

RAJYA SABHA

***SYNOPSIS OF DEBATE**

(Proceedings other than Questions and Answers)

Monday, December 17, 2012/Agrahayana 26, 1934 (Saka)

**WELCOME TO THE PARLIAMENTARY
DELEGATION FROM IRAQ**

MR. CHAIRMAN: Hon. Members, we have with us, seated in the Special Box, Members of a Parliamentary Delegation from Iraq, currently on a visit to our country, under the distinguished leadership of His Excellency, Mr. Osama Abdul-Aziz-Mohamd Al-Nujaefi, President (Speaker) of the Council of Representatives of Iraq.

On behalf of the Members of the House and on my own behalf, I take pleasure in extending a hearty welcome to the leader and other Members of the Delegation and wish our distinguished guests an enjoyable and fruitful stay in our country. We hope that during their stay here, they would be able to see and learn more about our Parliamentary system, our country and our people, and that their visit to this country will further strengthen the friendly bonds that exist between India and Iraq. Through them, we convey our greetings and best wishes to the Parliament and the friendly people of Iraq.

*This Synopsis is not an authoritative record of the proceedings of the Rajya Sabha.

**MATTERS RAISED WITH THE PERMISSION OF THE
CHAIR**

**I. Death of more than 100 people on consuming
spurious liquor in Bihar**

SHRI RAM VILAS PASWAN: During last 3-4 months more than 133 persons were died in Bihar due to consumption of spurious liquor. Out of these, 95 per cent were dalits and poor people. Bihar Government should make a policy to ban sale and purchase of liquor in the State to avoid such human loss.

**II. Need for a Constitutional Amendment to give
Reservation to Backward Muslims as Recommended by
Sachar Committee**

PROF. RAM GOPAL YADAV: The Sachar Committee recommended that the economic and social condition of muslims in the country is worse than the dalits. I demand that a Constitution Amendment Bill may be brought and reservation to muslims in the Government jobs be provided on the basis of their population, so that they may be able to come out of their miserable condition.

(Shri Naresh Agrawal, Shri Prem Chand Gupta, Shri Mohammed Adeeb, Shri Ram Kripal Yadav and Shri Ram Vilas Paswan associated.)

**III. Statements made by the Interior Minister of
Pakistan during his recent visit to India**

SHRI RAVI SHANKAR PRASAD: I want to draw your attention towards a very serious issue. The innocent people died in the 26/11 Mumbai terror attacks have not been given complete justice till today. During his visit to India the Home Minister of Pakistan Shri Rehmaan Malik made

statements that there is no evidence against Hafiz Saeed as a conspirator in Mumbai attacks. He also told that Abu Jindaal is a spy of Indian agency RAW. He raised the issue of Babri Masjid which is an internal matter of India. We oppose and condemn his statements.

(Shrimati Maya Singh and Shri Mukhtar Abbas Naqvi associated.)

THE MINISTER OF STATE IN THE MINISTRY OF PLANNING AND THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI RAJEEV SHUKLA) responding to the matter, said: Since the Deputy Leader of the main Opposition Party has raised this issue, the Hon'ble Home Minister is likely to make a Statement on the visit of Shri Rehman Malik.

IV. Problems being faced by the people of Dhanbad due to day and night transportation of coal against the guidelines in Maithen Power Limited

SHRI SANJIV KUMAR: I draw the attention of this House and the Government towards the miserable condition of people of Dhanbad and Maithen in Jharkhand due to Maithen Power Limited. MPL is a power producing unit. The trucks transporting coal for this power plant are polluting water reservoirs, ponds, wells and river in this area. People residing in this area are being the victims of Asthma and Cancer diseases due to the pollution. There is no arrangement of hospital in this area.

People displaced due to setting of MPL have not been given proper compensation. No schools and colleges have been opened for them as promised earlier. They are not getting water for drinking and bathing. I demand that Central Government should try to solve the problems of the people of Dhanbad and Maithen.

*(Dr. Chandan Mitra and Shri Jai Prakash Narayan
Singh associated.)*

V. Compensation for farmers and labourers in Tamil Nadu due to heavy power cuts in the State

DR. K. P. RAMALINGAM: There is a severe and frequent power cuts in Tamil Nadu because of which the people of Tamil Nadu are suffering a lot. Because of erratic power supply, thousands of industrial units have already been closed in Tamil Nadu. Moreover, two lakh acres of agriculture land is left uncultivated. Nearly 50 lakh labourers have lost their jobs. The situation has worsened to such an extent that survival has become very difficult. In order to mitigate the problems of farmer and labourer communities of Tamil Nadu, I urge upon the Government of India to direct the State Government to take immediate steps to provide compensation to the affected farmers and labourers due to power cuts.

VI. Allocation of Coal to Power Plants in Uttar Pradesh

SHRI NARESH AGRAWAL: There is a shortage of electricity in Uttar Pradesh. Uttar Pradesh is not being given its full share of electricity produced in central sector. Our share of electricity is 6,000 MW while Uttar Pradesh is being given only 4,800 MW. Therefore there is a shortage of 1,200 MW in Uttar Pradesh. The Central Government is not providing the coal as per agreement to the power plants being established in Uttar Pradesh. So they are compelled to import the coal and due to that the production cost of electricity is being increased. There is a formula that if a Central power unit is installed in a State then 25 per cent of the electricity produced in that unit will be given to that State. As per this formula 25 per cent of electricity produced in Dadri Power Plant should be given to Uttar Pradesh. The State of Uttar Pradesh should be promised to give its full share of electricity.

VII. Huge Shortage of Officers and Soldiers in the Army

SHRI SHANTA KUMAR: I would like to request the Government that shortage of weapons is a matter of concern. But continuous reporting in the newspapers in this regard, acceptance by the Minister of Defence and report by the Standing Committee on it is a matter of great concern. The government has put restriction of ratio on each state. Those who want to a join the army is not being recruited due to this restriction and soldiers are not coming from other places. There is total shortage of 42,000 officers and soldiers in the army. I would like to request the Government to remove this restriction and recruit those people in the army who traditionally want to join the army, so that their should not be any shortage of officers/soldiers in the army.

(Shri Jagat Prakash Nadda, Shri Avinash Rai Khanna, Dr. C.P.Thakur, Shri Thawar Chand Gehlot, Dr. Gyan Prakash Pilania and Shri Tarun Vijay associated.)

VIII. Millions Spent by US Entities to Enter Indian Markets

SHRI PRASANTA CHATTERJEE: The recent disclosure reports filed with US Senate and the House of Representatives, have generated much political heat in the country. According to this, Walmart has got company of at least 15 other large American companies that have spent millions of dollars in 2012 itself to lobby for their Indian business interests. I demand a statement from the Prime Minister on the entire issue and a full-fledged discussion on the statement.

IX. National War Memorial at New Delhi in Honour of Martyrs

SHRI TARUN VIJAY: The manner Government of Delhi has opposed proposal of the Minister of Defence to construct a National War Memorial in Delhi, I regard it as shameful and insulting to the soldiers of the country. I support the proposal of the Minister of Defence. Soldiers organisations are trying to construct a Soldiers Memorial in Uttarakhand for many years but they did not get land there. I appeal to the Government that the most magnificent memorial of the soldiers of India should be constructed in the central place of Delhi.

X. Issue of Digital Addressable System (DAS) Licence to Tamil Nadu Arasu Cable TV Corporation

DR. V. MAITREYAN: in 2011, the Tamil Nadu Arasu Cable TV Corporation, a Government of Tamil Nadu Public Sector Undertaking, was revived. The Tamil Nadu Arasu Cable TV Corporation Ltd. is now the single largest Multi-System Operator in India, offering its services across the State at the lowest rate in the entire country. The Tamil Nadu Arasu Cable TV Corporation Ltd. had applied for the Digital Addressable System (DAS) license to the Ministry of Information and Broadcasting but the issue of the license is still pending. The Madurai Bench of the Madras High Court had also passed orders that the license may be issued. I urge the hon. Minister to immediately issue the DAS license to the Tamil Nadu Arasu Cable TV Corporation so that the *aam admi* of Tamil Nadu is benefited.

SHRI M. VENKAIAH NAIDU: We support this issue and the Government should expedite the issue of giving license to the Arasu Cable Corporation.

XI. Unemployment Due to Closure of Mining Operations in Goa

SHRI SHANTARAM NAIK: in Goa, mining has stopped for the last three-four months and it is estimated that

Rs. 17,600 crores would be the loss in revenue to the State Government. Thousands of truck owners are now suffering because they have no work. The barge owners, who have taken loans from banks, are also in deep trouble. I won't be surprised if tomorrow there are suicide cases in Goa in the mining sector. The Marmagao Port Trust will have no money to pay the salaries after three months. This problems should be resolved.

STATEMENT BY THE MINISTER

**Visit of the Interior Minister of Pakistan to India on
December 14TH to 16TH December, 2012**

THE MINISTER OF HOME AFFAIRS (SHRI SUSHILKUMAR SHINDE): The Interior Minister of Pakistan, Shri Rehman Malik visited New Delhi on 14 – 16 December, 2012. This visit was in response to the mutual invitation extended when we met on the sidelines of the SAARC Interior Ministers' meeting in Maldives on September 26, 2012. The invitation was both in response to Shri Malik's desire to visit India and so also to continue with the overall strategy to continue engaging Pakistan.

The House may recall that the India-Pakistan dialogue commenced in 2004 and has eight subjects, one of which is Terrorism and Drug Trafficking, which with other allied subjects, is discussed at the Home Secretary (HS) Level Talks with Pakistan.

Due to the Mumbai terror attacks in November, 2008, the HS Level Talks were not held in 2009 and 2010 – as a conscious decision by Government of India.

The dialogue was resumed in 2011 and the Indo-Pak HS level Talks of the “resumed dialogue” were held in New Delhi on 28-29th March, 2011 and subsequently at Islamabad on 24-25 May, 2012.

In the Home Ministry led bilateral interactions – the Agenda has focused on:-

- i)** Pakistan's continued support to terrorism and operation of terrorist camps in PoK.
- ii)** The prosecution and trial of the key masterminds and conspirators of the Mumbai Terror Attack of 26.11.2008.
- iii)** Bringing fugitives of the Mumbai bomb blasts of 1993 to justice.
- iv)** Issues of firing across the Line of Control as well as international borders.
- v)** Terrorist financing and fake currency notes.
- vi)** Humanitarian Issues with respect to Fishermen and civilian prisoners and Indian POWs in Pakistan, Visa and Consular issues.
- vii)** Narcotics and drugs trafficking in particular the Signing and ratification of the MoU between India and Pakistan.
- viii)** The need to conclude the MLAT and Extradition Treaty, the drafts of which have already been shared with Pakistan.

The discussions also include separate technical Groups/JWG's on Visas, fishermen, CBI-Federal Investigation Agency (FIA), NIA-FIA, and the Judicial Committee.

The official visit commenced with the announcement of the operationalization of the new Visa Agreement which was signed during the visit of the External Affairs Minister to Islamabad on 8th September, 2012. The new Agreement introduces several liberalized features in the visa regime, including increase in the number of permissible places to visit to five (from the earlier three places) under the Visitor Visa

category, long term visa for upto two years for persons above 65 years and for nationals of one country married to nationals of the other country as well as their children below 12 years. It introduces Visa on Arrival at Attari/Wagah Check Posts for persons more than 65 years old, and Group Tourist Visa for travel in groups between ten to fifty members organized by approved tour operators. The Agreement provides for grant of business visa with exemption from police reporting for businesspersons with annual income above Pak Rs.5 million or equivalent, or annual turnover above Pak Rs.30 million or equivalent. The Visa on Arrival will be operationalized from 15thJanuary 2013 and the Group Tourist Visa scheme will become effective from 15thMarch, 2013.

In the talks which followed, I made it clear that the key issues in the mind of the Indian Govt. & our public is the issue of bringing the guilty of the Mumbai Terror Attacks to justice. I pointed out that many of the real mastermind and conspirators as well as key participants in the Mumbai Terror Attacks had not yet been charge sheeted. In this context I specially mentioned the fact that our investigation have shown that one Hafiz Saeed was one of the Mastermind of the 26/11 attack conspiracy and Pakistan has yet to take effective action to charge him. I reiterated the value of the voice samples for establishing the identity of those who were audacious to be caught on tape while directing the attackers. I also emphasized the need to respond to the Lette Rogatories sent to Pakistan pursuant to the investigation by the NIA.

With regard to the Judicial Commission's visit to India to complete the "cross-examination" of the 4 witnesses, we had already conveyed our in principle approval. We have also emphasized to the Pakistan side the need to ensure that the revised terms of Reference/agreement need to be worked out carefully in consultation with the senior Law Officers of

both sides so that this time there are no legal lacunae. Accordingly, it was agreed that a team from India will visit Pakistan in this week to settle this document so that the Judicial Commission may come at the earliest.

I then took up the issue of non-compliance/ execution of long pending Red Notices against the absconders of the Mumbai Blast case of 1993 – in which more than 400 people were killed – being a blot on our bilateral cooperation in bringing fugitives from law to justice. The D-Company operatives-led by Dawood Ibrahim still evade arrest. International community has now universally acknowledged the danger this criminal-terrorist groups poses. Recently, the US designated Dawood Ibrahim as a Specially Designated Global Terrorist and another person of the same group as a Drug kingpin. Pakistan has to ensure full cooperation in the capture of these absconders in right earnest.

The Pakistan Minister was informed that in 2012 we saw concerted attempts by terrorists to infiltrate across the Line of Control in J&K and these have occurred across several sectors of the Line of Control. Besides, there have been a large number of cases of unprovoked violations of the ceasefire. Our inputs indicate that the number of terrorist camps and launching pads in PoK remain intact. Thus, we are yet to see effective action on ground.

I highlighted the fact of the increasing number of consignments of fake Indian Currency notes being seized in India and by other countries from individuals coming from Pakistan. This indicated that the production and circulation of FICN is growing in Pakistan, direct or indirect patronage of influential elements/groups in Pakistan cannot be ruled out.

Pakistan's attention was drawn to the disturbing increase in the attempts to push drugs across the Punjab

border, including through railway cargo wagons. The need to ensure effective counter measures on the Pakistan side was noted by the Pakistan side. The work done by the Judicial Committee on Prisoners for their release, repatriation and humane treatment was reviewed and attention was drawn to the issue of missing Defence personnel and POW's. I reiterated the proposal made by India earlier that the mandate of this Judicial Committee could be extended to also cover missing Defence personnel and POWs.

The issue of prompt return of the fishermen's boats and so also on working out the modalities for return of inadvertent fishermen crossers was discussed in detail as these are humanitarian issues affecting the livelihood of poor and marginal fishermen.

I commended the mercy petition by the family of Sarabjeet Singh, who has been imprisoned now for more than 20 years.

The Pakistan side raised the issue of progress of investigations in the Samjhauta Express Blast. NIA updated the FIA. It was also clearly stated that the progress of Samjhauta investigation could not be equated to the Mumbai Terrorist Attacks.

In the official level follow up discussions, the Home Ministry and NIA officers met their FIA & Interior Ministry counterparts. The Indian side outlined the further action/steps needed by the Pakistan side to ensure that the evidence available in Pakistan is gathered by FIA and that all conspirators of the Mumbai Terrorist Attack as well as of the wider conspiracy to cause terrorist attacks to inflict mass casualties in India, are brought to justice.

In conclusion, the following immediate next steps/outcomes, were agreed to:

- (a) India delegation will visit Pakistan in this week to settle the revised terms of agreement so as to facilitate an early visit of the Judicial Commission from Pakistan –preferably- immediately after the Courts reopen in January, 2013 and the convenience and Orders of the respective Judicial forums is obtained.
- (b) MHA, NIA & NCB team will visit Pakistan in January 2013 to operationalize the “Task Force” on counterfeiting and drugs trafficking.
- (c) That the Home Secretaries would endeavor to meet in the first quarter of 2013 to review progress.

The Interior Minister also called on the Hon’ble Prime Minister and Hon’ble Leader of Opposition Smt.Sushma Swaraj.

Thus to conclude, the emphasis was that the continuing peace process, Confidence Building Measures (CBMs) and enhanced people-to-people contacts between the two countries have to proceed in an atmosphere free of terrorism and violence. In this context, the need for bringing guilty of the Mumbai terror attack to justice was emphasized as being of paramount importance. On a larger plane, it was stated that terrorism is affecting all aspects of the relationship and that we must deal with this menace effectively.

GOVERNMENT BILLS

I. The Prevention of Money-Laundering (Amendment) Bill, 2012

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM), moving the motion for consideration of the Bill, said: The Prevention of Money-Laundering Act, 2002 was enacted in 2003 and brought into force on 1st July,

2005. The Act was amended in the year 2005 and in the year 2009. The problem of money-laundering is no longer restricted to the geo-political boundaries of any country. The Bill seeks to introduce the concept of 'corresponding law' to link the provisions of Indian law with the laws of foreign countries. It seeks to make provision for attachment and confiscation of the proceeds of crime if it is proved that offence of money-laundering has taken place and property in question is involved in money-laundering. The Standing Committee on Finance has made 18 recommendations and all of them have been accepted by the Government. Lok Sabha considered and passed the Bill on 29th November, 2012. I would request the hon. Members to support the Bill.

SHRI PRAKASH JAVADEKAR: This Bill has been brought to stop the bungling of black money. I am happy that majority of the recommendations of the Standing committee have been accepted by the Ministry. The Committee suggested that under-invoicing of exports and over-invoicing of imports are also major factors contributing to money-laundering. The Committee recommended that clients may also declare beneficial ownership while undertaking transactions. Appropriate declaration from the customers holding the safe-deposit lockers in banks may also be secured. The French Government gave complete list of the names of 700 accounts holders to the Government of India whose accounts were in HSBC bank of Geneva. But the Government of India is hiding these names in the name of confidentiality clause. In America, HSBC had done similar type of mistake but America acted strongly and HSBC agreed to pay 12 thousand crore rupees i.e. 1.9 billion dollars as penalty. We are blindly allowing the foreign banks in our country. What action you took against HSBC? The former director of I.B. has said that the black money of India which is in other countries and which is used for money-laundering is 500 billion dollars.

Hon. Home Minister has said that the money of terrorists is invested in the share market. It is a very serious matter. I want specific answer to that because this is an important concern.

If there is an issue of black money or money laundering even for a penny, you can investigate into it. The country expects much from the SEBI that it should take notice of such things. There is a proposal that cash transaction above Rs. 5000 or 10,000 should be done by cheque. I have raised this issue because it involves huge amount of money. I want to ask as to where is the money involved in the issue of bribery relating to this sum of Rs. 30,000 crore? You went into only one file of insecure loan and closed it. This is not a fight against the money laundering. If at all you want to fight against money laundering, the entire inquiry into all the scams should be of money trial. Hand over this work to the Enforcement Directorate. Check the PN route. Its amount has been invested in real estate. Make us aware of your action plan in this regard. If you want to make a start, start with the HSBC bank and prove it that India too can take such a step.

PROF. SAIF-UD-DIN SOZ: This august House, this Parliament must rise to the occasion that we must punish the people who spoil the life of the law abiding citizens. It is a laudable and positive measure to punish money launderer. No country of the world can fight this menace single handedly. The definition has been expanded to include various activities. So, nobody can hide anything. Now, no money launderer can evade punishment. The current Bill has removed the upper limit of fine. The another measure is provisional confiscation of property of any person for 180 days. If a person is guilty in the eye of the law enforcing machinery, that person is going to be convicted. Then any information can be sought for investigation. When a tribunal decides that the appeal will not lie with the high court, the appeal will lie directly with the Supreme Court of India. That will save time and the offenders

will be punished. There is a provision for special courts for speedy disposal of cases. The Bill proposes to bring all offences under Part A, irrespective of whatever the monetary limit is.

SHRI SATISH CHANDRA MISRA: Our party is whole-heartedly supporting the concept that money laundering should be stopped by all means and black money should be traced, confiscated and brought into the Government's fold. So, there should be all precautions taken for this purpose while thinking of implementing such provisions. Now the word 'accused' has been substituted by the word 'person charged' but charged under what? So, this will have to be explained and clarified. They may be misused by police authorities or other authorities. Finance Minister may clarify or may explain as to how this is required and what is the purpose behind this and why there is Clause (a) and Clause (b) over there.

SHRI K.N.BALAGOPAL: I am not 100 per cent sure that even after the introduction of this Bill and after passing of this Bill whether the Government is successful in doing with this Act to prevent money laundering this country. I will put some clarifications from the hon. Minister about some of the provisions.

A new clause has been introduced. It is a corresponding provision by which the Bill tries to equate or connect with corresponding foreign law with Indian law. If a money laundering case is tried in India, and, at the same time, some other country is trying the same case and that particular court in that country acquitted accused, then, under this provision, will he be acquitted here? If there is such provision in the Bill, it is dangerous. So, clarification on this is needed. Then, in the name of chit funds and private financial institutions, there are mushrooming of companies and thousands of crores are involved in this. I think, these have

come under this. 45 per cent of the FID coming into the country is through Mauritius. The Government has also accepted that FDI is also coming through Mauritius. To avoid double taxation we are allowing FDI through Mauritius route. Even after passing the Bill and even after notifying all the provisions of the Bill, the people, who are getting the benefit, are very secretly swallowing every benefit.

SHRI N.K. SINGH: We fully support the measures which the Government intends to take to strengthen the ambit and the application of the original Money- Laundering Act. But, at the same time, I have some concerns. There are no steps credibly being taken to mitigate the impact of round-tripping. The other point is the multiplicity of agencies involved in the issues of money-laundering. Is there any thinking on having a coordinated entity for pooling of these multiple information sources to be able to have a coherent action. Then, the issue of under-invoicing and over-invoicing via the trade route is an issue which deserves to be carefully monitored. This Bill is certainly a forward step in strengthening amplitude of the implementation of the Money Laundering Act. But, there are issues on which we would like to have greater comfort and greater clarification.

SHRI D. BANDYOPADHYAY: I rise to support the Bill in principle. But I have some concerns on certain other matters. The initiation of all the money-laundering takes place because we generate black money which is almost equivalent to white money. Unless we do not deal with the black money, dealing with other things is cosmetic-like; we cannot really eliminate them. My other point is about a corresponding law to link the provisions of the Indian law with other foreign laws. To link our law with a corresponding law elsewhere looks like surrendering our sovereignty to some other country.

PROF. RAM GOPAL YADAV: Whenever strict laws have been brought in the country to check the economic offences or other offences, they have always been misused. I have an apprehension that this Act can also be misused. The limit fixed in the Schedule (a) has been removed, in Scheduled (b) the limit is fixed at Rs. 30 lakhs, but in Schedule (a) its amount has been reduced. It can also be misused. It is a non-bailable offence. Whenever this kind of laws are enacted, there should be some safeguards so that an innocent person is not jailed.

DR. K. P. RAMALINGAM: Money laundering is a serious crime in which it is very difficult to trace and keep track of the flow of money because it involves multi-jurisdictional entities and involvement of various layers of transactions across several countries. This Act is very categorical in saying that proceeds out of the crime will be treated as money laundering. There is always an apprehension in the minds of the people that proceeds of the crime are entering India through stock exchange. With a view to mitigate the fear and also instill confidence in the minds of people, SEBI has been roped in as reporting entities and their valuable information will be used. The concept of corresponding law links the Indian laws with the laws of foreign countries. It will now become easy to trail the flow of money and conviction will be ensured. The proposed sections, 58A and 58B, make the release of seized and confiscated properties very difficult and it is the need of the hour to ensure powers to the local courts in India.

SHRI D.P. TRIPATHI: Those who are indulging in money-laundering are not merely prevented but are also punished. There should not be any vagueness in defining the charges, accusations and the proper, legal and judicial procedure. The rules, laws have to be specific about punishing anybody in any economic offence, and, especially, money-laundering. We should not make those kind of laws or

rules which are made to be broken. We should try to simplify the laws so that these are implemented. How you balance the Indians laws and the laws of other countries and execute them to punish the guilty. The punishment has to be quick and we should ensure that it doesn't take a long time. So, this amendment tries to make certain provisions to quicken this process and to try and punish the guilty as soon as possible, as effectively as possible. Therefore, on behalf of my Party, I support this amendment Bill.

SHRI RABINARAYAN MOHAPATRA: This amendment Bill has been brought to remove the difficulties arising in the implementation of the Act. The question now is whether this Amendment Bill of 2012 would remove the difficulties which have arisen in the implementation of the Act or we need some more amendments. The Government has not been able to keep its promises on bringing black money deposited illegally in foreign banks back into the country. The Government should define 'black money' on the floor of this House. In my opinion, the definition of 'money laundering' should be enlarged to include concealment, acquisition, possession and use of proceeds of crime.

I am aware that there is a crucial difference between money laundering and black money. The legislative intention of the Government should be to combat tax evasion as tax evasion is a criminal offence, and those acts should be included in the Schedule of the Money Laundering Act, 2012, in the wake of the financial crisis being faced in India. This Bill needs amendment to punish criminals generating black money in sectors like real estate, manufacturing, mining, education and hospitals. This Bill needs amendment to improve monitoring mechanism in the shape of coordination mechanism between SEBI and RBI to monitor the funds flow in the stock market. I urge upon the Government that India should take a lead on a more transparent global financial

system for the sake of not only its citizens but also for all developing nations. So, I support the Bill.

The Hon'ble Minister, replying to the debate, said: Money-laundering is more than simply converting black-money into white or white money into black. And anyone who directly or indirectly indulges or assists or is involved in any process or activity connected with the proceeds of crime and projects it as untainted property is guilty of offence of money laundering. So, money-laundering is a very technically-defined offence. Initially the thinking was unless a person was convicted of the predicate offence, you cannot convict him of money-laundering. The Financial Action Task Force has now come around to the view that if the predicate offence has thrown up certain proceeds and you dealt with those proceeds, you could be found guilty of offence of money-laundering. We are trying to make this law on lines of laws that are commended by FATF. This Bill was passed in 2002. We amended it in 2005 and 2009. We are amending it in 2012. All I am trying to say is that this is an evolutionary process.

We have made a distinction in the 'burden of proof' so that it does not fall heavily on persons who are not charged with offence of money-laundering. We have now tone down this provision. In (a), there is a person charged with the offence of money-laundering – the principal offence under the Act. In (b), it is any other person who is brought before the Court. So, we have now made a distinction between a person charged with the main offence of money-laundering, and persons who are charged with other offences because, as you know, under sections 43 and 44, all other offences shall be tried by the same court which tries offence of money-laundering.

We have lifted 25 paragraphs under Part B and added it in Part A. Part B has been left blank. In case the Parliament

wishes to add any other offence, we can still add the same in Part 'B'. FATF requires that you must prosecute every person for money-laundering irrespective of the value of the proceeds of the crime. Today, even if the value of the proceeds is five lakhs or ten lakhs of rupees, as long as a predicate offence is presented, he has to be charged with the offence of money-laundering. It is intended mainly to fight the menace of terrorism. This money today is the money that funds terrorism.

If anyone violates Section 135 of the Customs Act, either by over-invoicing or by under-invoicing, it is a predicate offence and the proceeds of that crime would be a crime of money-laundering. I request the House to pass the Bill. But we cannot equate every section in our law with a section in the other law. So, if there is a corresponding law, and, one has been prosecuted in other country, and, the matter comes before our court, the court will look at that law and our law, and, find out as to which is the section in that law which corresponds to our law.

*The motion for consideration of the Bill, was adopted
Clauses etc. were adopted.
The Bill was passed.*

II. The Constitution (One Hundred Seventeenth Amendment) Bill, 2012- Contd.

SHRI THAWAR CHAND GEHLOT: Reservation in promotion alongwith reservation is implemented since 1955. Article 16 (4A) provides a right to states to make a provision for giving reservation in promotion. Many states have implemented it. Court seeks the information that proper representation is being given or not, the backwardness of the person is removed or not to whom promotion is being given and there will be no negative effect on the efficiency of the responsibility he is going to take after promotion. There is not

a even single SC/ST secretary at the secretary level in the Government of India. They feel that they are deprived of their rights. Many SCs/STs posts are lying vacant for many years due to non-availability of eligible candidate. These posts would be filled after getting the eligible candidate as they are only meant for them.

BJP believes in the social equality. In Article 341 and 342 it is state that these sections would be considered as backward. It means that law of OBC would be implemented here. Reservation to SCs/STs is being given on the basis of social educational and economic backwardness. If these words are added in this it would create problem. So, it should be considered.

This law is not going to do injustice to any section and will not give extra benefit to any section. Article 16(4A) is necessary for social harmony and social justice. There is still a backwardness in SCs/STs and they are not getting proper representation. I urge that we should stop playing politics with SCs/ STs and work in the ambit of constitutional provisions to bring social harmony and justice.

SHRI PRAVEEN RASHTRAPAL: The entire confusion and opposition to the reservation can be removed by introducing a reservation Bill. The Government of India is not taking appropriate action for passing the reservation Bill in Parliament. Various State Governments have got the reservation Act. But the Central Government has failed to make a reservation Act. All the 100 percent posts are not filled by recruitment only 67 percent posts are filled by recruitment and 33 percent posts are filled by nomination, not by promotion. So, if you do not give reservation in promotion, the very purpose of reservation will get defeated. Appointment can be made either by recruitment or by selection and there are cases where there is even direct

recruitment, and Class I officers are appointed by the Government without any examination.

According to the convention and rule of this country, nine judges' judgment in the Indira Sawhney case in 1992 is to be implemented. You are talking of merit only in recruitments where the Scheduled Castes are given a share. Historically, they have suffered. That is why they have been given this reservation. No where in the world there is a community which is treated as untouchables but they are treated as untouchables. You cannot oppose reservation for Scheduled Castes and Scheduled Tribes because these castes are decided by article 341 and 342 in the Constitution. Now, the entire assembly will decide who is a Scheduled Caste in that particular State and that list will be sent to Central Government and only after Parliament passes, it will be treated a Scheduled Caste. I request my friends from Samajwadi party kindly let us not have much discussion on this subject and pass this Bill.

SHRI SUKHENDU SEKHAR ROY: I support this Bill, but at the same time I expect from the Government to introduce a similar legislation for minority dalits and other socially and economically backward classes.

A provision should also be made in the present Bill for the creation of supernumerary posts for those who are otherwise to be promoted on the basis of merit.

SHRI NARESH AGRAWAL: Samajwadi Party is not against the reservation but we are opposing this Bill as it will create a divide in the society which would be faced by the generations to come.

There are so many laws in the country which are not effective. So these laws should be reviewed. If majority of people are against a law, that law should not be passed. The condition of Muslims is also very pathetic in the country.

If you do away with Article 335 and remove the condition of ACR of the officials then it would certainly affect the system and discipline of our democracy. If only the few castes in SC/ST categories are getting the benefit of reservation and other are still deprived of it, than what is the use of this reservation system? The Government should conduct a survey in this regard so that these deprived castes should also get the benefit of reservation.

If this Bill is implemented with the retrospective effect, it would affect the efficiency and would also force our youth to migrate to other countries for employment.

Like FDI, this matter should also be left on the discretion of the state government and should not be binding on them. This Bill is facing serious opposition in several states. I also suggest that this Bill should be referred to the standing committee. I strongly oppose this Bill.

SHRI MANGALA KISAN: Our Constitution makers had a great vision about our country and also about its social fabric. Hence they made the provision of reservation for SC/STs keeping in view the socially, economically and educationally backwardness of these castes. The whole country should obey and respect the Constitution.

A propaganda is being made that due to the reservation system all the government jobs are going in the kitty of SC /STs. This is totally a misconception as SC/ STs are getting reservation according to their ratio and they did not get adequate representation in government jobs till now. Even the posts reserved for them are not being filled.

In today's, changing corporate world, SC/STs peoples are still deprived of the proper and quality education. How could they compete with a student studied in English Medium School? The Government should think about it and give them

equal facilities in the field of education at least. With these words I support this Bill.

SHRI RAM VILAS PASWAN: I support the Bill which should have been brought much earlier. In Mandal Commission case the Supreme Court gave the judgment that there will be no reservation in promotions after 05 years. Then the then Congress Government brought the Constitutional amendment in this regard and got it passed unanimously. After that the BJP Government brought three Constitutional Amendment Bills and got them pass as well.

I would also like to mention here that we also support the reservation for backward casts and muslims. We would fully support the Sachar Sachar Committee report regarding this. There is no major difference between the backward class and dalit class as far as their position in the society is concerned. There are several casts which are amongst Scheduled castes in one state and in some other caste in the other states.

This is not the matter of merit. We want to thank people of all section of the society that they have accepted the matter of SCs/STs. This is not a caste fight. We are fighting to change the system. The Supreme Court has held that the merit with regard to SCs/STs is meaningless. So this efficiency argument is meaningless. Still in many parts of the country the politics to divide Scheduled caste is going on. We are committed here. The issue of reservation of SCs in promotion is a Constitutional out come. We strongly urge that this Constitutional Amendment should be passed unanimously.

SHRI HUSAIN DALWAI: I support this Bill. Our Parliament should be united on this issue. We all should create such atmosphere in the country that the people of high caste do not go against it. This reservation is very necessary till there is caste system and there is injustice with the people at lower level. I request my colleagues that together pass this

Amendment Bill. I appeal that there should be no dispute on it. If we want to develop, the whole society should be united.

SHRI BHUPENDER YADAV: I am of the view that there is failure of UPA Government behind this atmosphere in the country. Today there is vote politics. We have to provide justice to every section of the society. The Supreme Court upheld four Constitutional Amendment regarding reservation in promotion. My party is clear that make relaxation under 335 a guiding force otherwise it would be against the social justice and administrative efficiency of the country also. Therefore we request the Government that the provision of 335 in this reservation Bill should be withdrawn by the Government.

Regarding the implementation the Supreme Court stated that there should be four basis of reservation in promotion -Backwardness, data, inadequacy of representation and efficiency. Our party is clear that dalit christens and dalit muslims cannot be including in reservation of Scheduled caste. They can avail reservation only in backward class. Today, the weaker section and such section in the higher classes of the society which is economically week should also get benefit of the affirmative action of the society.

PROF. RAM GOPAL YADAV: I oppose this Bill. We are not against the reservation. The deprived class should get reservation in the jobs. All people are against consequential seniority. I would like to say that don't do wrong which you are doing. It would not stay on the scrutiny of the Supreme Court. If this Amendment can be brought, I

demand from the Government that keeping in view the interest of the people of the country, the Constitutional Amendment should be brought to remove consequential seniority.

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