

RAJYA SABHA

***SYNOPSIS OF DEBATE**

(Proceedings other than Questions and Answers)

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**CALLING ATTENTION TO A MATTER OF URGENT
PUBLIC IMPORTANCE**

The Issue of Safeguarding Net Neutrality in the Country

SHRI DEREK O'BRIEN: I call the attention of the hon. Minister of Communications and Information Technology to the issue of safeguarding net neutrality in the country.

THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD): Let me begin by making a commitment, an assurance to this hon. House and through the House to the people of India - this Government is committed to the fundamental principles and concept of net neutrality, that is, keep the Internet accessible and available to all without discrimination. Within 100 days of assumption of office, the Government under the leadership of the Prime Minister, Shri Narendra Modi, initiated the programme of Digital India in a mission mode, designed to transform India into a digitally empowered society and knowledge economy. Digital India is designed to bridge the divide between the digital haves and digital have-nots and reach digital connectivity to a billion citizens. Digital India has basically three components: (a) creation of digital infrastructure as a utility for the citizen of India; (b) digital delivery of services; and (c) digital

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

empowerment of citizens. Digital connectivity has emerged as a key driver of economic and social development in an increasingly knowledge intensive global scenario, in which India needs to play a leadership role. The programme is designed to ensure that the socio-economic scenario across India is transformed through accelerated equitable and inclusive economic growth by laying special emphasis on providing affordable and quality access to broadband and the Internet in rural and remote areas. We are confident that sustained adoption of technology would offer viable options in overcoming developmental challenges in education, health, employment generation, financial inclusion and a host of other services designed to make life more meaningful. We recognise that digital technology can afford means for millions of our citizens to improve their economic lives.

The world has changed so much in a short time. Countries across the world have moved from an emphasis on physical connectivity to economic connectivity and lately to digital connectivity. At the heart of digital connectivity is the public Internet - which has connected near and far, poor and rich alike. Internet is a new technology - its protocols were written not more than forty years ago. The public Internet - the worldwide web - is only 23 years of age. In this short span of time, it has come to occupy the centre of the world. This has been made possible by the open, democratic structure of the public Internet - equal and accessible to all those who are connected to the network. In India too, the new age economic growth is being fuelled by the Internet. This Government notes with confidence the growth of Internet in India and wide platform it has offered for innovation, investment and creativity. In particular, the Government compliments the initiative and entrepreneurship of the young in making India a power-house in Information Technology (IT) and Information Technology Enabled Services (ITES). Studies by the Indian Council for Research on International Economic Relations (ICRIER) show that every 10% increase of internet subscribers leads to 1.08% increase in our GDP. A similar study by the World Bank showed that for every 10% increase in broadband leads to 1.3% growth in national GDP. While it has significant macroeconomic

contribution towards growth, productivity and employment, its empowering influence not only benefits large enterprises but also start-up entrepreneurs & individual citizen.

The Internet has also emerged as a destination for public discourse. In a free, democratic country, the Internet has increasingly become an important platform of information dissemination and exchange of opinion and views. Just as India values its constitutional guarantees of freedom of speech and expression, it also values an Internet that is open. Discourse on Internet on a variety of issues has led to the empowerment of the common man.

While reiterating this Government's commitment to the core principles of net neutrality, we must recognize that there are nuances to the issue which needs deliberation to make it more meaningful. If this had not been so, the issue of net neutrality would not have become an issue of debate and litigation across the world - even in the Western world - where the Internet occupies a much more central role in the nation's economy and society. I have had occasion to study the debate on net neutrality in the United States of America from where the Internet originated. The Federal Communications Commission (FCC), the communications regulator in USA, declared a set of regulations for an open Internet in 2010. These regulations were challenged in U.S. Courts by Internet Service Providers and were struck down in January 2014. Thereafter, FCC came out with a consultation paper in May 2014 that asked for a response, amongst other questions, to a query as to whether 'paid prioritization' that permits Internet Service Providers to charge content providers to provide greater bandwidth for their end-users, should be allowed. FCC was swamped by over three million mails in response to the consultation paper. The recent FCC rules announced in February 2015 have been decided by the regulator with a slim 3-2 majority and have promptly been challenged in U.S Federal Courts. As per media reports, the European Commission is meeting in early May to decide on whether Over-the Top (OTT) players who provide communication services over the Internet should be regulated.

The debate in India has also gathered over the suo motu consultation paper issued by the Telecom Regulatory Authority of India (TRAI) which asked for responses to a number of questions concerning the regulation of OTI players. If the issue did not have nuances to it, why then would experts and regulators all over the world be breaking their heads over it?

It is, therefore, imperative that we not only preserve, but also foster a non-discriminatory Internet ecosystem, wherein Telecom Service Providers, content and application providers, industries, entrepreneurs and above all, the citizens of the country have a stake. Government stands for ensuring non discriminatory access to Internet for all citizens of the country and the current debate on Net Neutrality should be seen from this perspective while resolving the issues harmoniously and consistent with the constitutional and economic principles.

What is net neutrality? Professor Tim Wu, who coined the word "net neutrality", stated, "network neutrality" is best defined as a network design principle. The idea is that a maximally useful public information network aspires to treat all content, sites and platforms equally. This allows the network to carry every form of information and support every kind of application." Net-Neutrality thus refers to non-discrimination of data packets by intermediate networks of Internet on the basis of content, application, service, device, sender or recipient address etc. Generally, it places the requirement on Telecom Service Providers to treat all Internet traffic on an equal basis. Net-Neutrality has many dimensions impacting economic, regulatory and public policy aspects. The Government agrees with the viewpoint that blocking & deliberate slowing down/ speeding up of lawful content on Internet should not be allowed and customers should have unrestricted access to all lawful content on the Internet. There would be instances, such as traffic management, national security, integrity of the network, investment in infrastructure, etc. where the implications of net neutrality would need a detailed expert examination. This is what governments and regulators all over the world are grappling with.

I am informed that very few countries have opted for specific legislation for enforcement of Net Neutrality provisions. In its recently released report "2014 Web Index", Web Foundation has found in its study across 86 countries that 74 per cent of the countries lack clear and effective net neutrality rules and/or show evidence of price discrimination. On the basis of measures undertaken to enforce net-neutrality, nations can be broadly divided in three categories:

Countries with no specific measures undertaken, as existing mechanism is often considered sufficient to address the issue. Examples: Australia, Republic of Korea, New Zealand etc.

Countries with light-handed regulatory measures, for example, transparency, lowering switching barriers, minimum Quality of Service (QoS) undertaken in these countries. Examples: European Commission, Japan- United Kingdom etc.

Countries with specific legislative measures undertaken/ being undertaken in these countries to enforce no blocking, no discrimination in treatment of traffic. But most of these provisions are not absolute but subject to reasonable network management and other exemptions. Examples: Brazil, Chile, Netherlands, USA, etc.

As per the Telecom Regulatory Authority of India (TRAI) Act, TRAI makes recommendations to Government on regulating various aspects of telecom sector through a transparent, open public consultation process. TRAI has issued, suo motu, a consultation paper "Regulatory Framework for Over-the-top services" on 27.03.2015. While TRAI has the power to regulate tariff and quality of service, its regulations are subject to the overall public policy of Government. On other issues, TRAI can make recommendations and final decision rests with Government. Even on tariff and quality of service regulation, these have to be in accordance and consistent with public policy and the Government has sufficient powers under the TRAI Act to invoke its national policy objectives to give directions to TRAI.

The Government has also separately constituted a committee with the mandate to recommend overall policy and technical responses to Net Neutrality. The Committee has already held

stakeholder consultation meetings with Over the Top (OTT) players, Telecom Service Providers/ Internet Service Providers, Civil Society Members and Consumer groups, Multi stakeholder Advisory Group (MAG) of the Department of Electronics & Information Technology (DeitY) and various Associations/Industry bodies. The committee is expected to submit its recommendations by this month end. The Government will then take a structured view on the way forward. I assure this Honourable House that the key principles of net neutrality will be followed while addressing concerns with a national outlook.

The Hon'ble Minister, replying to the points raised by the Members, said: A lot of debate raged around the concept of net neutrality. My idea is that the internet must go in an unhindered manner and the companies should not charge more about it. Today the entire House has spoken in one voice and the quality of debate shows the entire depth of the House. Information is a power and people should get it. Concerns have been expressed about TRAI. As far as TRAI is concerned and I want to assure this House that we don't intend to interfere upon the independence of TRAI. But as a Government whatever is required to be done to safeguard the interests of the people of India, the Government will always exercise that power. The privacy issue is a question to be considered. I take note of that. Whether they could have in freeze completely the identity, the names, and the e-mails of the Members is a matter of concern. The Government stands for a non-discriminatory access of internet to the entire people of India. We have got a proper licensing condition when we give any licence to any telecom service operator. People of India have an extraordinary aptitude to accept technology. World is changing. No one can reverse this process. I am deeply grateful for the very meaningful debate.

GOVERNMENT BILLS

I. The Repealing and Amending Bill, 2015

II. The Repealing and Amending Bill, 2014

THE MINISTER OF LAW AND JUSTICE (SHRI D.V. SADANANDA GOWDA), moving the motions for consideration of the Bills, said: After the long gap of 14 years now we are coming up with Repealing and Amending Bills. The object of the Repealing and Amending Bills is to correct the formal defects or the patent errors detected in the enactments of Bills. I want to say that, as far as the recommendations of the repealing and amending exercise for every five years is concerned, certainly, it has been noted for consideration and it will be taken for future compliance. The Select Committee in its Report has recommended passing the Bills. In future, after due consultation with various Ministries and Departments, we are going to take care of all those things. After 2001, for the first time, we are bringing this Repealing and Amending Bill. I hope, the whole House would agree to this and pass it.

SHRI AVINASH PANDE: This move is to repeal so-called "obsolete" laws without adequate discussion and deliberations. How laws can become obsolete in a matter of 15 years or less? The Bill, even considers laws that were passed as recently as in 2013 to have become obsolete. The Government is out to undo the work of the previous Government en masse. This is not legal reform by any definition. The repeal of these amendments will be an extremely regressive measure. Has the Government consulted any members of the legal fraternity before deciding that we do not require Plea Bargaining in our justice system? I want the Government to explain how this provision of accountability on the part of the police forces, has become obsolete. Has speedy justice become obsolete in view of the Government? This is a highly unfortunate and regressive measure being taken by the Government. I believe that the Bill cannot be passed in its present form and I strongly oppose the Government's move to have it passed in such a hasty manner. The Bill must be referred to the Parliamentary Standing Committee on Law and Justice for a detailed analysis.

SHRI AVINASH RAI KHANNA: The Acts which have no relevance, all such Acts should be repealed by and by. Most of the laws were made when our country was slave. They have made the laws as per their convenience to run this slave country. Today, the country is independent, so we should make such laws which are for the benefit of people of the country. This is a very important initiative of the Government. When people's dignity and trends change as per the changing time, the Government brings out any legislation keeping that in view. I would urge upon the whole House to pass this and those laws should also be amended which are required to do so. The laws which have no relevance, should be abolished. I support this Bill.

SHRI MD. NADIMUL HAQUE: There should be a separation of amendment and repeal in all such Bills. Most of the Bills to be repealed are mainly Appropriation Acts. Why are we making so much effort to repeal such Acts? There should be automatic repeal clause in such Acts. We shouldn't continue with the British procedure which is causing administrative delays and making our task cumbersome. There is no uniformity in repealing obsolete laws. I request the hon. Minister to make provision of fixed time interval for repealing of such obsolete laws, so that unnecessary burden could be removed from the Government book. It has no legislative effect. On behalf of my party, I support the Bill.

SHRI A. NAVANEETHAKRISHNAN: The review of all enactments must be made compulsory or mandatory, at least, once in two years. The judgments rendered by the High Courts and the Supreme Court must be taken note of, in all the enactments and there must be a separate law for that purpose.

SHRI VEER SINGH: It would be better if law makers, abolish obsolete laws before starting to make new laws. The Law Commission studied the obsolete and irrelevant laws in 1998 and by abolishing them, relief to the people and the courts can be provided. Eleven laws are such which were made during colonial period and they are in force today also. The only reason to do away with a law, is not being its very old. Abolishing irrelevant laws would be easier than making them. I demand from the Government that they

should present the Bill in a comprehensive form before the Parliament, so that obsolete and irrelevant laws can be abolished. This is a commendable step. I support this Bill.

SHRI BHUPINDER SINGH: We are going to repeal 36 Acts today through these two Bills without asking the respective department. We are bringing Amending Bills to repeal the Acts. Whether the entire section of the Bill is being repealed or some parts of it. The law should not be complicated, it should be very simple. I particularly request the Minister that when you are repealing any Act, you should not bring that after thirteen years. You can bring them next year also. The Acts which are totally obsolete should be repealed once and for all.

SHRI SHADI LAL BATRA: Why these 36 Acts are being repealed on the basis of their merits? The Government has no reply for this. Those laws should be repealed which have no effect on anybody, but what impact the States will have that have enacted their legislation because of these laws? What would be the position of further acts after the basic acts are done away with. The government will have to tell the reasons before repealing any act. Opposing this bill, I would request the government that decision regarding repealing or not repealing a bill should be based on its merits and demerits.

SHRI K.N. BALAGOPAL: The government should give detailed reasons why it is repealing any law. In both the present bills, this lacuna is there. Executive is not properly framing the rules even after passage of long time after passing the bills. In principle, I am supporting this bill, but the government should come up with proper details.

The Hon'ble Minister, replying to the debate, said: The Repealing Acts are identified by the law commission. These two bills were thoroughly examined by the standing committee and the Select Committee. Only the amendment portion of Wakf Act has been repealed and not the whole act. We are consulting various departments on how to bring in an automatic repeal clause. So far, nearly 1,863 obsolete laws have been identified for repeal and steps to repeal 1,359 acts have been taken. The Repealing and Amending Bill, 2014 and the

Amending Bill, 2015 are only proposals for a legislative measure. Statutes enjoy immortality and a repealing Act is essentially part of statute law revision.

I. The motion for consideration of the Bill was adopted.

Clauses etc. were adopted.

The Bill was passed.

II. The motion for consideration of the Bill was adopted.

Clauses etc., as amended, were adopted.

The Bill, as amended, was passed.

DISCUSSION ON THE WORKING OF THE MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

SHRI DEREK O'BRIEN, initiating the discussion, said: Disabled, OBCs, Transgenders, Scheduled Castes and Scheduled Tribes and Senior Citizens are broad groups covered under the Ministry Of Social Justice And Empowerment. The budget for this ministry should be doubled. There are 11 thousand manual scavengers in the whole country, out of which, 10 thousand are in Uttar Pradesh alone. No money has been spent in U.P to rehabilitate manual scavengers. We need to have an effective mechanism to eliminate manual scavenging. Nadia district of West Bengal became number one district in the country by constructing three and a half lakh toilets. More budget needs to be spent for rehabilitation of manual scavengers. The budget allocated for senior citizens is miniscule. The amount spent on senior citizens should be increased and cost of administering the scheme should come down.

The specific suggestions in National Policy on Senior Citizens should be considered. The definition of disability under the current Act does not include autistic children, men and women. They should be included. Transgender Welfare Board should be Transgender

Development Board. There is suggestion of including Transgenders in OBC category. Distributing the land vested with government to Scheduled Castes and Scheduled Tribes, has worked very well in West Bengal. The creamy layer criterion for OBCs may be raised from Rs.6 lakhs to Rs.10 lakhs.

On minorities, the Sachar Committee recommended the setting up of the Equal Opportunities Commission. The Equal Opportunities Commission made certain recommendations and there was a draft Bill, to the best of my memory, which was made in 2007-08. I would request the Minister to take a look at this. I will end with the last mention about women because you cannot discuss social justice and empowerment without touching on the women. Here, the point is on the 33 per cent or one-third reservation. The current average of women in the Lok Sabha is a dismal 11 per cent. I would urge upon the hon. Minister that, after listening to all of my colleagues, to come back to us, through some written form.

SHRI MADHUSUDAN MISTRY: The definition of Social Justice and Empowerment is too wide and we somewhere feel that people are not getting the social justice and empowerment to the extent they deserve. Which section of society comes under this entire Ministry? People working on daily wages, who do not get works and who come under the 'Shudra' category are normally included in this category. The mandate of the Ministry for welfare and social Justice is not achieved merely from welfare. This mindset has to be changed. Only five-six communities out of the labourers of Backward Class or those included in the report of Mandal Commission, are politically strong. They take more shares while rest of the communities are ignored. Why the Ministry does not interfere when they do not get minimum wages?

The situation in the country is turning so today that if anybody desires to become a doctor and goes to take admission in a collage, he will have to pay 50-80 lakhs and a fee of 5 lakh rupees. In such a situation how does the mandate of your Ministry is going to minimize inequality in the country? Your department monitors civil rights. Your department monitors the atrocities on the Scheduled

Castes and Scheduled Tribes. Most of the atrocities are committed by Government employees, forest department and police department etc. What did the Ministry do in this regard? Those who are skilled, do not have any social security. I ask Government why a law is not framed in this regard? There are hundreds of communities who have not received any relief from Government till date and neither their lots improved. You will have to change your laws drastically and monitor them. Most of the social activists under civil rights who become victim of atrocities, are from Backward Communities. What are we doing for them who die in police custody? What kind of monitoring is done from our department? Untouchability is still there. They are still not allowed to enter the temples. How many cases have been registered? The mandate of ministry has to be changed and implementation of Civil Rights laws has to be strengthened more. The implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has to be done more effectively.

SHRI TARUN VIJAY: I treat the ministry of Social Justice and Empowerment as most important among all Ministries. I request to keep the trans-genders in a separate category and not with beggars. Because, when you write them with beggars it seems that you are finding a similarity between the two. In our country, more than 30 per cent people belong to Scheduled Castes and Scheduled Tribes. Atrocities on down trodden in the country are increasing everywhere. The cases of atrocities in 2008 were 33,615 which reached to 46,000 in 2013. We say that nothing has been written discriminatory against them in our religion and "Dharm-Shastras". But what is the ground reality? Recently, I was in a South Indian State. I was told that there was a separate crematorium for Scheduled Castes there. This should be banned. Writing of higher caste to any caste and writing of inferior caste to any caste in media or elsewhere has to be banned. I would urge the Minister that a special plan should be made under which special incentive schemes should be initiated on behalf of Ministry to bring these people to higher posts in media and journalism. I would like to make a small mention of Scheduled Tribes also. They also fall victims of social discrimination and the caste based discrimination. This task cannot be completed from the grants of Government or

Government run schemes. People will have to change their mindsets for this. I would request the Hon. Minister to alienate the Balmiki Community from the task of sanitation and employ them in some alternative jobs and those who want to remove their filth, may make their own arrangements. All our incentives schemes should be framed in such a manner that maximum people belonging to schedule castes be encouraged to come forward and join the various fields, like business, industry etc. and I request the Government to take them together in decision making mechanism also. The various incentive schemes meant for them be disseminated. Schools of excellence and universities of excellence of the society should properly be categorized and be given for the development of the Scheduled Caste and the Scheduled Tribe people. This issue should not be politicized.

DR. TAZEEN FATMA, making her maiden speech, said:

Even after so much time of independence, helpless people of weaker sections still deprived of human rights and struggling to get social justice. Unless difference between rich and poor, big and small and gender disparity is removed, the need of social justice will always be felt. India is still struggling with inequality in various fields. The Government on one hand is giving free and compulsory education for the children between 6 to 14 years of age and on the other hand closing the child labour schools being run for the most deprived and children of labourers. Educational budget be sufficiently increased for prosperity in the country. During the age of women empowerment today, women are fighting for their rights in every field and are not feeling fully protected. There is need to inculcate the social awareness among people towards women. The framers the Constitution of India had envisaged an independent nation having social justice for all, but we are not honouring that spirit of the constitution. It is the duty of every citizen to protect the unity and integrity of the country and should desist from making any statement which may prove dangerous for the nation. A lot of farmers would not have committed suicide or died of sudden shock, had the Government followed the principles of social justice. It is likely that Land Acquisition Law will not have far reaching results. I request the Government to have such an educational system where youths can learn moral values and respect all religions.

The Government should also rein in those forces which spreads hatred in the society and at the same time, all possible efforts be made for establishing social justice.

SHRI SHARAD YADAV: The condition of social inequality is still the same after so many years of independence. We are not learning anything from other nations though we have come very close through marketing. The untouchability can be seen even today in the country. Many struggles were fought against the caste system in the past but it is far from vanishing and dividing India. The people belonging to Scheduled Castes and Scheduled Tribes are not being properly represented in Government services of various groups. The Government is bringing in more and more castes under the ambit of reservation. It cannot prevent it.

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