17.58 hrs.

RESOLUTION RE: REPORT OF COMMISSION OF INQUIRY INTO DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE

SHRI SAMAR GUHA (Contai): Sir, I beg to move:

"This House strongly deprecates all the slanderous remarks made against Netaji Subhas Chandra Bose in the Report of the 'One Man Commission of Inquiry into disappearance of Netaji Subhas Chandra Bose' particularly on pages 7, 16, 30, 31, 37, 124 and 125 by Justice G. D. Khosla, as its Chairman, and urges upon the Government to expunge these disparaging, distorted, factually incorrect and unwarranted observations, before the Report is made available for public circulation as they militate the patriotic sentiment of our countrymen and further, in resonance of our national feeling in this regard, this highest forum of the Will of the Indian people once again affirms nation's solemn homage to the greatest revolutionary pilgrim of our motherland, who played the historic role, like an epical hero, in the war of liberation of United India."

MR. CHAIRMAN: Mr. Ramsahai Pandey, you need not feel worried. The discussion on Mr. Inderjit Gupta's Resolution was already extended by half-an-hour and adjourned.

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18 hrs.

HALF-AN-HOUR DISCUSSION
Dowry Prohibition Act

MR. CHAIRMAN: Mr. Sokhi.

SHRI B. V. NAIK (Kanara): I am rising on a point of order. In Rule 55 under the heading Half-an-Hour Discussion if you kindly see page 30 para before sub-clause (5), it says:

"Provided that if any matter put down for discussion on a particular day is not disposed of on that day it shall not be set down for any other day, unless the member so desires, in which case it shall be included in the ballot for the next available day."

This point of order is raised because you have raised the question of ballot. Therefore, in regard to these rules it should have been balloted. (2) Because all the ballots are being held in regard to everyday's Half-an-Hour Discussion, we have submitted our names for being balloted and we find that the balloting has not taken place. Four names have come on the basis of the postponement. My difficulty is, though I have submitted my name for balloting but it has not been balloted.

MR CHAIRMAN: But what is your point of order?

SHRI B. V. NAIK: Whenever there is an adjournment of a discussion under Rule 55 ballot has to be held according to sub-clause (4). That has not been held to the best of my knowledge today. Therefore, I can give you a solution now that there are four members who have to put the questions. If these four persons are not present, will you kindly give us permission to put questions because we have given notice before 10 O clock.

MR. CHAIRMAN: For this Half-an-Hour Discussion there was a ballot and that ballot will hold good. Bracketed (4) is completely for a different purpose. Therefore, I feel that there is no point of order. Mr. Sokhi.

SARDAR SWARAN SINGH SOKHI (Jamshedpur): In reply to my Unstarred Question No. 2188 dated 4th March, 1975, it was said that Dowry Prohibition Act had failed to achieve its purpose. Legislation, by itself, may not be effective in eradicating this evil, without proper social awareness. I am astonished at the failure of the Dowry Prohibition Act 1961 and the Government's inability to tackle the problems; and the Dowry Prohibition Act has not been effective during the last 14 years. This is the International Women's Year and luckily, the Minister of State for Law and Justice is also a women, most probably a

spinster. The Act should be amended forthwith and made more stringent and the offence should be made cognizable as well as non-bailable. The minimum penalty for the offence should be not less than 5 years of rigorous imprisonment and a fine of Rs. 15,000. Due to hurry in the drafting of the bill, there are flaws in the Act, which should be rectified. So, no drafting should be done in a hurry. The Dowry Prohibition Act, 1961 is very defective and it should be overhauled thoroughly and so amended that no lacunae, flaws or loopholes are left. Otherwise, it would be meaningless and no person can be punished under the present Act. To save poor people having daughters and to meet the problems they have to face at the time of marriage and even thereafter, Government should take steps to eradicate the dowry system in the country. Dowry is being given in the garb of gifts such as cars, refrigerators, air-conditioners, ornaments and similar other things by capitalists and even by legislators. The legislators should set an example and do away with this system. The girls should also refuse such marriages where dowry is desired. What is the use of having such an Act if the Government cannot take action against persons violating the law of the land? A women vigilance force should be created during this International Women's Year for strictly watching and reporting dowry cases to the respective State Governments, because men, who are interested in getting handsome dowries, cannot effectively operate this Act. So, the Government should give full powers to women, if the Government wants to derive the real benefits from it. Sometime ago, a Gonda girl had refused to marry because the boy's party ad demanded dowry; and the marriage party was driven out. I want to know as to what action was taken against that marriage party by the Government. I hope the Government would seriously think about this matter and take appropriate steps immediately; and I want the Minister of Law and Justice to tell us as to what the Government is going to do in this regard.

SHRI GIRIDHAR GOMANGO (Koraput): This is a social question. I think only social reforms can check these social evils.

18.06 hrs.

[SHRI JAGANNATHRAO JOSHI *in the Chair*]

MR. CHAIRMAN: Please put the question in order to get the answers.

SHRI GIRIDHAR GOMANGO: In this context, I would like to put some questions regarding the abolition of dowry system in the country.

The Government of Orissa adopted a resolution and sent it to the Centre to enact a legislation to prohibit the dowry system in the country. I want to know whether the Government of India have given any thought to this resolution recommended by the Government of Orissa.

Secondly, in the tribal communities there is no system of dowry at all. Will the Government undertake the social obligation of giving publicity in the country to the fact that there are some communities in the country, especially among the tribals, where there is no dowry system at all? This publicity should be given among those people who do not know the law which we are passing.

Thirdly, I will refer to some of the slogans used by the Government of Orissa for publicity. They are: 1. Eligible bachelors, are you a commodity for sale? 2. Dowry could be black money; do not touch it. 3, Have choice for girl, not for wealth. Will the Government of India adopt these slogans of the Orissa Government in connection with the abolition of the dowry system?

Lastly, do the Government propose to give directions to the States to get reports from Collectors of cases of offer or receipts of dowry in the rural areas?

SHRI P. G. MAVALANKAR: Sir, it is an interesting coincidence that this

[Shri P. G. Mavalankar.]

postponed half an hour discussion should take place today, when a little while ago in this very House we discussed, though not conclusively, Shri Indrajit Gupta's Resolution about the status of women. In that discussion also, you will recall, references were made more than once to this problem of dowry in our country.

If you see the original question asked by my hon. friend, Sardar Swaran Singh Sokhi, and the reply given by the Minister, you will feel sorry as indeed I am sorry that the reply given by such a learned and conscientious Minister as Dr. Sarojini Mahishi should be so very evasive. The question was whether the Dowry Prohibition Act, 1961 has failed to achieve its purpose in the country. Now, Sir, look at the reply given·

> "There is a feeling that the Dowry Prohibition Act has failed to achieve its purpose"

Therefore, my first question is this. While giving answers, do the Government depend on feeling? Feelings of whom—of her senior colleague, of herself or of the members of the Government? After all, when we get an answer, it should give some specific and positive facts Now she has used the words "there is a feeling". On what factual data did she base this feeling of hers in her reply to the question?

Secondly, Sardar Swaran Singh Ji asked in part (b) of the original Question:

> "whether the incidence of dowry in the country is on the increase despite the Act, which came into force 15 years ago,"

After all, the Question Hour is an important weopon in the hands of Members and of the whole Parliament to elicit information from the Government on various matters. But, again, Sir, look at the Minister's reply:

> "Government has no authentic information about the increase in the incidence of dowry."

So, I want to ask whether she has replied in this form really in order to evade the question, or is she satisfied with the fmplementation of the Act?

Thirdly, after defining dowry in section 2 of the Act, there is an Explanation No 1 which reads:

> "For the removal of doubts it is hereby declared that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles shall not be deemed to be dowry within the meaning of this section unless they are made as consideration for the marriage of the said parties"

If this is the kind of loophole put in the Act after defining dowry, do Government believe that they can ever find out any person guilty of this charge?

Further, section 3 of the Act provides that if a person is found guilty of giving or receiving dowry, he should be punished with "imprisonment which may extend to six months or with fine which may extend to Rs 5 000 or with both'. Unless the punishment is strong enough to deter people from receiving or giving dowry, I am afraid merely saying Rs 5 000 fine or jail or both will not help I want to ask the Government. Have you convicted any persons in the last 15 years and sent them to jail?

Lastly, in her answer she rightly says, and I sympathise with the Government, that this kind of social problems is not to be dealt with only by legislation. I agree, but legislation must at least help in formulating certain guidelines and in creating public opinion against such social evils,

Therefore, what have Government done in the last 15 years with regard to increasing social awarness in the community?

THE MINISTER OF STATE IN THE MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS (DR. SAROJINI MAHISHI) I am happy that the House has been taking so much interest in discussing this particular question The previous discussion also pertained to the position of women in our country and how the social and legal disabilities of women could be removed So, I am very happy that the House has been taking keen interest in the amelioration of the conditions that are prevailing today in our country as regards women.

The Dowry Prohibition Act came into existence 15 years ago but as is the case with almost all social legislations this legislation can also be effectively implemented only if there is enlightenment in the society or people become aware of this as a social evil Sir that is very necessary A legislation by itself will not be able to solve this problem It will be able to solve it in an enlightened society There was a question earlier whether there should be a social legislation which should come after the enlighenment of the society or social enlightenment should be created after the legislation is passed This is like whether a tree should come before the seeds or the seeds should come after the tree comes Like the *Bijavriksha Nyaya* it is very difficult to say unless there is social enlightenment we cannot have also any social legisltation in our country Social legislation will go a long way in helping, in creating this awareness also Today, I am happy that Members very distinguished representatives in this House are taking interest in these things that the law is not being effectively implemented and what should be the remedy to see that it is effectively implemented.

The dowry system in our country came into existence under different circumstances. I would like to give a little history of the dowry system, the origin of the dowry system, so that Members can find out the reasons which are responsible for this also and how that can be removed The reasons can be done away with now

Our scriptures also go to the extent of saying

पत्रेण दुहित्र समम ना।

The daughter stands on an equal footing with the son But later on we find that due to certain circumstances, the Law-givers who were unkind to the woman folk or rather pressed under different circumstances, external aggression or something like that, they tried to create a law in such a way that the son in the family was given the greatest importance whereas the daughter was not given the importance

The four types of marriages that were enunciated out of eight, were considered to be superior where a girl decorated or bedecked with ornaments was given in marriage. That was considered to be a superior type of marriage as compared to the other type of marriage which was mentioned later on

ब्र ह्मा दैवस्तथैवार्षा प्राज पत्यस्तथ स·

गान्धर्वो राक्ष श्चैव पैश ाच ट मोघम

The law-givers enunciated eight types of marriages and said that "four are considered superior to the next four" because when the girl is given away in marriage the girl who is decorated or bedecked with ornaments is given away in marriage Therefore, the society took this as an authority because the law-givers gave it

Sir, you yourself were good enough to say so many things about these things how this came into existence and how an injustice was done by the law-givers. I would like to quote something and say further that this decoration or these ornaments that were given to the girl in marriage were considered as a sort of orna-

[Dr. Sarojini Mahishi]

ments given out of love and affection by the parents. In the course of time, this became a sort of necessity, but this was considered to be a *streedhan*—the property which could help the women when she was in difficulty. Yajnavalkya goes to the extent of saying:"

भ्रातृ मातृ पितृदत्तं अध्यग्नि उपागतम् ।
आधिवेदनिकाद्यं च स्त्रीधनं परिकीर्तितम् ॥

The parents' gifts that were given by the brothers, the father, the mother, while the bride was sitting before the Nuptial fire, while the procession was going on, that should be considered as the property belonging to the woman. But now the meaning of dowry, as it stands today is that it does not belong to the woman; it goes to the man. Therefore, the origin of dowry perhaps must have been in these things. Now, of course, the man shows his greedy nature to extract more and more dowry. Now, the law was passed in this context of the social evil. The parents of the girl, the poor parents of the girl are put to extreme inconvenience and harassment. They will also have to sell out their property at many a place provided they have it. If they have no property, then, of course, they are helpless indeed. Therefore, the law was passed to remove the social evil. But we find, of course, those laws that were given by the law-givers, they are also not interpretted properly in the right sense. Moreover, the law-givers, I do not know for what purpose, they give all the more importance in a patriarchal family to the son and not to the daughter. No daughter can offer oblations to fore-fathers; she has not the right of sending fore-fathers to heaven. Instead, if she is married at a late age, she will be the cause for sending fore-fathers from heaven to hell. If the law-givers made it like this, how difficult it is for the society to give any importance to the woman at all.

Gradually, of course, there was further deterioration. Any son, whether he is *auras*, born of oneself; *dattak*, adopted; *kritrima*, purchased; *gudha*, *apaviddha*, *krita*—there are 12 types of sons which were recognised—he was recognised, whereas the daughter was not recognised. In the last Parliament, the hon. Members had an opportunity of speaking about these things. The hon. Members in this House said that legislators were not unkind. I do not know. I do not want to interpret whether they were kind or unkind. In today's context, they seem to be unkind. In that context, they might not have been unkind. All types of sons were recognised whereas the daughter was considered unfit for offering oblations to forefathers. She had not the right to inherit the property also. The foolish son, even if he was adopted or purchased, could inherit the property. He could succeed the fore-fathers. But the intelligent daughter had no right to succeed her fore-fathers. She had no right to inherit the property.

Why was this introduced at that time? At the time of the daughter being given away in marriage, the understanding was, let her be given away with some ornaments. That was the understanding. But today, the ornaments and money which are being given at the time of marriage are not actually given to the girl. It is given to the bridegroom. Therefore, the whole context has changed. I hope, the hon. Members will understand it.

In the changed context of today, I would now deal with it as a social evil. Any particular thing that was introduced centuries ago need not continue to remain in the same spirit; it need not continue to be understood in the same spirit. As a society changes, the values go on changing. There is further deterioration also and there is the necessity of doing away with this social evil of dowry. There is a thin line between the gifts offered with affection and love and the dowry that is compulsorily extracted.

Now, some hon. Members have suggested and some of the Committees have also suggested, including the Committee on the Status of Women, that it should be made a cognizable offence. How can it be made a cognizable offences? As it is, it is a non-cognizable offence, a bailable offence and a non-compounable offence. If it is made a cognizable offence instead of the relatives and other people being in the marriage party, you will find the police there. Will the people like the presence of the police there? One hon. Member suggested that there should be women police. Whether it is men or women police, it is police. Will the society tolerate the presence of police in the marriage party?

There was a discussion at great length in 1959 when the Bill was being passed. The members were of the opinion that it should be made a non-cognizable offence. So, it is a non-cognizable offence.

The society has got to start experimenting from themselves, from their own homes. Unless it is done, unless it is translated into action by the enlightened members of the society, other members will not follow suit. Is the dowry system due entirely to the poverty of the bridegroom? No. The more the riches of the bridegroom the greater the dowry. Both things rise in direct proportion to each other The more the property of the bridegroom, the greater the dowry. The less the property of the bridegroom, the less the dowry. No parents of the girl will give the daughter to a poor bridegroom and make him rich. I do not know how the formula has come into existence. But this formula is there in existence.

There is a price for an Arts graduate; there is a price for a Science graduate; there is a price for an Engineering graduate; there is a price for a Medical graduate.....

MR. CHAIRMAN: For an M.P. also.

DR. SAROJINI MAHISHI: There is a price for everybody in the matrimonial market.

The hon. Members were speaking in such vocal terms. Have they ever tried to see that the bridgrooms are not sold in the market? Have they ever tried to apply their mind to this task of seeing that this social evil is stopped at least by the rich people. Can we say that only the poor people are practising this thing? Can we say that only the uneducated people are practising this thing? The greater the education, the greater the dowry. The greater the riches of the bridegroom, the greater the dowry. What is the meaning of this thing?

I would like the hon. members themselves to think about these things.

SARDAR SWARAN SINGH SOKHI: What is the remedy, I want to know

DR. SAROJINI MAHISHI: The remedy cannot be thought of in this half an hour. For years together this social evil has continued and you find that even passing of this Bill....

SHRI P. G. MAVALANKAR: There must be some kind of a social stigma on these people.

DR. SAROJINI MAHISHI: I am coming to certain things.

Even the very fact that this Bill was passed into an Act in 1961 is an indication that this has been recognised as a social evil and efforts are being made to do away with that. How effectively that can be done, it is for the enlightened people to think of it, it is for them to see how best we can do this through the institutions, voluntary organisations and other things. The Committee on the Status of Women have mentioned that this should be made a cognizable offence; secondly, they have said that if gifts and presents are given, the value should not exceed Rs. 500. Somebody asked me this question last time during the Question Hour in this

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House; suppose some partents are willing to give a refrigerator and an Ambassador car, can any one prevent them? Nobody can prevent, provided the parents give out of love and affection. But, as I told you, it is a very thin line—whether they are given out of love and affection or those people are made to give these things on account of compelling circumstances. Therefore, one has to go very cautiously in this matter and see that the society is educated—educated not in the academic sense but educated in the sense of doing away with this particular social evil.

A number of societies and voluntary organisations of women have suggested the National Fedration of Indian Women have also suggested—that the presents and other things should not exceed Rs. 500 or something like that Somebody else has suggested that these should not exceed Rs. 2,000. Earlier, when this Bill was being discussed in the Joint Committee in 1959, this point came up. The question came up before the House also whether the presents and gifts should be allowed to the extent of Rs. 2,000. Members again discussed it when they met in the Joint Session. The feeling was that if we allowed upto Rs. 2,000, it might become a sort of compulsory dowry to the extent of Rs. 2.000, allowed by the enactment itself. Therefore, they did not put that. They simply said that gifts and presents could be given out of love and affection. Therefore, Explanation 1 and Explanation 2 clarify the whole thing—gifts and presents, etc., and about 'valuable property', as per section 30 of the Indian Penal Code, the meaning is there.

Not only dowry is given from the bride's side to the bridegroom's side, but sometimes the bride is also purchased. There is system of *kanya sulka* wherein the boy's parents are required to give money to the girl's parents to purchase the girl. Whether it is called dowry or *kanya sulka*, whatever it may be, this system is in vogue; is in practice, in certain parts of the country. Therefore, the dowry system includes not only the dowry given by the bride's party to the bridegroom's party but also the other way. Section 1 makes it clear that, if any of the parties to the marriage gives money, whether it is from the bride's side or from the bridegroom's side, both the types are to be prohibited. Therefore, it is very clear.

My hon. friend, Mr. Gomango, has just now said that the Orissa Government has brought a Bill. This comes under the Concurrent List and the Orissa Government has referred this to us also. It is only a restricted clause. They have said that, if the husband, after the marriage, denies conjugal right to the wife on account of the fact that the dowry was not given or that the dowry given was inadequate, then he should be punished with a penalty of Rs. 10,000 and also imprisonment for more than six months—something like that. This is restricted only to this particular thing. It is also said that in case he gives an undertaking that he does not deny the conjugal right to his wife, the fine and penalty need no longer be imposed on him.

There is another thing. The Committee on Status of Women goes to the extent of saying that it should be included in the Government Servants' Conduct Rules—in case they take the dowry, they should be debarred from getting into government service. Some such suggestions are being made by the Committee on Status of Women. The Government is examining these suggestions as also suggestions made by other all-India organizations and other societies engaged in social activities to see how far these can be implemented.

Shri Gomango asked, whether the Government is paying any attention to these things. Yes, the Government is paying attention to all these things. Shri Mavalankar asked how many cases were there, and whose feeling I

had conveyed. When you cannot actually spot out where the thing is, you always say that the feeling is there. You cannot spot out, who is in the wrong. When the two parties mutually agree to give and take the dowry, how is it possible to find out, whether it has been given voluntarily out of love and affection, or it has been compelled by circumstances? Who will find it out? The cases that have come up before the different courts are one in Rajasthan, one in U.P. and twenty in Punjab. While giving answer to a question in the Parliament I gave this information earlier also about Punjab. This relates to all these years. You can just imagine, what the number is. That shows that people who give the dowry also do not venture to go to the courts, perhaps thinking that their daughters will be unnecessarily harassed.

Very delicate feelings are involved. There is a very thin line between affection and compelling circumstances. One has got to deal wih these things in a persuasive way and create enlightenment in the society.

By education, I do not mean, academic education. People having the highest degree are interested in dowry, if not actual cash, they want ticket to go abroad, they want refrigerators, cars etc., to lead a better life. It is, therefore, very clear that this being a social evil cannot be eradicated evernight. Like any other social legislation, one has got to deal with these things in a very cautious manner and I am extremely happy that Members have started taking interest. I wish that they start making experiments from their own homes.

This being the International Women's Year, I think, the women will also become conscious of these things. One of my hon. friends just now said that the girl should say that she is not going to marry. Yes, the girl has said that in certain circumstances and she was married by somebody else, who was present and who had the presence of mind to take advantage of the opportunity. But, of course, that may not be the case with many of them also

If marriage is considered a necessity, it is considered as a necessity more for the girl. This is how the law interprets. One can easily say that having no academic status or having so many legal disabilities, she is compelled by circumstances....

SHRI P. G. MAVALANKAR: What is your suggestion?

DR. SAROJINI MAHISHI: You have to create some consciousness among the people and persuade them not to take dowry or give dowry. And in case, any such case comes to your notice, if you have got evidence to prove that, you should certainly go to the court. Enlightenment is not necessary only for this piece of legilation, but for any social piece of legislation.

SHRI INDRAJIT GUPTA: Why not make it cognizable offence?

DR. SAROJINI MAHISHI: A large number of people in the society shun the presence of policemen in the marriage. Do you want that this hue and cry should be created in the marriage ceremony and both the parties should move away without getting married? If all these things are to happen, naturally, of course, presence of the Police is solicited there. We do not say that it should not be made a cognizable offence or that it should be made a cognizable offence. None of these. I am just giving you the discussion which went on in 1959 and how the opinion of the representatives in the House was given. And, to-day, if there is any change in the circumstance and if the parents and both the parties to the marriage are willing to have the presence of the Police at the time of the marriage and whatever be the consequences of the presence of the Police, if they are willing to face it, certainly, there is no harm in making that. But it all depends upon the so-

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cial reaction and responsibility because it is a social legislation. If it is not a social legislation, then, things could have been quite different.

Therefore, the whole idea is that educated people, enlightened people should start making an experiment right from their home and also see that the society is enlightened as far as this matter is concerned Therefore, Sir, in a half-an-hour discussion it is very difficult to say exactly what should be the remedy in this particular case Even if the discussion continues for one hour also, it is difficult because it has come over the centuries. Therefore, Sir, it is now for the enlightened members to consider how best we can counteract this evil.

I am really thankful to the hon. Members who have taken such a keen interest in this discussion.

MR CHAIRMAN: Now, the House stands adjourned till 11 a m on Tuesday, the 15th April, 1975.

18.44 hrs

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, April 15, 1975/Chaitra 25, 1897 (Saka)

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