंचायतों के जरिए न्याय दिलाया जाय। मगर वहां भी बड़े बड़े पैसे वाले लोग ही सरपंच, और पंच चुन कर आ जाते हैं, बड़े लैण्ड होल्डर्स के

प्रतिनिधि चुन कर आ जाते हैं जिसके कारण गरीब लोगों को वहां भी राहत नहीं मिलती है।

न्याय पंचायतें मुकर्रर होने पर उनमें ऐसे आदमी बेयरमैन होने चाहिए जिनकी दिलचस्पी गरीब आदमी का न्याय दिलाने में हो, तभी गरीबों को न्याय मिल सकता है। अगर उनमें भी गांव के बड़े लैण्ड होल्डर्स या बड़े जमींदार आ जाते हैं, ता वहां पर भी उनको न्याय नहीं मिलेगा इन पंचायतों में ऐसी व्यवस्था होनी चाहिए जिसे छोटे-छोटे मामले वहीं पर निपटाये जा सकें और लोगों को राहत मिल सके। इग प्रकार की व्यवस्था तितान्त आवश्यक है।

सरकार ने जगह-जगह हरिजनों पर होने वाले अन्याय के लिए अलग-अलग अदालतें मुकर्रर की है, मगर उनमें होता क्या है? यह अदालतें डिस्ट्रिक्ट लेवल पर मुकर्रर होती हैं और डिस्ट्रिक्ट लेवल पर हरिजनों को आने में कितना पैसा खर्च करना पड़ता है। भेरा सुझाव है कि यह कोर्ट्स भी मोबाइल होनी चाहियें। जहां भी हरिजनों के साथ अन्याय हो, वहां पर यह मोबाइल कोर्ट जा कर उनको न्याय दिला सकें। जब तक हम ऐसी व्यवस्था नहीं करेंगे। आपको हरिजनों से सहानुभूति है आप शिड्यूल्ड कास्ट्स व शिड्यूल्ड ट्राइब्स का सहायता दिलाने जा रहे हैं लेकिन जब तक इसमें आने वाली हर्डल्स को हम दूर नहीं करेंगे यह सारी व्यवस्था ठीक नहीं हो पायेगी।

एक बात मैं यह निवेदन करना चाहता हूँ कि लीगल एण्ड के लिए जितना पैसा मुकर्रर किया गया है वह बहुत थोड़ा है उसमें तो एक स्टेट का काम भी नहीं चल सकता है। हमारे मंत्री जी यहां विराजमान हैं भेरा निवेदन है कि इसके

निर ज्योदा पैसा मुकरर कर के एसो
व्यवस्था कराये जिससे इन गरीबों को लाभ
मिल सके ।

इन शब्दों के साथ मैं इस बिल का
समर्थन करता हूँ ।

SHRI T. NAGARATNAM (Sriperumbudur): Sir, I support this Bill which has been moved by Shri Eduardo Faleiro. I must express my thanks to the hon. Deputy-Speaker for having given me an opportunity to participate in the discussion on this private member's Bill on free legal service to the poor people in our country. The number of people below the poverty line in our country is 300 million. To provide free legal aid service to these 300 million people is a stupendous task and it also requires a huge infrastructure. This task can be achieved only by the cooperation of Central Government, Bar Associations, Bar Council and individual members of the legal profession, social workers and the public. In the Supreme Court there are many cases pending. As per statistics, on 31-12-1981 the number of regular hearing matters which were pending was 22,664. Out of this, 16,789 cases are pending for more than a year. Coming to the various High Courts, the number of cases pending in the Allahabad High Court is 1,45,893, out of which the number pending for more than one year comes to 1,00,867. In Andhra Pradesh High Court, 49,761 cases are pending, out of which 26,031 are pending for more than one year. In Tamil Nadu, the total number of pending cases in the High Court is 70,796 and the number of cases pending for more than one year is 49,950. The total number of pending cases in all the High Courts of the country is 7,79,192 and the number of cases pending for more than one year is 5,19,935.

The pendency in respect of admission and miscellaneous matters at the end of December, 1981 was 60,260 in the Supreme Court.

In our Constitution a noble ideal is enshrined namely 'equality'. But it is too well known that there is great economic disparity among the people. Only a small percentage of the people have comfortable income and the vast majority are poor; most of them are even below the subsistence level. The disparity is great in the distribution of wealth. The major portion of wealth is concentrated in the hands of a very small section of people. How has this economic inequality affected 'equality' in administration and justice? Theoretically all are equal in the eyes of law and justice. But in reality economic inequality has made justice beyond the reach of the weaker sections. Law has become so complicated and the procedure in courts so technical that very rarely a litigant will be able to put forth his case before the court without the aid of an advocate. He has naturally to pay the necessary fee. How many people in our country can afford to pay the fee for engaging the services of advocates? A litigant has also to incur expenses for travel between his place of residence and the place where the court is situated and for bringing his witnesses to the court.

In USA, the right of an accused to be assisted in his defence by a counsel in a criminal trial is recognised as so fundamental that it is guaranteed by the Sixth Amendment to the American Constitution.

The awareness of the importance of legal aid to the weaker sections of the people has dawned recently in our country also. Article 39A inserted in the year 1976 in Part IV of our Constitution containing Directive Principles of State Policy, reads:

"39A Equal justice and free legal aid."

The importance of legal aid to the weaker sections of the people has been stressed by the Supreme Court in *Hussainara Khatoon versus State of Bihar* (AIR 1979 S.C. 1369). The Supreme Court observed:—that is there at page 1373.

“We do not think it is possible to reach the benefit of the legal process to the poor, to protect them against injustice and to secure to them constitutional and statutory rights unless there is a nation wide legal service programme to provide free legal service to them.”

15.53 hrs.

[SHRI HARINATH MISRA *in the Chair*].

Article 21 of our Constitution provides that no person shall be deprived of his life or personal liberty except according to the procedure established by law. I draw the attention of the House that in Tamil Nadu an ordinance has been promulgated two-and-a-half months back detaining persons without trial. Under this ordinance most of the innocent and poor people have been detained without any trial since then. The Central Government has now enacted the National Security Act. Even then the Tamil Nadu Government has initiated a separate ordinance and got it converted into law by the Assembly, in order to wreck vengeance against the opposite party. I, therefore, request the Central Government to ask for the explanation of the Tamil Nadu Government particularly MGR because he wants to wreck vengeance through this black law against the poor people. I would say that most of the affected people are very poor, who are unable to give court fees. Therefore, the poor litigants should not be insisted to affix stamps, whether it is a criminal or civil court.

In the Bill it is suggested that people belonging to the Scheduled Castes should be given preference. I would say that all poor people should be treated alike. Whoever has committed an offence, or is forced to go to the

criminal or civil court has to pay for legal assistance and also court fees. Therefore the benefits of this Bill should not be restricted to any particular community. It can better fix an income limit say Rs. 5,000. It can very well happen that a person belonging to the Scheduled Caste is rich and he is a landlord. Such people should not be given any preference. People owning houses and financially sound should not be given any preference, even if they belong to the Scheduled Caste. Since a large number of people in the country are below the poverty line, you can say that people with an income of Rs. 5000 or below will be given preference

It is not enough to have such a provision in the Constitution or in any enactment. Some Committee must be appointed for this purpose and the aid must be given through the Central Government. The Law Minister should not take it lightly, because it is a Private Members' Bill.

Most of the people in the country are poor and they are the sufferers. Some rich people unnecessarily drag in the poor people to the courts. If the assailant is a rich man he can command the best legal advice. He will initiate a case against the poor man, who cannot afford to engage a lawyer or pay the court fees, or even go to the police station. Therefore, the position is that even 35 years after the achievement of our independence, the poor people are not able to take advantage of the various provisions of the law which we pass, because they cannot afford to spend money to go to a court of law to get redress.

That is why I say that the poor people must be helped by the Government. The Central Government must allot funds for this purpose in its budget. The State Government should also be directed to earmark funds. In each and every district a Legal Assistance Cell must be opened. Every poor person must get an opportunity to get legal aid from this office. So, I support this Bill.

SHRI JAGANNATH RAO: (Berhampur) Mr. Chairman, I welcome this Bill. I take it that hon. Mover wants to focus the attention of the Government to the urgency of the problem, which has been hanging fire for the last several decades.

Our idea is to focus the attention of the Government.

SHRI CHITTA BASU (Barasat) The principle is all right.

16 hrs.

SHRI JAGANNATH RAO: But with due respect to my friend, the honourable mover, the Bill does not take us far. By passing this Bill we would not achieve the object for which the Bill is intended. At present, for the legal aid we have got only two provisions, one in the civil law and the other in the criminal law where a poor person gets aid from the State. Under Order 33, Rule 1 in a civil suit where he is adjudged to be indigent, formally called *in forma pauperis*, he is exempt from payment of court fee and in criminal cases under Section 302 of the IPC where he is not in a position to engage a lawyer to defend him, the State gives him the assistance of a lawyer. These are the only two provisions under which the poor man gets relief from the Government. But the time has come that the poor have to be looked after. Now, this Article 39A has been introduced in Part IV of the Constitution under the Directive Principles. Having made this as a Directive Principle, it is the duty of the State to enforce it otherwise, the Directive Principles have no meaning. Therefore, the urgency is all the more felt by the Forty-second Amendment to introduce Article 39A. Therefore, it is very urgent on the part of the Central and State Governments to devise a scheme to render free legal assistance to the poor people both in civil and criminal and in other matters also.

I am coming to that.

We have got two reports of eminent Judges, Justice Bhagawati and Justice Krishna Iyer. Reports are not wanting, only the will must be there. I take it that the Central Government is anxious to it, but the State Governments perhaps are not cooperating with it. (Interruptions) All right, I also congratulate the State Governments for coming forward. But I do not know why the scheme has not been formed, why no State Government has so far formed any scheme for giving legal aid to the poor. (Interruptions). Therefore, if the States are willing, and if the Centre is willing, I do not see any reason why the matter should be further delayed.

Sir, legal rights are not known to these poor persons. They being illiterate, poor and unprivileged, do not know how to enforce their rights nor can they defend their rights when they are infringed upon by others. This is the state of affairs. Even the life and liberty of the persons in the village are at stake. Article 21 confers fundamental right to these two—life and liberty—but he is not able to defend himself. There is no provision made in this Bill. Now that it is made a Directive Principle and now that the Sixth Plan speaks of the economic development of the rural masses, this should also be taken as a part of the economic development of the people in the rural areas who are poor. Unless you take it as a part of the economic development, there would not be any urgency of the matter and the economic development which is contemplated may not confer the benefits that are intended to be conferred on them. For instance, where surplus land is given to a landless person—Mr Vyas referred to that—and that person goes to take possession of the land, he meets with resistance either from the landlord or the tenant who formally had the land. Then there is nobody to help him. Even if violence takes place, he has

[Shri Jagannath Rao]

to suffer and nobody will defend him. Therefore, it is very necessary to treat this as a part of the economic development of the people in the rural areas so that it should be a plan scheme which can be implemented by the State Governments with all earnestness:

If you look at the 20-point economic programme of the Prime Minister, you will find that point 4 speaks of land ceilings, distribution of land and seeing that the possession of land is given removing all administrative and legal obstacles. Therefore, when it is a part of the 20-point programme of the Prime Minister, the urgency is all the more there.

MR. CHAIRMAN: Don't you think that poverty itself is a disease which has so many aspects?

SHRI JAGANNATH RAO: Now, call him helpless. He is not only poor and helpless, he is illiterate, he does not know what his rights are, he does not know how to defend himself when his rights are infringed upon. Is it not the duty of the State, welfare State to come to the rescue? Otherwise, what does "welfare state" mean to him?

MR. CHAIRMAN : Mr. Rao, I never meant to say that the State should not come to the rescue. I was only pointing out that poverty has so many facets or aspects..

SHRI JAGANNATH RAO: That is why, we must draw a line somewhere. We cannot say every person should have free legal assistance. We should draw a line defining which class of persons is entitled for free legal service. The line may be arbitrary;

I would not dispute that. But I would not say that every person shall be entitled for free legal service.

In this Bill, the hon. mover has classified persons who can get free legal aid. It is not only in the courts

but also in quasi-judicial or tribunal or board. I am afraid, these provisions are not sufficient. They would not meet the needs of the day. Therefore, I would request the Government to come forward with a comprehensive Bill, suggesting the scheme. They should also set up a machinery to implement the scheme of the Government. The scheme should also make an amendment in the Advocates Act, if necessary, so that every advocate takes up two or three cases a year and works for the poor clients without taking any fee. All these things are to be considered. Otherwise, passing this Bill, I am afraid, would not serve the purposes for which the hon. mover has brought the Bill. But the idea is good.

SHRI EDUARDO FALEIRO (Mormugao) You tell the Government I want the Government to do something.

SHRI JAGANNATH RAO: Yes, I would therefore request the Law Minister to come forward with an assurance that he would bring a Bill at the earliest, and setting up a machinery and the details of the scheme that renders free legal assistance to the people, not only in civil or criminal matters but also in revenue and other matters, wherever it is necessary.

One thing more along with this, I want to mention. The State Governments should try to set up a Munsiff Magistrate court at every block headquarters so that it would minimise the cost of litigation. It is too difficult for a poor man to go to the nearest court which is at a distance of 30 or 40 miles. Therefore, you should have a court at every block headquarters vested with powers of civil and criminal matters, so that much litigation can be avoided. There should be persons with a background of drafting of documents and settling disputes out of court. Therefore, all these things could be done when a comprehensive Bill is thought of and a comprehensive scheme is drawn up by the Government

I am sure Government is very sympathetic and they will do this at the very earliest. I would like them to take this up as part of the programme for rural development.

SHRI CHITTA BASU (Barasat): Sir, I rise to support the underlying principle of the Bill which has been presented by our esteemed friend Mr. Faleiro.

Of course, at the outset, let me make it clear that certain provisions, he has made in this Bill are not only not up to the mark but I think, not sufficiently progressive or sufficiently desirable. These are certain provisions which I would have also opposed. But generally speaking, the principle of the Bill is quite commendable. Before I appreciate I want to inform the House that so far as our Government is concerned, it has accepted the basic principle of legal aid to the poor. There is no quarrel on that point. But what I want to emphasise is that the Government has not really understood or rather implemented the basic requirement which underlines the concept.

MR CHAIRMAN: But, I think you would concede that the Government has tried to understand the concept.

SHRI CHITTA BASU: I have made out the point in the sense that the Government has accepted the concept of legal aid to the poor. But I do not like to say that they have been sincere enough to implement it in action. I am sorry, I could not please you.

SHRI K. MAYATHEVAR (Dindigul): I want a clarification. Is it implemented in West Bengal and Kerala to the satisfaction of the people?

SHRI CHITTA BASU: They are trying to do.

SHRI K. MAYATHEVAR: But they have also failed.

SHRI CHITTA BASU: You should understand what they are doing here. It is not a question of West Bengal or this Government or that

Government. Therefore, he should not be angry on that point.

MR. CHAIRMAN: In fact, I appeal to you and him also not to become angry. You should try to understand each other.

SHRI CHITTA BASU: Now, let us try to delineate the contour of the concept of free legal aid. There is a maxim: Justice delayed is justice denied. But justice which is costly is also equally justice denied. This is what I want the Government to understand I think. The mover of the Bill understands this and accepts this.

MR. CHAIRMAN: Just a minute. According to the time allotted for this Bill, the time would be over at 4.15 P.M. But I find a number of names, that is to say a number of hon. Members belonging to different parties who would like to express their views on the Bill. Now, it depends entirely on the consensus of the House. Should the debate conclude here and now or should the time be extended?

SHRI EDUARDO FALEIRO: There are a number of hon. Members who want to speak on this Bill. I would request that the time may be extended in such a manner as to provide an opportunity for the mover of the next Bill, Shri P. Rajogopal Naidu, to move his Bill for consideration. Five minutes may be left for him.

MR. CHAIRMAN: Everything depends on the amount of cooperation which the Chair gets from the hon. Members. You have to be exact as to by how much time the debate should be extended.

SHRI EDUARDO FALEIRO: 1-1/2 hours, making it understood that Shri P. Rajagopal Naidu may be given a couple of minutes, five minutes, to move his Bill for consideration.

MR. CHAIRMAN: Is it the sense of the House that the time be extended by 1-1/2 hours?

SOME HON. MEMBERS: Yes.

MR. CHAIRMAN: So, the time is extended by 1-1/2 hours.

SHRI CHITTA BASU: As I was saying there should be an understanding of the basic problem. As I have clarified the approach should be that we accept that costly justice is equal to justice denied. That is the basic premise.

As a matter of fact, Justice P. N. Bhagwati, made a comment in this respect. He said:

"The expensive legal system had barred the common man from getting his right to justice in the court."

The question of expensiveness comes in here. He again goes on to clarify the concept of his legal aid. He says:

"The first half of the century made India free. The second half must make Indians free."

I am quoting him just to give certain ideas about the concept, or ideas underlying the concept, of legal aid. It is not merely sanction of some kind of money or to provide some aid. Legal aid is a social aspect. Again he says:

"The Government of India's legal aid programme should not be construed as an act of charity."

I bring out this quotation just to prove that the view-point of Justice P. N. Bhagwati certainly was that legal aid should not be construed as merely an act of charity. We should never have that view. But it is a social obligation.

Therefore, unless the Government accepts that basic premise to the concept of legal aid, I think that no useful scheme can be worked out and it cannot be implemented.

Let me also draw your attention to the coverage and who are to be covered. Mr. Justice Krishna Iyer made certain observations in this regard:

"The wider scheme of legal aid should include legal aid for the working class in labour disputes, for the peasantry in agrarian disputes, for the minorities in communal disputes, for Scheduled Castes and Scheduled Tribes, for women,

for physically handicapped, for prisoners for religious and political dissenters etc."

Therefore, Mr. Justice Krishna Iyer has also given an idea about the coverage, the scope that each should cover the strata of society in his book 'Justice and beyond.' There is the responsibility of the State. I do not mean the State Government. The State has got some responsibility for providing legal aid.

I would like to make a mention of the judgment of the Supreme Court delivered on the Directive Principles of State Policy which are enshrined in our Constitution, wherein the Supreme Court also pronounced, regarding the State's responsibility for providing legal aid to the poor.

I refer in this context to the judgment of the Supreme Court in the case between Khatri & others V. State of Bihar, wherein it has been stated that the Supreme Court has held that the State of Bihar cannot avoid its constitutional obligations--please note, 'the constitutional obligations'--to provide free legal services for a poor accused by pleading financial and administrative inability. Now the question is the financial or administrative inability. If the State Government is not sufficiently equipped with financial resources or administrative apparatus, even in that case, the Supreme Court judgment says that the State cannot absolve itself of the responsibility for providing legal aid to the poor accused on the plea of inability of financial capacity or administrative apparatus.

MR. CHAIRMAN: Please try to conclude.

SHRI CHITTA BASU: So, this concept has been accepted. But the follow-up actions have not been taken. I can give one or two examples. Look at the expenditure and what has been provided for. The Central Government's budget allocation for 1978-79 was only Rs. 1 lakh. For 1979-80 also it was only something like Rs. 1 lakh. For 1980-81 it was something like Rs. 25 lakhs. For 1981-82 the allocation was of the

order of Rs. 50 lakhs, and as far as my information goes, till 31st July, 1981, only a paltry sum of Rs. 1,02,518 has been spent. The funds made available are hopelessly meagre. Why? The concept has been accepted. The responsibility of the State has been identified, not by the Constitution but by the Supreme Court itself. But the Government has not taken proper measures to implement it. Even in the matter of expenditure, you will be astonished to see...

MR. CHAIRMAN: Please try to conclude.

SHRI CHITTA BASU: I am concluding. The expenditure is also incurred only for providing some honorarium to the legal practitioners, and the establishment cost is more than anything else. Therefore, my contention is that the Government is not taking proper and suitable steps to give effect to this policy.

I only want to make two suggestions. The Bhagawati Committee has worked out a 12-point scheme; there was a 12-point scheme. I want to know from the hon. Minister whether they have examined this 12-point scheme and if they have examined, what concrete and specific actions have been taken to implement that scheme. That scheme has been worked out by Justice Bhagwati with which responsibility he was entrusted.

Lastly, Nyaya Panchayats should be established at the panchayat level all over the country. We should involve the panchayat administration in dealing with these cases, minor cases, and there should be some judicial reforms. I have got certain ideas, but I cannot put them for want of time. Some judicial reforms are also necessary. Then and then alone, you can work out a full-fledged, comprehensive scheme of legal aid for the poor. Otherwise, it will remain a

hoax, it has remained a hoax and it will, in future also, remain a hoax. I hope the Government will take note of it.

16. 25 hrs.

DEATH OF ACHARYA J. B.
KRIPALANI

संसदीय कार्य तथा निर्माण और आवास मंत्री (श्री भीष्म नारायण सिंह) : मुझे बड़े दुःख के साथ आपका और सदन को यह सूचना देनी पड़ रही है कि देश के वयोवृद्ध और बड़े सम्माननीय नेता आदरणीय आचार्य जे. बी. कृपलानी जी का निधन अहमदाबाद में हो गया है। इस वजह से मैं आपसे आग्रह करूंगा कि इस शोक की घड़ी में सदन की कार्रवाई आप स्थगित कर दें तो आपकी बड़ी कृपा होगी।

SOME HON. MEMBERS: We agree to it.

MR. CHAIRMAN: Before adjourning I will request the hon. Members to stand in silence for a shortwhile in order to pay respect to the sacred memory of the deceased.

(The Members then stood in silence for a short while.)

MR. CHAIRMAN: The House now stands adjourned to meet again at 11 a.m. on Monday, the 22nd March, 1982.

16.27 hrs.

[The Lok Sabha then adjourned till Eleven of the Clock on Monday, March 22, 1982/Chaitra 1, 1904 (Saka)]