

## RAJYA SABHA

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### \*SYNOPSIS OF DEBATE

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(Proceedings other than Questions and Answers)

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Tuesday, November 26, 2019 / Agrahayana 05, 1941 (Saka)

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#### Eleventh Anniversary of Terrorist Attacks in Mumbai

**MR. CHAIRMAN:** Hon. Members, today, the 26<sup>th</sup> of November, 2019, marks the Eleventh Anniversary of the horrific terrorist attacks in Mumbai, which claimed numerous innocent lives and injured many others.

On this day, we remember the supreme sacrifices made by our brave security personnel, who fought valiantly to thwart the sinister motives of the terrorists. We pay our tributes to the security forces for being ever vigilant and dutiful in protecting our country and securing the liberty and freedom of the citizens. We also remember all those innocent citizens, who lost their lives in that gruesome terror attack.

I am sure, the whole House will join me in condemning such incidents in unequivocal and harshest terms. We reiterate our strong resolve to fight the scourge of terror with determination and fortitude, and devote ourselves to protect and strengthen the sovereignty and integrity of our nation.

*(One Minute's silence was observed as a mark of respect to the memory of those who lost their lives in this tragedy.)*

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

## GOVERNMENT BILLS

### **The Transgender Persons (Protection of Rights) Bill, 2019 - Contd.**

**SHRI TIRUCHI SIVA:** In Tamil Nadu when DMK was in the power a Welfare Board for Transgender was constituted. I thought that a law must be there for the welfare of the transgender community across the country. In our society, the transgender community are ridiculed everywhere. We have to change this mind set. The Government has to come to their protection by way of a law. The BJP opposed my Bill and brought one from the Government side. I don't want the credit. I want the issue to be resolved. A Private Member's Bill should also become an Act. I have to mention here that most of the clauses in this Government's Bill have been carved out from my Bill. But they have not accepted some of the suggestions which I have made. There is nothing wrong in scrutinising a Bill twice or thrice. This Bill must be sent to a Select Committee. If the Report of the Select Committee comes, we would be going to support. The transgender community needs a comprehensive Bill. There should not be any ambiguity in the definition of transgender. They are supposed to apply for a certificate. This is again a sort of humiliation. They are hopeless, the society insults them, they don't have education and employment. No human being should be humiliated and discriminated. My suggestion is that there should be a statutory commission for them. They should be given some reservation in education and employment also.

**SHRI V. VIJAYASAI REDDY:** I support this Bill. This much needed Bill for the welfare of the transgender community would reduce the discrimination they face. This Bill addresses the main reason of discontent of transgender community which is under severe discrimination. The Bill provides the basic benefits, and the benefits related to employment, health, education, etc. Clause 4 (2) talks about the self-perceived gender identity. If self-determination of one's gender identity were to be the self-criterion to receive the benefits, it could be misused by others to claim such benefits. The person would be recognised as a transgender on the basis of certificate of identity issued by the District Magistrate. The Bill also states that the person

who is recognised as a transgender shall have the right of self-perceived gender identity. It is unclear how it will be enforced by the law enforcing authorities.

**SHRI DEREK O'BRIEN:** We have not put a clear number how many transgender persons are in India. There are only two numbers available. One is the kind of official number which says that they are anywhere between 7 lakh to 9 lakhs; they are under a million. There are some estimates to say that there are 4 million or 40 lakh transgender persons. We appeal to the Leader of the House to please send this Bill for further examination to a Select Committee. There are at least three or four other legislations where we can empower transgenders. We need to look at it. What happens if a man rapes a transgender? The maximum punishment for sexual offence and other such offences is six months to two years. The first State in the country to set up a Transgender Board is either Tamil Nadu or Bengal. In Bengal, the transgenders have ID cards. With those ID cards, they can get education, health and employment, but there is no formal reservation for them. But it is happening today. There are about 20 to 25 colleges already. The bigger colleges have a toilet for them. So, they just feel a sense of comfort. There is a suggestion with regard to this bill. Either bring one Amendment, or, put it off for six weeks.

**DR. K. KESHAVA RAO:** I am for the Select Committee because this bill has a lot of lacunae. This is rarest of the Bills, about which we have no idea at all. Unless you go deep into very human nature, the culture in which a particular section lives and unless you understand them, you cannot do it. This legislation is very new to us. So, to say that we are experts, we know everything and whatever we are bringing in is final, is not right. So, these are some of the things that need to be looked into. The very definition of how to recognize or define a transgender is very different and controversial in this Bill and that needs to be looked into. I am trying to make a case to go to a Select Committee where these issues need a relook. Suppose a person is discriminated, the penalty for that has not been mentioned in this Bill. Suppose, you have to give a certificate of recognition, and you have not given the reasons for refusal. In case the reasons for refusal

are not given, can I go for an appeal against it? In the year 2014, the NALSA Judgement was there. They wanted the medical safeguards. Suppose, if the parents or near families do not accept them, then send them to the rehabilitation centers. What is a rehabilitation centre? So, this has to be revisited. Let the Select Committee go into the details and find out all these things. The Bill, of course, on the very periphery is affirmative. But, there is no machinery, there is no system which will stand in guard. For example there is no mention about reservation in the Bill at all. I come to confidentiality part of it. After all, we live our life with dignity. If you subject me to some kind of test, which will be made open, the confidentiality will be lost. This has to be protected. This is not just a human issue. More than a human issue, it is a social issue. They suffer a social stigma. You have not addressed that at all. We have to have training centres for them to provide them separate teaching. Let us send this bill to a Select Committee so that we can call more people and revisit a few of the issues which have been raised here.

**SHRIMATI ROOPA GANGULY:** Speaking about this bill, I feel very good. We have seen such people, friends very closely. Many people in this country still do not know what are transgenders? It has a physical side. It has an emotional side. Those whose physical sex organs do not develop properly, they become transgenders and whose organs are normal, only hormones are different, they later on feel that they probably want to change their sexual orientation. There are many good things in this bill. If they are to be admitted to school, then no one can stop. If they have to rent a house, no one can stop. No one will be able to misbehave with them anywhere. If they go for medical treatment, no one can stop them. If any of them are in a government or private job and later they have changed their gender, still no one can get them out of the job. In this bill, small things have been taken care of everywhere. If a community wants to take the child forcibly, then it will not be possible. Through this bill they will get a chance to live with dignity.

**SHRI A. NAVANEETHAKRISHNAN:** I welcome this Bill. I would tell what the Amma Government had done for transgender persons. The Transgender Persons Bill may be called as Third Gender Bill because the Supreme Court has declared them as 'third gender'. A National Council alone is contemplated for in this Bill. State Councils may also be constituted. The Tamil Nadu Government has given an order providing for reservation to third gender candidates. The Amma Government is a role model for the whole India.

**SHRI SATISH CHANDRA MISRA:** I thank and congratulate Tiruchi Sivaji that because of him, we are seeing this Bill from the Government on this day. I have to flag only three Clauses. If we see Clause 16, it defines who would be the members of the Council. The entire Act is to be controlled by the Council it would redress the grievances and it would perform such other functions. but nowhere is it mentioned how many times this Council would meet. hon. Minister says that in the rules, he would provide that there would be a meeting of the Council within three months or within one month. The last thing which I have to point out is about Clause 18 which is about offences and penalties. Penalty is for other things while it should be for the denial by the authorities who are authorised to issue the certificate. It should be there so that it acts as a deterrent to these persons that they should perform their duties.

**THE MINISTER OF SOCIAL JUSTICE AND EMPOWERMENT (SHRI THAAWAR CHAND GEHLOT), replying to the discussion, said:** So far thirty Honorable Members have expressed their views on this Bill. Therefore, I thank the thirty honorable members for participating in this discussion and giving their important suggestions. The Bill was passed in 2016, once passed in the Lok Sabha and later when the Lok Sabha elections were held, the Lok Sabha was dissolved, hence it was re-passed in the Lok Sabha for the second time. I assure the House that their bill was also taken into consideration and the opinion given by the Standing Committee was also seriously considered. We had also filed a review petition in the Supreme Court, I can say that Shivaji's bill was also considered while making it. The suggestion of the Standing Committee was also

considered and the directions of the Supreme Court were also considered. The apprehensions and misgivings that have been brought about this bill are unmindful. We have literally followed the direction of the Supreme Court. Along with this, the states which had already made many welfare schemes for transgenders, were also studied and they were tried to be incorporated whatever could be good among them. This bill is brought, its purpose is clear. It also has the provision of establishing a National Transgender Person Council. A provision has also been made in this chapter to prohibit the discrimination which has come about in Chapter-2.

There will be no discrimination on the basis of these points: -

Disclaimer of educational establishments and their services or non-continuance or inappropriate behaviour;

Inappropriate behaviour in or in relation to employment or occupation;

Disclaimer or termination of employment or occupation;

Disclaimer or non-continuance of health care services or inappropriate behaviour in them;

Deduction of or access to any goods, habitat, service, facility, benefit, privilege or opportunity or the provision or occupancy or use of the public or dedicated to the public for the use of the public;

Disclaimer of right of circulation or non-continuance or inappropriate behaviour in relation thereto;

Disclaimer of right or non-continuance or inappropriate behaviour in relation to residing, purchasing, renting or otherwise taking possession of a property;

Disclaimer or non-continuance or inappropriate behaviour of opportunity to stand or hold public or private post;

Disclaimer or remove or misbehave in government or private establishments that have a transgender person in their care or custody.  
";

Even today, transgenders have the right to contest elections. If someone tries to obstruct it in any way, then it will come under the category of crime. Similarly, chapter 3 talks about recognizing the identity of transgender persons. A transgender person shall have the same right to be recognized in accordance with the provisions of this Act. Under subsection (1), a person recognized as transgender will have the right to self-experienced gender identity. Now it is absolutely clear. What he has said will be considered. Transgender person shall apply to the District Magistrate as per specified rule to seek a certificate from him. We have also considered the collector as the authorized officer, because if a collector gives the certificate, Then it will be recognized all over the country. If we talk about getting a certificate from another officer, then the rules, laws, rules which have been made, will be considered a violation, so we have authorized the collector for this. But in case of unapproachable child, such application shall be made by the mother or father or guardian of such child. According to its part (2), the gender of a bisexual person shall be recorded in all government documents as per the certificate issued under sub-section (1). On receipt of the application along with the certificate issued by the District Magistrate, Medical Superintendent or Chief Medical Officer and after the veracity of such certificate is resolved, showing the change in gender, in such form and manner and within such time as may be prescribed, Will issue a certificate. A person who has been issued a certificate under section 6 or a revised certificate under sub-section (2) shall also be entitled to change his first name in the birth certificate and all other government documents relating to the identity of such person. 'Welfare measures by the government' - As I mentioned, welfare schemes have been made for them in many states, and based on that, we have made such an effort. According to its Section 8 (1), the appropriate government will take steps to ensure full and effective participation of bisexual persons and to incorporate them into the society. The Central and the State governments will also make rules and laws.

This is for both the Government Centre and the State:-

Clause 8 (2) - The appropriate government shall take such welfare measures as may be prescribed to preserve the rights and interests of the transgender person and to facilitate their access to the welfare schemes formulated by the government. If he is taking benefit from the Central Scheme he will also be entitled for taking benefit from State Government Scheme.

Section 8 (3) - The appropriate government shall formulate welfare schemes and programs, which shall be transgender, stigmatized and non-discriminatory.

Section 8 (4) - The appropriate government shall take steps for the salvation, protection and habitat of such persons to meet the needs of transgender persons.

Clause 8 (5) - The appropriate government shall take appropriate measures to promote and protect the right of transgender persons to participate in cultural and recreational activities.

Clause (9) - Shall not discriminate with a transgender person in relation to any placement, planning, which includes, but is not limited to, recruitment, promotions and other related issues.

Clause (10) - Every establishment shall ensure compliance with the provisions of this Act and shall provide such facilities to transgender persons as may be prescribed.

Clause (11) - Every establishment shall designate a person as the Grievance Officer to deal with complaints relating to the encroachment of the provisions of this Act.

Clause 12 (1) - No child shall be separated from his parents or near family by virtue of his being transgender, except by order of a competent court in the interest of such child.

Clause 12 (2) - In the household where his mother or father or a close family member resides, he shall have the right to reside there, Where he is born. There have been attempts to create a lot of doubts.

Clause 12 (2) (b) Shall not be excluded from such household or any part thereof. The right to consume such household facilities in a non-discriminatory manner. Like every family, they will have the right to live.

Clause 13. Every educational institution funded or recognized by the appropriate government shall provide opportunities for inclusive education and sports, recreation and leisure activities to a transgender person on an equal basis with other persons without discrimination.

Clause 14. The appropriate government shall formulate welfare schemes and programs, including professional training and self-employment, to facilitate and support the livelihood of bisexual persons.

Clause 16. (1) The Central Government shall by notification constitute a Transgender Person National Council to exercise the powers conferred on it and perform the functions assigned to it.

We are setting up this council because the number of transgender persons is 4,87,000 based on the 2011 census. The provisions being made in the Act by empowering the National Council, are being made because the National Council will be more empowered here than the Commission.

Mr. Derek Obrine Saheb raised the subject of sexual abuse and he said that for this, there is a provision of punishment of 6 months to 2 years in this Bill. Sexual abuse does not come under the definition of rape.

There is a huge difference between rape and sexual abuse. This is generally matter related to molestation. The offenses committed with them will be considered under the sections of the IPC. This is only for sexual abuse.

The recommendations of the Standing Committee have also been accepted in it. The suggestions of the Standing Committee have been included in it.

During the deliberations in the House many suggestions have come. I would like to assure the honorable members that while framing the rules, efforts will be made to incorporate the suggestions of the honorable members. Therefore, I request the House to pass this bill.

*Shri Tiruchi Siva moved an amendment for reference of the Bill to a Select committee of the Rajya Sabha.*

*The amendment moved by Shri Tiruchi Siva for reference of the Bill to a Select Committee of the Rajya Sabha was negatived.*

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

*Clauses etc., were adopted.*

*The Bill, was passed.*

### **The Chit Funds (Amendment) Bill, 2019**

**THE MINISTER OF STATE IN THE MINISTRY OF FINANCE AND THE MINISTER OF STATE IN THE MINISTRY OF CORPORATE AFFAIRS (SHRI ANURAG SINGH THAKUR), moving the motion for consideration of the Bill, said:** There was a demand since long from low income households or small businessmen that some facility may be given to them through this. Sometimes Chit Fund is taken for unregulated deposit or Ponzi schemes. Let me clear that Chit Fund is legal and regulated. The Standing Committee on Finance had given its suggestions which are given in the 25th report. Key recommendations of the Advisory Group and the Standing Committee have been taken care of now. Limits, for individuals as well as for firms has been increased. The commission of the foreman has also been increased. One more provision has been made that people can witness the draw through video-conferencing. Nomenclature of the scheme has been changed and 'Fraternity Fund, Rotating Savings and Credit Institution' has been suggested therefore. The term 'chit amount' is replaced by 'gross chit amount.' The 'prize amount' has been replaced by 'net chit

amount'. It will be now more user friendly and transparent. I do hope that we will hold positive discussion on the Bill and pass the same.

**SHRI P. BHATTACHARYA:** I belong to West Bengal and my State was severely affected by chit fund. I understand that Ponzi schemes and chit funds are not the same. I understand these things but the poor people do not take chit funds and Ponzi schemes as separate. They think that both are same. In many cases poor people commit suicide when they don't get the money back. That is the most unfortunate thing that I have observed in my State and other States too. It is stated in the Statement of Object and Reasons that the Bill was referred to the Department-Related Parliamentary Standing Committee on Finance but what had exactly the Committee said that has not been mentioned here. So, it was not properly examined in both the Houses. We did not have the opportunity to go into the details and examine this matter very clearly. The chit fund is not a Ponzi scheme. I understand that these are two different things. But, these chit funds itself also cheated the poor people. What are the measures to protect them. The Bill should be referred to the Select Committee.

**DR. NARENDRA JADHAV:** I would like to highlight two provisions which are very welcome. Periodically increasing the limits is necessary to make the chit fund less restrictive and rigid. The presence of subscribers at the time of drawing the chits through video conferencing is also a good step. I have some reservations about some penalty provisions. The punishment for various contraventions is only up to two years of imprisonment and five thousand rupees as fine. Getting sanction of the State Governments to operate such a Fund is necessary and fine of just five thousand rupees is severely inadequate. There is an imperative need for a provision in the Bill for punishment and penalty for those individuals and companies which operate with the fraudulent intention to dupe people into believing that they are investing in the chit funds. I strongly support the Bill.

**DR. ANIL JAIN:** The main objective of the Chit Funds (Amendment) Bill, 2019 is to remove misconceptions in the society in this regard and make it transparent. By changing its nomenclature, people will know the difference between Ponzi schemes and Chit

Funds. Chit funds are legitimate and rules-driven societies. Chit funds and Ponzi schemes were prevalent in the country because most people in the country were not connected to the banking system. We are all fortunate that under the leadership of Narendra Modi ji, more than 36 crore people in this country are connected with 'Jan-Dhan Yojna'. But chit funds are still beneficial for many people. With these amendments, chit funds will be regulated and there is a provision for punishment for scamsters. There are many companies that have cheated poor people. Chit fund companies have cheated millions of people in Tripura. No arrangements were made to apprehend such people. About 100 people have committed suicide in the Sharda Chit Fund scam. In this regard, the subscribers, depositors and agents forum claim that 265 people have died due to this scam. By bringing this amendment Bill, this government has done the work of protecting the money of the poor. About three lakh crore rupees of the country's poor have been defrauded by these scams and about 15 crore people have been affected by this. Various nomenclatures have been changed in the Bill. The Bill provides for fraternity bonds, rotating savings and credit institution so that the fund gets some respect. The limit of maximum aggregate amount has been changed. A chit fund run by three to four or less persons has a limit of three lakh rupees and a chit fund run by more than four persons has a limit of 18 lakh rupees. Formen's commission has been increased from 5 percent to 7 percent. It also mentions nomenclature like gross chit amount, share of discount, net chit amount. In order to bring transparency, it has been provided that when the draw of lot takes place, there should be two subscribers at that time and if it is not so, then to avoid a delay for this, there is a provision for the presence of the subscribers through video conferencing. It also has the provision to change the subscribers. Earlier, there was a ceiling of up to one hundred rupees, now it has been left to the state government so that the ceiling of the amount can be set. In view of the scams in the country, the system can be strengthened by making its nomenclature respectable in a transparent manner. It should work like the NBFC. Also, it should be controlled by the SEBI and the RBI. A system should be put in place, so that it can become a huge medium to help the poor of the country in terms of

employment, small capital and savings. I request that this amendment be passed.

**SHRI MANISH GUPTA:** I rise to support the Bill. This legislation to tackle the deep-rooted problems needs deeper study and should cover all transactions. We are not really focusing, in this Bill, on the rural credit. There is no mention in this legislation to weed out money-lenders who give money to the poor people at high interest rates. We all know about the cases that occurred in the States of Odisha, West Bengal, Gujarat and Delhi. There was a Pearl Chit Fund scam with Rs.49,000 crore. The other large scam was in Gujarat. This is still hanging fire as the investigation is not complete. The reason for the spread of illegal chit fund companies is also due to an ineffective regulatory system. This Bill protects the interests of the foreman. But, it is silent on the security of the subscriber. This is a huge loophole. The Principal Act seeks the presence of two subscribers which can be done through video-conferencing. But even today many rural areas don't have mobile or internet facilities. This chit fund sector is largely unorganized. There are infirmities in the work of the RBI as far as chit funds are concerned. SEBI rules do not specifically mention chit funds. So, the RBI Act and the SEBI Act should be amended. The RBI Act empowers the RBI to inspect the chit books and records of any chit fund. The websites are there for collecting information on chit funds and the investments. But, how many people in rural India can access websites. So, this is an infirmity which needs to be corrected. There are multiplicity of agencies that are operating and this Bill needs to be empowered substantially so that they can tackle this menace of chit funds. At the initiative of Ms. Mamata Banerjee, Justice Shyamal Sen Commission set up a Special Investigation Team to arrest the wrong-doers in certain chit fund scams and a sum of Rs. 500 crore was budgeted as a corpus fund from which around Rs. 250 crores were paid to investors who had lost their money. Since this is a deep-rooted wide-spread problem of people, the Central Government may consider coming forward with a budgetary allocation. The banking system in India is very poor and is not people friendly. So, the banking system needs to be spread further. And an insurance cover should be provided for the chit funds.

This should be provided through a proper law and that is why the proposed amendments do not appear to be adequate to protect less literate and less conscious investors.

**SHRI N. GOKULAKRISHNAN:** The Bill ensures transparency in chit fund schemes and aims to protect subscribers. Chit funds play a crucial role in India's rural economy, providing people with easy access to funds and wider investment opportunities. In the recent past, chit fund companies lured gullible investors to deposit money in their schemes in lieu of abnormally high returns and subsequently closed their business without any announcement, leaving behind the rural poor in lurch. The RBI has received over 5,200 complaints related to chit fund scams. However, the individual operators should not be subjected to undue regulations. Since most of them are housewives or middle-class men, it may be difficult for them to maintain records. The Bill also raises the commission for foreman to manage the fund, to 7 per cent from the current 5 per cent. It allows the subscribers to join the process of drawing chits through video conferencing. The Government should consider that the small-scale operators are functioning under harsh economical conditions. Therefore, care should be taken that they are not subjected to undue harassment. Otherwise, they may quit business. As a result, this will only aggravate the unemployment problem. The Government should come up with more stringent provisions against big players who flyaway with hard-earned money of poor investors. The Government has increased GST on chit fund from 10 per cent to 12 per cent. When we insist on savings, this will only add to the woes of the subscribers. This goes against the spirit of encouraging savings. Therefore, I would request the Government to keep the GST for the large-scale operators at 12 per cent and exempt the small-scale operators totally. With these, I support the Bill on behalf of my party.

**SHRI RAVI PRAKASH VERMA:** So far, capital worth about Rs 3 lakh crore has been destroyed in chit fund companies. A capital crisis has arisen and the money needs of all people have increased. Our organized financial institutions have limitations. Chit fund companies are being promoted to meet local needs. It is recorded that about 30 thousand companies are registered, but perhaps three to

four times more companies are not registered at all. The issue of registration of these institutions is very important. Many people collect money locally. Among them, most of the people are not educated enough and they do not know much about financial regulations or norms. There is a need today that people should know about financial institutions to a great extent. A man, who is tricky running financial schemes and the subscribers trust him and invest their money in the scheme thereby creating a local support system. Subscribers feel that the money will be used in business or in an emergency. They ignore that the man who is promoting the chit fund company is tricky and has connections with big leaders. If he gets money, then the investors will have to take a lot of trouble to get it back from him. Whatever arrangement people do at the local level, the banking institutions there should know about the people who are running this type of chit fund scheme. These banking institutions should advise them and their subscribers. There should be an agency at the local level to see how the financial needs of the people can be met. Today the situation of financial literacy is very bad. Capital creation in rural areas is over. There should be a provision of insurance cover for those who invest in chit funds. Those who run away with money, their assets should be confiscated. It is very important to determine the credibility of the people who are running chit fund companies, so that the people can know where they are investing money.

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**Desh Deepak Verma,**  
*Secretary-General.*

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

**ERRATA TO THE SYNOPSIS OF DEBATE DATED  
25<sup>th</sup> NOVEMBER, 2019**

<b>Page No.</b>	<b>Line No.</b>	<b>Correction</b>
161	6	Read "notices" for "a notice".
161	12	Read "them" for "it".
161	19-20	Delete "Matter is sub judice ..... high authority." before "As per Article 356".
161	23	Read "then Chairman" for "Chairman".
162	4	Read "instant case of Maharashtra, the Proclamation in question is still to" for "instant case, the Maharashtra Proclamation is in question. It is still to".
162	7-10	Delete "This Ruling earlier ..... President of India." after "sub judice.".