

## **LOK SABHA**

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### **SYNOPSIS OF DEBATES (Proceedings other than Questions & Answers)**

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**Monday, December 17, 2018 / Agrahayana 26, 1940 (Saka)**

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### **WELCOME TO PARLIAMENTARY DELEGATION FROM THE REPUBLIC OF ZAMBIA**

**HON. SPEAKER:** On behalf of the hon. Members of the House I have great pleasure in welcoming Respected hon. Justice Dr. Patrick Matibini, Speaker of the National Assembly of the Republic of Zambia and Members of the Zambian Parliamentary Delegation who are on a visit to India as our honoured guests. They arrived in India on Sunday, 16<sup>th</sup> December 2018. They are now seated in the special box. During their stay in India they will also visit Agra. We wish them a happy and fruitful stay in our country. Through them we convey our greetings and best wishes to the Parliament, the Government and the friendly people of Zambia.

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### **RESIGNATION BY MEMBER**

**HON'BLE SPEAKER:** Hon'ble Members, I have to inform the House that Shri Ch. Malla Reddy, elected from Malkajgiri Parliamentary Constituency of

Telangana, has resigned from the membership of the Lok Sabha. I have accepted his resignation w.e.f. 14 December 2018.

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**THE MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE)**

**BILL, 2018**

**THE MINISTER OF LAW AND JUSTICE AND MINISTER OF ELECTRONICS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD)** moved that leave be granted to introduce a Bill to protect the rights of married Muslim women and to prohibit divorce by pronouncing talaq by their husbands and to provide for matters connected therewith or incidental thereto.

**DR. SHASHI THAROOR** *opposing the motion for introduction of the Bill, said:* The Bill conflates civil law with criminal law. The Bill is an attempt in creating a class-specific legislation on the grounds of religion and therefore is in violation of Article 14 and Article 15 of the Constitution. Besides, the Bill has no procedural safeguards to prevent its misuse. The Parliament of India does not have the legislative competence to enact any law which is inconsistent with Part III of the Constitution, in light of Article 13(2) of the Constitution. So, I do believe that this Bill is a misconceived Bill. It should not be brought to the House.

**SHRI RAVI SHANKAR PRASAD:** This triple talaq Bill has been introduced for protection of women's rights. The Supreme Court has given a verdict that triple talaq is wrong, illegal and unconstitutional. In spite of that use of this triple talaq was rampant in the country. Therefore, this legislation has been brought after much deliberations. There is penal provision in this Bill and other improvements have also been incorporated therein. It is in the interest of the country, it is constitutional and it takes care of the suffering women of our Muslim community. Therefore, whatever objection is there, it is totally baseless. As such, I request you to grant me permission to introduce the Bill.

*The Bill was introduced.*

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**\*MATTERS UNDER RULE 377**

- (1) **SHRI ARJUN LAL MEENA** laid a statement regarding need to construct an elevated pillared bridge on NH-8 at Kherwara Tehsil headquarters in Udaipur Parliamentary Constituency, Rajasthan.
- (2) **SHRI NISHIKANT DUBEY** laid a statement regarding need to promote tourism in Deoghar, Jharkhand.

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\* Laid on the Table as directed by the Speaker.

- (3) **SHRI SUKHBIR SINGH JAUNAPURIA** laid a statement regarding branches of Nationalised banks in villages in Sawai Madhopur district, Rajasthan.
- (4) **SHRI SUNIL KUMAR SINGH** laid a statement regarding need to regularize the services of daily wage BSNL labourers in Daltonganj circle, Jharkhand.
- (5) **SHRI BHAIRON PRASAD MISHRA** laid a statement regarding need to set up industries in Chitrakoot and Banda districts of Banda Parliamentary Constituency, Uttar Pradesh.
- (6) **SHRI PRAHLAD SINGH PATEL** laid a statement regarding need to shift antique statue of Devi Rukmani from Archeological Museum at Vidisha to Damyanti Archeological Museum, Damoh district, Madhya Pradesh.
- (7) **SHRI HARI MANJHI** laid a statement regarding need to construct a flyover in Gaya city in Bihar.
- (8) **SHRI AJAY MISRA TENI** laid a statement regarding production and marketing of Ayurvedic medicine for Acute promyelocytic leukemia.

- (9) **SHRI CHHEDI PASWAN** laid a statement regarding need to construct railway lines between Ara & Bhabhua Road, and Dehri-on-sone & Banjari in Bihar.
- (10) **SHRI RAM TAHAL CHAUDHARY** laid a statement regarding need to build three overbridges on level crossings in Ranchi Parliamentary Constituency, Jharkhand.
- (11) **SHRI BISHNU PADA RAY** laid a statement regarding setting up of Pradesh council with executive power in Andaman & Nicobar Islands.
- (12) **SHRI CHANDRA PRAKASH JOSHI** laid a statement regarding connecting Udaipur to Assam and Amritsar by trains and a Demu train between Udaipur and Kota.
- (13) **DR. KIRIT SOMAIYA** laid a statement regarding need for corrective action relating to Jeevan Saral Life Insurance Policy.
- (14) **SHRIMATI RANJEET RANJAN** laid a statement regarding Kendriya Vidyalaya in Supaul and Madhepura districts in Bihar.
- (15) **SHRI THANGSO BAITE** laid a statement regarding setting up of a Central Hill university in Manipur.
- (16) **DR. J. JAYAVARDHAN** laid a statement regarding adequate funds for preservation of Pallikarnai Marsh land in South Chennai Parliamentary Constituency, Tamil Nadu.

- (17) **SHRI P. R. SENTHILNATHAN** laid a statement regarding cyclonic storm 'Gaja' in Tamil Nadu.
- (18) **PROF. SAUGATA ROY** laid a statement regarding procurement of Rafale aircraft.
- (19) **DR. MAMTAZ SANGHAMITA** laid a statement regarding closure of DVC Power Plant in Durgapur, West Bengal.
- (20) **SHRI BHARTRUHARI MAHTAB** laid a statement regarding need to reduce rate of GST on Kendu (Tendu) leaves from 18 per cent to 5 per cent.
- (21) **SHRI SHRIRANG APPA BARNE** laid a statement regarding separate colour code and symbol for generic drugs.
- (22) **SHRI M. MURLI MOHAN** laid a statement regarding grant of special category status to Andhra Pradesh.
- (23) **SHRI B. VINOD KUMAR** laid a statement regarding need to consider National Youth Awardees for the post of District Youth Coordinators at Nehru Yuva Kendra Sangathan.
- (24) **SHRI P. KARUNAKARAN** laid a statement regarding alleged misuse of SARFAESI Act, 2002 by banks and financial solutions.
- (25) **SHRIMATI SUPRIYA SADANAND SULE** laid a statement regarding problems of onion growers.

(26) **SHRI NAGENDRA PRATAP SINGH PATEL** laid a statement regarding construction of road on bank of river Ganga in Phulpur Parliamentary Constituency.

(27) **SHRI VIJAY KUMAR HANSDAK** laid a statement regarding need to give recognition to Sarna Religious code in Jharkhand.

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**THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL, 2016**

**MINISTER OF SOCIAL JUSTICE AND EMPOWERMENT (SHRI THAWAR CHAND GEHLOT)** *moving the motion for consideration of the Bill*

*said:* There has been a long pending demand for legislation on this subject. The Supreme Court in its verdict in April 2014 mentioned to bring legislation for the protection of interest of transgenders. A Private Member Bill has also been passed in Rajya Sabha on this subject. A detailed discussion had also been carried out there. The purpose of this Bill is to define transgender persons, prohibition against discrimination of transgender persons, to issue identity certificates, to set up a complaint cell in every establishment, to set up National Transgender Council and penal provisions for violation of sub-clauses of this Bill etc. This Bill has also been sent to Parliamentary Standing Committee and many suggestions were made after detailed discussions. We have accepted 27 suggestions and moved here for

amendment in the original Bill. This Bill is complete in all respect. There is no need to have more discussions. I request the House to pass this Bill.

**DR. SHASHI THAROOR** *initiating said:* This is a weakly flawed Bill. Our country has the rich heritage of holding members of the transgender community in very high regard. Our country is home to the oldest transgender community in the world. Even the British have now adopted progressive laws but we are continuing the old negative British colonial legacy. Article 14 of our Constitution says that every person has equality before law. It does not say man or woman. Articles 15 and 16 prohibit discrimination on the ground of sex. This Bill does not give us the robustness that we seek. I had written to the Minister on the first of January of this year to tell him to revise the definition of transgender persons. While I am glad that he has agreed to drop his earlier definition and has adopted a large part of the definition that I am proposing before this House, the definition he is pushing for is still defective as it deemed all intersex persons to be transgender persons. The Bill does not specify mechanism to deal with complaints. If you are going to have District Councils, we need State Councils to be set up along with the National Council. Even though the Supreme Court ruled that transgender persons are entitled to reservations, this has been neglected in the Bill. This Bill actually supplants their rights and its flawed provisions defeat the very purpose of this legislation. I once again urge him to withdraw this Bill, to consult



the transgender community and to introduce a robust and comprehensive legislation for our consideration.

**SHRI BHARTRUHARI MAHTAB:** WHO defines 'Transgender' as a person who belongs to neither male nor female when it comes assigning gender at birth. As per the statistics collected in the Census conducted in 2011 they constitute mere 0.04 per cent of our total population. An expert committee constituted in 2013 found that the persons belonging to the category termed as Transgender have to reel under the vice of stigma and discrimination on many fronts and are devoid of the benefits given under so many welfare schemes. Even the Supreme Court has held that self-determination of one's gender is a part of the fundamental right to dignity, freedom and personal autonomy and falls within the purview of Article 21 of the Constitution. In the wake of a PMB having been passed by the Rajya Sabha and lying pending in the Lok Sabha for some time, I would like to highlight three fundamental inconsistencies embedded in the Bill. This pertains to Clause 9 to 16. PMB of 2014 defines Transgender solely on the basis of psychological criteria. This Bill before us is at variance. A few terms like Transmen, Transwomen, persons with inter-sex variations and gender queers have been used in this Bill sans definition which leads to ambiguities with serious bearing upon implementation part. The fact of the matter is that penalties for similar offences may vary because of the application of different laws based on

gender identity. A lot of legal provisions made in the Acts enacted at varying points of time invariably refer to either male or female. Given that what shall be the case with Transgender is anybody's guess. Since so many questions beg for answers necessitating movement of a host of amendments including the Minister himself it does not seem proper to get the Bill passed in its present form.

**SHRIMATI SUPRIYA SADANAND SULE:** I support this Bill. The term frequently used for such persons is 'Others' which need to be replaced by 'TGs' for official purposes. Though a provision of Transgender Commission at the national level has been made in the Bill but this is not good enough. As we already have so many states with their own Commissions, we had better get these things implemented at the State level to add efficacy to the implementation part. Besides, there should be a separate welfare board for the TGs. A good helpline should be in place on the lines of one meant for children and women. Qualitative education and homes should be made available for them. In fact, TGs are faced with huge constraints on all fronts of life let alone social prestige. Since the Bill is riddled with so many discrepancies, a JPC would be right step forward to discuss many critical aspects touching upon the lives of TGs enabling a paradigm shift in the status of TGs.

**DR. KAKOLI GHOSH DASTIDAR:** This is a very hastily drafted Bill, and the different clauses mentioned are totally inconclusive. We have to first

define what a transgender means. The Bill defines a transgender person as one who is neither wholly female nor wholly male; or a combination of female or male; or neither female nor male.

As per medical science, there can be no being who is neither a 'male' nor a 'female'. A lawmaker's actual duty is to look at the justice meted out to every kind of human being as is given by the Article 14 of the Constitution of India. We are indebted to the hon. Supreme Court for the verdict given on the 15<sup>th</sup> April, 2014 in which various steps have been directed to be taken by the Central and the State Governments for the welfare of the Transgender. So, this Bill does not cater to those provisions. The opinion of specialists has not been taken into consideration because it says that even if a person has been identified he has to go to the municipally and he has to then take a certificate from the municipal doctor. It appears that proper attention was not given to different clauses while drafting the Bill. So, this Bill has to be recalled and a properly drafted Bill has to be tabled.

**SHRI THAWAR CHAND GEHLOT** replying said: I would like to submit that this Bill has been formulated after having detailed deliberations and consultations with legal department. The Government has also discussed with the people and organizations engaged in the welfare of transgender people. Our Government has initiated this Bill in the year 2015. Suggestions were also solicited from the people through online process. Thereafter, this process was

continuously in progress. Detailed discussions have taken place in this House through Private Members' Bill. Apart from that, this Bill was also referred to the Parliamentary Standing Committee. The Government has accepted 27 suggestions given by the Committee. The Government has also accepted the ideas and suggestions expressed by the hon. Members. The Government will endeavour to make provisions for certain subjects under the purview of this Act while framing the Rules. I would like to request the House that this Bill may be passed.

*The Bill, as amended, was passed.*

**SNEHLATA SHRIVASTAVA**  
*Secretary General*

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NOTE: It is the verbatim Debates of the Lok Sabha and not the Synopsis that should be considered authoritative.

*English and Hindi versions of Synopsis of Debates are also available at <http://loksabha.nic.in>.*