

## LOK SABHA

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

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Thursday, August 1, 2019 / Shravana 10, 1941 (Saka)

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#### ANNOUNCEMENT BY THE SPEAKER

**HON. SPEAKER:** Hon. Members, I would like to seek the suggestions and consent of the House. In this digital age when most of the Parliamentary papers like the List of Business, Bulletin Part-I, Debates and Synopsis are uploaded on the Lok Sabha Website, I personally feel that it is the need of the hour to use digital versions of the Parliamentary Papers in place of their printed versions. I have observed that crores of rupees are being spent on printing, we should try to save this amount and reduce the use of paper to the minimal. I want to start this not from this Session but from the next Session with the consent of you all. Those hon. Members who want to go fully digital and those who do not want to go fully digital should give their option in a Form which will be supplied to them. We should opt for digital option more and more so that we are able to function

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\* Hon. Members may kindly let us know immediately the choice of language (Hindi or English) for obtaining Synopsis of Lok Sabha Debates.

smoothly and make the Parliament of India paperless. We all have to endeavour in this direction.

I seek your consent on another kind of arrangement too. Hon. Members of Parliament and some journalists also have been granted permission to visit Central Hall of Parliament. A message should go out from the Parliament by opting for cashless and digital payment system maximum in its canteen. I want that digital payment and cashless system should be started in the Central Hall.

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**THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) BILL,**

**2019**

*(As passed by Rajya Sabha)*

**THE MINISTER OF FINANCE AND MINISTER OF CORPORATE AFFAIRS (SHRIMATI NIRMALA SITHARAMAN)** *moving the motion for consideration of the Bill, said:* This amendment Bill aims to ensure timely admission of cases, and also timely completion of the Corporate Insolvency Resolution Process. The Government is trying to make sure that when the Committee of Creditors come up with the resolution plan, it should be binding on all the statutory authorities. The Government is also trying to clarify that the

Committee of Creditors may take resolution plan-based decisions to liquidate the corporate debtor at any time after the constitution itself. The Government is trying to bring clarity in allowing comprehensive corporate restructuring schemes such as mergers, demergers, amalgamations etc. as a part of the resolution plan. A greater emphasis is being laid on the need for a time-bound disposal at the application stage itself. The third emphasis is on the corporate insolvency resolution process. We want the whole process to be completed within 330 days. The Government has made it clear that the Committee of Creditors will be dealing with the commercial matters and theirs is the final word as regards resolution plan.

**SHRI GAURAV GOGOI** *initiating said:* The Insolvency and Bankruptcy Code is a very constructive step taken by the previous Government. We, as a constructive opposition, want this Code to succeed. But, the performance of the IBC has been a mixed bag. Out of 2,157 cases, only 117 applications have the resolution plans approved. Nobody wants to see liquidation because it adds to high unemployment. The Finance Minister should have mentioned the judgement of the NCLT where it treats operational and financial creditors at par. It is out of sync. My question to the hon. Minister is that whether she has taken enough steps with respect to improving the infrastructure and the human resource of the NCLT that the 330 days deadline is met. Another issue with the entire process is the huge amount of haircut. After the haircut has been awarded, a big company comes and buys up the small company and the same bank to which the money was due, gives

the bigger companies a loan to buy those smaller companies. This pattern creates doubt that the system has been fixed. I also want to ask the Government about the action it intends to take in cases of cross-border insolvency. Further, the hon. Finance Minister should tell us about her plan to revive the real estate sector. I would like the hon. Minister to answer how the Government would resolve the divergence between the interests of the homebuyers and the banks. I fear that the certain amendments which have been brought with retrospective effect will not stand the test of time and can be challenged in the court. I hope that the Central Government remains bound to the resolution plan.

**DR. SANJAY JAISWAL:** The Insolvency and Bankruptcy Code has been successful in achieving its targets. With the help of this Code, banks have been able to increase the rate of recovery from 23 to 43 per cent from the insolvent industries. India's ranking has also seen improvement in the matter of insolvency. This amendment Bill will help the authorities to take speedy decisions. In terms of insolvency, India ranked 134 which has since galloped to the 26th position. Not just that, even in terms of ease of doing business we have been able to move up from 133rd position to 77th. In the year, 2018 our country has been conferred upon Global Restructuring Review award. Coming to the Bill, earlier, it took four years and three months to resolve cases of insolvency which has now been reduced to 324 days. As per the statistics available, out of the subjudice cases under the I.B.C. as few as 32 per cent cases are older than 270 days. It merits

attention here that earlier, there was binding of 270 days, yet a good number of matters used to get stuck in court cases. Seeing that, the timeline for the disposal of all the disputes has since been extended to 330 days. It is a very good step. As per the provisions of the Bill, NCLAT and DRT will have to accept or reject the cases within 15 days. At the top of it, if at all, there is a delay, reasons for the same will have to be recorded in writing. It is a good move. Further, Committee of Creditors has been equipped with more rights. There would be a single window system to take care of the whole host of issues like restructuring, merger, demerger, amalgamation etc. The Government is supposed to formulate policies and to provide conducive environment to the entrepreneurs enabling them to carry out their function properly.

**SHRIMATI KANIMOZHI:** The resolution plan is approved by the Committee of Creditors comprising financial institutions. The State and the Central Government are not represented on this. This will be giving powers to a private body to determine or undermine the interest of the State. The Government must take this into consideration. The power of the State to recover dues are provided to various authorities under various special statutes. Thus, committee of private financial lenders is effectively over-ruling the other Government bodies already in place to recover taxes. I am afraid whether a super body like this would serve the public interest. I suggest that the hon. Minister must consider equating agencies of the State as an independent category of creditors as it was earlier done

under the Companies Act of 1956. This will ensure that the interests of the States are taken into consideration. In many cases, operational vendors and creditors have only a due of Rs. 1 lakh or Rs. 2 lakh and when they are not paid and settled, their entire business comes to a stand-still. We already have unemployment problems and the country is going through a crisis which has never been there before. I would also like to suggest that minimum threshold for invoking the resolution process should be increased because it is just Rs. one lakh. The enhancement of threshold will also reduce the workload of the Tribunals. Further, in case of debt of around Rs. 1 lakh, the fees charged by the professionals is nearly Rs. 25,000 to Rs. 50,000 or more. So, there should be some regulation on the fee structure.

**SHRI KALYAN BANERJEE:** Insolvency and Bankruptcy Code relates to the credit system of the country and therefore, must be given an expansive interpretation of all the clauses. This amendment is to have a behavioral change, particularly among the promoters. After the introduction of the Insolvency and Bankruptcy Code and functioning of the NCLAT, some amounts have been recovered. But the process was rather slow which is going to gain momentum now. The chief objective of the Act was to recover money from the corporate sector but now, it's being extended to the Government also. In that case, the Government authorities especially the local authority will be subjected to huge difficulty. Further, in Swiss Ribbons case, the Hon. Supreme Court of India

directed that steps should be taken for the setting up of Circuit Benches of NCLAT within a period of six months which has already lapsed. So, I would request the hon. Finance Minister to set up Circuit Benches of the NCLAT at the earliest possible.

**SHRI MAGUNTA SREENIVASULU REDDY:** In this Bill more priority is being given to the financial creditors. My submission is that MSMEs or the operation of creditors should also be considered. Corporate Insolvency Resolution Process is a welcome step. Earlier, the bankers were unable to solve their issues, and their NPAs were mounting nor were they going in for restructuring either for one-time settlement. So, this amendment has come as a big relief for the bankers. At the same time, I would like to request the hon. Finance Minister to appoint an agency like RBI, to look into these matters and supervise the business otherwise the running business would be closed-down due to depletion of assets. The infrastructure companies are going to land in problem. At a time when the Government is looking at a \$5 trillion economy, fear psychosis has to be removed from the business community.

**SHRI KRUPAL BALAJI TUMANE:** This Bill is really a step in the right direction to ensure a litigation free society. In the wake of NCLAT coming into existence, banks have been able to recover NPA to tune of 1.5 lakh crore rupees. NCLT has provided much convenience to all. The number of Members of NCLT is very few. Provision of Committee of Creditors is a good provision. Sometimes

the bidders participate in bidding but at a later stage they back out. We should consider this problem also. The initial owners who move the NCLT, demand higher hair-cut. This leads to loss to the creditors. How will this be compensated? The Government should also think about it.

**DR. ALOK KUMAR SUMAN:** Ours is the fastest growing economy in the world. Increase in NPAs of banks adversely affects development. The Government has brought this law to deal with this problem. Hopefully this will yield good results. 94 cases have been resolved under the Corporate Insolvency Resolution Process till 31st March, 2019. This is good that insolvency resolution ranking of India for 2014 has improved from 134 to 108.

**SHRI B.B. PATIL:** The proposed amendment in the Insolvency and Bankruptcy Code aims at ensuring greater clarity in the debt resolution process. However, we should not allow its dilution just for want of clarity. The balance of interest of stakeholders has been becoming an issue and, therefore, the amendments have been the need of the hour. The changes in the law are also aimed at timely admission of applications and timely completion of the corporate insolvency resolution process. It provides a deadline for completion of Corporate Insolvency Resolution Process (CIRP) within an overall limit of 330 days.

**SHRIMATI SUPRIYA SADANAND SULE:** Although, the Government aims for a 5-trillion dollar economy but generally the economy of this country is not very robust. I am sure that increasing the days from 220 to 330 for resolution



is very well intended. We should bring something which makes sure that interests of secured as well as unsecured creditors are taken care of. We just discussed the Code on Wages yesterday. There has to be a sustainable model. Only selling the PSUs and bringing the Code on Wages will not help. We get more money in a resolution plan which you do not get in a liquidation. So, why are we looking at liquidation as an option? This Bill should have addressed the issue of conflict of interest in bidding. It would be very difficult to find 50 per cent home buyers in the case of realty sector. So the Government should evolve some mechanism to address this problem. Presently, there is only one credit agency. The Government should multiply the credit agencies. I support this Bill. But, I think, we all need to put our minds to it. We can get some professional advice. Maybe we can go to the Standing Committee again.

**SHRI PINAKI MISRA:** It does not bode well for our country that Insolvency and Bankruptcy Law should expand because that is not the way you reach a five trillion dollar economy. It is a law in the making. It has had very limited success so far. It is imperative to boost the judicial strength of the NCLT. There is conflict between IBC and some other statues. The Government has done a good job by protecting the MSME interests by drawing out an exception to section 29(A) allowing MSME promoters to take part in the bidding of assets, which is otherwise not allowed for the larger operators. I think that the inclusion of MSMEs in the Committee of Creditors should also be considered by the

Government. In some cases, even the Nominee Directors have been charge-sheeted. The Government agencies should not charge-sheet anybody and everybody in such cases. In almost 99.9 per cent of such cases, there have been acquittals. With these words, I support the Bill.

**SHRI JASBIR SINGH (DIMPA) GILL:** Although the Insolvency and Bankruptcy Code was formulated to help bring willful defaulters fall in line enabling the financial institutions and creditors recover their dues, it has actually turned into a two-sided sword. There should be a provision in this law to fix responsibility on the bankers. This would prove as a deterrent for the lenders to be more vigilant. Necessary amendments should be brought into this law to make it amply clear that the intention of this law is to help business. This will go a long way not only in helping in overall economic growth of the country but will also safeguard millions of jobs. Increasing NPAs means scarcity of capital which in turn means no fresh investment. Houses in the real estate sector are not being sold. It means the sale of building materials are declining. Vehicles' sales are at its lowest. These all are meant to end crores of jobs and decrease tax revenues. Therefore, my request to the hon. Finance Minister is that the Government should not tighten the noose around unwilful defaulters.

**SHRI JAYANT SINHA:** Government has been duly appreciated and duly thanked for various landmark reforms. The Government is working towards establishing a settled law when it comes to the bankruptcy process. The

governance is achieved when the rules are clear. It is the job of the Government to make the rules clear for the various players in the industry, in the economy, so that everybody can conduct themselves accordingly. The Insolvency and Bankruptcy Code has already been very successful. We have already seen 101 cases that have been withdrawn, 120 cases that have been resolved and 475 cases that have been taken into liquidation. So, the Code is working very well. It will enable us to meet our philosophy of 'minimum government, maximum governance'. A very important aspect of this Bill is introducing many other possibilities that were not allowed earlier such as mergers, amalgamations and demergers. That will make this Bill work much more efficiently and take our economy to 10 trillion.

**SHRI N.K. PREMACHANDRAN:** I think, this is the third round of amendments coming for the consideration of the House. So, it shows that so many gaps and lacunas are in the original Bill, that have to be filled and rectified. With subsequent amendments and with present amendments, I fully agree, but how many cases were solved, what was the impact and how much time it was saved in resolving the problems and having the resolution process in total? At that time, the then hon. Finance Minister has assured me in the House that the secured creditors will be getting top priority. It will never happen. The resolution process should not be for dissolution and destruction of a company, but it should be for the revival of the company. With these words, I support this Bill,.

**SHRI JAYADEV GALLA:** The names of legislations have changed, decades have gone by and the entire Government machinery has been put to stop this menace of NPAs, but not been able to contain this issue of rising NPAs. You have genuine business failure on the one hand and willful defaulters and malicious failures on the other hand. We need to differentiate these two. In this whole process, banks and lenders also have a very important role to play. I believe that the accountability with the banks needs to be much higher. They have to do their own survey and look at the state of the economy. If banks are giving loans without evaluating all of these factors, the NPAs will continue to go up. If we do not distinguish between genuine business failure and willful default, we will lose our ability to innovate as a country and ultimately it will affect our growth. I suggest for consideration of the hon. Minister to provide one last opportunity to the debtor, because our ultimate objective is to turn the business around and keep it running and not to close the business. Kindly look at this. With these observations, I support this Bill.

**SHRI P.R NATARAJAN:** The proposed amendments provide for a time-bound resolution process. In my opinion, merely fixing a time-frame in the law will not resolve the real problem. We will have to identify the real reasons. Unless and until these issues are addressed, the exercise that we are doing is going to be in vain. I would like to know from the hon. Finance Minister, why one part of the Code has been notified.

**DR. AMAR SINGH:** Primarily this Act was brought in the year 2016 to handle the issue of NPAs in the Public Sector Banks. The NPA issues are still there and have gone worse. There are about 50,000 employees in Jet Airways. What happens to the employees? The Act was brought with a very good intention but what we have been able to achieve, we would like the hon. Minister to bring it in the Parliament. Another issue which I want to bring to the notice of the Government is that it has given 90 percent power to the financial creditors. Another point which I want to impress upon the Government is that now many stakeholders are raising the issue that there is a large possibility of misuse of the new amendment. It is because about 90 or 100 cases have been disposed of in the last two and two and a half years of the Insolvency Law. Around 80 cases have been withdrawn. So, we need to see this issue very seriously. Lastly, I will request the Government that increasing the time from 270 days to 330 days would not make much difference unless we understand what the underlying issues are. So, we need to differentiate between the severity of the cases.

**SHRI P. P. CHAUDHARY:** I can say that this is one of the biggest reforms of the century. Before the enforcement of Insolvency and Bankruptcy Code, everybody was in trouble because there was no resolution and no scheme was also provided. In case of conflict between IBC and SEBI and in case of conflict between IBC and RERA, the Insolvency and Bankruptcy Code (IBC) will have an overriding effect. So, IBC is basically to consolidate and amend laws and for

reorganisation and insolvency resolution in corporate, in firm and in individual cases. The maximum time provided for resolution is 330 days and further extendable by 90 days. This is being done with a view to maximizing the value of the assets. Even a World Bank report says that the ease of doing business in India has tremendously improved on account of the coming into force of the IBC. So far as the working of the NCLAT is concerned, it is working fairly well. The disposal rate is fairly good as compared to other adjudication process. So far as home buyers are concerned, earlier they were not financial creditors but now they are financial creditors. Thus, this Bill has been brought in with a view to remove ambiguity, for the purpose of clarity and interpretation, to prevent dilution of the provisions of IBC. This has been done after consultation with the various stakeholders. With these observations, I support the Bill.

**PROF. SOUGATA RAY:** The IBC was very well thought out but still, it has been proved that it was not perfect. The present amendments do fill up some critical gaps in the IBC. It is true that IBC has reduced NPAs to the extent of Rs. 3.5 lakh crore to Rs. 4 lakh crore but still today, the total NPAs amount to Rs. 10.35 lakh crore. Similarly, the IBC has failed in the case of home buyers also. The other point I want to mention is that the resolutions are allowing huge haircuts. In other words, the IBC is not as potent. If you give such big haircuts, then what comes to the kitty of the banks? Lastly, I want to mention that of the various amendments like in Section 30 will completely dilute the National Company Law

Appellate Tribunal. As far as Section 12 is concerned, the '330 days' is a very ambitious step. However, it is doubtful whether the Government will be able to resolve this. With that, I will say that this amendment is a positive step to strengthen the IBC but the Government has to take up the problem of Non-Performing Assets of banks.

**SHRIMATI NIRMALA SITHARAMAN** *replying said:* At the outset, I would like to say that the Insolvency and Bankruptcy Code actually has proved very effective. Again, it is not the intent here in IBC that every such problematic issue related to companies is taken up only with liquidation as an agenda. Therefore, the process is aiming at treating companies as going concern which is about bringing in elements of merger, bringing in elements of acquisition and so on. With regard to the increasing number of litigations and liquidations, I would like to say that seventy-three per cent of all the cases waiting for a solution have been inherited from the BIFR. That is not as a result of last few years; it is more waiting for decades. Then, the timeline is one issue on which people have raised a lot of questions. In this regard, the Government has increased the number of Benches of the NCLT from 10 to 15 in the last one year itself. The number of members has also been increased in a phased manner. The e-Court Project is also being implemented in NCLT so that there will be faster disposal. Other than this, regular colloquiums are being held for capacity building of members. On the Resolution Professionals, I would like to just say that they are CAs, Cost

Accountants, CSs and Advocates with, at least, ten years of experience. Therefore, we do not expect any dilution in the quality of the Resolution Professionals. In the context of the tragic incident Karnataka an entrepreneur committing suicide, I want to say that through proper legitimate resolutions, we should give an honourable exit from business if that is what the entrepreneur wants, or a resolution to the problem. Another concern which many Members expressed is the in the event of liquidation, what happens to the people who are working there? Here I would say that if there is a possibility of reviving a unit, it can be run as a going concern. It means the labourers, the employees, all of them are going to be taken care of. Many other Members also spoke about haircuts. Here, the Government does not play a role. It is the Committee of Creditors who takes a resolution plan. With regard to the status of the Corporate Insolvency Resolution Process, under the Insolvency and Bankruptcy Code, I would like to say that 120 CIRPs have yielded resolution till date. About the number of days that cases wait, I would just want to say that only 335 CIRPs have waited for more than 330 days. Some Members did raise the question of 12 large accounts that were initiated by banks. Of these, the resolution plans in respect of six CDs have been approved. Other accounts are at different stages of the process. Again, provision is there if a resolution applicant does not fulfil the provisions of the resolution plan, then the Board will initiate action against such resolution applicants. So, there are checks and balances in the system. With regard to the housing resolution, I want to clearly mention that the



Committee of Creditors have been empowered. As per section 334, the CoC may approve a resolution plan by a vote of not less than 66 per cent. Those who voted in favour of the resolution plan we were going to give them their flat or the money as they choose. But even for those who have voted against the plan, there is a provision to be treated at par as per the waterfall mechanism. As far as Jet Airways is concerned, it has some office in Netherlands. Based on that, Netherlands court has admitted it for bankruptcy. While admitting Jet Airways, NCLT has refused to recognize Netherlands proceedings. This order has been appealed to the NCLAT. So, that is the status on the matter of Jet Airways. Similarly, there was a talk about fee being charged. No two Corporate Insolvency Resolution Processes (CIRPs) are comparable. Therefore, fee cannot be prescribed high or low. So, the Government cannot fix up the fee. As far as cross border insolvency is concerned, Government is examining the Report of Insolvency Law Committee. So, by constantly sharpening, bringing in greater focus and bringing in purpose serving amendments, we have achieved and we should continue to achieve with the cooperation of all the Members, certain kind of culture in the Dispute Resolution Mechanism. So, I seek all the Member's support in passing this Bill.

*The Bill was passed.*

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# **THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES**

**(AMENDMENT) BILL, 2019**

*(As passed by Rajya Sabha)*

**THE MINISTER OF WOMEN AND CHILD DEVELOPMENT AND  
MINISTER OF TEXTILES (SHRIMATI SMRITI ZUBIN IRANI)** *moving the*

*motion for consideration of the Bill, said:* At the outset, I would like to thank the entire House as all the Hon'ble Members expressed their unanimous support to the Bill just on its introduction. It is very unanimity that the children of our country seek that irrespective of our political differences, we come together to provide stringent legislative means to protect our children. I am sure, across all Benches, all Members join me in this endeavour. As far as the provisional census data goes, today, 47 crore citizens of our country will find added protection under this particular Bill. In consonance with Section 376 of the Indian Penal Code and Sections 376(AB), 376(DA), 376 (DB) of the Criminal Law Amendment Act, 2018, we will find that the POCSO Bill has been amended and presented to this august House. The difference is only this that the POCSO Bill extends its cover to children irrespective of their gender and the perpetrator of the crime is also recognised irrespective of gender. Today there are more opportunities for sexual predators to victimize our children. To address this very challenge, our Government seeks to bring about a definition of 'child pornography'. I am

distressed to share with the House that an online porn channel called '*Nathanthund*' which has many elements including the rape of a four year old child by two men found 5000 followers.

We have added protection of our children in situation where natural calamities take place. Through Section 9(5), a provision has been made against administering drugs or hormones, especially to bring about sexual maturity in a child so that it can be sexually exploited. Why was this necessitated? A case in Yadadri, an 8 year child calls up 1098 with the help of a neighbour alerting police and the Child Protection Unit which go to rescue this child and find thirty more children in that particular institution. The High Court upon its order found that 95 per cent of the children who were rescued, their DNA did not match the so-called alleged mothers who were found on the scene which meant that these women acted as the so-called mothers so that these children could be sexually exploited. Many children were found having small birth-control implants like Nexplanon under the skin. They were implanted into the children so that they do not get pregnant while they are being raped by the so-called customers. I hope that this Bill will strengthen the hands of our law enforcement agencies and the perpetrators, especially in the rarest of rare cases, are brought to death.

**SHRI SU. THIRUNAVUKKARASAR** *initiating said:* Children are not the wealth of the family only, they are the wealth of the nation. They are the future of the country. So, their protection, their health, their education, their well-being, and

their safety are more important than anything else. This Bill is to ensure the healthy physical, emotional, intellectual and social development of the children. Sexual abuse is a barbaric act. It spoils children's future, it spoils their career, physical and mental health. So, this Bill is necessary today because every year, the crime rate against the children is increasing. More than one lakh cases have been reported and more than two lakh cases are pending in various courts. The amount of compensation imposed in this Bill unreasonable for the victim to meet medical expenses and rehabilitation cost. As far as the death penalty to juvenile convicts is concerned, I would request the Government to send this matter to a Parliamentary committee for reconsideration. The Central Government should give funds to the State Government for providing vehicles to lower level judges like magistrates or district judges. I welcome this Bill. The sexual abuse is a shameful thing, it should be stopped and it should be punished with maximum punishment.

**PROF. RITA BAHUGUNA JOSHI:** This Bill goes very far in strengthening the POSCO Act, which was passed in 2012. For the first time pornography has been defined. Not only the one who is making pornography film is criminal, but storing or keeping it is also a crime punishable under law. We all know why this Bill was required. From 2010 to 2014, there was an over 120 per cent increase in child abuse. The figures keep escalating incrementally every year. This law will instil that fear in the hearts of those who will now think thousand times before doing as act like this. One more reason behind such crimes is the

tardy way in which these cases are being investigated. The average time which is taken to resolve a case is not less than six years. I think two months or three months maximum should be the time taken. So, first thing is awareness and second thing is creating sensitivity among the society and the third thing is popularizing the Act and as to how the offender will be penalized. Certainly, these amendments will become a deterrent to these crimes. I stand with the Bill.

**SHRIMATI KANIMOZHI:** None of us can approve of what happens to our children. None of us can accept that their entire future is taken away by people who abuse them sexually. I appreciate that the discrimination between gender has been taken away in this Bill. It is generally believed that it is only the girl child who is affected which is far from the truth. There are so many young boys who are sexually abused. This Bill does not talk about child prostitution. It also has to be addressed because there are so many children who are trafficked for prostitution and are abused. We agree that this legislation has been brought with the best of intentions. But this Bill should not become a deterrent for people to report the crimes and for witnesses to turn hostile. The Government has brought death penalty into it. The judge will be forced to directly question the child. The child being made to go into the details of the case will become another harrowing experience for the child. The entire nation believes that these people should be shown no mercy. Moreover, death penalty is not the answer to every crime in this country. Most of the countries are now moving away from this concept of

awarding death penalty. The hon. Minister should send this Bill to the concerned Departmentally Related Standing Committee or form a Select Committee and bring the Bill back to the House.

**SHRIMATI SATABDI ROY (BANERJEE):** Today, children are not safe even in schools, playgrounds and homes. We all ought to be aware about it. However, we are depriving the children of their innate innocence. I would like to ask as to whether crime has ever decreased by the deterrence of the death penalty. After the Nirbhaya incidence, the rate of crime has increased. This simply means that the provision of death penalty in this Bill is not going to have any impact on those committing crimes. I feel that prevention is needed. Death penalty is being included in the Bill for criminals but it will hurt the victims more. Therefore, we should pay more attention on the safety of the victims instead of on the amount of punishment. What will be the time-bound procedure in this regard? Such cases linger on for years together. The Child Marriage Act should also be linked with it. It should not happen that sex is legalized for the sake of vermilion or *mangalsutra*.

**SHRI TALARI RANGAIAH:** Children are viewed as manifestation of divinity. Any harm to the children is harm to divinity and humanity. The proposed amendments show the gloomy and insecure situation of children, particularly girl child in the country. No legislation can foresee how the future unfolds. If law is unable to meet the needs of changing situation, it must be re-examined. 'Nirbhaya' happened in December, 2012. Can law give such a long

rope to convicts of heinous crimes even after the Apex Court confirms the death sentence. In the 'Saravana Case', it took 18 years for the convicts to surrender. In our judicial delivery system, there is a long gap between crime and punishment. This Bill seeks to increase the quantum of punishment by including death penalty. My apprehension is that it may actually lead to the death of the victim in order to destroy the evidence by the culprits. Self-Help Groups and NGOs can also play an instrumental role in conducting mass awareness programmes. I would suggest that there is a need to conduct campaign like 'Child Sexual Assault Awareness Month' to educate people and prevent sexual violence. The compensation must include rehabilitation of victim.

**SHRI VINAYAK BHAURAO RAUT:** I have risen here to support this Bill. The proposed amendments about porn are necessary. Now, all children keep mobile phones in their hands. The mobile phones have got numerous benefits but they are equally harmful also. Therefore, it was necessary to bring a stringent law on pornography and it was also required to define it. Last week, the Hon. Supreme Court said that special Courts should be set up in each district for the disposal of POCSO cases. Last year, as many as 33,000 cases were registered in the country. The Government is trying to purge the culture of the country through this Bill.

**SHRI RAJIV RANJAN SINGH 'LALAN':** Today, tendency of committing heinous crimes is on the rise in the society. Children especially girl children are not safe anywhere. We welcome this Bill and also fully support it as

the hon. Minister has proposed very stringent and effective amendments through this Bill. Several provisions are proposed to be made through amendments from Section 4 to Section 6. Special Courts need to be set up in the country and necessary arrangements should be made for speedy trials so that this menace could be checked. Today, only 10 per cent cases reach upto a logical conclusion. Therefore, this system should be laid throughout the country so as to ensure resolution of the cases in a time-bound manner.

**SHRIMATI SARMISTHA SETHI:** This Amendment Bill is very powerful but how much did we achieve in the last seven years after the Act came into force? Crime of this nature has gone up. The Government should strengthen the areas which pull back reporting, investigation and punishment. We should provide a clear path way, compensation, guidance, or help to the victim till he or she becomes self-sufficient. In the case of rehabilitation of POCSO victims, the skill development programmes designed for the children above 18 years could be relaxed suitably. A high value compensation should be fixed. There is a need for engagement of Counselors in our schools. The amendments must include stringent punishment for offenders in case the victim is a child with special needs or a differently-abled child.

**SHRI KOTHA PRABHAKAR REDDY:** Sexual violence against children in any form is a heinous crime. The conviction rate in such cases has declined in the last 10 years, while the pendency has climbed up. While sexual offences



against children must be stringently prosecuted, the solutions also lie in preventive efforts and in strengthening implementation of the existing laws and schemes. The process is lengthy which delays justice to the victims. A hassle-free process is required. SHE Teams Division, which stands for Safety, Health and Environment has been very much successful in Telangana. Such initiatives may be taken into consideration before finalizing the Bill. Steps should be taken for time bound investigations, trial and disposal of appeals, restrictions on bail, new fast-track courts, special forensic labs etc. with stringent implementation of laws to prevent sexual offences to combat this menace on top priority.

**SHRIMATI SUPRIYA SADANAND SULE:** We all unanimously stand and men and women are speaking on this Bill in one voice to say that we have zero tolerance when it comes to our children's protection. There is a clause of privacy, but it is not being implemented. Zero tolerance against these evils is the basic right of any citizen. For anybody who misbehaves with any child, be it pornography, be it rape, there has to be severe punishment.

**KUNWAR DANISH ALI:** I support this Bill. Everyone is aware of child abuse in this country. Ideologically I am against capital punishment but in this case I support capital punishment for it. All of us know about the incidents which have taken place in the country during the last few years. Nithari case of Noida makes us shiver. This Bill was required. Passing this Bill would be a small

contribution on our part to support the 'Bachpan Bachao Andolan' of Shri Kailash Satyarthi.

**SHRI HASNAIN MASOODI:** I rise to support the Bill. Hon. Minister deserves all laurels for bringing a comprehensive amendment to the Act. One of the new developments in this area is cyber world offences. It is heartening to know that 'child pornography' has been given a comprehensive definition, and it is expected to take care of new challenges that we confront. One aspect of the matter deserves some kind of consideration. We have shifted this from "communal or sectarian violence" to "violence or during any natural calamity". Who will decide this "..... in similar situations"? What is the 'situation'? We leave too much to the Trial Judge. This again needs to be considered. These offences are mostly committed in the child care institutions. The hon. Minister has to come out with a comprehensive policy to shift attention from institutional care to non-institutional care or alternative care so that less and less children are sent to these institutions. You cannot divorce it from the POCSO Act and the Juvenile Justice Act because these are parts of the same thing. We have to evolve a holistic approach. My request to the hon. Minister is that we should strengthen the preventive mechanism. I want some kind of death sentence of a very, very aggravated form so that the life of the child is saved.

**SUSHRI S. JOTHIMANI:** We all should hang our heads in shame for having collectively failed our children. This House again collectively gathers strength, support and empathy for the children and their future. The Bill increases the minimum punishment from seven to ten years for the offences of penetrative sexual assault. I welcome stricter punishment of imprisonment of twenty years of life and a fine if a person commits penetrative sexual assault on a child below the age of sixteen years. The Government has reduced the punishment for use of children for pornographic purposes which can result in aggravated sexual assault. But while the Bill proposes several amendments for more stringent punishment, it fails to address the issue of low conviction rate under the Act. And, though the Bill proposes a separate court for these trials, no time limit for completing the trial and giving punishment is prescribed. There is no preventive mechanism for protection of children in this Bill. The Bill addresses only perpetrators and not the victims. We generally think that stricter punishment can reduce the number of rapes in society. But where does the intention of rape, assault, molestation or domestic violence stem from? As regards women cases, they are much more different than sexual assault on a woman, rape of a woman or a child as mental feelings are also associated with them. It is not only physical pain that is there but also mentally, they are affected. Sometimes, the devastating effect is caused by somebody whom you trust, whom you know or who is part of the family. There may be reasons for a juvenile to become a perpetrator. So, I request the Hon.

Minister to consider this point particularly while dealing with the death sentence for the juveniles.

**DR. NISHIKANT DUBEY:** I would like to thank the Hon. Minister for bringing this Bill on such a sensitive issue in the Parliament. Several discussions are taking place on Section 6 of the Principal Act in which there is an amendment of death penalty and I wonder, why death penalty should not be there. In this regard, the government deserves to be congratulated for showing so much of will power to bring the provision of death penalty in the Act. I have a suggestion that provisions should also be made in the Act against the persons committing organized crime against the children. Unless the mindset of the society undergoes a change, no law will become more successful. However, there is a need to bring awareness and launch a campaign in the society that the children have to become a good citizen in this country. We will be able to do something when their mindset is healthy. Therefore, I would urge the Parliament to pass it. I will have a small suggestion for the amendment. Section-1 and 2 of the Principal Act-3 in case of amendment of Section-4, should be substituted because in my opinion you will have to change it if not today then tomorrow. If it is amended it would be better because if this problem is resolved as to how much money should be given to the victim, the introduction of this Bill will become meaningful.

**SHRI KALYAN BANERJEE:** I would like to support this Bill. This crime is happening in the entire country. Media is sensationalizing the incidents of sexual violence against children in their shows. During reporting, sometimes they disclose the identity of children and their families. If any Media does this kind of a violation, they should also get punishment. In the police stations also, juveniles are getting harassed by the authorities. This is not an unknown phenomenon. So, there must be strict punishment for those police personnel who are doing these kinds of heinous crimes. Every person of our country should be awakened about this fact. Otherwise, we cannot stop it. There is no dearth of laws and courts in our country. Because of the failure of the implementing agencies prescribed in law, it is happening. They are failing in the discharge of their duties and the country is facing this problem.

**DR. PRITAM GOPINATHRAO MUNDE:** First of all, I would like to congratulate hon'ble Prime Minister and Minister of Women and Child Development for introducing such sensitive matter with consensus. All of us say that there is a need to change the mindset of society, but it is necessary that we should start this change with ourselves. When such issues are debated then all of us want women to talk. Should it necessarily be a matter related to women? I think men should also raise such issues. Unless we change our mindset we cannot put any good example in society. Rehabilitation of victim should certainly be considered. May we take certain initiative so that NGOs or Volunteers help

children to bring back their mental balance? There should certainly be provision for this purpose.

**\*SHRI D. RAVIKUMAR:** In order to check the offences against our girl children, this Bill has been brought with amendment, enhancing the punishment for such offences against girl children. Particularly this Act has been brought after the Nirbhaya case. After this Nirbhaya incident, such offences against girl children are on the rise. That's why Hon. Supreme Court suo motu took up the case in this regard. The Government should have the responsibility of sensitizing the people about the inclusion of sections which were added to IPC as per the recommendations of Justice Verma Commission. I request Hon. Minister, through you, to expand this Scheme to all over India. In order to effectively implement these laws, proper Special Courts are to be set up as per POCSO Act. Moreover, the privacy of the affected girl children, the victims should be protected. The number of pending cases is on the rise. So necessary action should be initiated to address these issues and to minimize the pendency of cases.

**SHRI E.T. MOHAMMED BASHEER:** Of course, this Bill is a good move. I welcome this Bill. When we discuss this Bill, the whole nation is praying for the girl child of Unnao who is struggling for life at Lucknow following the car crash. As per the information of the National Crime Records Bureau, a total of 34,449, 34,505 and 36022 cases were registered under POCSO Act during the year

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\* Original in Tamil.

2014, 2015 and 2016 respectively. As per the observation of the Supreme Court, the situation in the national capital appeared grim as it recorded 729 such cases in the last six months or at least four cases every day. We have to note one thing that adolescent period is the turning point of life because physical, emotional, psychological changes take place in that age group. Any undue incident that takes place in that age group has an impact on the whole life. In that context issues of alcohol influence and drug abuse should be addressed. Otherwise, we will not be able to attain the real goals. Prevention related matters should be coordinated with the Minister of HRD also.

**SHRI RAM MOHAN NAIDU KINJARAPU:** The primary Act that was made in 2012 was definitely a good Act but not sufficient enough. This Bill addresses many of the instance, which the House definitely needs to take cognizance of. When it comes to capital punishment, it definitely needs to be involved in this Act of Sexual Offences on Children also. The conviction rate is very low. So, assurance needs to be given that appropriate courts will be there to have speedy trials of POCSO offences. Investigation part is something that we need to keep in mind. In many of the cases – let it be the Unnao incident or the Kathua incident – we have seen that there have been local pressures on the investigating teams. When we pass these kinds of Bills, they need to be discussed in the panchayats also as it is the lowest level of body that we have in our country. Even the uneducated should know that such Bills are being passed in Parliament.

Even in schools, awareness has to be created. This Bill definitely address issues at one level, but there needs to be a holistic approach. The children, parents, courts, police and even we parliamentarians-each and every one – need to be sensitive for these kinds of issues. We, being the guardians of this country, should make sure, it should not be a political game.

**SHRI ASADUDDIN OWAISI:** It is not the stringency of punishment that matters but the certainty of punishment that will deter the perpetrators and will protect our children. I would have loved to support this Bill but with a heavy heart, I have to say, I cannot because of Section 4 and Section 6. The imposition of death penalty fails to consider the nature of child sexual abuse and endangers children. I say this because the NCRB data says, 94 per cent of the rape victim knew the perpetrators. What will happen is that this death penalty will serve as a pressure upon children and their families and in the end, when the trial comes, they turn hostile. I have seen three cases. This Bill does not talk about victim-witness protection programme. That is why, I have to oppose this Bill. I hope the Minister sends it to Standing Committee for further scrutiny.

**\*KUMARI RAMYA HARIDAS:** It is the need of our times that strong and exemplary action should be taken against those who sexually abuse children. It is the responsibility of our society and the Government of the day to ensure security and protection for our children. But if you speak of the amendment Bill, I am

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\* Original in Malyalam.



compelled to express some fears. Enough home work, discussions with people and bodies working in this field should have been carried out and the Bill should have been sent to the Standing Committee. There is a clause added in the amendment bill, which is regarding, awarding of death sentence to the perpetrators of the crime. When death sentence clause is added, the offenders will be provoked to exterminate the victim, and there by destroy evidence. This clause becomes a provocation for perpetuating further crime. There should be speedy disposal of such cases and the victim should get justice and help to come back to a normal life.

**SHRI P. R. NATARAJAN:** POSCO needs to be implemented swiftly and also keeping in mind the sensitivity and care of survivors. I have a few suggestions to the hon. Minister through you that a Child psychiatrist's presence has to be made mandatory during each investigation to aid and advice especially in cases of female victims, the questioning should be done under female supervision. Offenders are punished once but the victims are punished repeatedly during the course of interrogation. I support this Bill whole-heartedly.

**SHRIMATI SUMALATHA AMBAREESH:** Many supporters of the death penalty for this crime feel that the death penalty will act as a deterrent. The experience in India and across the world, however, is that this is not the case. Even after the Act was passed, the conviction rate remains only 20.6 per cent and there is a high pendency of 89 per cent of these cases across the country. On behalf of CPM party, I oppose the capital punishment is principle. What is more important

is that the speedy delivery of justice and every possible help must be provided to the victim.

**SHRI HANUMAN BENIWAL:** The demand for such a Bill was being made for long time in the country. First Nithari incident took place and thereafter followed the Nirbhaya incident. Sexual predators do not consider the age of children and sexual crime against children of one to three years are also committed. I would like to congratulate the hon. Minister for introducing charges in POCSO Act of 2012 and making provision of capital punishment therein. This Bill is certainly an important step to check the increasing incidents of sexual crime against children. I would like to congratulate the hon. Minister for setting up 1023 special fast track courts. But safety of witnesses should also be taken care of.

**SHRIMATI DARSHANA VIKRAM JARDOSH:** I support this Bill. Today punishment of death penalty has been pronounced within 8 months of a rape and murder case of 3 years 7 months old girl child under the POCSO Act. This is perhaps the first instance after the Act was enacted in the year 2012. I welcome the provision of 10 years of imprisonment to curb the menace of child pornography and misuse of children for it, which was only seven years earlier. I also welcome the provision of 20 years of imprisonment for committing the crime of penetrative sex against children below the age of 16 years. The payment of compensation

should be made as soon as possible so that the children can get treatment. Provision of psychological counselling should also be made.

**\*SHRI THOL THIRUMAAVALAVAN:** I welcome this Bill as it enhances the quantum of punishment for cruel and gruesome offences against children. However, implementation is more important than legislation. The Government should concentrate more on implementation of this Act. The conduct of police personnel in the investigation of such cases should be checked. Law provides for giving compensation to the rape victims but only 15% are provided with compensation. Section 33(2) says that affected children should not be interrogated frequently direct by the Investigation Officer but this Section of the POCSO Act is not followed in letter and spirit. Child victims are subjected to direct investigation which should be stopped. I urge the Government that special courts should be set up in all the districts in order to ensure safety of children during investigation process.

**SHRIMATI KIRRON KHER:** I support the POCSO (Amendment) Bill. This Bill increases the punishment for offenders which is justified. I request the Hon. Minister that nothing less than the death penalty should be awarded in case of any sexual assault or unnatural act on a child less than the age of 15 years. This Bill has also increased the punishment for using children for pornography. Possessing any material related to child pornography should also be brought under

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\* Original in Tamil.

the category of offence. A law in this regard should be framed in our country also as many other countries have a provision of 10 years imprisonment for possessing such material.

**SHRI P. RAVEENDRANATH KUMAR:** The Government has brought this Bill in order to prevent the rising cases of child sex abuse. I also thank the Central Government for providing financial assistance to the States and UTs under the scheme 'Child Protection Service'. In my State Tamil Nadu we have held 74 POCSO awareness rallies. A sum of Rs. 35 lakh has been sanctioned for creation of child-friendly courts. Training programmes are also conducted with the support of UNICEF.

**SHRIMATI JASKAUR MEENA:** I would like to point out that all the political parties and the entire House are unanimously supporting this Bill. The provision of the kind punishments made in this Bill would certainly be helpful in removing the perversion and sexual offences against children in our society. Moreover, I would like to request the hon. Minister to make provision for creating awareness in the society at the Gram Panchayat level and at the family level as well.

**THE MINISTER OF WOMEN AND CHILD DEVELOPMENT AND MINISTER OF TEXTILES (SHRIMATI SMRITI ZUBIN IRANI)** *replying said* : This Bill aims to explore the manners in which the future of India could be

moved in safe direction with dignity. If a heinous crime is committed, the Parliament has empowered judges, on the basis of evidence to award the death penalty. Nowhere in the law, an MP or an MLA has been excluded. As far as the question of consensual sex is concerned, the standing Committee denied to accept consent of the person below the age of 18 years. An honourable Member raised the issue on anomaly between section of IPC and POCSO in case of child marriage. I want to inform the House that I am trying to remove this anomaly. The sections 24 to 27 of the Bill are child friendly. These sections have details for protecting children from the recording of their statements till the whole investigation. There are provisions for protecting child from aggressive questioning, character assassination or forcing child to depose again and again. The Bill also takes care of the Children with special needs by having provision for translators and special educators. If the needs any type of medical assistance, the Bill also has the provisions for the same. All the states governments have been fully apprised of the witness Protection Scheme, 2018. If the Competent Authority under the District Judge and Session Judge assesses the threat to witness, it has been given power to change the identity of witness or relocate him/her. The government has also requested all the states to set up the Witness Protection Fund. Enough precautions are available in the Act to ensure that proper justice and facilities are given even to child perpetrator. As per the data available for the year 2016, total 36,022 cases under the POCSO were registered and 42,196 people have already been arrested.

The central government as well as state governments have the intention to set up fast track courts to deal with the cases in the Act. These courts will be set up between 2019-20 and 2020-21. A national database on sexual offences has functionally become available to our police force and investigation agencies. The national database has 6,20,00 sexual offenders listed in it. All the state Boards will initiate 'Good Touch, Bad Touch' intervention across the country. As far as child welfare is concerned, 680 Child Welfare Committees and 675 Juvenile Justice Boards have been set up so far. In fact 444 Child Welfare Committees and 509 Juvenile Justice Boards are working with full strength. The National Commission for Protection of Child Rights (NCPCR) along with the State Commissions is mandated to ensure that this particular law is implemented. Disclosing the identity of the child is itself an offence. The punishment for breaching this provision by anyone may be from six months to one year with or without fine. The Ministry of Home Affairs has started a training and capacity building programme to train investigation officers, prosecution officers and medical officers, dealing with the cases of sexual assaults and nearly 3120 sexual assault evidence collection kits have been given under orientation programme to states. I will try my best so that the information of POCSO instead of confining to MPs and MLAs may reach up to panchayat level in the country.

*The Bill, as passed by Rajya Sabha, was passed.*

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**SNEHLATA SHRIVASTAVA**  
*Secretary General*

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\*\*Second Supplement covering rest of the proceedings is being issued separately.

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

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